

**SAMAHAN NG MASANG PILIPINO SA MAKATI, INC. (SMPMI),
REPRESENTED BY CHAIRMAN ROBERT L. MORA, SR., PETITIONER,
VS. BASES CONVERSION DEVELOPMENT AUTHORITY (BCDA),
REPRESENTED BY BC...**

G.R. NO. 142255. January 26, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

Before the Court is a novel Petition for the Issuance of a Temporary Restraining Order (TRO) and Injunction,[1] filed by petitioner Samahan ng Masang Pilipino sa Makati, Inc. (SMPMI), to prohibit respondent Bases Conversion Development Authority (BCDA) from evicting its members from their houses in Fort Bonifacio pursuant to Section 21[2] of Republic Act No. (RA) 7227,[3] which grants sole jurisdiction to this Court for the issuance of Injunction or Restraining Order against BCDA.

The facts are undisputed. The members of SMPMI, allegedly comprising over 20,000 families, are residents of Fort Bonifacio occupying a portion of it specifically Lot 4, Lot 3, and Lot 1 with an aggregate area of 97.58 hectares allegedly covered by SWO-00-001265 in the name of BCDA. Petitioner maintains that its members have been occupying peacefully and continuously these lots in Fort Bonifacio. It alleges that Fort Bonifacio is covered by Transfer Certificate of Title (TCT) No. 2288 in the name of the United States of America (USA) which has not been duly cancelled. It further alleges that BCDA, pursuant to RA 7227, otherwise known as “The Bases Conversion and Development Act of 1992,” and the Municipality of Taguig, through its Mayor, sent 30-day notices of eviction to its members. It asserts the illegality of the imminent eviction, for which the present action was filed, as the land which petitioner’s members are occupying is still owned by the USA and not by the Philippine Government.

It further asserts that Section 8[4] of RA 7227, which stipulates the area of Fort Bonifacio specifically covering 2,276 hectares, did not provide any technical description on what is indeed covered. Besides, it strongly argues that because of the lack of “tie line” locating the exact position claimed by BCDA, the latter cannot illegally stake its claim on the whole of Fort Bonifacio to the prejudice not only of its members but also of all persons or entities occupying said area. Petitioner also contends that what complicates the controversy is the approval of the BCDA plan by the Bureau of Land without due certification from the Land Registration Authority (LRA).

As a background, on March 13, 1992, RA 7227 created the BCDA to “accelerate the sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extensions (John Hay Station, Wallace Air Station, O’Donnell Transmitter Station, San Miguel Naval Communications Station, and Capas Relay Station),”[5] and “to raise funds by the sale of portions of Metro Manila military camps.”[6] Pursuant to this Act, then President Ramos issued Executive Order (EO) No. 40,[7] series of 1992, specifying, among others, the portions of Metro Manila military camps to be utilized to generate capital for the BCDA. Among these Metro Manila military camps is Fort Bonifacio, located in the City of Makati and the Municipality

of Taguig. Under EO No. 40, series of 1992, 214 hectares in Fort Bonifacio were earmarked for development and disposition to raise funds for BCDA projects and to use such funds to accelerate the sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extensions.

In its Comment,[8] BCDA asserts ownership of Fort Bonifacio through RA 7227. It posits that TCT No. 2288 in the name of the USA covering a little over 2,544 hectares of the then Hacienda Maricaban (30 hectares of the property was segregated, used, and occupied by the then Manila Railroad Company) is government property. It cites Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati v. RTC, Branch 57, Makati, where we conclusively held that the subject lot is government property, thus:

