

CHUA HUAT, ONG CHOAN, DOMINADOR FELINO, RUFINO CLEMENTE, TEODORA CLEMENTE, AND LOURDES MEMPIN, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, JUDGE ELVIRO PERALTA, SHERIFF OF ...

G.R. No. 53851. July 09, 1991

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In the resolution of 9 January 1984, this Court resolved to consolidate these cases as they are related.

The first case, G.R. No. 53851, is a petition for review on certiorari of the decision of the Court of Appeals of 29 February 1980 in C.A.-G.R. No. 09251 SP[1] and its resolutions of 30 April 1980 and 8 July 1980 denying, respectively, petitioners' first and second motions for the reconsideration of said decision.

The second case, G.R. No. 63863,[2] is a petition for prohibition, with prayer for preliminary injunction and/or restraining order, directed against the notices of condemnation and the demolition orders issued by the respondent City Engineer, upon authority of the respondent City Mayor, concerning the buildings occupied by petitioners at 1271 to 1277 Pedro Gil St. and 1553 to 1557 Paz St., Paco, Manila.

For sheer lack of merit, these cases must be dismissed.

The antecedent facts and proceedings are not disputed.

On 31 May 1972, a decision was rendered in Civil Case No. 74634[3] by the Court of First Instance, Branch XVII, then presided by Honorable Judge - now Associate Justice of this Court - Ameurfina Melencio Herrera, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered, a) sentencing defendant Dominador Felino, Lourdes Mempin, Chua Huat, Ong Choan, Francisco, Rufino and Teodora, all surnamed Clemente, to pay plaintiff UY the following monthly sums set out after their respective names beginning January 1, 1963, until the date they have vacated the property, with interest at 6% per annum from the date of this Decision as to the amounts due on May 31, 1972:

DOMINADOR FELINO - P 25.00/month

LOURDES MEMPIN - P 30.00/ "

CHUA HUAT - P100.00/ "

portion subleased

by Gamboa - P 38.00/ "

portion subleased

by Kho Chong - P110.00/ “

portion subleased

by Chua Chia - P 55.00/ ”

ONG CHOAN - P100.00/ ”

FRANCISCO, RUFINO and

TEODORA CLEMENTE - P 25.00/ ”

b) Ordering said defendants, including Maximo Yambao or anyone claiming under him, to vacate the lands respectively occupied by them and to surrender the same to plaintiff UY; to remove their improvements thereon or to abandon them within sixty (60) days from receipt of this judgment. After the lapse of said sixty days, plaintiff can submit the corresponding motion under Section 14, Rule 39;

c) On Ong Choan's Third-Party Complaint, sentencing third-party defendant SY PUT to reimburse the former for whatever amount he shall pay to UY pursuant to this judgment, with interest at the legal rate on the total amount from the date of payment until fully paid. SY PUT shall either remove all the improvements he has constructed on the land, or abandon them in favor of plaintiff within sixty (60) days from receipt of this judgment.

Costs against defendants proportionately.

SO ORDERED."

Not satisfied with the said decision, herein petitioners, as defendants therein, appealed therefrom to the Court of Appeals which docketed it as C.A.-G.R. No. 51337-R. In its decision of 19 January 1977, the Court of Appeals affirmed in toto the aforesaid decision.[4] Petitioners, except Ong Choan, filed a Petition for Review on Certiorari with this Court (G.R. No. L-47603) on 8 February 1978 to set aside the decision of the Court of Appeals. Petitioner Ong Choan separately filed a similar petition with this Court (G.R. No. L-48649), arguing that: "the case was actually an unlawful detainer case and therefore, the Court of First Instance had no jurisdiction over it, making the decision null and void."

Both petitions for review on certiorari were denied by this Court.[5]

On 15 November 1978, after the decision in Civil Case No. 74634 became final and executory, the plaintiffs (private respondents herein) filed a motion to execute the same, which was granted by the trial court (Branch XXVII) on 20 November 1978.[6]

Re: G.R. No. 53851

On 21 November 1978, petitioner Chua Huat filed with the Court of First Instance of Manila a complaint for the annulment of the judgment in Civil Case No. 74634. This complaint was docketed as Civil Case No. 119751 and was assigned to Branch XXII. Petitioner Ong Choan and others also filed a separate complaint for annulment of judgment which was docketed as Civil Case No. 119884. Both complaints were based on the ground that the Court of First Instance of Manila had no jurisdiction over Civil Case No. 74634 because the said action was one for ejectment and not for recovery of possession (accion publiciana) which was, therefore, cognizable by the City Court of Manila; hence, the decision in said Civil Case No. 74634 is null and void.

