

**TERESITA M. YUJUICO, PETITIONER, VS. HON. JOSE L. ATIENZA, JR.,
CHAIRMAN, CITY SCHOOL BOARD OF MANILA, DR. MA. LUISA S.
QUIONES, CO-CHAIRMAN, CITY SCHOOL BOARD, AND SCHOOLS
DIVI...**

G.R. NO. 164282. October 12, 2005

Ponente: TINGA, J.

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TINGA, J.:

This is a Petition for Review on Certiorari instituted by Teresita M. Yujuico, petitioner in the case for mandamus docketed as Civil Case No. 02-103748 before the Regional Trial Court (RTC) of Manila, Branch 15. Petitioner is questioning the propriety of the Order[1] dated 25 June 2004, granting respondents' Petition for Relief from Judgment under Section 2, Rule 38 of the 1997 Rules of Civil Procedure.

The operative facts are not disputed.

On 8 December 1995, the City Council of Manila enacted an Ordinance[2] authorizing the City Mayor to acquire by negotiation or expropriation certain parcels of land for utilization as a site for the Francisco Benitez Elementary School.[3] The property chosen is located along Solis St. near Juan Luna St. in the Second District of Manila and contains an approximate area of 3,979.10 square meters. It is covered by Transfer Certificates of Title Nos. 71541, 71548, 24423, 71544 and 71546, all in the name of petitioner. The Ordinance provides that an amount not to exceed the fair market value of the land then prevailing in the area will be allocated out of the Special Education Fund (SEF) of the City of Manila (City) to defray the cost of the property's acquisition.[4]

Failing to acquire the land by negotiation, the City filed a case for eminent domain against petitioner as owner of the property. Filed on 22 August 1996, the case was raffled to Branch 15, RTC of Manila and docketed as Civil Case No. 96-79699.[5]

On 30 June 2000, the RTC rendered a Decision[6] in the expropriation case in favor of the City. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered as follows:

- 1.) The lots including the improvements therein of defendant Teresita M. Yujuico, as described in the complaint, are declared expropriated for public use;
- 2.) The fair market value of the lots of defendant is fixed at P18,164.80 per square meter. The fair market value of the improvements of lots subject of this action is fixed at P 978,000.00;
- 3.) The plaintiff must pay defendant the sum of P72,279,555.68 (3,979.10 sq. m. x P18,164.80) representing the value of the subject lots plus P978,000.00 representing the value of the improvements or the total amount of P73,257,555.00 as just compensation for the whole property (including the improvements) minus the sum of P5,363,289.00 that plaintiff deposited in Court per Order dated April 30, 1997, hence the balance of

P67,894,266.00 with interest at the rate of 6% per annum from July 15, 1997 (date of possession of subject property for the purpose of this proceedings) until the day full payment is made to defendant or deposited in Court.[7]

The judgment became final and executory, no appeal having been interposed by either party.[8] On 6 April 2001, petitioner filed a Motion for Execution of Judgment[9] which the trial court granted. Pursuant to a Writ of Execution[10] dated 28 June 2001, the branch sheriff served a Notice of Garnishment on the funds of the City deposited with the Land Bank of the Philippines, YMCA Branch, Manila (Land Bank) to satisfy the judgment amount of P67,894,226.00, with interest at 6% per annum.[11]

Invoking jurisprudence holding that public funds cannot be made subject to garnishment, the City filed a motion to quash the Notice of Garnishment.[12] Acting on the motion, the trial court issued an Order dated 2 August 2001.

In the Order, the lower court recalled that during the hearing on the motion, the counsel for the City manifested that the amount of P36,403,170.00 had been appropriated by the City School Board (CSB) under CSB Resolutions Nos. 613 and 623, of which P31,039,881.00 was available for release. The amount of P5,363,269.00, representing fifteen percent (15%) of the assessed value of the property, had been deposited in court at the start of the expropriation proceedings and subsequently received by petitioner. In line with the manifestation made by the counsel for the City, the trial court ordered the release to petitioner of the amount of P31,039,881.00 deposited with the Land Bank, in partial payment of the just compensation adjudged in favor of petitioner.[13]

The trial court further stated in the Order:

Considering that this case is on all fours with the case of the Municipality of Makati vs. Court of Appeals (190 SCRA 206), wherein it was ruled that "x x x Public funds are not subject to levy and execution," the Court therefore grants plaintiff's Motion to Quash the Notice of Garnishment and the Notice of Garnishment to the Landbank of the Philippines issued by the Branch Sheriff of this Court is hereby ordered lifted.