The Court takes judicial notice of the fact that the hectarage embraced by TCT No. 192 (OCT No. 291) consists of Government property. Three things persuade the Court: (1) the decrees of Proclamations Nos. 192 and 435; (2) the incontrovertible fact that OCT No. 291 has been duly cancelled; and (3) the decision of the Court of Appeals in AC-G.R. CV No. 00293, affirming the decision of Hon. Gregorio Pineda, Judge of the then Court of First Instance of Rizal, Branch XXI, in LRC (GLRO) Rec. No. 2484, Case No. R-1467 thereof, entitled "In Re: Issuance of Owner's Duplicate of Certificate of Title No. 291," as well as our own Resolution, in G.R. No. 69834, entitled "Domingo Palomares, et al. v. Intermediate Appellate Court".[9]

BCDA maintains that pursuant to Sec. 7[10] in relation to Sec. 8[11] of RA 7227, the ownership of the Metro Manila military camp lots in question is transferred to BCDA by the President and specifically earmarked for vital and important government infrastructure projects. In sum, it asserts that its takeover of Fort Bonifacio is in accordance with law since the lots comprising it were originally part of a military reservation, particularly Lot 1, Philippine Light Armour Regiment (PALAR) area; Lot 3, Vetronix area; and Lot 4, Logistics Command (LOGCOM) area. These subject lots are covered by special patents in favor of BCDA. In fact, it asserts that pursuant to RA 7227 and EO No. 40, series of 1992, then President Estrada issued on June 11, 1999 Special Patent No. 3610 covering Lots 3 (Vetronix) and 4 (LOGCOM) in Fort Bonifacio; while Lot No. 1 (PALAR) was issued Special Patent No. 3596 by then President Ramos and the corresponding OCT No. SP-001 issued in favor of Fort Bonifacio Development Corporation (FBDC), a wholly owned subsidiary of BCDA.

BCDA further counters that SMPMI has no cause of action as it is not the real party in interest; on the contrary, it should either be the USA or the individual persons affected by the eviction. Besides, it argues that SMPMI or its members have not shown ownership over the lots they are occupying that are to be accorded protection pursuant to Rule 58 of the 1997 Revised Rules of Civil Procedure on preliminary injunction. Also, BCDA contends that in as much as the ownership of Fort Bonifacio was determined with finality by this Court in Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati[12] and corresponding titles were issued to Fort Bonifacio, petitioner clearly has no cause of action against BCDA.

BCDA then traced history which revealed the conveyance of then Fort William McKinley property to the Philippine Government, specifically citing the July 4, 1946 Treaty of General Relations, the Preamble of the Military Bases Agreement, and US Diplomatic Note No. 0634 where the USA acknowledged that said Fort was owned by the Philippine Government.

Finally, BCDA raises the issue that petitioner cannot assail the title of the subject lots in Fort Bonifacio collaterally, that is, in this proceeding for prohibition, and alleges petitioner's violation of the forum-shopping rule. It contends that there was a pending case filed earlier by SMPMI involving the same parties when on September 20, 1999, SMPMI filed a case against BCDA with the Commission on Settlement of Land Problems (COSLAP), docketed as COSLAP Case No. 99-453, praying for the issuance of an order against BCDA to cease the demolition operation. In said case, SMPMI similarly alleged that the owner of the lands in question was the USA; thus, BCDA or the Philippine Government had no authority to evict or harass complainants. More so, when

COSLAP required the parties to file their position papers, which BCDA complied with, SMPMI instead filed the instant petition.

The Issues

In its September 24, 2000 Memorandum, respondent BCDA raises the following issues for our consideration:

A

WHETHER OR NOT PETITIONERS HAVE A CAUSE OF ACTION AGAINST RESPONDENTS

B

WHETHER OR NOT BCDA HAS A LAWFUL RIGHT OVER THE PROPERTY

C

WHETHER OR NOT PETITIONER IS GUILTY OF FORUM-SHOPPING

D

WHETHER OR NOT THE CASE IS A COLLATERAL ATTACK ON THE TITLES OVER THE PROPERTIES IN QUESTION[13]

On the other hand, petitioner raises in its November 27, 2000 Memorandum the following issues for our consideration:

I

WHETHER OR NOT BCDA (RA 7227) CAN JUST LEGALLY STAKE ITS CLAIM IN ANY PART OF FORT BONIFACIO WITHOUT ANY CLEAR TIE-LINES TO BASE ITS CLAIM? [SIC]

II

WHETHER OR NOT THE BCDA AND MUNICIPALITY OF TAGUIG CAN EXTRAJUDICIALY EJECT THE MEMBERS OF PETITIONERS AND USE VIOLENCE TO ATTAIN ITS OBJECTIVE OF CLEARING THE COMMUNITY OF OCCUPANTS? [SIC]

III

WHETHER OR NOT THE BCDA CAN EJECT THE MEMBERS OF THE PETITIONERS WITHOUT OFFERING THEM A SUITABLE ALTERNATIVE OF HOMESITE AS PROVIDED UNDER PD 1576 (LINA LAW)? [SIC]

IV

WHETHER OR NOT THE HONORABLE JUSTICES OF THE SUPREME COURT MAY ISSUE A RESTRAINING ORDER TO BCDA/MUNICIPALITY OF TAGUIG PENDING THE RESOLUTION OF THE CONTROVERSY TO AVERT FUTURE VIOLENCE?[14] [SIC]

The Court's Ruling

Relative to the issuance of a TRO or injunction, the core issue to be resolved is who between petitioner SMPMI and BCDA has the right of possession over the particular parcels of land which are subject of this petition. In this regard, SMPMI insists that if the ruling is in favor of respondent BCDA, then BCDA and respondent Municipality of Taguig cannot extrajudicially eject its members; at the very least, respondents must comply with RA 7279, commonly known as the "Lina Law," which provides a suitable alternative homesite before eviction is enforced.

We rule in favor of BCDA.

The instant action is essentially for prohibition, which is the issuance of a restraining order or writ of injunction against BCDA and the Municipality of Taguig. It is basic that in order for a restraining order or the writ of injunction to issue, the petitioner is tasked to establish and convincingly show the following: “(1) a right in esse or a clear and unmistakable right to be protected; (2) a violation of that right; (3) that there is an urgent and permanent act and urgent necessity for the writ to prevent serious damage.”[15]

In the absence of a clear legal right, the writ must not issue. Indeed, a restraining order or an injunction is a preservative remedy aimed at protecting substantial rights and interests, and it is not designed to protect contingent or future rights. The possibility of irreparable damage without proof of adequate existing rights is not a ground for injunction.[16]

A close scrutiny of the records at hand shows that petitioner’s members have not shown a clear right or a right in esse to retain possession of the parcels of land they are occupying inside Fort Bonifacio, thus:

First, it is unequivocal that the Philippine Government, and now the BCDA, has title and ownership over Fort Bonifacio. The case of Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati[17] is final and conclusive on the ownership of the then Hacienda de Maricaban estate by the Republic of the Philippines. Clearly, the issue on the ownership of the subject lands in Fort Bonifacio is laid to rest. Other than their view that the USA is still the owner of the subject lots, petitioner has not put forward any claim of ownership or interest in them.

Second, respondent BCDA has convincingly shown that TCT No. 2288 in the name of the USA covering Fort Bonifacio was cancelled by TCT No. 61524[18] issued on September 11, 1958 in the name of the Republic of the Philippines. Thereafter, on January 3, 1995, TCT No. 61524 was cancelled by TCT Nos. 23888,[19] 23887,[20] 23886,[21] 22460,[22] 23889,[23] 23890,[24] and 23891,[25] all in the name of BCDA. Thus, BCDA has valid titles over Fort Bonifacio which have become indefeasible and beyond question. On the other hand, SMPMI has not presented any title or deed to demonstrate ownership or any interest in the subject lots.