On 23 February 1979, despite the filing of the above cases for annulment of judgment, the Court of First Instance of Manila ordered the execution of the judgment in Civil Case No. 74634. Petitioners filed a motion for reconsideration of the said order and to suspend proceedings in Civil Case No. 74634 pending termination of the

annulment case which was, however, denied by the trial court in its Order of 5 April 1979, which reads:

"All the points raised in defendants' motion for reconsideration and to suspend proceedings are already thoroughly covered in the order of February 23, 1979 which in effect holds that Branch XXII, a coordinate court, cannot interfere with this branch in its prerogative to carry out its decision, long final and affirmed by the higher courts, into effect, and said motion is hereby denied. It is only the superior court which can prohibit this branch from executing its decision.

The Sheriff of Manila, unless restrained by either the Supreme Court or the Court of Appeals, shall immediately implement the writ of execution upon the expiration of thirty (30) days from receipt by the defendants of a copy of the order, if to give them time to bring the incident up on certiorari to said superior courts." [7]

Petitioners then filed a Petition for Certiorari and Prohibition with the Court of Appeals, docketed as C.A.-G.R. No. 09251 SP, to set aside the order of execution of judgment, and to prohibit the respondents from executing the judgment until Civil Case No. 119751 pending in Branch XXII of the Court of First Instance of Manila is finally decided and terminated.

In the Decision promulgated on 29 February 1980, the Court of Appeals denied the petition for lack of merit, stating *inter alia*:

"The instant petition must be denied for lack of merit.

1. The judgment in Civil Case No. 74634 is undisputedly final and executory. As such, the issuance of a writ of execution thereof becomes the ministerial duty of the respondent judge. x x x.

2. Civil Case No. 119751 filed by petitioners herein to annul the judgment in Civil Case No. 74634 cannot stop the execution thereof because of finality of judgment or *res judicata*. A cursory reading of the questioned judgment, Civil Case No. 74634, discloses that the issue raised in the annulment of judgment case, C.C. No. 119751, has been decided in the prior case when the court then presided by now Supreme Court Justice Ameurfina Melencio--Herrera who penned the said decision stated, as follows:

'A. This is an *accion publiciana* and not one for unlawful detainer, for which reason, it was rightfully brought before this Court. What is involved is not the recovery of physical possession only but the recovery of the right to possess.'

We find application in the following doctrines:

'A party may not, by changing the form of a lawsuit or adopting a different method of presenting the matter, escape the application of the principle that the same cause of action may not be litigated twice between the same parties.' (Paz vs. Indanan, 76 Phil. 608; Pascual vs. Palermo, L-2185, April 29, 1950, 47 O.G. 6184; Francisco vs. Blas, L-5078, May 4, 1953; Barrera vs. Del Rosario, L-8928, April 28, 1956).

'Another aspect of the doctrine is that once an issue has been raised and finally decided by a court of competent jurisdiction, generally speaking it becomes *res judicata* or can be made the basis of a plea of estoppel by judgment as between the parties to that litigation, no matter in what manner it was raised and whether or not it was the principal issue or merely an incidental one. (Eugenio vs. Tiangco, L-2804, Sept. 20, 1949; Robis vs. Caspe, L-6166, Sept. 28, 1954.).'

WHEREFORE, there being no finding of a capricious and whimsical exercise of judgment by the respondent court equivalent to lack of jurisdiction which may be the subject of a writ of certiorari, the instant petition is hereby DENIED, with costs against petitioners." [8]

The first and second motions for reconsideration filed by the petitioners were denied on 30 April 1980 and 8 July 1980, respectively, for the reason that the ground relied upon was already discussed, taken up and passed upon by the Court.[9]

Hence, this petition which was filed on 7 August 1980.

Petitioners claim that respondent Court of Appeals erred in holding that Civil Case No. 119751 cannot stop the execution of the judgment in Civil Case No. 74634 because of the finality of such judgment, or on the ground of *res judicata*, and it was the court's ministerial duty to execute it; and in not finding that the pendency of Civil Case No. 119751 to annul the judgment in Civil Case No. 74634 on the ground of lack of jurisdiction justifies the stay of execution of said judgment.

