

CITY OF MANILA, PETITIONER, VS. MELBA TAN TE, RESPONDENT.

G.R. No. 169263. September 21, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

In this Petition for Review,[1] the City of Manila assails the April 29, 2005 Decision[2] of the Court of Appeals in CA-G.R. CV No. 71894, as well as the August 12, 2005 Resolution,[3] in the said case denying reconsideration.

The assailed decision affirmed the June 13, 2001 Order[4] of the Regional Trial Court of Manila, Branch 24 issued in Civil Case No. 00-99264 - one for expropriation filed by petitioner, the City of Manila. The said Order, in turn, granted the motion to dismiss the complaint that was filed by respondent Melba Tan Te, in lieu of an answer.

The facts follow.

On March 15, 1998, then Manila City Mayor Joselito L. Atienza approved Ordinance No. 7951 - an expropriation measure enacted on February 3, 1998 by the city council - authorizing him to acquire by negotiation or expropriation certain pieces of real property along Maria Clara and Governor Forbes Streets where low-cost housing units could be built and then awarded to bona fide residents therein. For this purpose, the mayor was also empowered to access the city's funds or utilize funding facilities of other government agencies.[5] In the aggregate, the covered property measures 1,425 square meters, and includes the 475-square-meter lot owned by respondent Melba Tan Te.[6]

The records bear that respondent had acquired the property from the heirs of Emerlinda Dimayuga Reyes in 1996, and back then it was being occupied by a number of families whose leasehold rights had long expired even prior to said sale. In 1998, respondent had sought before the Metropolitan Trial Court of Manila, Branch 15 the ejectment of these occupants from the premises. The favorable ruling in that case evaded execution; hence, the court, despite opposition of the City of Manila, issued a Writ of Demolition at respondent's instance.[7] It appears that in the interim between the issuance of the writ of execution and the order of demolition, the City of Manila had instituted an expropriation case[8] affecting the same property. Respondent had moved for the dismissal of that first expropriation case for lack of cause of action, lack of showing of an ordinance authorizing the expropriation, and non-compliance with the provisions of Republic Act (R.A.) No. 7279, otherwise known as the Urban Development and Housing Act of 1992.[9] The trial court found merit in the motion and dismissed the complaint without prejudice.[10]

On November 16, 2000, petitioner[11] filed this second Complaint[12] for expropriation before the Regional Trial Court of Manila, Branch 24.[13] This time, it attached a copy of Ordinance No. 7951 and alleged that pursuant thereto, it had previously offered to purchase the subject property from respondent for P824,330.00.[14] The offer was contained in a letter sent to respondent by the City Legal Officer on May 21, 1999,[15] but respondent allegedly failed to retrieve it despite repeated notices,[16] thereby compelling petitioner to institute the present expropriation proceedings after depositing in trust with the Land Bank of the Philippines P1,000,000.00 cash,

representing the just compensation required by law to be paid to respondent.[17]

Respondent did not file an answer and in lieu of that, she submitted a Motion to Dismiss[18] and raised the following grounds: that Ordinance No. 7951 was an invalid expropriation measure because it violated the rule against taking private property without just compensation; that petitioner did not comply with the requirements of Sections 9[19] and 10[20] of R.A. No. 7279; and that she qualified as a small property owner and, hence, exempt from the operation of R.A. No. 7279, the subject lot being the only piece of realty that she owned.

Petitioner moved that it be allowed to enter the property, but before it could be resolved, the trial court issued its June 13, 2001 Order[21] dismissing the complaint. First, the trial court held that while petitioner had deposited with the bank the alleged P1M cash in trust for respondent, petitioner nevertheless did not submit any certification from the City Treasurer's Office of the amount needed to justly compensate respondent for her property. Second, it emphasized that the provisions of Sections 9 and 10 of R.A. No. 7279 are mandatory in character, yet petitioner had failed to show that it exacted compliance with them prior to the commencement of this suit. Lastly, it conceded that respondent had no other real property except the subject lot which, considering its total area, should well be considered a small property exempted by law from expropriation. In view of the dismissal of the complaint, petitioner's motion to enter was rendered moot and academic.[22]

