# POLYTECHNIC UNIVERSITY OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND FIRESTONE CERAMICS, INC., RESPONDENTS.

*G.R. No. 143513. November 14, 2001*

Ponente: BELLOSILLO, J.

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**BELLOSILLO, J.:**

A litigation is not simply a contest of litigants before the bar of public opinion; more than that, it is a pursuit of justice through legal and equitable means. To prevent the search for justice from evolving into a competition for public approval, society invests the judiciary with complete independence thereby insulating it from demands expressed through any medium, the press not excluded. Thus, if the court would merely reflect, and worse, succumb to the great pressures of the day, the end result, it is feared, would be a travesty of justice.

In the early sixties, petitioner National Development Corporation (NDC), a government owned and controlled corporation created under CA 182 as amended by CA 311 and PD No. 668, had in its disposal a ten (10)-hectare property located along Pureza St., Sta. Mesa, Manila. The estate was popularly known as the NDC compound and covered by Transfer Certificates of Title Nos. 92885, 110301 and 145470.

Sometime in May 1965 private respondent Firestone Ceramics Inc. (FIRESTONE) manifested its desire to lease a portion of the property for its ceramic manufacturing business. On 24 August 1965 NDC and FIRESTONE entered into a contract of lease denominated as Contract No. C-30-65 covering a portion of the property measured at 2.90118 hectares for use as a manufacturing plant for a term of ten (10) years, renewable for another ten (10) years under the same terms and conditions.[1] In consequence of the agreement, FIRESTONE constructed on the leased premises several warehouses and other improvements needed for the fabrication of ceramic products.

Three and a half (3-[1]/2) years later, or on 8 January 1969, FIRESTONE entered into a second contract of lease with NDC over the latter's four (4)-unit pre-fabricated reparation steel warehouse stored in Daliao, Davao. FIRESTONE agreed to ship the warehouse to Manila for eventual assembly within the NDC compound. The second contract, denominated as Contract No. C-26-68, was for similar use as a ceramic manufacturing plant and was agreed expressly to be "co-extensive with the lease of LESSEE with LESSOR on the 2.60 hectare-lot."[2]

On 31 July 1974 the parties signed a similar contract concerning a six (6)-unit pre-fabricated steel warehouse which, as agreed upon by the parties, would expire on 2 December 1978.[3] Prior to the expiration of the aforementioned contract, FIRESTONE wrote NDC requesting for an extension of their lease agreement. Consequently on 29 November 1978 the Board of Directors of NDC adopted Resolution No. 11-78-117 extending the term of the lease, subject to several conditions among which was that in the event NDC "with the approval of higher authorities, decide to dispose and sell these properties including the lot, priority should be given to the LESSEE"[4] (underscoring supplied). On 22 December 1978, in pursuance of the resolution, the parties entered into a new agreement for a ten-year lease of the property, renewable for another ten (10) years, expressly granting FIRESTONE the first option to purchase the leased premises in the event that it decided "to dispose and sell these

properties including the lot . . . . "[5]

The contracts of lease conspicuously contain an identically worded provision requiring FIRESTONE to construct buildings and other improvements within the leased premises worth several hundred thousands of pesos.[6]

The parties' lessor-lessee relationship went smoothly until early 1988 when FIRESTONE, cognizant of the impending expiration of their lease agreement with NDC, informed the latter through several letters and telephone calls that it was renewing its lease over the property. While its letter of 17 March 1988 was answered by Antonio A. Henson, General Manager of NDC, who promised immediate action on the matter, the rest of its communications remained unacknowledged.[7] FIRESTONE's predicament worsened when rumors of NDC's supposed plans to dispose of the subject property in favor of petitioner Polytechnic University of the Philippines (PUP) came to its knowledge. Forthwith, FIRESTONE served notice on NDC conveying its desire to purchase the property in the exercise of its contractual right of first refusal.