In the resolution of 3 September 1980, We required respondents to comment on the petition which private respondents complied with on 14 October 1980.[10] To this comment, petitioners filed a reply on 29 October 1980.[11]

On 19 November 1980, We gave due course to the petition and required the parties to submit simultaneously their memoranda which petitioners complied with on 12 January 1981 and the private respondents on 20 January 1981.

It further appears that Civil Case No. 119751 aforesaid was dismissed by the trial court in its Order of 24 September 1979. Herein petitioner Chua Huat appealed from said Order to the Intermediate Appellate Court which docketed the same as A.C.-G.R. CV No. 66303.[12] In its Decision of 12 March 1984,[13] the Intermediate Appellate Court affirmed in toto the questioned order holding:

"Plaintiff-appellant contends that the principle of *res judicata* does not apply in the case at bar because 'although there may be identity of parties and of subject matter between Civil Case No. 74634' (which is for recovery of possession) 'and Civil Case No. 119751' (which is for annulment of judgment) 'there is no identity of causes of action between these two cases.'

While there is, certainly on the face of the argument, merit in the contention that there is no identity of causes of action between Civil Case No. 74634 and this instant case, upon closer scrutiny, however, of the records of the said two cases, We find the same to be utterly devoid of merit.

The records of the aforesaid two cases will bear it out that the issue of lack of jurisdiction (which is the cause of action in Civil Case No. 119751) has been squarely ruled upon, not only by the trial court in Civil Case No. 74634 but also by the Court of Appeals and by the Supreme Court.

Plaintiff-appellant further contends that since the issue of jurisdiction in Civil Case No. 74634 was raised in their motion for reconsideration before the Court of Appeals in CA-G.R. No. 51337-R, the Appellate Court did not, in its resolution denying said motion, pass on the same and on appeal by petition for review to the Supreme Court in L-47603 and L-48649, where the same issue among others was raised, the High Court in its minutes' resolution (sic) did not rule squarely on said issue, 'the court a quo should have proceeded with the hearing of this case on the merits and thereafter decide (sic) the same based on the evidence adduced by the parties'. We find the same likewise untenable.

'Issues raised by the parties in their brief and passed upon *subsilencio* by the appellate court in a decision which has become final and executory are considered closed and can no longer be revived by the parties in a subsequent litigation without doing violence to the principle of *res judicata*'. (Corda vs. Maglinti, G.R. No. L-17476, Nov. 30, 1961).

What more, neither the Supreme Court nor the Appellate Court is duty bound to discuss the pros and cons of appellant's argument.

Lastly, in *Kabigting vs. Acting Director of Prisons* (116 Phil. 589; 1962) the Supreme Court pointed out: 'It need not be stated that the Supreme Court, being the court of last resort, is the final arbiter of all legal questions properly brought before it and that its decision in any given case constitutes the law of that particular case. Once its judgment becomes final, it is binding on all inferior courts, and hence beyond their power and authority to alter or modify'. The High Tribunal further pointed out that 'Nor is it to be lost sight of that such principle does not apply only to the express terms of decision, but likewise to what is therein implicit, which must be implemented faithfully, no circumvention or evasion being allowed'. (*Sanchez vs. Court of Industrial Relations*, L-26932, 27 SCRA 490)."

Petitioners made no attempt to inform the Court of the dismissal of Civil Case No. 119751 and of the above action of the Intermediate Appellate Court.

Re: G.R. No. 63863

On 14 September 1982, Manuel Uy and Sons, Inc., respondent in G.R. No. 53851, requested Romulo M. del Rosario, the City Engineer and Building Official of Manila, to condemn the dilapidated structures located at 1271 to 1277 Pedro Gil St. and 1553 to 1557 Paz St., Paco, Manila, all occupied by petitioners.[14]