Petitioner interposed an appeal to the Court of Appeals which, finding no merit therein, dismissed the same.[23] Petitioner sought reconsideration,[24] but it was denied.[25]

In this Petition,[26] petitioner posits that the trial court's dismissal of its complaint was premature, and it faults the Court of Appeals for having failed to note that by such dismissal it has been denied an opportunity to show previous compliance with the requirements of Sections 9 and 10 of R.A. No. 7279 as well as to establish that respondent actually owns other realty apart from the subject property. Besides, continues petitioner, whether or not it had truly complied with the requirements of the law is a matter which can be determined only after a trial of the case on the merits and not, as what happened in this case, at the hearing of the motion to dismiss.[27]

Respondent, for her part, points out that Ordinance No. 7951 is an invalid expropriation measure as it does not even contain an appropriation of funds in its implementation. In this respect, respondent believes that the P1M cash deposit certified by the bank seems to be incredible, since petitioner has not shown any certification from the City Treasurer's Office on the amount necessary to implement the expropriation measure. More importantly, she believes that the dismissal of the complaint must be sustained as it does not allege previous compliance with Sections 9 and 10 of R.A. No. 7279 and, hence, it does not present a valid cause of action.[28] She theorizes that the expropriation for socialized housing must abide by the priorities in land acquisition and the available modes of land acquisition laid out in the law, and that expropriation of privately-owned lands avails only as the last resort.[29] She also invokes the exemptions provided in the law. She professes herself to be a small property owner under Section 3 (q),[30] and claims that the subject property is the only piece of land she owns where she, as of yet, has not been able to build her own home because it is still detained by illegal occupants whom she had already successfully battled with in the ejectment court.[31]

In its Reply, petitioner adopts a different and bolder theory. It claims that by virtue of the vesture of eminent domain powers in it by its charter, it is thereby not bound by the requirements of Sections 9 and 10 of R.A. No. 7279. It also asserts its right to immediately enter the subject property because not only is its complaint supposedly sufficient in form and substance but also because it has already deposited P1M cash with the bank in trust for respondent. It reiterates that the dismissal of its complaint constitutes a denial of due process because all the issues propounded by respondent, initially in her motion to dismiss and all the way in the present appeal, must be resolved in a full-blown trial.

Prefatorily, the concept of socialized housing, whereby housing units are distributed and/or sold to qualified beneficiaries on much easier terms, has already been included in the expanded definition of "public use or purpose" in the context of the State's exercise of the power of eminent domain. Said the Court in *Sumulong v. Guerrero*,^[32] citing the earlier case of *Heirs of Juancho Ardon v. Reyes*:^[33]

The public use requirement for a valid exercise of the power of eminent domain is a flexible and evolving concept influenced by changing conditions.

The taking to be valid must be for public use. There was a time where it was felt that a literal meaning should be attached to such a requirement. Whatever project is undertaken must be for the public to enjoy, as in the case of streets or parks. Otherwise, expropriation is not allowable. It is not anymore. As long as the purpose of the taking is public, then the power of eminent domain comes into play. x x x The constitution in at least two cases, to remove any doubt, determines what is public use. One is the expropriation of lands to be divided into small lots for resale at cost to individuals. The other is in the transfer, through the exercise of this power, of utilities and other enterprise to the government. It is accurate to state then that at present whatever may be beneficially employed for the general welfare satisfies the requirement of public use.

The term "public use" has acquired a more comprehensive coverage. To the literal import of the term signifying strict use or employment by the public has been added the broader notion of indirect public benefit or advantage. x x x

The restrictive view of public use may be appropriate for a nation which circumscribes the scope of government activities and public concerns and which possesses big and correctly located public lands that obviate the need to take private property for public purposes. Neither circumstance applies to the Philippines. We have never been a laissez-faire state. And the necessities which impel the exertion of sovereign power are all too often found in areas of scarce public land or limited government resources.