Apprehensive that its interest in the property would be disregarded, FIRESTONE instituted an action for specific performance to compel NDC to sell the leased property in its favor. FIRESTONE averred that it was pre-empting the impending sale of the NDC compound to petitioner PUP in violation of its leasehold rights over the 2.60-hectare[8] property and the warehouses thereon which would expire in 1999. FIRESTONE likewise prayed for the issuance of a writ of preliminary injunction to enjoin NDC from disposing of the property pending the settlement of the controversy.[9]

In support of its complaint, FIRESTONE adduced in evidence a letter of Antonio A. Henson dated 15 July 1988 addressed to Mr. Jake C. Lagonera, Director and Special Assistant to Executive Secretary Catalino Macaraeg, reviewing a proposed memorandum order submitted to then President Corazon C. Aquino transferring the whole NDC compound, including the leased property, in favor of petitioner PUP. Attached to the letter was a draft of the proposed memorandum order as well as a summary of existing leases on the subject property. The survey listed FIRESTONE as lessee of a portion of the property, placed at 29,000[10] square meters, whose contract with NDC was set to expire on 31 December 1989[11]renewable for another ten (10) years at the option of the lessee. The report expressly recognized FIRESTONE's right of first refusal to purchase the leased property "should the lessor decide to sell the same."[12]

Meanwhile, on 21 February 1989 PUP moved to intervene and asserted its interest in the subject property, arguing that a "purchaser pendente lite of property which is subject of a litigation is entitled to intervene in the proceedings."[13] PUP referred to Memorandum Order No. 214 issued by then President Aquino ordering the transfer of the whole NDC compound to the National Government, which in turn would convey the aforementioned property in favor of PUP at acquisition cost. The issuance was supposedly made in recognition of PUP's status as the "Poor Man's University" as well as its serious need to extend its campus in order to accommodate the growing student population. The order of conveyance of the 10.31-hectare property would automatically result in the cancellation of NDC's total obligation in favor of the National Government in the amount of P57,193,201.64.

Convinced that PUP was a necessary party to the controversy that ought to be joined as party defendant in order to avoid multiplicity of suits, the trial court granted PUP's motion to intervene. FIRESTONE moved for reconsideration but was denied. On certiorari, the Court of Appeals affirmed the order of the trial court. FIRESTONE came to us on review but in a Resolution dated 11 July 1990 we upheld PUP's inclusion as party-defendant in the present controversy.

Following the denial of its petition, FIRESTONE amended its complaint to include PUP and Executive Secretary Catalino Macaraeg, Jr., as party-defendants, and sought the annulment of Memorandum Order No. 214.


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FIRESTONE alleged that although Memorandum Order No. 214 was issued "subject to such liens/leases existing [on the subject property]," PUP disregarded and violated its existing lease by increasing the rental rate at P200,000.00 a month while demanding that it vacated the premises immediately.[14] FIRESTONE prayed that in the event Memorandum Order No. 214 was not declared unconstitutional, the property should be sold in its favor at the price for which it was sold to PUP - P554.74 per square meter or for a total purchase price of P14,423,240.00.[15]

Petitioner PUP, in its answer to the amended complaint, argued in essence that the lease contract covering the property had expired long before the institution of the complaint, and that further, the right of first refusal invoked by FIRESTONE applied solely to the six-unit pre-fabricated warehouse and not the lot upon which it stood.

After trial on the merits, judgment was rendered declaring the contracts of lease executed between FIRESTONE and NDC covering the 2.60-hectare property and the warehouses constructed thereon valid and existing until 2 June 1999. PUP was ordered and directed to sell to FIRESTONE the "2.6 hectare leased premises or as may be determined by actual verification and survey of the actual size of the leased properties where plaintiff's fire brick factory is located" at P1,500.00 per square meter considering that, as admitted by FIRESTONE, such was the prevailing market price thereof.

The trial court ruled that the contracts of lease executed between FIRESTONE and NDC were interrelated and inseparable because "each of them forms part of the integral system of plaintiff's brick manufacturing plant x x x if one of the leased premises will be taken apart or otherwise detached from the two others, the purpose of the lease as well as plaintiff's business operations would be rendered useless and inoperative."[16] It thus decreed that FIRESTONE could exercise its option to purchase the property until 2 June 1999 inasmuch as the 22 December 1978 contract embodied a covenant to renew the lease for another ten (10) years at the option of the lessee as well as an agreement giving the lessee the right of first refusal.