On 17 November 1982, said official issued notices of condemnation addressed to petitioners Chua Huat, Maria Gamboa, Lourdes Mempin, Dominador Felino, Ong Choan, Rufino Clemente, and several other persons. The condemnation orders stated that the subject buildings were found to be in dangerous condition and therefore condemned, subject to the confirmation of the Mayor as required by Section 276 of the Compilation of Ordinances of the City of Manila. It further stated that the notice is not an order to demolish as the findings of the City Engineer is (sic) still subject to the approval of the Mayor.[15] The orders were based on the inspection reports made by Architect Oscar D. Andres, and the Memorandum-Reports made by the Evaluation Committee of the Office of the City Engineer, which all showed that the subject buildings suffer from structural deterioration by more than 50% and as much as 80%.[16]

On 19 January 1983, Civil Engineer Romulo C. Molas, a private practitioner, inspected the abovementioned structures upon the request of petitioners herein. In his evaluation report dated 21 January 1983, he stated that although the buildings are old, they are still structurally sound and have a remaining economic life of at least eight years.[17]

On 22 February 1983, or three months after the notices of condemnation were issued, petitioners formally protested against said notices of condemnation on the ground that the buildings are still in good physical condition and are structurally sound based on the abovementioned certification of Civil engineer Romulo C. Molas dated 21 January 1983.[18]

On 26 April 1983, Maria Gamboa, one of the petitioners herein, was informed of the issuance by the City Engineer of the demolition order with respect to the building located at 1565 Paz St., Paco, Manila, and was told to vacate the premises within 15 days from notice.[19]

On 2 May 1983, petitioners filed the instant Petition for Prohibition, with Preliminary Injunction and/or Restraining Order, against City Mayor Ramon Bagatsing, City Engineer and Building Officer Romulo del Rosario and Manuel Uy and Sons, Inc., praying that a restraining order or preliminary injunction be issued enjoining respondents from proceeding with the announced demolition of the subject buildings, this petition be given due course, and after hearing, respondents be prohibited from demolishing said buildings.[20] They allege in their petition that:

"RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN ISSUING THE CONDEMNATION ORDERS.

THERE IS NO APPEAL OR ANY OTHER PLAIN, SPEEDY AND ADEQUATE REMEDY."

On 9 May 1983, this Court directed respondents to comment on the petition and issued a Temporary Restraining Order against the respondents City Mayor and City Engineer restraining them from enforcing and/or carrying out the demolition order on the building occupied by Maria Gamboa at 1565 Paz Street.[21]

On 6 July 1983, the respondent Mayor of Manila confirmed the rest of the condemnation orders issued by the respondent City Engineer. Pursuant thereto, the respondent City Engineer, on 12 September 1983, issued demolition orders addressed to Chua Huat, Ong Choan, Dominador Felino and Lourdes Mempin, whereby they were ordered to vacate and commence the demolition and/or removal of the buildings occupied by them after fifteen days from receipt of the order.[22]

On 18 May 1983, respondents City Mayor and City Engineer filed their Comment[23] praying that the petition be dismissed on the following grounds: (a) that it involves questions of facts which should be ventilated before the Regional Trial Court of Manila; (b) the subject buildings were condemned and ordered removed after it was established that they had suffered from defects or deterioration thereby posing perils to the lives and limbs not only of petitioners but also to the public in general; (c) the power to condemn buildings and structures in the City of Manila falls within the exclusive domain of the City Engineer pursuant to Sections 275 and 276 of its Compilation of Ordinances (also Revised Ordinances 1600); (d) the power to condemn and remove buildings and structures is an exercise of the police power granted the City of Manila to promote public safety; and (e) administrative decisions falling within the executive jurisdiction cannot be set aside by courts of justice except on proof of grave abuse of discretion, fraud or error of law.

On 20 May 1983, private respondent Manuel Uy and Sons, Inc. filed its Comment[24] wherein it contends that the petition is premature, unreasonable and deserves no consideration as petitioners have not exhausted readily-available administrative remedies and that the validity of the questioned condemnation and demolition orders entails questions of facts not entertainable in this petition. It alleges that the condemnation orders were not immediately executory, as the finding of the City Engineer/Building Official is still subject to the approval of the Mayor per Section 276 of the Compilation of Ordinances of the City of Manila. Moreover, under Section 5.3, Rule VII of the Implementing Rules and Regulations of P.D. No. 1096, the owner of a building may appeal to the Secretary of Public Works and Communications, whose decision is final, the finding or declaration of the Building Official and ask that a re-inspection or re-investigation of the building or structure be made; for not availing of this remedy, petitioners failed to exhaust administrative remedies.