Specifically, urban renewal or development and the construction of low-cost housing are recognized as a public purpose, not only because of the expanded concept of public use but also because of specific provisions in the Constitution. x x x The 1987 Constitution [provides]:

The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life for all. (Article II, Section 9)

The State shall, by law and for the common good, undertake, in cooperation with the private sector, a continuing program for urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. x xx In the implementation of such program the State shall respect the rights of small property owners. (Article XIII, Section 9)

Housing is a basic human need. Shortage in housing is a matter of state concern since it directly and significantly affects public health, safety, the environment and in sum, the general welfare. The public character of housing measures does not change because units in housing projects cannot be occupied by all but only by those who satisfy prescribed qualifications. A beginning has to be made, for it is not possible to provide housing for all who need it, all at once.

Population growth, the migration to urban areas and the mushrooming of crowded makeshift dwellings is a worldwide development particularly in developing countries. So basic and urgent are housing problems that the United Nations General Assembly proclaimed 1987 as the "International Year of Shelter for the Homeless" "to focus the attention of the international community on those problems." The General Assembly is seriously concerned that, despite the efforts of Governments at the national and local levels and of international

organizations, the driving conditions of the majority of the people in slums and squatter areas and rural settlements, especially in developing countries, continue to deteriorate in both relative and absolute terms." [G.A. Res. 37/221, Yearbook of the United Nations 1982, Vol. 36, p. 1043-4]

In light of the foregoing, the Court is satisfied that "socialized housing" falls within the confines of "public use." [34]

Congress passed R.A. No. 7279, [35] to provide a comprehensive and continuing urban development and housing program as well as access to land and housing by the underprivileged and homeless citizens; uplift the conditions of the underprivileged and homeless citizens in urban areas by making available decent housing at affordable cost; optimize the use and productivity of land and urban resources; reduce urban dysfunctions which affect public health, safety and ecology; and improve the capability of local governments in undertaking urban development and housing programs and projects, among others. [36] Accordingly, all city and municipal governments are mandated to inventory all lands and improvements within their respective locality and identify lands which may be utilized for socialized housing and as resettlement sites for acquisition and disposition to qualified beneficiaries. [37] Section 10 thereof authorizes local government units to exercise the power of eminent domain to carry out the objectives of the law, but subject to the conditions stated therein and in Section 9. [38]

It is precisely this aspect of the law which constitutes the core of the present controversy, yet this case presents a serious procedural facet - overlooked by both the trial court and the Court of Appeals - which needs foremost attention ahead of the issues propounded by the parties.

Expropriation is a two-pronged proceeding: first, the determination of the authority of the plaintiff to exercise the power and the propriety of its exercise in the context of the facts which terminates in an order of dismissal or an order of condemnation affirming the plaintiff's lawful right to take the property for the public use or purpose described in the complaint and second, the determination by the court of the just compensation for the property sought to be expropriated. [39]

Expropriation proceedings are governed by Rule 67 of the Rules of Court. Under the Rules of Court of 1940 and 1964, where the defendant in an expropriation case conceded to the plaintiff's right to expropriate (or where the trial court affirms the existence of such right), the court-appointed commissioners would then proceed to determine the just compensation to be paid. [40] Otherwise, where the defendant had objections to and defenses against the expropriation of his property, he was required to file a single motion to dismiss containing all such objections and defenses. [41]

This motion to dismiss was not covered by Rule 15 which governed ordinary motions, and was then the required responsive pleading, taking the place of an answer, where the plaintiff's right to expropriate the defendant's property could be put in issue. [42] Any relevant and material fact could be raised as a defense, such as that which would tend to show that the exercise of the power to condemn was unauthorized, or that there was cause for not taking defendant's property for the purpose alleged in the petition, or that the purpose for the taking was not public in character. With that, the hearing of the motion and the presentation of evidence would follow. The rule is based on fundamental constitutional provisions affecting the exercise of the power of eminent domain, such as those that seek to protect the individual property owner from the aggressions of the government. [43] However, the rule, which was derived from the practice of most American states, proved indeed to be a source of confusion because it likewise permitted the filing of another motion to dismiss, such as that referred to in Rule 16, where the defendant could raise, in addition, the preliminary objections authorized under it. [44]

The Supreme Court, in its en banc Resolution in Bar Matter No. 803 dated April 8, 1997, has provided that the revisions made in the Rules of Court were to take effect on July 1, 1997. Thus, with said amendments, the present

state of Rule 67 dispenses with the filing of an extraordinary motion to dismiss such as that required before in response to a complaint for expropriation. The present rule requires the filing of an answer as responsive pleading to the complaint. Section 3 thereof provides:

Sec. 3. Defenses and objections. -- If a defendant has no objection or defense to the action or the taking of his property, he may and serve a notice or appearance and a manifestation to that effect, specifically designating or identifying the property in which he claims to be interested, within the time stated in the summons. Thereafter, he shall be entitled to notice of all proceedings affecting the same.