Third, it is clear from the records that BCDA has been granted a clear mandate by RA 7227, specifically by its Sections 7 and 8, and re-enforced by EO No. 40, series of 1992, to take over and administer Fort Bonifacio for its development and disposition to raise funds for BCDA projects, among others, the conversion of Clark and Subic military reservations and their extensions to alternative productive uses. The fact that TCT No. 61524, in the name of the Republic of the Philippines, was cancelled and several Torrens Titles were issued in the name of BCDA, coupled with the explicit authority from RA 7227, evidently points to the legal basis for BCDA’s takeover and management of the subject lots.

Fourth, it is basic that ownership or dominion includes the right of possession. In traditional Roman law, *jus possidendi* or the right to possess is fundamentally not only an attribute of ownership but also a direct consequence of ownership. Thus, from BCDA’s ownership of the subject lots originates the rights of possession, use, and disposition.

Fifth, prescription does not apply if the subject land is covered by a Torrens Title, as in the case at bar. Moreover, the equitable remedy of laches has not been proven to have accrued in favor of the members of petitioner for them to be accorded better right of possession of the subject lots. Laches is evidentiary in nature and cannot be established by mere allegations in the pleadings.[26] As it is, in the instant case, laches has not even been alleged, much less proved.

Sixth, of greater import is the basic tenet that neither prescription nor laches runs against the State. Thus, even

granting arguendo that the subject lands had been erroneously issued titles in favor of third parties, which is definitely not the case; neither prescription nor estoppel by laches applies against the State. In a catena of cases, we have consistently reiterated this hornbook doctrine. Thus, in *East Asia Traders, Inc. v. Republic of the Philippines*,^[27] we reiterated the doctrine citing *Reyes v. Court of Appeals*:^[28]

In so far as the timeliness of the action of the Government is concerned, it is basic that prescription does not run against the State. x x x The case law has also been:

‘When the government is the real party in interest, and is proceeding mainly to assert its own rights and recover its own property, there can be no defense on the ground of laches or limitation.’ x x x

‘Public land fraudulently included in patents or certificates of title may be recovered or reverted to the State in accordance with Section 101 of the Public Land Act. Prescription does not lie against the State in such cases for the Statute of Limitations does not run against the State. The right of reversion or reconveyance to the State is not barred by prescription.’^[29] (Emphasis supplied.)

This doctrine applies even more in the instant case where the members of petitioners were not even erroneously granted titles to the subject lots. As it is, petitioner can neither invoke prescription nor estoppel by laches.

Seventh, the issue of lack of technical description and tie-lines is manifestly a dilatory excuse to muddle the issue of possession of the subject lots occupied by petitioner’s members. Verily, petitioner admits that its members do not own the lot where they have erected their houses—they posit the USA as its owner. But as aptly shown and proven by respondent BCDA, Fort Bonifacio is no longer owned by the USA but by the Republic of the Philippines, which has conveyed, ceded, and passed on its ownership, use, and administration to BCDA pursuant to RA 7227. As such, petitioner’s members had taken possession of the government land by illegal means without any legal basis and hence, cannot claim adverse possession of public land. In a plethora of cases, we have reiterated the doctrine that registered property could not be acquired through adverse possession. Thus, in *Calimpong v. Heirs of Filomena Gumela*, we reiterated that a registered property from the time its registration has become final could not be acquired by adverse possession.^[30]

Eighth, RA 7279,^[31] otherwise known as the Urban Development and Housing Act of 1992 (UDHA) and commonly known as the Lina Law, does not accord possession to squatters of public land. Section 3 (t) of RA 7279 defines “underprivileged and homeless citizens,” who are the beneficiaries of said law, as:

the beneficiaries of this Act and to individuals or families residing in urban and urbanizable areas whose income or combined household income falls within the poverty threshold as defined by the National Economic and Development Authority and who do not own housing facilities. This shall include those who live in makeshift dwelling units and do not enjoy security of tenure.