There being no opposition for the release of the Thirty One Million Thirty Nine Thousand Eight Hundred Eighty One Pesos (P31,039,881.00) deposited with the Land Bank, YMCA Branch as Special Education Fund, the Manager of the Landbank of the Philippines, YMCA, Manila is hereby directed to release the said amount to defendant Teresita M. Yujuico in partial payment of the just compensation adjudged by this Court in its Decision dated June 30, 2000.

Upon manifestation of the counsel for the plaintiff that it is the City School Board which has the authority to pass a resolution allocating funds for the full satisfaction of the just compensation fixed, the said body is hereby given thirty (30) days from receipt of this Order to pass the necessary resolution for the payments of the remaining balance due to defendant Teresita M. Yujuico.[14]

A copy of the Order dated 2 August 2001 was served on the CSB on 3 August 2001.[15]

On 30 August 2001, petitioner submitted a manifestation before the trial court requesting that she be informed by both the City and the CSB if a resolution had already been passed by the latter in compliance with the Order.[16] Earlier, petitioner sent a letter to the Superintendent of City Schools of Manila to verify the CSB's compliance with the Order.[17]

Not having been favored with a reply to her queries even after the lapse of the thirty (30)-day compliance period, petitioner sent a letter to the CSB dated 10 September 2001, demanding compliance with the Order.[18]

As there was no action from the CSB, on 1 February 2002, petitioner filed a petition for contempt of court against respondents Hon. Jose L. Atienza, Jr., Dr. Ma. Luisa S. Quiñoa, Roger Gernale, Arlene Ortiz, Miles Rocas,

Percival Floriendo, Liberty Toledo, Isabelita Santos and Isabelita Ching in their capacities as officers and members of the CSB.[19] The case was docketed as Civil Case No. 02-102837 of the Manila RTC.[20]

Countering the petition for contempt, respondents filed a Motion to Dismiss,[21] wherein they alleged inter alia that they never disregarded the Order as the matter had in fact been calendared and deliberated upon during the meetings of the CSB.[22] In their subsequent Omnibus Reply,[23] respondents argued that petitioner's failure to avail of the proper recourse to enforce the final and executory judgment[24] should not be a ground to hold them in contempt of court. Citing the case of *Municipality of Makati v. Court of Appeals*,[25] respondents asserted that petitioner should have filed a petition for mandamus to force the CSB to pass the necessary resolution for immediate payment of the balance of the just compensation awarded in her favor.[26]

According to respondents, petitioner took the Order as a writ of mandamus when in fact it was a mere order in furtherance of the Writ of Execution.[27] This interpretation, respondents insisted, should never be allowed since petitioner merely wanted to escape the payment of docket fees in the filing of the petition for mandamus.[28]

In an Order[29] dated 17 May 2002, the trial court denied the petition for contempt of court.

On 6 June 2002, petitioner filed a Petition for Mandamus[30] against the members of the CSB, the same respondents in the petition for contempt of court, seeking to compel them to pass a resolution appropriating the amount necessary to pay the balance of the just compensation awarded to petitioner in the expropriation case, Civil Case No. 96-79699. The petition was docketed as Spl. Civil Action No. 02-103748 and raffled to Branch 51 of the RTC of Manila. [31]

Upon petitioner's motion,[32] Branch 51 of the Manila RTC before which the mandamus case was pending, in an Order[33] dated 23 August 2002, directed its consolidation with the expropriation case before Branch 15.[34]

In a Decision[35] dated 9 October 2002, the lower court (Branch 15) granted the petition for mandamus. Specifically, it ordered respondents to immediately pass a resolution appropriating the necessary amount and the corresponding disbursement thereof for the full and complete payment of the balance of the court-adjudged compensation still due petitioner, ratiocinating as follows:[36]

This case is on all fours with the case of *Municipality of Makati v. Court of Appeals* (190 SCRA 206).