If a defendant has any objection to the filing of or the allegations in the complaint, or any objection or defense to the taking of his property, he shall serve his answer within the time stated in the summons. The answer shall specifically designate or identify the property in which he claims to have an interest, state the nature and extent of the interest claimed, and adduce all his objections and defenses to the taking of his property. No counterclaim, cross-claim or third-party complaint shall be alleged or allowed in the answer or any subsequent pleading.

A defendant waives all defenses and objections not so alleged but the court, in the interest of justice, may permit amendments to the answer to be made not later than ten (10) days from the filing thereof. However, at the trial of the issue of just compensation, whether or not a defendant has previously appeared or answered, he may present evidence as to the amount of the compensation to be paid for his property, and he may share in the distribution of the award.[45]

The defendant in an expropriation case who has objections to the taking of his property is now required to file an answer and in it raise all his available defenses against the allegations in the complaint for eminent domain. While the answer is bound by the omnibus motion rule under Section 8,[46] Rule 15, much leeway is nevertheless afforded to the defendant because amendments may be made in the answer within 10 days from its filing. Also, failure to file the answer does not produce all the disastrous consequences of default in ordinary civil actions, because the defendant may still present evidence on just compensation.[47]

At the inception of the case at bar with the filing of the complaint on November 16, 2000, the amended provisions of Rule 67 have already been long in force. *Borre v. Court of Appeals*[48] teaches that statutes which regulate procedure in the courts apply to actions pending and undetermined at the time those statutes were passed. And in *Laguio v. Gamet*,[49] it is said that new court rules apply to proceedings which take place after the date of their effectivity.

In the case of *Robern Development Corporation v. Quitain*,[50] a similar motion to dismiss was filed by the private property owner, petitioner therein, in an expropriation case filed by the National Power Corporation (NPC), alleging certain jurisdictional defects as well as issues on the impropriety of the expropriation measure being imposed on the property. The trial court in that case denied the motion inasmuch as the issues raised therein should be dealt with during the trial proper. On petition for certiorari, the Court of Appeals affirmed the trial court's denial of the motion to dismiss. On appeal, the Supreme Court affirmed the Court of Appeals, but declared that under the amended provisions of Section 3, Rule 67, which were already in force at about the time the motion to dismiss had been submitted for resolution, all objections and defenses that could be availed of to defeat the expropriator's exercise of the power of eminent domain must be contained in an answer and not in a motion to dismiss because these matters require the presentation of evidence. Accordingly, while the Court in that case sustained the setting aside of the motion to dismiss, it nevertheless characterized the order of dismissal as a nullity. Hence, it referred the case back to the trial court and required the NPC to submit its answer to the complaint within 10 days from the finality of the decision.

Thus, the trial court in this case should have denied respondent's motion to dismiss and required her to submit in

its stead an answer within the reglementary period. This, because whether petitioner has observed the provisions of Sections 9 and 10 of R.A. No. 7279 before resorting to expropriation, and whether respondent owns other properties than the one sought to be expropriated, and whether she is actually a small property owner beyond the reach of petitioner's eminent domain powers, are indeed issues in the nature of affirmative defenses which require the presentation of evidence aliunde.[51] Besides, Section 1, Rule 16 of the Rules of Court does not consider these matters grounds for a motion to dismiss, and an action can be dismissed only on the grounds authorized by this provision.[52]

The Court declared in *Robern Development Corporation*, thus:

Accordingly, Rule 16, Section 1 of the Rules of Court, does not consider as grounds for a motion to dismiss the allotment of the disputed land for another public purpose or the petition for a mere easement of right-of-way in the complaint for expropriation. The grounds for dismissal are exclusive to those specifically mentioned in Section 1, Rule 16 of the Rules of Court, and an action can be dismissed only on a ground authorized by this provision.