Interestingly, members of petitioner have not been shown to be “underprivileged and homeless citizens” to be accorded the benefits of RA 7279. In fact, the photos of the structures that were demolished reveal that these were built with cement and other strong materials costing a lot of money and such structures were not mere shanties of small value. As such, the owners of these structures, the SMPMI members, have the financial capacity and resources to build their own housing facilities which take them out of the ambit of protection under RA 7279. In fact, they would even be considered as professional squatters under Section 3 (m) of RA 7279 which provides, thus:

‘Professional squatters’ refers to individuals or groups who occupy lands without the express consent of the landowner and who have sufficient income for legitimate housing. The term shall also apply to persons who have previously been awarded homelots or housing units by the Government but who sold, leased or transferred the same to settle illegally in the same place or in another urban area, and non-bona fide occupants

and intruders of lands reserved for socialized housing. The term shall not apply to individuals or groups who simply rent land and housing from professional squatters or squatting syndicates.

Verily, the pieces of evidence before us would show that the affected members of petitioner SMPMI are professional squatters who have sufficient income for legitimate housing but have illegally occupied the subject lots without the consent of the government or the eventual owner, the BCDA.

Yet, despite the non-application of RA 7279, BCDA still offered cash compensation or relocation to medium-rise buildings, including land-based relocation, and to persons who built their structures on the subject premises before March 28, 1992, who would be affected by BCDA development projects. BCDA claims that 31% of the pre-UHDA occupants already availed themselves of the cash compensation or were relocated to Diego Silang, Centennial Village, and Lupang Katuparan, the sites of the housing projects of BCDA. For the remainder, if they fail to avail of the magnanimous gesture of BCDA for a relocation site or cash payment, they may eventually lose their right to enjoy said benefits once the offer is withdrawn. In sum, we find that RA 7279 does not cover SMPMI's situation and even if such is conceded, BCDA has already substantially complied with the beneficent provisions of the law.

Moreover, it is also undisputed by petitioner that the structures demolished on April 27, 2000 at the Research and Development Center (RDC) Compound were also undergoing illegal construction, which pursuant to Section 2 (a)[32] of the Implementing Rules and Regulations of the UDHA, in relation to Sections 28[33] and 30[34] of RA 7279, can be immediately dismantled. Besides, it is also undisputed that seven (7) structures were left untouched as their owners were pre-UDHA occupants. Moreover, through a 1997 census conducted by BCDA and Federation of Military and Civilian Residents (FOMCRES) on the occupants of Philippine Light Armor Regiment (PALAR), Wildcat, and Sto. Niño areas contiguous to the RDC Compound, pursuant to an Order issued by the Committee on Justice of the House of Representatives, the BCDA has clearly shown that petitioner's officers could not be found in said areas, which prove that they are new squatters.[35]

Ninth, RA 7279 does allow extrajudicial summary demolition and eviction. Section 28 of said Act pertinently provides, thus:

Section 28. Eviction and Demolition.—Eviction or demolition as a practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:

- (a) When persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds;
- (b) When government infrastructure projects with available funding are about to be implemented; or
- (c) When there is a court order for eviction and demolition.

A perusal of the above proviso clearly shows that the aforementioned law allows not only judicial eviction and demolition through court action (e.g., court order), but also summary or extrajudicial eviction and demolition where structures are built on public places, among others, esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, sidewalks, roads, parks and playground; and when government infrastructure projects with available funding are about to be implemented. Of the two instances of extrajudicial summary eviction and demolition, the first partake of an abatement of public nuisance of illegal structures built on public places, and the second particularly partakes of a government infrastructure project with available funding that is about to be implemented. In the instant case, what is applicable is the second case of an extrajudicial summary eviction and demolition.