The trial court also sustained the constitutionality of Memorandum Order No. 214 which was not per se hostile to FIRESTONE's property rights, but deplored as prejudicial thereto the "very manner with which defendants NDC and PUP interpreted and applied the same, ignoring in the process that plaintiff has existing contracts of lease protectable by express provisions in the Memorandum No. 214 itself."[17] It further explained that the questioned memorandum was issued "subject to such liens/leases existing thereon"[18] and petitioner PUP was under express instructions "to enter, occupy and take possession of the transferred property subject to such leases or liens and encumbrances that may be existing thereon"[19] (underscoring supplied).

Petitioners PUP, NDC and the Executive Secretary separately filed their Notice of Appeal, but a few days thereafter, or on 3 September 1996, perhaps realizing the groundlessness and the futility of it all, the Executive Secretary withdrew his appeal.[20]

Subsequently, the Court of Appeals affirmed the decision of the trial court ordering the sale of the property in favor of FIRESTONE but deleted the award of attorney's fees in the amount of Three Hundred Thousand Pesos (P300,000.00). Accordingly, FIRESTONE was given a grace period of six (6) months from finality of the court's judgment within which to purchase the property in questioned in the exercise of its right of first refusal. The Court of Appeals observed that as there was a sale of the subject property, NDC could not excuse itself from its obligation TO OFFER THE PROPERTY FOR SALE FIRST TO FIRESTONE BEFORE IT COULD TO OTHER PARTIES. The Court of Appeals held: "NDC cannot look to Memorandum Order No. 214 to excuse or shield it from its contractual obligations to FIRESTONE. There is nothing therein that allows NDC to disavow or repudiate the solemn engagement that it freely and voluntarily undertook, or agreed to undertake."[21]

PUP moved for reconsideration asserting that in ordering the sale of the property in favor of FIRESTONE the

courts a quo unfairly created a contract to sell between the parties. It argued that the "court cannot substitute or decree its mind or consent for that of the parties in determining whether or not a contract (has been) perfected between PUP and NDC."[22] PUP further contended that since "a real property located in Sta. Mesa can readily command a sum of P10,000.00 per square (meter)," the lower court gravely erred in ordering the sale of the property at only P1,500.00 per square meter. PUP also advanced the theory that the enactment of Memorandum Order No. 214 amounted to a withdrawal of the option to purchase the property granted to FIRESTONE. NDC, for its part, vigorously contended that the contracts of lease executed between the parties had expired without being renewed by FIRESTONE; consequently, FIRESTONE was no longer entitled to any preferential right in the sale or disposition of the leased property.

We do not see it the way PUP and NDC did. It is elementary that a party to a contract cannot unilaterally withdraw a right of first refusal that stands upon valuable consideration. That principle was clearly upheld by the Court of Appeals when it denied on 6 June 2000 the twin motions for reconsideration filed by PUP and NDC on the ground that the appellants failed to advance new arguments substantial enough to warrant a reversal of the Decision sought to be reconsidered.[23] On 28 June 2000 PUP filed an urgent motion for an additional period of fifteen (15) days from 29 June 2000 or until 14 July 2000 within which to file a Petition for Review on Certiorari of the Decision of the Court of Appeals.

On the last day of the extended period PUP filed its Petition for Review on Certiorari assailing the Decision of the Court of Appeals of 6 December 1999 as well as the Resolution of 6 June 2000 denying reconsideration thereof. PUP raised two issues: (a) whether the courts a quo erred when they "conjectured" that the transfer of the leased property from NDC to PUP amounted to a sale; and, (b) whether FIRESTONE can rightfully invoke its right of first refusal. Petitioner posited that if we were to place our imprimatur on the decisions of the courts a quo, "public welfare or specifically the constitutional priority accorded to education" would greatly be prejudiced.[24]

Paradoxically, our paramount interest in education does not license us, or any party for that matter, to destroy the sanctity of binding obligations. Education may be prioritized for legislative or budgetary purposes, but we doubt if such importance can be used to confiscate private property such as FIRESTONE's right of first refusal.