To be exact, the issues raised by the petitioner are affirmative defenses that should be alleged in an answer, since they require presentation of evidence aliunde. Section 3 of Rule 67 provides that "if a defendant has any objection to the filing of or the allegations in the complaint, or any objection or defense to the taking of his property," he should include them in his answer. Naturally, these issues will have to be fully ventilated in a full-blown trial and hearing. It would be precipitate to dismiss the Complaint on such grounds as claimed by the petitioner. Dismissal of an action upon a motion to dismiss constitutes a denial of due process if, from a consideration of the pleadings, it appears that there are issues that cannot be decided without a trial of the case on the merits.

Inasmuch as the 1997 Rules had just taken effect when this case arose, we believe that in the interest of substantial justice, the petitioner should be given an opportunity to file its answer to the Complaint for expropriation in accordance with Section 3, Rule 67 of the 1997 Rules of Civil Procedure.x x x[53]

WHEREFORE, the Petition is hereby GRANTED. The Order of the Regional Trial Court of Manila, Branch 24 in Civil Case No. 00-99264 dated June 13, 2001, as well as the April 29, 2005 Decision of the Court of Appeals in CA-G.R. CV No. 71894 affirming said order, and the August 12, 2005 Resolution therein which denied reconsideration, are hereby SET ASIDE. The case is hereby REMANDED to the trial court for further proceedings. Respondent is DIRECTED to file her Answer to the complaint within ten (10) days from the finality of this Decision.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 12-20. The petition states that the same was filed under Section 3, Rule 56 of the Rules of Court, and was taken from the August 12, 2005 Resolution of the Court of Appeals in CA-G.R. CV No. 71894 which denied reconsideration of the April 29, 2005 Decision in the same case. Section 3, in relation to Section 4 of the said Rule, provides that appeals to the Supreme Court may be taken only by petition for review in accordance, among others, with the provisions of Rule 45. The petition was initially denied in the Court's November 21, 2005 Resolution for being filed out of the period of extension given, for lack of proper verification and certification, as well for lack of reversible error. (See rollo, p. 155). On Motion for Reconsideration, which discussed both the technicalities as well as the merits of the case, the Court reconsidered and directed respondent to file her Comment, which addressed the primordial issues raised in the petition. Thereafter, petitioner filed its Reply. The

issues pervading since the inception of this case now call for the exercise of discretionary power of judicial review.

[2] The assailed decision was penned by Associate Justice Eliezer R. Delos Santos, with Associate Justices Rosmari D. Carandang and Arturo D. Brion (now Supreme Court Associate Justice) concurring; CA rollo, pp. 97-105.

[3] CA rollo, pp. 130-132.

[4] The Order was signed by Judge Antonio M. Eugenio, Jr.; records, pp. 137-138.

[5] It is entitled AN ORDINANCE AUTHORIZING HIS HONOR, THE MAYOR, TO ACQUIRE EITHER BY NEGOTIATION OR EXPROPRIATION CERTAIN PARCELS OF LAND COVERED BY TRANSFER CERTIFICATE OF TITLE NOS. 233273, 175106 AND 140471, CONTAINING A TOTAL AREA OF ONE THOUSAND FOUR HUNDRED TWENTY-FIVE (1,425) SQUARE METERS, LOCATED AT MARIA CLARA AND GOV. FORBES STREETS, STA. CRUZ, MANILA, FOR LOW-COST HOUSING AND AWARD TO ACTUAL BONA FIDE RESIDENTS THEREAT, AND AUTHORIZING THE MAYOR TO AVAIL FOR THAT PURPOSE ANY AVAILABLE FUNDS OF THE CITY AND OTHER EXISTING FUNDING FACILITIES FROM OTHER GOVERNMENT AGENCIES; id. at 8-9.

[6] Respondent's property is covered by Transfer Certificate of Title (TCT) No. 233273. The two other properties are covered by TCT Nos. 175106 and 140471; id. at 7-8.