Indeed, respondent BCDA has amply shown that the disposition and use of subject lots are required to raise funds

needed for the conversion of the Clark and Subic military reservations and their extensions. Section 2 of RA 7227 clearly provides the government policy to “accelerate the sound and balanced conversion into alternative productive uses of the Clark and Subic military reservations and their extensions (John Hay Station, Wallace Air Station, O’Donnell Transmitter Station, San Miguel Naval Communications Station, and Capas Relay Station),” and “to raise funds by the sale of portions of Metro Manila military camps.” Pertinently, EO No. 40, series of 1992, was issued by then President Ramos to implement this proviso and identified portions of Metro Manila military camps to be utilized to generate capital for the BCDA. Among these Metro Manila military camps is Fort Bonifacio, which was earmarked for development and disposition to raise funds for BCDA projects and use such funds to convert into alternative productive uses, Clark and Subic military reservations, and their extensions.

Thus, the development and disposition of portions of Fort Bonifacio, which include the subject lots, partake of a government infrastructure project geared towards the raising of funds needed to implement the conversion of military reservations. PD 1818 and RA 8975[36] pertinently provide what government infrastructure projects are. Section 2 of RA 8975 defines “National government projects,” thus:

“National government projects” shall refer to all current and future national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and -controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the Build-Operate-and-Transfer Law, and other related and necessary activities such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding. (Emphasis supplied.)

Based on the aforequoted provision, it is clear that the project for the conversion, development, and disposition of Metro Manila military camps by the BCDA, a wholly government-owned corporation, partakes of a national government infrastructure project. As such, the present controversy has not only delayed and hampered such development and disposition of subject lots, but also directly affected the more primordial purpose of the project which is to raise funds for the conversion of military reservation that has been pushed by the government for over a decade. Therefore, the BCDA and the Municipality of Taguig had ample authority to extrajudicially and summarily evict and demolish the illegally constructed structures over the disputed lots.

Eviction and Demolition was done properly

Moreover, Section 27 of RA 7279 also provides a summary eviction and demolition against professional squatters, thus:

Section 27. Action Against Professional Squatters and Squatting Syndicates.—The local government units, in cooperation with the Philippine National Police, the Presidential Commission for the Urban Poor (PCUP), and the PCUP-accredited urban poor organization in the area, shall adopt measures to identify and effectively curtail the nefarious and illegal activities of professional squatters and squatting syndicates, as herein defined.

Any person or group identified as such shall be summarily evicted and their dwellings or structures demolished, and shall be disqualified to avail of the benefits of the Program. A public official who tolerates or abets the commission of the abovementioned acts shall be dealt with in accordance with existing laws. (Emphasis supplied.)

While concededly there is no finding that petitioner’s members are professional squatters, yet, as we mentioned above, the evidence presented before us tend to show that the affected members of petitioner SMPMI are professional squatters who have sufficient income for legitimate housing but have illegally occupied the subject lots without the consent of the government or the eventual owner, the BCDA. Be that as it may, respondent BCDA convincingly showed that the structures demolished were new ones, and that Section 44[37] of RA 7279

on moratorium on eviction and demolition does not apply in the instant case. Thus, on the grounds of a much-delayed government infrastructure project about to be implemented, and the structures demolished were new ones, BCDA and the Municipality of Taguig do have the right to carry out, as it did, the summary eviction and demolition of the structures on subject lots.

Tenth, belying petitioner's allegation of harassment, particularly in the alleged shooting incident of five (5) of its members, is the March 25, 2002 Joint Resolution[38] of the Office of the Deputy Ombudsman for the Military, which dismissed two (2) criminal complaints docketed as OMB-MIL-CRIM-01-0028 and OMB-MIL-CRIM-00-0870 filed by two members of petitioner, Pacita L. Pecson and Robert L. Mora, Sr., petitioner's representative in this petition. The Ombudsman, citing separate investigations conducted by the PNP Southern Police District and the National Bureau of Investigation (NBI), categorically found that during the April 27, 2000 demolition of 27 ongoing and new structures inside the RDC Compound, six (6) individuals were arrested and charged with Illegal Possession of Firearms.