....

The State's power of eminent domain should be exercised within the bounds of fair play and justice. In the case at bar, considering that valuable property has been taken, the compensation to be paid fixed and the municipality is in full possession and utilizing the property for the public purpose, for three (3) years, the Court finds that the municipality has had more than reasonable time to pay full compensation.

The arguments of the herein respondents that passing the ordinance or the act of appropriating special educational fund is a discretionary act that could not be compelled by mandamus should be thrown overboard. It must be stressed that what we have here is a final and executory judgment, establishing a legal right for the petitioner to demand fulfillment which on the other hand became an imperative duty on the part of the respondent to perform the act required.

WHEREFORE, premises considered, the petition is GRANTED, and the respondents are hereby ordered to immediately pass a resolution appropriating the necessary amount; and the corresponding disbursement thereof, for the full and complete payment of the remaining balance of the court-adjudged compensation due and owing to petitioner Teresita M. Yujuico.

SO ORDERED.[37]

Respondents filed a motion for reconsideration, which the trial court denied in an Order[38] dated 13 December 2002.

With respondents not interposing an appeal, the Decision became final and executory on 2 January 2003[39] and eventually, the corresponding Entry of Judgment was issued on 15 January 2003.[40] The court granted petitioner's Motion for Execution[41] in an Order[42] dated 12 March 2003.

However, on 14 March 2003, respondents filed a Petition for Relief from Judgment,[43] wherein they also prayed for a temporary restraining order (TRO) and a writ of preliminary injunction. Respondents invoked excusable negligence as a ground for their failure to seasonably file an appeal.[44] While it denied the application for TRO in view of its prior order granting petitioner's Motion for Execution, the court granted the Petition for Relief from Judgment in an Order[45] dated 25 June 2004. This had the effect of giving due course to respondents' appeal despite the fact that the decision of the trial court had already attained finality.

Finding the Order unacceptable, petitioner elevated it to this Court by way of a petition for certiorari under Rule 45. In her petition, petitioner asks that the order of the lower court giving due course to respondents' appeal be reversed and set aside on a pure question of law.[46]

Before resolving the substantive issues raised by the parties, the Court will first address the procedural infirmities ascribed by respondents to the petition at bar.

Respondents assail the correctness and propriety of the mode of appeal resorted to by petitioner.[47] According to them, the order granting the petition for relief from judgment is an interlocutory order which cannot be made the subject of an appeal.[48] Respondents likewise argue that petitioner failed to respect the rule on hierarchy of courts. This Court, they aver, had consistently held that its original jurisdiction to issue a writ of certiorari is not exclusive but is concurrent with that of the RTC and the Court of Appeals in certain cases.[49]

Respondents have correctly pointed out that an interlocutory order cannot be made subject to an appeal. However, when viewed in context, the recitals of the petition clearly disclose and the Court is convinced that the lower court committed grave abuse of discretion amounting to lack or excess of jurisdiction when it granted respondents' petition for relief from judgment. While this case should have been elevated to this Court not by way of a petition for review under Rule 45 but through a special civil action for certiorari under Rule 65, in the exercise of our sound discretion and in order to write finis to this case which has needlessly dragged on for so long, we shall treat the petition as a special civil action for certiorari. After all, it was filed within the reglementary period for the filing of a Rule 65 petition. As we held in *Salinas v. NLRC*,[50] in the interest of justice, this Court has often judiciously treated petitions erroneously captioned as petitions for review on certiorari as special civil actions for certiorari. This is in line with the principle that the strict application of procedural technicalities should not hinder the speedy disposition of the case on the merits.[51]

Accordingly, facial allegations of reversible error in the petition will be treated, as they should be, as contextual averments of grave abuse of discretion on the part of the court a quo. Appropriately, petitioner impleaded the RTC Presiding Judge as party-respondent in the instant petition.