[7] See the Decision in Civil Case Nos. 156527-CV, 156528-CV, 156729-CV, 156731-CV, 156732-CV, 156733-CV, 156734-CV, 156735-CV and 156736-CV, as well as the Writ of Execution issued in these cases and the Order for the issuance of a Writ of Demolition; id. at 65-82.

[8] The case was docketed as Civil Case No. 97-85700 with the Regional Trial Court of Manila, Branch 47.

[9] Urban land reform was institutionalized in 1978 by Presidential Decree (P.D) No. 1517, known as the Urban Land Reform Act, issued by then President Ferdinand Marcos. This decree sought to liberate human communities from blight, congestion and hazard, and promote their development and modernization, the optimum use of land as a national resource for public welfare. Accordingly, Proclamation No. 1893 was issued a year later and declared the entire Metro Manila area as an urban land reform zone. Amendments came in 1980 under Proclamation No. 1967 and then in 1983 under Proclamation No. 2284 which identified 245 sites in Metro Manila as areas for priority development and urban land reform zones.

[10] See Order dated August 6, 1998 issued in Civil Case No. 97-85700, records, pp. 87-91.

[11] Petitioner, the City of Manila, is a municipal corporation organized and existing under Republic Act No. 409, as amended.

[12] Records, pp. 1-6.

[13] Presided by Judge Antonio M. Eugenio, Jr.

[14] Records, p. 3. See also Letter dated May 21, 1999 signed by City Legal Officer Melchor Monsod communicating petitioner's formal offer to purchase respondent's property for the amount equivalent to its assessed value; records, p. 10.

[15] See May 21, 1999 Letter addressed to respondent; id. at 10.

[16] See Certification from the Philippine Postal Corporation showing respondent failed to claim the letter despite

notices on July 2, 9 and 21, 1999; id. at 11.

[17] See Certification issued by the Land Bank of the Philippines dated April 7, 2000, id. at 12.

[18] Records, pp. 44-64.

[19] SEC. 9. Priorities in the Acquisition of Land. -- Lands for socialized housing shall be acquired in the following order:

- (a) Those owned by the Government or any of its subdivisions, instrumentalities, or agencies, including government-owned or controlled corporations and their subsidiaries;
- (b) Alienable lands of the public domain;
- (c) Unregistered or abandoned and idle lands;
- (d) Those within the declared Areas or Priority Development, Zonal Improvement Program sites, and Slum Improvement and Resettlement Program sites which have not yet been acquired;
- (e) Bagong Lipunan Improvement of Sites and Services or BLISS sites which have not yet been acquired; and
- (f) Privately-owned lands.

Where on-site development is found more practicable and advantageous to the beneficiaries, the priorities mentioned in this section shall not apply. The local government units shall give priority to on-site development of government lands.

[20] SEC. 10. Modes of Land Acquisition. -- The modes of acquiring lands for purposes of this Act shall include, among others, community mortgage, land-swapping, land assembly or consolidation, land banking, donation to the Government, joint-venture agreement, negotiated purchase, and expropriation: Provided, however, That expropriation shall be resorted to only when other modes of acquisition have been exhausted: Provided, further, That where expropriation is resorted to, parcels of land owned by small property owners shall be exempted for purposes of this Act: Provided, finally, That abandoned property, as herein defined, shall be reverted and escheated to the State in a proceeding analogous to the procedure laid down in Rule 91 of the Rules of Court.

For the purpose of socialized housing, government-owned and foreclosed properties shall be acquired by the local government units, or by the National Housing Authority, primarily through negotiated purchase: Provided, That qualified beneficiaries who are actual occupants of the land shall be given the right of first refusal.

[21] Records, pp. 137-138.

[22] Id. at 138. The Order disposed of the complaint as follows:

ACCORDINGLY, finding merit in the Motion, the same is hereby GRANTED. The complaint filed by plaintiff is hereby ordered DISMISSED.

With the dismissal of the complaint, the motion to allow plaintiff to enter the property of defendant filed by plaintiff had become MOOT and ACADEMIC. The hearing on the Motion scheduled on July 6, 2001 at 8:30 a.m. is hereby CANCELLED.

SO ORDERED.

[23] CA rollo, p. 90. It disposed of the appeal as follows:

WHEREFORE, premises considered, the appeal is hereby DISMISSED for lack of merit.