The Ombudsman found evidence on record that the demolition was met with violent resistance by affected squatters, some of whom were armed with unlicensed firearms. Thus, petitioner's assertion that its members were harassed and no actual gun-battle happened is without factual support as the records show that its members resisted and resorted to violence during the demolition. The Ombudsman concluded that there was no showing that the demolition was conducted in an inhumane manner considering that the measures taken by the respondents were commensurate reaction to the actual resistance posed and violence used by the affected occupants.

Prescinding from this investigation, the Office of the Deputy Ombudsman for the Military found that the eviction and demolition were done in accordance with the rules and were valid exercises of police power by respondent Municipality of Taguig.

In the light of the foregoing considerations, we find that petitioner has not shown its right in esse to be protected by a restraining order or an injunctive writ. Without doubt, the instant petition must fail.

One last word. Through a Very Urgent Manifestation and Motion,[39] petitioner manifested that the Office of the President issued EO No. 70, series of 2002, which declared some portions of Fort Bonifacio as socialized housing sites to be implemented by the Housing and Urban Development Coordinating Council (HUDCC). The BCDA was directed to effectuate the smooth turnover of certain lots to HUDCC for socialized housing. Pursuant to said Order, respondent BCDA has taken the appropriate actions for the survey and implementation of EO No. 70. Given these developments, petitioner and its members have been bestowed a legal mode of acquiring lots for their cherished homes. Hopefully, this dispute will be finally put to rest.

WHEREFORE, the instant petition is DISMISSED for lack of merit. No costs.

SO ORDERED.

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

Tinga, J., no part. Close association with a party.

[1] Rollo, pp. 4-8.

[2] SECTION 21. Injunction and Restraining Order.—The implementation of the projects for the conversion into alternative productive uses of the military reservations are urgent and necessary and shall not be restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

[3] "AN ACT ACCELERATING THE CONVERSION OF MILITARY RESERVATIONS INTO OTHER

PRODUCTIVE USES, CREATING THE BASES CONVERSION AND DEVELOPMENT AUTHORITY FOR THIS PURPOSE, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES.”

[4] SECTION 8. Funding Scheme. — The capital of the Conversion Authority shall come from the sales proceeds and/or transfers of certain Metro Manila military camps, including all lands covered by Proclamation No. 423, series of 1957, commonly known as Fort Bonifacio and Villamor (Nichols) Air Base x x x

[5] Sec. 2.

[6] Id.

[7] Issued on December 8, 1992.

[8] Dated May 3, 2000, rollo, pp. 45-57.

[9] G.R. No. 81664, April 24, 1990, 184 SCRA 622, 629.

[10] SECTION 7. Transfer of Properties. — Pursuant to paragraph (a), Section 4 hereof, the President shall transfer forthwith to the Conversion Authority:

(a) Station x x x

(b) Such other properties including, but not limited to, portions of Metro Manila military camps, pursuant to Section 8 of this Act: Provided, however, That the areas which shall remain as military reservations shall be delineated and proclaimed as such by the President.

[11] Supra note 4.

[12] Supra note 9.

[13] Rollo, pp. 92-107, at 99.

[14] Id. at 213-240, at 228-229.

[15] Tayag v. Lacson, et al., G.R. No. 134971, March 25, 2004, 426 SCRA 282, 299, citing Crystal v. Cebu International School, G.R. No. 135433, April 4, 2001, 356 SCRA 296, 305 and Verzosa v. Court of Appeals, G.R. Nos. 119511-13, November 24, 1998, 299 SCRA 100, 108.

[16] Id., citing Arcegas v. Court of Appeals, G.R. No. 122206, July 7, 1997, 275 SCRA 176, 180; see also Idolor v. Court of Appeals, G.R. No. 141853, February 7, 2001, 351 SCRA 399, 405.

[17] Supra note 9.

[18] Rollo, pp. 108-111.

[19] Id. at 129-130.

[20] Id. at 131-132.

[21] Id. at 133-134.

[22] Id. at 135-136.

[23] Id. at 138-139.

[24] Id. at 140-141.

[25] Id. at 142-143.