Anent the alleged breach of the rule on hierarchy of courts, the doctrine is not an iron-clad dictum.[52] The rule may be relaxed when exceptional and compelling circumstances warrant the exercise of this Court's primary jurisdiction.[53] In this case, the judgment sought to be satisfied has long attained finality and the expropriated property has been utilized as a school site for five (5) years now; yet, the awarded just compensation has not been fully paid. These circumstances, in the Court's estimation, merit the relaxation of the technical rules of procedure to ensure that substantial justice will be served.

Concerning petitioner's alleged failure to implead the CSB or its new members before the trial court,[54] respondents argue that since there are five (5) new members in the CSB any decision in the case requiring the CSB to act as a body would prove to be legally impossible. The former members of the CSB could no longer be compelled to act according to the orders of the Court since they no longer have the capacity to do so. On the other hand, respondents continue, the new members cannot be directed to comply with the Court's judgment either; they have never been impleaded in the case; thus, the Court never acquired jurisdiction over their persons.[55]

The arguments were effectively neutered in our Resolution dated 8 August 2005. There, we declared:

Considering the arguments posited by both parties, this Court is of the view that a substitution of the original respondents by the members of the CSB who replaced them is warranted. The phrase "or such time as may be granted by the Court" in Sec. 17, Rule 3 of the 1997 Rules of Civil Procedure denotes that the Court before whom the motion for substitution is filed may grant a period longer than thirty (30) days for the purpose. In any event, technical rules on substitution of a party should not be so narrowly construed as to prevent this Court from taking cognizance of a case and deciding it on the merits. Moreover, petitioner did make an attempt to implead the new members of the CSB by making the CSB itself a respondent before this Court. There is also no showing that the new members of the CSB have deviated from the stand of their predecessors-in-interest; hence, there is a substantial need for continuing or maintaining petitioner's action against them.[56]

In the same Resolution, the Court ordered the impleading of the new CSB members Roger Gernale, Manuel M. Zarcal, Benjamin Valbuena and Francesca Gernale as party respondents-the last three in substitution of Arlene Ortiz, Percival Floriendo, Miles Roces-and the new CSB Assistant Secretary Vicente Macarubbo in substitution of Isabelita Ching.[57] Only Manuel Zarcal filed a Comment[58] dated 30 August 2005 through a new counsel, adopting in toto the comment of his co-respondents. Hence, the other four newly impleaded party respondents are deemed to have retained the Office of the City Legal Officer (OCLO) as their counsel and to have adopted the Comment already filed by the OCLO in behalf of their co-respondents.

Thus, the proper substitutions of some party respondents have already taken place in this case.

The last procedural hurdle thrown petitioner's way by respondents refers to the supposed failure of the petition to comply with the requirements of Section 4, Rule 7 and Section 4, Rule 45 of the 1997 Rules of Civil Procedure[59] as amended by Supreme Court Circular A.M. No. 00-2-10-SC.[60] Respondents claim that there was failure to include a verified statement indicating the material dates relative to the receipt of the judgments and the filing of the pleadings. The verification, moreover, allegedly failed to state that petitioner has read the petition[61] and that the copies attached thereto are based on authentic records.[62] The defects of the verification allegedly render the petition without legal effect and constitute grounds for its dismissal.

The purpose of requiring a verification is to secure an assurance that the allegations of the petition have been made in good faith; or are true and correct, not merely speculative.[63] This requirement is simply a condition affecting the form of pleadings and non-compliance therewith does not necessarily render it fatally defective.[64] Perusal of the verification in question shows that there was sufficient compliance with the requirements of the Rules and the alleged defects are not so material as to justify the dismissal of the petition.

Now, the substantial issues.

Up for determination is the tenability of the RTC's favorable action on respondents' petition for relief from judgment. This engenders a look at the grounds and defenses relied upon by respondents in support of their petition. Sections 2 and 3, Rule 38 of the 1997 Rules of Civil Procedure provide that a petition for relief may be granted upon a showing that (1) through fraud, accident, mistake or excusable negligence, a party has been prevented from taking an appeal, and (2) the party has a good and substantial cause of action or defense.