SO ORDERED.

[24] Id. at 91-94.

[25] Id. at 126-128.

[26] Rollo, pp. 12-20.

[27] Id. at 17-19, 207-209.

[28] Id. at 182-188, 190-197

[29] Id. at 188-189.

[30] Id. at 189. Section 3 (q) of R.A. No. 7279 states:

SEC. 3. Definition of Terms. -- For purposes of this Act:

(q) "Small property owners" refers to those whose only real property consists of residential lands and exceeding three hundred square meters (300 sq. m.) in highly urbanized cities and eight hundred square meters (800 sq. m.) in other urban areas.

[31] Id. at 199.

[32] No. L-48685, September 30, 1987, 154 SCRA 461.

[33] Nos. L-60549, 60553-60555, October 26, 1983, 125 SCRA 220.

[34] Sumulong v. Guerrero, supra note 32, at 468-469. See also National Housing Authority v. Guivelondo G.R. No. 154411, June 19, 2003, 404 SCRA 389 and Reyes v. National Housing Authority, 443 Phil. 603 (2003). (Emphasis supplied.)

[35] Urban land reform was institutionalized in 1978 by Presidential Decree No. 1517, known as the Urban Land Reform Act, issued by then President Ferdinand Marcos. This decree sought to liberate human communities from blight, congestion and hazard, and to promote their development and modernization as well as the optimum use of land as a national resource for public welfare. Accordingly, Proclamation No. 1893 was issued a year later and declared the entire Metro Manila area as an urban land reform zone. Amendments came in 1980 under Proclamation No. 1967 and then in 1983 under Proclamation No. 2284 which identified 245 sites in Metro Manila as areas for priority development and urban land reform zones.

[36] R.A. No. 7279, Sec. 2.

[37] R.A. No. 7279, Secs. 7, 8, 9 and 12.

[38] See notes 19 and 20.

[39] Abad v. Fil-Homes Realty and Development Corporation, G.R. No. 189239, November 24, 2010, 636 SCRA 247, 255, citing Lintag v. National Power Corporation, G.R. No. 158609, July 27, 2007, 528 SCRA 287.

[40] See Act 190, Sec. 243.

[41] Section 3 of the old Rule 67 of the Rules of Court allowed a defendant "in lieu of an answer, [to] present in a single motion to dismiss or for other appropriate relief, all his objections and defenses to the plaintiff's right to take his property x x x." See Feria-Noche, Civil procedure Annotated, Volume 2, 2001 ed., p. 536 and Regalado, Remedial Law Compendium, Vol. I, 8[th] Revised ed., p. 752.

[42] *Robern Development Corporation v. Quitain*, 373 Phil. 773, 790 (1999); *Rural Progress Administration v. Guzman*, 87 Phil. 176, 178 (1950);

[43] *Robern Development Corporation*, *supra*, citing Francisco, *The Revised Rules of Court in the Philippines*, Vol. IV-B, Part I, 1972 ed., pp. 405-412.

[44] *Id.* at 790-791, citing Regalado, *Remedial Law Compendium*, Vol. I, 8[th] Revised ed., pp. 752-753.

[45] Emphasis supplied.

[46] Sec. 8. Omnibus motion. -- Subject to the provisions of Section 1 of Rule 9, a motion attacking a pleading, order, judgment, or proceeding shall include all objections then available, and all objections not so included shall be deemed waived.

[47] *Robern Development Corporation v. Quitain*, *supra* note 42, at 791, citing Regalado, *Remedial Law Compendium*, Vol. I, 8[th] Revised ed., pp. 752-753.

[48] 242 Phil. 345 (1988).

[49] G.R. No. 74903, March 21, 1989, 171 SCRA 392.

[50] *Supra* note 42.

[51] See *Panes v. Visayas State College of Agriculture*, 332 Phil. 745 (1996).

[52] See *Borje v. CFI of Misamis Occidental*, Br. II, No. L-48315, February 27, 1979, 88 SCRA 576, 581, cited in *Robern Development Corporation v. Court of Appeals*, *supra* note 42, at 791.

[53] *Robern Development Corporation v. Court of Appeals*, *supra* note 42, at 164-165.

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