

URBAN POOR UPDATES



*(with the latest Supreme Court jurisprudence
and laws on the Urban Poor)*



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Jurisprudence



MGA DIGEST NG KASO UKOL SA UDHA:

1. THE MARCOS DECREES

Bejer vs. CA

Sina Bejer ay nagmamay-ari ng lupa at gusali na nasa Malate, Manila. Sila ay nakipagkasundo sa isang buwanang kontrata ng "lease" sa respondents. Pagkatapos ng isang taon, ipinaalam ni Bejer at ng mga kasamahan nito na kinakailangan na nilang gamitin ang gusali at ang lupang kinatatayuan nito dahil kailangan ito ng kanilang pamilya. Binigyan nila ang respondents ng dalawang buwan upang lisanin ang gusali. Hindi pumayag dito ang respondents. Binigyan pa ulit sila ni Bejer ng tatlong-buwang palugit pero hindi pa rin umalis ang respondents. Hindi na rin sila nagbabayad ng upa. Ayon sa respondents: (1) sila Bejer ay walang cause of action at ang korte ay walang jurisdiction dahil hindi tumupad si Bejer at ang kanyang mga kasamahan sa mandato ng batas ukol sa conciliation na matatagpuan sa P.D. 1508 (baranggay conciliation); at (2) ang pagpapalis sa kanila ay hindi posible dahil sa P.D. 1517 (Urban Land Reform Law) at P.D. 1520.

Ayon sa Supreme Court, sina Bejer ay

hindi miyembro ng barangay kundi pawang pansamantalang naninirahan lamang. Hindi sila sakop ng mandato ng batas ukol sa barangay conciliation. Upang mapasailalim sa Urban Land Reform Zone, kinakailangan munang mai-proklama ito bilang kasapi sa 245 na lugar na sakop ng Proclamation No. 1967 at sakop din ng Area of Priority Development at ng Programang ZIP o Zonal Improvement Program ng gobyerno. Sinabi ng Supreme Court na ang gusali at lupang pagmamay-ari nila Bejer ay hindi pa kasama sa mga lugar na naiproklama na ng gobyerno bilang Urban Land Reform Zone. Ang lugar na nabanggit ay nai-rekomenda pa lamang na isali sa programa na ZIP ng gobyerno. Hindi ito sakop ng Urban Land Reform Law at ang mga respondents ay maaaring paalisin dito.

Valdelion vs. Tengco

Sa isang pag-uusap, nagkasundo si Valdelion at ang may-ari ng lupa na magbabayad si Valdelion ng buwanang upa sa may-ari. Nagtayo ng bahay si Valdelion sa nasabing lupa. Ibinenta ng dating may-ari ang lupa kina Geraldez. Ipinaalam ni Geraldez kay Valdelion na nabili na nila ang lupa at kinakailangan nng umalis ni Valdelion dahil magtatayo sila ng isang gusali na may tatlong palapag. Humihingi rin sila ng bayad sa upa na P200 kada buwan hanggang sa umalis si Valdelion. Ayon sa trial court, dapat



ngang umalis si Valdelion sa lugar na iyon at dapat din ay magbayad siya ng kinaauukulang upa. Pumunta si Geraldez sa Court of Appeals upang kunin ang bayad na upa ni Valdelion at nalaman niya na hindi pala ito nagbabayad ng upa. Nilabag ni Valdelion ang utos ng B.P. 25 nang hindi siya nagbayad ng apat na sunod-sunod na buwan. Nagsampa ng ejectment case si Geraldez laban kay Valdelion.

Ayon kay Valdelion, ang B.P. 25 ay tumutukoy lamang sa upa ng mga bahay na pinapaupahan at hindi nito sakop ang pinapaupahang lupa kung saan ang umuupa ay nagtayo ng bahay at doon tumira ng higit sa sampung taon. Sinabi pa ni Valdelion na ang buong Metro Manila ay naideklara na sakop ng Urban Land Reform Zone, at dahil sa ay tumira na dito ng higit sa sampung taon, hindi siya maaaring paalisin at mayroon siyang right of first refusal ayon sa Section 6 ng P.D. 1517. Ayon naman kay Geraldez, hindi sinagot ni Valdelion ang isyu ukol sa hindi nya pagbabayad ng renta, kaya parang inaamin na rin nya ito. Sinabi pa ni Geraldez na ang lupang inuupahan ni Valdelion ay sakop na ng mga katagang "residential unit". Isa pa, hindi nararapat ang right of first refusal sa kasong ito dahil wala naman silang intensyon na ibenta ang lupa.

Ayon sa Supreme Court, ang mga

deposito na ibinigay ni Valdelion pagkatapos ng paglilitis ng kaso ay hindi maaaring maituring na "valid consignment" dahil hindi niya ito ipinaalam sa kabilang panig. Sinabi rin ng SC na ang P.D. 1517 ay hindi nararapat sa kasong ito dahil wala namang ebidensya na ang lupang pinag-aawayan ay nai-proklama bilang kasama sa Urban Land Reform Zone. Ang depensa ni Valdelion na mayroon siyang right of first refusal ay hindi rin wasto dahil mariing sinabi ni Geraldez na wala naman silang intensyon na ibenta ang lupa.