[26] *Felix Gochan and Sons Realty Corporation v. Heirs of Baba*, G.R. No. 138945, August 19, 2003, 409 SCRA 306, 315, citing *Santos v. Santos*, G.R. No. 133895, October 2, 2001, 366 SCRA 395, 405–406.

[27] G.R. No. 152947, July 7, 2004, 433 SCRA 716.

[28] G.R. No. 94524, September 10, 1998, 295 SCRA 296, 313.

[29] *Supra* note 27, at 726.

[30] G.R. No. 163751, March 31, 2006, 486 SCRA 441, citing *De la Merced v. Court of Appeals*, G.R. No. L-17757, May 30, 1962, 5 SCRA 240, 247-248.

[31] “AN ACT TO PROVIDE FOR A COMPREHENSIVE AND CONTINUING URBAN DEVELOPMENT AND HOUSING PROGRAM, ESTABLISH THE MECHANISM FOR ITS IMPLEMENTATION, AND FOR OTHER PURPOSES.”

[32] Section 2. SCOPE OF APPLICATION. – These Rules and Regulations shall apply to demolitions allowed under Sec. 28 of the Act, to wit:

(a) When persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds.

[33] Section 28. Eviction and Demolition.—Eviction or demolition as a practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:

(a) When persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds;

(b) When government infrastructure projects with available funding are about to be implemented (emphasis supplied); or

(c) When there is a court order for eviction and demolition.

In the execution of eviction or demolition orders involving underprivileged and homeless citizens, the following shall be mandatory:

(1) Notice upon the effected persons or entities at least thirty (30) days prior to the date of eviction or demolition;

(2) Adequate consultations on the matter of resettlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated;

(3) Presence of Local government officials or their representatives during eviction or demolition;

(4) Proper identification of all persons taking part in the demolition;

(5) Execution of eviction or demolition only during regular office hours from Mondays to Fridays and during good weather, unless the affected families consent otherwise;

(6) No use of heavy equipment for demolition except for structures that are permanent and other of concrete materials;

(7) Proper uniforms for members of the Philippine National Police who shall occupy the first line of law enforcement and observe proper disturbance control procedures; and

(8) Adequate relocation, whether temporary or permanent: provided, however, That in cases of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, relocation shall be undertaken by the local government unit concerned and the National Housing Authority with the assistance of other government agencies within forty-five (45) days from service of notice of final judgment by the court, after which period the said order shall be executed: provided, further, That should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing minimum daily wage multiplied by

sixty (60) days shall be extended to the affected families by the local government unit concerned.

The Department of the Interior and Local Government and the Housing and Urban Development Coordinating Council shall jointly promulgate the necessary rules and regulations to carry out the above provision.

[34] Section 30. Prohibition Against New Illegal Structures.—It shall be unlawful for any person to construct any structure in areas mentioned in the preceding section.

After the effectivity of this Act, the barangay, municipal or city government units shall prevent the construction of any kind of illegal dwelling units or structures within their respective localities.

[35] See Data Validation List of FOMCRES members at Fort Bonifacio, rollo, pp. 169-203.

[36] “AN ACT TO ENSURE THE EXPEDITIOUS IMPLEMENTATION AND COMPLETION OF GOVERNMENT INFRASTRUCTURE PROJECTS BY PROHIBITING LOWER COURTS FROM ISSUING TEMPORARY RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS OR PRELIMINARY MANDATORY INJUNCTIONS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES.”

[37] Section 44. Moratorium on Eviction and Demolition.—There shall be a moratorium on the eviction of all program beneficiaries and on the demolition of their houses or dwelling units for a period of three (3) years from the effectivity of this Act: Provided, That the moratorium shall not apply to those persons who have constructed their structures after the effectivity of this Act and for cases enumerated in Section 28 hereof (emphasis supplied).

[38] See separate folder, last four (4) pages.

[39] Rollo, pp. 270-305.

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