On 17 July 2000 we denied PUP's motion for extension of fifteen (15) days within which to appeal inasmuch as the aforesaid pleading lacked an affidavit of service of copies thereof on the Court of Appeals and the adverse party, as well as written explanation for not filing and serving the pleading personally.[25]

Accordingly, on 26 July 2000 we issued a Resolution dismissing PUP's Petition for Review for having been filed out of time. PUP moved for reconsideration imploring a resolution or decision on the merits of its petition. Strangely, about the same time, several articles came out in the newspapers assailing the denial of the petition. The daily papers reported that we unreasonably dismissed PUP's petition on technical grounds, affirming in the process the decision of the trial court to sell the disputed property to the prejudice of the government in the amount of P1,000,000,000.00.[26] Counsel for petitioner PUP, alleged that the trial court and the Court of Appeals "have decided a question of substance in a way definitely not in accord with law or jurisprudence."[27]

At the outset, let it be noted that the amount of P1,000,000,000.00 as reported in the papers was way too exaggerated, if not fantastic. We stress that NDC itself sold the whole 10.31-hectare property to PUP at only P57,193,201.64 which represents NDC's obligation to the national government that was, in exchange, written off. The price offered per square meter of the property was pegged at P554.74. FIRESTONE's leased premises would therefore be worth only P14,423,240.00. From any angle, this amount is certainly far below the ballyhooed price of P1,000,000,000.00.

On 4 October 2000 we granted PUP's Motion for Reconsideration to give it a chance to ventilate its right, if any it

still had in the leased premises, thereby paving the way for a reinstatement of its Petition for Review.[28] In its appeal, PUP took to task the courts a quo for supposedly "substituting or decreeing its mind or consent for that of the parties (referring to NDC and PUP) in determining whether or not a contract of sale was perfected." PUP also argued that inasmuch as "it is the parties alone whose minds must meet in reference to the subject matter and cause," it concluded that it was error for the lower courts to have decreed the existence of a sale of the NDC compound thus allowing FIRESTONE to exercise its right of first refusal.

On the other hand, NDC separately filed its own Petition for Review and advanced arguments which, in fine, centered on whether or not the transaction between petitioners NDC and PUP amounted to a sale considering that "ownership of the property remained with the government."[29] Petitioner NDC introduced the novel proposition that if the parties involved are both government entities the transaction cannot be legally called a sale.

In due course both petitions were consolidated.[30]

We believe that the courts a quo did not hypothesize, much less conjure, the sale of the disputed property by NDC in favor of petitioner PUP. Aside from the fact that the intention of NDC and PUP to enter into a contract of sale was clearly expressed in the Memorandum Order No. 214,[31] a close perusal of the circumstances of this case strengthens the theory that the conveyance of the property from NDC to PUP was one of absolute sale, for a valuable consideration, and not a mere paper transfer as argued by petitioners.

A contract of sale, as defined in the Civil Code, is a contract where one of the parties obligates himself to transfer the ownership of and to deliver a determinate thing to the other or others who shall pay therefore a sum certain in money or its equivalent.[32] It is therefore a general requisite for the existence of a valid and enforceable contract of sale that it be mutually obligatory, i.e., there should be a concurrence of the promise of the vendor to sell a determinate thing and the promise of the vendee to receive and pay for the property so delivered and transferred. The Civil Code provision is, in effect, a "catch-all" provision which effectively brings within its grasp a whole gamut of transfers whereby ownership of a thing is ceded for a consideration.

Contrary to what petitioners PUP and NDC propose, there is not just one party involved in the questioned transaction. Petitioners NDC and PUP have their respective charters and therefore each possesses a separate and distinct individual personality.[33] The inherent weakness of NDC's proposition that there was no sale as it was only the government which was involved in the transaction thus reveals itself. Tersely put, it is not necessary to write an extended dissertation on government owned and controlled corporations and their legal personalities. Beyond cavil, a government owned and controlled corporation has a personality of its own, distinct and separate from that of the government.[34] The intervention in the transaction of the Office of the President through the Executive Secretary did not change the independent existence of these entities. The involvement of the Office of the President was limited to brokering the consequent relationship between NDC and PUP. But the withdrawal of the appeal by the Executive Secretary is considered significant as he knew, after a review of the records, that the transaction was subject to existing liens and encumbrances, particularly the priority to purchase the leased premises in favor of FIRESTONE.