Petitioners filed a Reply on 3 October 1983,[25] to which respondents filed a rejoinder on 14 November 1983.[26]

On 4 January 1984, this case was consolidated with G.R. No. 53851.

On 30 July 1986, We gave due course to this petition and required the parties to submit their respective memoranda.[27] Private respondent filed its Memorandum on 3 October 1986, while petitioners filed theirs on 3 November 1986.[28]

On 18 January 1987, petitioners filed a rejoinder[29] to the Memorandum of private respondents.

We now resolve these petitions.

A. The first, G.R. No. 53851, is frivolous and is dismally bereft of merit. The antecedent facts stated above unmistakably disclose a clear pattern to make a mockery of the judicial process, or to abuse it. The decision of the trial court in Civil Case No. 74634 of 31 May 1972, which was affirmed, first, by the Court of Appeals in its decision of 19 January 1977 (C.A.-G.R. No. 51337-R) and second, by this Court (G.R. No. L-47603 and G.R. No.

L-48649), had long become firm and final. To maliciously stop its execution pursuant to the Order of 20 March 1978, petitioner Chua Huat filed with the trial court Civil Case No. 119751 to annul the decision, reviving therein issues which he had squarely raised in C.A.-G.R. No. 51337-R. Then, he filed a motion in Civil Case No. 74634 to set aside the order of execution and to suspend proceedings therein in view of the pendency of the annulment case.

Unfazed by his failure to hold the trial court hostage to his scheme, he went to the Court of Appeals (C.A.-G.R. No. 09251 SP) to question the denial by the trial court of his aforesaid motion, and when he failed again, he came to this Court via this petition with issues which, as his counsel fully knew, had long been laid to rest.

At the same time, when Civil Case No. 119751 was dismissed on 24 September 1979, petitioner went to the Court of Appeals (A.C.-G.R. CV No. 66303), also raising the same issues. He, however, deliberately chose not to inform this Court of the unfavorable decision of the Intermediate Appellate Court of 12 March 1984. The reason of course is all too obvious, and in the light of his remarkable effort to frustrate or subvert the ends of justice, petitioner cannot be expected to do so.

We find, therefore, the challenged decision of the respondent Court of Appeals to be in full accord with law and jurisprudence. But this should not be the end of this case. We must state here for the petitioners and their counsel and on all others similarly inclined to resort to the same or related scheme or stratagem that this Court cannot condone or tolerate any abuse of the judicial process. We must, once again, remind counsel and litigants, as We did in *Cantelang, et al. vs. Medina, et al.*,^[30] that "this Court will ever be vigilant to nip in the bud any dilatory maneuver calculated to defeat or frustrate the ends of justice, fair play and the prompt implementation of final and executory judgments." And, more particularly for lawyers, in *Banogon, et al. vs. Zerna, et al.*,^[31] We said in no uncertain terms:

"As officers of the court, lawyers have a responsibility to assist in the proper administration of justice. They do not discharge this duty by filing pointless petitions that only add to the workload of the judiciary, especially this Court, which is burdened enough as it is. A judicious study of the facts and the law should advise them when a case, such as this, should not be permitted to be filed to merely clutter the already congested judicial dockets. They do not advance the cause of law or their clients by commencing litigations that for sheer lack of merit do not deserve the attention of the courts."

In another portion of said decision, We said:

"This Court has repeatedly reminded litigants and lawyers alike:

'Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them.'^[32]

'There should be a greater awareness on the part of litigants that the time of the judiciary, much more so of this Court, is too valuable to be wasted or frittered away by efforts, far from commendable, to evade the operation of a decision final and executory, especially so, where, as shown in this case, the clear and manifest absence of any right calling for vindication, is quite obvious and indisputable.'^[33]

'This appeal, moreover, should fail, predicated as it is on an insubstantial (sic) objection bereft of any persuasive force. Defendants had to display ingenuity to conjure a technicality. From *Alonso v. Villamor*, a 1910 decision, we have left no doubt as to our disapproval of such a practice. The aim of a lawsuit is to render justice to the

parties according to law. Procedural rules are precisely designed to accomplish such a worthy objective. Necessarily, therefore, any attempt to pervert the ends for which they are intended deserves condemnation. We have done so before. We do so again.”[34]