The above requisites notwithstanding, it bears stressing that relief from judgment is premised on equity. It is an act of grace which is allowed only in exceptional cases.[65]

In this case, according to respondents they were unable to seasonably file a notice of appeal due to "excusable negligence." [66] One Ronald Silva (Silva), an employee of the OCLO, allegedly failed to forward the Order denying respondents' motion for reconsideration in Civil Case No. 02-103748 to the handling lawyers. When the order was delivered to the OCLO on 17 December 2002, [67] Silva was the one who received it because the employee designated to do so was out on official business. [68] Since the employees were busy preparing for the office Christmas party that day, [69] Silva forgot all about the order. He only remembered it when the order for entry of judgment in the case was received on 29 January 2003. By that time, however, the order dated 17 December 2002 had already been misplaced. [70]

Clearly, the situation does not present a case of excusable negligence which would warrant relief under Rule 38. Time and again, this Court has ruled that the inability to perfect an appeal in due time by reason of failure of a counsel's clerk to notify the handling lawyer is not a pardonable oversight. [71] As held in one case:

. . . The excuse offered by respondent . . . as reason for his failure to perfect in due time his appeal from the judgment of the Municipal Court, that counsel's clerk forgot to hand him the court notice, is the most hackneyed and habitual subterfuge employed by litigants who fail to observe the procedural requirements prescribed by the Rules of Court. The uncritical acceptance of this kind of common-place excuses, in the face of the Supreme Court's repeated rulings that they are neither credible nor constitutive of excusable negligence (Gaerlan v. Bernal, L-4039, 29 January 1952; Mercado v. Judge Domingo, L-19457, 17 December 1966) is certainly such whimsical exercise of judgment as to be a grave abuse of discretion.

. . . .

In the face of all these facts and circumstances, . . . the respondent judge revealed a simple-minded willingness to swallow a story patently concocted to delay as much as possible the satisfaction of a judgment against respondent This indiscriminating credulity does not conform to what is to be expected of a judicial mind. [72]

Reiterated in numerous cases is the rule that the clerks' faults are attributable to the handling lawyers. [73] Thus, excuses offered based on the former's negligence are not deemed excusable. That the admonitions issued out by this Court were mostly directed against lawyers in law firms does not exempt respondents herein from the same treatment. For all intents and purposes, the set-up at the OCLO is akin to that of a law firm, the only difference being that the former serves a public entity while the latter caters to private clients. The following pronouncement in *Negros Stevedoring Co., Inc. v. Court of Appeals* [74] is apropos:

The negligence committed in the case at bar cannot be considered excusable, nor is it unavoidable. Time and again, the Court has admonished law firms to adopt a system of distributing pleadings and notices, whereby lawyers working therein receive promptly notices and pleadings intended for them, so that they will always be informed of the status of their cases. The Court has also often repeated that the negligence of clerks which adversely affect the cases handled by lawyers is binding upon the latter. [75]

Without doubt, it was grave abuse of discretion for the lower court to have given due course to respondents' appeal through the grant of their petition for relief from judgment based on the flimsy ground they proffered.

Even assuming that the negligence invoked by respondents could be considered excusable, still the petition should not have been granted. It must be borne in mind that two requisites must be satisfied before a petition under Rule 38 may be granted, the other being the existence of a good and substantial cause of action or defense.

Respondents' defense consisted of their claim that the CSB has a personality separate and distinct from the City

such that it should not be made to pay for the City's obligations.[76] However, the argument is undercut by the particular circumstances of this case.

It is worthy of note that the records of this case clearly show that the same counsel, the OCLO, represented the City in the expropriation case and now, all except one of the individual respondents in the case at bar. Worthy of note are the following manifestations relied upon by the lower court in issuing the order on the motion to quash the Notice of Garnishment over the funds of the City, to wit:

The Motion to Quash Notice of Garnishment was heard by this court this morning and Atty. Joseph Aquino appeared for the plaintiff (City of Manila) and Atty. Federico Alday, for the defendant. Atty. Aquino manifested that the amount of Thirty Six Million Four Hundred Three Thousand One Hundred Seventy Pesos (P36,403,170.00) had been appropriated by the City School Board (CSB) under CSB Resolution Nos. 613 and 623 for this purpose.

....