True that there may be instances when a particular deed does not disclose the real intentions of the parties, but their action may nevertheless indicate that a binding obligation has been undertaken. Since the conduct of the parties to a contract may be sufficient to establish the existence of an agreement and the terms thereof, it becomes necessary for the courts to examine the contemporaneous behavior of the parties in establishing the existence of their contract.

The preponderance of evidence shows that NDC sold to PUP the whole NDC compound, including the leased premises, without the knowledge much less consent of private respondent FIRESTONE which had a valid and


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existing right of first refusal.

All three (3) essential elements of a valid sale, without which there can be no sale, were attendant in the "disposition" and "transfer" of the property from NDC to PUP - consent of the parties, determinate subject matter, and consideration therefor.

Consent to the sale is obvious from the prefatory clauses of Memorandum Order No. 214 which explicitly states the acquiescence of the parties to the sale of the property -

> WHEREAS, PUP has expressed its willingness to acquire said NDC properties and NDC has expressed its willingness to sell the properties to PUP (underscoring supplied).[35]

Furthermore, the cancellation of NDC's liabilities in favor of the National Government in the amount of P57,193,201.64 constituted the "consideration" for the sale. As correctly observed by the Court of Appeals -

> The defendants-appellants' interpretation that there was a mere transfer, and not a sale, apart from being specious sophistry and a mere play of words, is too strained and hairsplitting. For it is axiomatic that every sale imposes upon the vendor the obligation to transfer ownership as an essential element of the contract. Transfer of title or an agreement to transfer title for a price paid, or promised to be paid, is the very essence of sale (Kerr & Co. v. Lingad, 38 SCRA 524; Schmid & Oberly, Inc., v. RJL Martinez Fishing Corp., 166 SCRA 493). At whatever legal angle we view it, therefore, the inescapable fact remains that all the requisites of a valid sale were attendant in the transaction between co-defendants-appellants NDC and PUP concerning the realities subject of the present suit.[36]

What is more, the conduct of petitioner PUP immediately after the transaction is in itself an admission that there was a sale of the NDC compound in its favor. Thus, after the issuance of Memorandum Order No. 214 petitioner PUP asserted its ownership over the property by posting notices within the compound advising residents and occupants to vacate the premises.[37] In its Motion for Intervention petitioner PUP also admitted that its interest as a "purchaser pendente lite" would be better protected if it was joined as party-defendant in the controversy thereby confessing that it indeed purchased the property.

In light of the foregoing disquisition, we now proceed to determine whether FIRESTONE should be allowed to exercise its right of first refusal over the property. Such right was expressly stated by NDC and FIRESTONE in par. XV of their third contract denominated as A-10-78 executed on 22 December 1978 which, as found by the courts a quo, was interrelated to and inseparable from their first contract denominated as C-30-65 executed on 24 August 1965 and their second contract denominated as C-26-68 executed on 8 January 1969. Thus -

> Should the LESSOR desire to sell the leased premises during the term of this Agreement, or any extension thereof, the LESSOR shall first give to the LESSEE, which shall have the right of first option to purchase the leased premises subject to mutual agreement of both parties.[38]

In the instant case, the right of first refusal is an integral and indivisible part of the contract of lease and is inseparable from the whole contract. The consideration for the right is built into the reciprocal obligations of the parties. Thus, it is not correct for petitioners to insist that there was no consideration paid by FIRESTONE to entitle it to the exercise of the right, inasmuch as the stipulation is part and parcel of the contract of lease making the consideration for the lease the same as that for the option.

It is a settled principle in civil law that when a lease contract contains a right of first refusal, the lessor is under a legal duty to the lessee not to sell to anybody at any price until after he has made an offer to sell to the latter at a certain price and the lessee has failed to accept it.[39] The lessee has a right that the lessor's first offer shall be in his favor.