B. G.R. No. 63863 must equally fall. It is patently obvious that petitioners have no valid grievance for the remedy of certiorari under Rule 65 of the Rules of Court to be available to them. It is explicitly clear from Section 1 of Rule 65 of the Rules of Court that for certiorari to be available (a) a tribunal, board or office exercising judicial function acted without or in excess of its or his jurisdiction, or with grave abuse of discretion, and (b) that there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law. Petitioners failed to show the presence of both elements. The power to condemn buildings and structures in the City of Manila falls within the exclusive jurisdiction of the City Engineer, who is at the same time the Building Official (Sec. 206, P.D. 1096). Sections 275 and 276 of the Compilation of Ordinances of the City of Manila (also Revised Ordinances 1600), provide:

"SEC. 275. Deterioration and Defects. - All buildings or parts of buildings which show defects in any essential parts shall be repaired and put in safe condition at once, or if the deterioration be greater than fifty per centum of the value of the building, as estimated by the city engineer, they shall be removed.

SEC. 276. Condemnation Proceedings. - Whenever in the judgment of the City Engineer any building or portion of building has been damaged by any cause to such an extent as to be dangerous for use, he may condemn the same and shall immediately notify the owner and the Mayor of his action. If the owner or his agent be not willing to abide by this order of condemnation, he may make formal objection within the period of seven days following such notification. The Mayor shall hear the owner or his agent and his experts and also the city engineer, deciding the case on the evidence presented. If the Mayor confirms the action of the city engineer, the owner or his agent shall immediately proceed to remove the building within fifteen days from the date on which he was notified of such final action. Should the owner or his agent not comply with the decision of the Mayor the building shall be removed at his expense and the city will proceed to recover against him for the amount expended."

Section 215 of P.D. 1096, otherwise known as the National Building Code, also states the authority of the Building Official with respect to dangerous buildings, to wit:

"When any building or structure is found or declared to be dangerous or ruinous, the Building Official shall order its repair, vacation or demolition depending upon the degree of danger to life, health, or safety. This is without prejudice to further action that may be taken under the provisions of Articles 482 and 694 to 707 of the Civil Code of the Philippines."

From the abovementioned provisions, it is unquestionable that the Building Official has the authority to order the condemnation and demolition of buildings which are found to be in a dangerous or ruinous condition. It is also clear from the Compilation of Ordinances of the City of Manila that the Mayor has the power to confirm or deny the action taken by the Building Official with respect to the dangerous or ruinous buildings.

Respondent City Engineer and Building Official, Romulo M. del Rosario, can, therefore, validly issue the questioned condemnation and demolition orders. This is also true with the respondent Mayor who can approve or deny the condemnation orders as provided in Section 276 of the Compilation of Ordinances of the City of Manila.

The only issue then is whether or not said officials committed grave abuse of discretion in the exercise of their aforesaid powers.

It is a settled doctrine that there is grave abuse of discretion amounting to lack of jurisdiction "when there is a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, such as where the power is

exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross so as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law." [35]

We find no grave abuse of discretion on the part of the respondent City Engineer because the orders were made only after thorough ocular inspections were conducted by the City's Building Inspectors. The results of the inspections were set forth in a memorandum dated 16 November 1982 where it was shown that all the buildings had architectural, structural, sanitary, plumbing and electrical defects of up to 80%. [36]

The respondent Mayor's act of approving the condemnation orders was likewise done in accordance with law. The protest made by petitioners was submitted only on 22 February 1983, or three months after the notices of condemnation were issued, and clearly beyond the seven days prescribed under Section 276 of the Compilation of Ordinances of the City of Manila.

Moreover, appeal was likewise available to petitioners. As correctly contended by private respondents, the Implementing Rules and Regulations promulgated by the then Ministry of Public Works to implement P.D. No. 1096, under the title Abatement/Demolition of Buildings, provide:

"5. Procedure for Demolition of Buildings. - The following steps shall be observed in the abatement/demolition of buildings under this Rule:

5.1. There must be a finding or declaration by the Building Official that the building or structure is a nuisance, ruinous or dangerous. x x x

5.3. Within the fifteen-day period, the owner may, if he so desires, appeal to the Secretary the finding or declaration of the Building Official and ask that a re-inspection or re-investigation of the building or structure be made. x x x