Upon manifestation of the counsel for the plaintiff that it is the City School Board which has the authority to pass a resolution allocating funds for the full satisfaction of the just compensation fixed, the said body is hereby given thirty (30) days from receipt of this Order to pass the necessary resolution for the payments of the remaining balance due to defendant Teresita M. Yujuico. (Emphasis supplied.)([77])

The manifestation was made by the same counsel now claiming that it is actually the City which should be made liable for the payment of its own obligations. This, after it trotted out the CSB as the entity with authority to pass a resolution that would satisfy the obligation it had vigorously pursued.

The above circumstances, coupled with the rule that an act performed by counsel within the scope of a "general or implied authority" is regarded as an act of the client,[78] render the City and, through it, respondents in estoppel. By estoppel is meant that an admission or representation is rendered conclusive upon the person making it and cannot be denied or disproved as against the person relying thereon.[79] Petitioner and the courts acted in accordance with the City's own manifestations by running after the CSB. At this point, respondents and the OCLO can no longer turn around and toss the obligation back to the City. After all, it was the legal counsel of both the City and respondents who made a big production out of showing that the liability incurred by the City will be borne by the CSB.

Contrary to respondents' claim, the law does not make the CSB an entity independent from the City of Manila. This is evident from the provisions of the Local Government Code of 1991, the law providing for the creation of school boards. It states:

TITLE IV.- LOCAL SCHOOL BOARDS

Section 98. Creation, Composition and Compensation.-

(a) There shall be established in every province, city or municipality a provincial, city, or municipal school board, respectively.

(b) The composition of local school boards shall be as follows:

...

(2) The city school board shall be composed of the city mayor and the city superintendent of schools as co-chairmen; the chairman of the education committee of the sangguniang panlungsod, the city treasurer, the representative of the ""pederasyon ng mga sangguniang kabataan"" in the sangguniang panlungsod, the duly elected president of the city federation of parents-teachers associations, the duly elected representative of the

non-academic personnel of public schools in the city, as members;

...

Section 101. Compensation and Remuneration.-

The co-chairmen and members of the provincial, city or municipal school board shall perform their duties as such without compensation or remuneration. Members thereof who are not government officials or employees shall be entitled to traveling expenses and allowances chargeable against the funds of the local school board concerned, subject to existing accounting and auditing rules and regulations.[80]

The fact that the highest ranking official of a local government unit (LGU) is designated as co-chairman of the school board negates the claim in this case that the CSB has a personality separate and distinct from the City. The other fact that government officials in the school board do not receive any compensation or remuneration while NGO representatives merely receive allowances underscores the absurdity of respondents' argument all the more. Indeed, such would not be the situation if the school board has a personality separate and distinct from the LGU.

Respondents also argue that the members of the CSB cannot be directed to decide a discretionary function in the specific manner the court desires.[81] The question of whether the enactment of an ordinance to satisfy the appropriation of a final money judgment rendered against an LGU may be compelled by mandamus has already been settled in *Municipality of Makati v. Court of Appeals*. [82]

Nevertheless, this is not to say that private respondent and PSB are left with no legal recourse. Where a municipality fails or refuses, without justifiable reason, to effect payment of a final money judgment rendered against it, the claimant may avail of the remedy of mandamus in order to compel the enactment and approval of the necessary appropriation ordinance, and the corresponding disbursement of municipal funds therefore [See *Viuda De Tan Toco v. The Municipal Council of Iloilo*, supra, *Baldivia v. Lota*, 107 Phil 1099 (1960); *Yuviengco v. Gonzales*, 108 Phil 247 (1960)].[83]

Clearly, mandamus is a remedy available to a property owner when a money judgment is rendered in its favor and against a municipality or city, as in this case.

Moreover, the very ordinance authorizing the expropriation of petitioner's property categorically states that the payment of the expropriated property will be defrayed from the SEF. To quote:

An amount not to exceed the current fair market value, prevailing in the area appraised in accordance with the requirements of existing laws, rules and regulations, of the property to be acquired or so much thereof as may be necessary for the purpose shall be allocated out of the Special Education Fund of the City to defray the cost of acquisition of the above-mentioned parcels of land.[84]

The legality of the above-quoted provision is presumed. The source of the amount necessary to acquire petitioner's property having in fact been specified by the City Council of Manila, the passage of the resolution for the allocation and disbursement thereof is indeed a ministerial duty of the CSB.