The option in this case was incorporated in the contracts of lease by NDC for the benefit of FIRESTONE which, in view of the total amount of its investments in the property, wanted to be assured that it would be given the first opportunity to buy the property at a price for which it would be offered. Consistent with their agreement, it was then implicit for NDC to have first offered the leased premises of 2.60 hectares to FIRESTONE prior to the sale in favor of PUP. Only if FIRESTONE failed to exercise its right of first priority could NDC lawfully sell the property to petitioner PUP.

It now becomes apropos to ask whether the courts a quo were correct in fixing the proper consideration of the sale at P1,500.00 per square meter. In contracts of sale, the basis of the right of first refusal must be the current offer of the seller to sell or the offer to purchase of the prospective buyer. Only after the lessee-grantee fails to exercise its right under the same terms and within the period contemplated can the owner validly offer to sell the property to a third person, again, under the same terms as offered to the grantee.[40] It appearing that the whole NDC compound was sold to PUP for P554.74 per square meter, it would have been more proper for the courts below to have ordered the sale of the property also at the same price. However, since FIRESTONE never raised this as an issue, while on the other hand it admitted that the value of the property stood at P1,500.00 per square meter, then we see no compelling reason to modify the holdings of the courts a quo that the leased premises be sold at that price.

Our attention is invited by petitioners to Ang Yu Asuncion v. CA[41] in concluding that if our holding in Ang Yu would be applied to the facts of this case then FIRESTONE's "option, if still subsisting, is not enforceable," the option being merely a preparatory contract which cannot be enforced.

The contention has no merit. At the heels of Ang Yu came Equatorial Realty Development, Inc., v. Mayfair Theater, Inc.,[42] where after much deliberation we declared, and so we hold, that a right of first refusal is neither "amorphous nor merely preparatory" and can be enforced and executed according to its terms. Thus, in Equatorial we ordered the rescission of the sale which was made in violation of the lessee's right of first refusal and further ordered the sale of the leased property in favor of Mayfair Theater, as grantee of the right. Emphatically, we held that "(a right of first priority) should be enforced according to the law on contracts instead of the panoramic and indefinite rule on human relations." We then concluded that the execution of the right of first refusal consists in directing the grantor to comply with his obligation according to the terms at which he should have offered the property in favor of the grantee and at that price when the offer should have been made.

One final word. Petitioner PUP should be cautioned against bidding for public sympathy by bewailing the dismissal of its petition before the press. Such advocacy is not likely to elicit the compassion of this Court or of any court for that matter. An entreaty for a favorable disposition of a case not made directly through pleadings and oral arguments before the courts do not persuade us, for as judges, we are ruled only by our forsworn duty to give justice where justice is due.

WHEREFORE, the petitions in G.R. No. 143513 and G.R. No. 143590 are DENIED. Inasmuch as the first contract of lease fixed the area of the leased premises at 2.90118 hectares while the second contract placed it at 2.60 hectares, let a ground survey of the leased premises be immediately conducted by a duly licensed, registered surveyor at the expense of private respondent FIRESTONE CERAMICS, INC., within two (2) months from finality of the judgment in this case. Thereafter, private respondent FIRESTONE CERAMICS, INC., shall have six (6) months from receipt of the approved survey within which to exercise its right to purchase the leased property at P1,500.00 per square meter, and petitioner Polytechnic University of the Philippines is ordered to reconvey the property to FIRESTONE CERAMICS, INC., in the exercise of its right of first refusal upon payment of the purchase price thereof.

**SO ORDERED.**

Mendoza, Buena, and De Leon, Jr., JJ., concur.
Quisumbing, J., no part due to prior close relations.

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[1] Original Records, pp. 12-19.

[2] In the first contract of lease, the area of the property leased was stated as 2.90118 hectares; in the second contract it is 2.60 hectares.

[3] Contract No. C-14-73.

[4] See Note 1 at p. 46.

[5] Contract No. A-10-78, ibid., pp. 45-50.

[6] Par. IX of C-30-65 and par. I, subpar. (c), of A-10-78 require FIRESTONE to make several improvements with the leased premises in the amount of not less than Three Hundred Thousand Pesos (P300,000.00).