5.6. The decision of the Secretary on the appeal shall be final." (underscoring supplied).

Certiorari will not lie then because petitioners failed to exhaust all the administrative remedies. This Court has long upheld the doctrine of exhaustion of administrative remedies because it rests on the assumption that the administrative body, board or officer, if given the chance to correct its/his mistake or error, may amend its/his decision on a given matter. [37] Where the enabling statute indicates a procedure for administrative review, and provides a system of administrative appeal, or reconsideration, the courts, for reasons of law, comity and convenience, will not entertain a case unless the available administrative remedies have been resorted to and the appropriate authorities have been given opportunity to act and correct the errors committed in the administrative forum. [38] There are, of course, exceptions to this rule, [39] but none is available to petitioners.

IN THE LIGHT OF ALL THE FOREGOING, judgment is hereby rendered DISMISSING these cases for lack of merit with treble costs against petitioners.

SO ORDERED.

Gutierrez, Jr., and Bidin, JJ., concur.

Fernan, C.J., no part, related to one of the respondents.

Feliciano, J., no part, one of parties is represented by former firm.

[1] Entitled Chua Huat, et al. vs. Hon. Elviro Peralta, et al. The Decision was penned by Associate Justice Milagros A. German and was concurred in by Associate Justices B.S. de la Fuente and Pedro D. Cenzon. Its Rollo

shall hereafter be referred to as Rollo I.

[2] Its Rollo shall hereafter be referred to as Rollo II.

[3] Entitled The Roman Catholic Archbishop of Manila (ROMCATH) and Manuel Uy and Sons Inc. vs. Chua Huat, etc., Rufino Clemente, and/or Teodora Clemente, Dominador Felino, Lourdes Mempin, Angel Penalosa, Jose Tan, Carlos Tan and/or Rosario Dayrit, etc., Ong Choan, etc., and Maximo Yambao; Annex "A" of the Comment of private respondents in G.R. No. 53851; Rollo I, 110-111.

[4] Rollo I, 13, 28, and 86-88.

[5] Id., 14, 26, 88-89, and 166.

[6] Id., 157.

[7] Rollo I, 15.

[8] Annex "A" of Petition; Rollo I, 26-30.

[9] Annexes "B" and "C" of Petition; Rollo I, 33-34.

[10] Id., 83.

[11] Id., 113.

[12] P. 16, Memorandum in these two petitions filed on 3 October 1986; Rollo II, 113.

[13] Annex "C" of private respondent's Memorandum in G.R. No. 63863; Id., 182-183.

[14] Rollo II, 11.

[15] Rollo II, 12-15.

[16] Id., 43-53.

[17] Id., 19.

[18] Rollo II, 16.

[19] Id., 22.

[20] Id., 9-10.

[21] Rollo II, 24.

[22] Id., 59-62.

[23] Id., 26.

[24] Rollo II, 32.

[25] Id., 64.

[26] Id., 81.

[27] Rollo II, 93.

[28] Id., 193.

[29] Id., 238.

[30] 91 SCRA 403.

[31] 154 SCRA 593.

[32] *Lim Kim Tho vs. Go Sim Ko, et al.*, 82 SCRA 776; *Aguinaldo vs. Aguinaldo*, 36 SCRA 137.

[33] *Villaflor vs. Reyes*, 22 SCRA.

[34] *Aguinaldo vs. Aguinaldo, supra.*, et seq., 141.

[35] *Carson vs. Judge Pantanosas*, 180 SCRA 151; *Arguelles vs. Romeo Yang*, 153 SCRA 690; *Franklin Baker vs. Trajano*, 157 SCRA 416; *Litton Mills vs. Galleon Traders*, 163 SCRA 489.

[36] *Rollo II*, 44, 46, 48, 50, 52.

[37] 42 Am. Jur. 579.

[38] CORTES, Irene, *Philippine Administrative Law*, Revised 2nd ed., 1984, p. 394.

[39] Among others, see *Pascual vs. Provincial Board*, 106 Phil. 466; *Alzate vs. Aldana*, 107 Phil. 298; *Demaisip vs. CA*, 106 Phil. 237; *Bartulata vs. Peralta*, 59 SCRA 7; *NDC vs. Collector of Customs*, 9 SCRA 429; *Mangubat vs. Osmeña*, 105 Phil. 1308; *De Lara vs. Claribal*, 14 SCRA 269.

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