Furthermore, respondents had argued in the petition for contempt filed against them by petitioner that the latter's failure to invoke the proper remedy of mandamus should not be a ground to penalize them with contempt. In their haste to have the contempt petition dismissed, respondents consistently contended that what petitioner should have filed was a case for mandamus to compel passage of the corresponding resolution of the CSB if she wanted immediate payment.[85] Having relied on these representations of respondents and having filed the action they adverted to, petitioner cannot now be sent by respondents on another wild goose chase to obtain ultimate recovery of what she is legally entitled to.

While this Court recognizes the power of LGU to expropriate private property for public use, it will not stand idly by while the expropriating authority maneuvers to evade the payment of just compensation of property already in its possession.

The notion of expropriation is hard enough to take for a private owner. He is compelled to give up his property for the common weal. But to give it up and wait in vain for the just compensation decreed by the courts is too much to bear. In cases like these, courts will not hesitate to step in to ensure that justice and fair play are served. As we have already ruled:

. . . This Court will not condone petitioner's blatant refusal to settle its legal obligation arising from expropriation proceedings it had in fact initiated. It cannot be over-emphasized that within the context of the State's inherent power of eminent domain,

. . . (j)ust compensation means not only the correct determination of the amount to be paid to the owner of the land but also the payment of the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered "just" for the property owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss (*Consculluela v. The Honorable Court of Appeals*, G.R. No. 77765, August 15, 1988, 164 SCRA 393, 400. See also *Provincial Government of Sorsogon v. Vda. De Villaroya*, G.R. No. 64037, August 27, 1987, 153 SCRA 291).[86]

The decision rendering just compensation in petitioner's favor was promulgated way back in the year 2000.[87] Five years have passed, yet the award still has not been fully satisfied. Recently, in *Republic v. Lim*,[88] this Court made the following pronouncement:

. . . while the prevailing doctrine is that the non-payment of just compensation does not entitle the private landowner to recover possession of the expropriated lots, however, in cases where the government failed to pay just compensation within five (5) years from the finality of judgment in the expropriation proceedings, the owners concerned shall have the right to recover possession of their property. This is in consonance with the principle that "the government cannot keep the property and dishonor the judgment." To be sure, the five-year period limitation will encourage the government to pay just compensation punctually. This is in keeping with justice and equity. After all, it is the duty of the government, whenever it takes property from private persons against their will, to facilitate the payment of just compensation.[89] (Citations omitted)

Given the above ruling, the reversion of the expropriated property to the petitioner would prove not to be a remote prospect should respondents and the City they represent insist on trudging on their intransigent course.

One final note. Respondents' appeal from the Decision dated 9 October 2002 of the lower court, made possible by its grant of their petition for relief, is before the Court of Appeals where it is docketed as CA-G.R. No. 86692.[90] The court's Decision in this case would have obvious consequences on said appeal; hence, referral of this Decision to the Court of Appeals is in order.

WHEREFORE, the petition is GRANTED. The Order of the trial court dated 25 June 2004, granting respondents' Petition for Relief from Judgment is REVERSED and set aside and its Decision dated 9 October 2002, ordering respondents to immediately pass a resolution for the payment of the balance of the court-adjudged compensation due petitioner, is reinstated.

Let a copy of this Decision be furnished the Court of Appeals for its information and guidance in relation to CA-G.R. No. 86692 entitled "*Teresita M. Yujuico v. Hon. Jose L. Atienza, Jr., et al.*"

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Chico-Nazario, JJ., concur.
Callejo, Sr., J., on leave.

[1] Penned by Judge Mercedes Posada-Lacap; Rollo, pp. 46-50.

[2] Rollo, p. 68.

[3] Id. at 57, 68.

[4] Id. at 68.

[5] Id. at 19, 57-60.

[6] Id. at 80-94.

[7] Id. at 93-94.

[8] Id. at 437.

[9] Id. at 95-97.

[10] Id. at 98-99.