[7] In his letter dated 8 April 1988, Mr. Henson wrote, "We thank you for your letter of March 17, 1988 regarding the NDC property, a portion of which is currently under lease by your company," see Note 1 at p. 40.

[8] In their lease contract denominated as C-30-65 the area is referred to as 2.90118 hectares.

[9] In his Order dated 19 August 1988 Judge Cesar D. Francisco, RTC-Br. 117, Pasay City, issued a temporary restraining order against NDC, id., pp. 34-35. On 12 September 1988, the trial court, after conducting several hearings, issued a writ of preliminary injunction restraining NDC from selling the leased property, see Note 1 at pp. 176-178.

[10] Interchangeably referred to as 2.90118 or 2.6 hectares.

[11] Contract No. A-10-78 dated 22 December 1978 fixed the period of lease for ten (10) years effective 2 December 1978 until 2 June 1989, i.e., following the expiration of the stipulated 180-day construction period, the ten (10)-year period renewable for another ten (10) years or until 2 June 1999.

[12] See Note 1 at pp. 49-53.

[13] Ibid, pp. 186-190.

[14] Id., pp. 233-243.

[15] Per Memorandum Order No. 214, the 10.31 hectare property was sold by NDC for P57,193,201.64 or at P 554.74 per square meter; Rollo in G.R. No. 143513, pp. 51-52; Rollo in G.R. No. 143590, pp. 99-100.

[16] Decision penned by Judge Leonardo M. Rivera, RTC-Br. 117, Pasay City, Rollo in G.R. No. 143513, pp. 101- 132.

[17] Ibid.

[18] Id.

[19] Id.

[20] See CA Decision in CA-G.R. CV No. 54295, promulgated 6 December 1999, Rollo, p. 32.


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[21] Decision penned by Associate Justice Renato C. Dacudao, concurred in by Associate Justices Ma. Alicia Austria-Martinez and Salvador J. Valdez, Jr., Seventh Division, Court of Appeals, CA Rollo, pp. 137-151.

[22] See Note 16 at pp. 153-171.

[23] Resolution dated 6 June 2000 in CA-G.R. CV No. 54295, Rollo in G.R. No. 143513, p. 219.

[24] Rollo in G. R. No. 143513, p. 26.

[25] Id., p. 5.

[26] "PUP in last-ditch try to save Sta. Mesa lot," Manila Bulletin, 30 September 2000, p. 12; "Gov't stands to lose P1B from sale of PUP land," Philippine Daily Inquirer, 26 September 2000, p. B14.

[27] Rollo in G.R. No. 143513, pp. 11-12.

[28] Ibid, p. 256.

[29] Rollo in G.R. No. 143590, pp. 10-23.

[30] See Note 16 at p. 338.

[31] The third "whereas as" clause of Memorandum Order No. 214 expressly provides, "WHEREAS the PUP has expressed its willingness to acquire said NDC properties and NDC has expressed its willingness to sell the properties to PUP," see Note 15.

[32] Art. 1458.

[33] NDC was created under CA 182 (1936), as amended by CA 311 (1938) and PD No. 668 (1975), while PUP was constituted in 1978 by virtue of PD No. 668.

[34] Rayo v. CFI, No. 552783, 19 December 1981, 110 SCRA 456; National Shipyard & Steel Corporation v. CIR, No. 17874, 31 August 1963, 8 SCRA 781; Social Security System v. CA, 205 PHIL 609 (1983).

[35] See Note 15 at p. 51, Rollo in G.R. No. 143513; p. 99, Rollo in G.R. No. 143590.

[36] See Note 21 at p. 163.

[37] See Note 1 at pp. 259-260.

[38] See Note 5 at p. 49.

[39] Parañaque Kings Enterprises, Inc. v. CA, 335 PHIL. 1184, (1997); Guzman, Bocaling & Co., v. Bonnevie, G.R. No. 86150, 2 March 1992, 206 SCRA 668.

[40] Ibid.

[41] G.R. No. 109125, 2 December 1994, 238 SCRA 602.

[42] G.R. No. 106063, 21 November 1996, 264 SCRA 483.

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