[11] Id. at 100.

[12] Ibid.

[13] Id. at 100-101.

[14] Id. at 101.

[15] Id. at 548.

[16] Id. at 548-549.

[17] Id. at 549.

[18] Id. at 549-550.

[19] Id. at 102-111, 439, 551.

[20] Ibid.

[21] Rollo, pp. 292-295.

[22] Ibid.

[23] Id. at 296-298.

[24] Id. at 296.

[25] G.R. Nos. 89898-99, 1 October 1990, 190 SCRA 206.

[26] Supra note 23.

[27] Id. at 297.

[28] Ibid.

[29] Id. at 112.

[30] Id. at 113-123.

[31] Ibid.

[32] Id. at 127, 554.

[33] Id. at 127-128.

[34] Ibid.

[35] Id. at 129-132.

[36] Ibid.

[37] Id. at 130-131.

[38] Id. at 137.

[39] Id. at 139.

[40] Id. at 138-139, 193-194.

[41] Id. at 140-144.

[42] Id. at 145-146.

[43] Id. at 147-156.

[44] Ibid.

[45] Id. at 7-11.

[46] Id. at 15-45.

[47] Id. at 447.

[48] Id. at 449-454.

[49] Id. at 454-456.

[50] 377 Phil. 55 (1999).

[51] Ibid.

[52] See *Buklod ng Kawaning EIIB v. Zamora*, 413 Phil. 281 (2001), *Fortich v. Corona*, 359 Phil. 461 (1998); *Dario v. Mison*, G.R. No. 81954, 8 August 1989, 176 SCRA 84.

[53] *The Province of Batangas v. Hon Alberto G. Romulo, et al.* G.R. No. 152774, 27 May 2004, 429 SCRA 736.

[54] *Rollo*, pp. 456-457.

[55] Id. at 357-359.

[56] Id. at 646.

[57] Ibid.

[58] Id. at 648-649.

[59] Id. 457-459.

[60] Id. at 458, 648.

[61] Id. at 458-459.

[62] Id. at 648.

[63] *Torres v. Specialized Packaging Dev't. Corp.*, G.R. No. 149634, 6 July 2004, 433 SCRA 455, 463 citing *Robern Dev't. Corp. v. Judge Quitain*, 373 Phil. 773, 786; 315 SCRA 150, 159.

[64] *Torres v. Specialized Dev't. Corp.*, *ibid.* citing *Uy v. Land Bank of the Philippines*, 391 Phil. 303, 312; 336 SCRA 419, 427, 24 July 2000.

[65] *Dirige v. Biranya*, 124 Phil. 269 (1966).

[66] *Rollo*, p. 148.

[67] Id. at 148-149.

[68] Affidavit of Eleazar S. Galvez, *Rollo*, p. 159.

[69] Affidavit of Ronald Silva, *id.* at 157.

[70] *Ibid.*

[71] *PAL v. Arca*, 125 Phil. 711, 714-716 (1967).

[72] *Ibid.*

[73] See *In Re: Atty. David Briones*, 415 Phil. 203 (2001), *Rivera v. Vda. De Cruz*, 135 Phil. 51 (1968), *Colcol v. The Philippine Bank of Commerce, et al.* 129 Phil. 117 (1967), *Ocampo v. Hon. Hermogenes Caluag, et al.* 126 Phil. 206 (1967).

[74] G.R. No. L-36003, 21 June 1988, 162 SCRA 371, 375.

[75] *Ibid.*

[76] *Rollo*, p. 466.

[77] Id. at 100-101.

[78] *Air Philippines Corp. v. International Business Aviation Services, Phils., Inc.*, G.R. No. 151963, 9 September 2004.

[79] Art. 1431, Civil Code.

[80] Local Government Code of 1991 (Republic Act No. 7160).

[81] *Rollo*, p. 475.

[82] *Supra* note 25.

[83] Id. at 213.

[84] *Supra* note 2.

[85] Supra notes 26-29.

[86] Supra note 26 at 213-214.

[87] Rollo, p. 94.

[88] G.R. No. 161656, 29 June 2005.

[89] Ibid.

[90] Rollo, p. 486.

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