Nidoy vs. CA

Si Nidoy ay nangungupahan sa isang apartment na matatagpuan sa Malate, Manila ng higit sa 25 na taon. Ang apartment na ito ay ibinenta ng dating may-ari kay Ang. Ang lugar na ito ay nai-proklama na sakop ng Area for Priority Development (APD) ng gobyerno. Nagsampa ng kasong unlawful detainer si Ang sa MTC dahil lumipas na daw ang kontrata ng "lease" ni Nidoy at hindi ito nagbabayad ng upa. Ayon sa MTC, dapat ay umalis na si Nidoy sa apartment at dapat din na magbayad siya ng renta. And desisyon ng MTC ay sinang-ayunan ng RTC at ng CA. Si Nidoy ay umapela sa SC dahil, ayon sa kanya, ang "deed of sale" na kasunduan ng dating may-ari at ni Ang ay walang bisa dahil





hindi nito nirespeto ang karapatan ni Nidoy na maunang bumili ng apartment o "right of first refusal" na mandato ng P.D. Section 6 ng P.D. 1517. Sinabi din ni Nidoy na kahit pa sabihing wala nga siyang "right of first refusal", hindi rin sya maaaring paalisin dahil sa "Urban Land Reform Act".

Ayon sa SC, hindi nararapt ang Section 6 ng P.D. 1517 sa kasong ito dahil ito ay tumutukoy lamang sa "right of first refusal" ng mga nangungupahan ng higit sa sampung taon sa isang lupa na kung saan sila nagtayo ng bahay at ang lupang ito ay idineklara na kasama sa Urban Land Reform Zone. Hindi sakop ng batas na ito ang mga nangungupahan sa mga apartments. Si Nidoy ay nangungupahan sa isang apartment at hindi ito sakop ng batas kahit na ang lupang kinatitirikan nito ay kasama sa idineklarang Urban Land Reform Zone. Isa pa, ang "right of first refusal" ay maaari lamang gamitin ng mga lahitimong nangungupahan. Si Nidoy ay hindi lehitimong nangungupahan dahil hindi na siya nagbabayad ng renta, kaya hindi nya makukuha ang benepisyo ng P.D. 1517.

Sinabi rin ng SC na ang dahilan kung bakit ginawa ang batas ukol sa hindi pagpapa-alis o "non- eviction" ay upang tigilan ang masamang gawain ng mga may-ari ng lupa na humingi ng mataas na presyo sa mga nagungupahan upang mapa-alis nila ang mga

ito kung sakaling hindi sila makabayad.

Vergara vs. IAC

Sina Vergara ay naninirahan sa lupa na matatagpuan sa Malaya, Avenue, Q.C. Nagsama sila ng kaso upang mapawalang-bisa ang pagbebenta ng lupa sa respondent. Ngunit, ang kasong ito ay na-dismiss dahil sa hindi pag-attend ng hearing nila Vergara. Inatasan ng trial court na umalis sa lupang iyon. Nagsampa ng certiorari si Vergara sa CA at kinc-kwestion nila ang order ng execution ng trial court. Sinabi ni Vergara na hindi sila maaaring paalisin dahil ang tinitirhan nila y sakop ng Zonal Improvement Program (ZIP) ng gobyerno na nakasaad sa Memorandum na ipinasa ng Ministry of Human Settlements. Dinimiss ng CA ang kaso at sinabi nito na ang pagpasa ng sinasabing memorandum ay hindi supervening event na maaring magpahinto sa final order ng trial court. Makalipas ang ilang araw, ipinasa ang P.D. 2016 na may paksang "Prohibiting the Eviction of Occupant from Land Identified and Proclaimed as Areas for Priority Development (APD) or as Urban Land Reform Zones and Exempting Such Land from Real Property Taxes". Base sa batas na ito, nagsampa na naman ng panibagong kaso ng certiorari sina Vergara sa CA. Sinabi nila na ang pagpasa ng nasabing batas ay nagpawalang-bisa sa order ng trial



court. Ayon sa CA, ang pagpasa ng nasabing batas ay walang epekto sa final judgment ng trial court at dapat na itong ipatupad. Sinabi pa ng CA na ang P.D. 2016 ay nagpapatupad lamang ng Section 6 ng P.D. 1517. Hindi pinalawak ng P.D. 2016 ang sakop ng P.D. 1517. Hindi pa rin kasama sa sakop ng batas ang mga taong mayroon nang final judgment ng eviction na dapat nang ipatupad. Hindi maaarin gamitin nila Vergara ang P.D. 2016 upang pigilin ang pagpapatupad ng final judgment ng trial court.

Sinang-ayunan ng SC ang desisyon ng CA at sinabi pa nito na ang kahulugan ng "tenant" o nangungupahan ayon sa Urban Land Reform Law (P.D. 1517) ay ang taong lehitimong nangungupahan dito at hindi nasasakop ang mga tao na ang pangungupahan ay pinapayagan lamang ng may-ari kahit hindi lehitimo, at kahit walang kontrata, at yung mga taong pumapasok sa lugar sa pamamagitan ng puwersa o pandaraya o yung mga taong ang paninirahan doon ay nasa paglilitis.

Ang mga nagsumite ng petisyon ay hindi maaaring masabing "tenant" o "qualified occupant" ayon sa kahulugan nito sa Urban Land Reform Law dahil ang kanilang patuloy na paninirahan sa lugar na iyon ay pinapayagan lamang ng may-ari at wala silang karapatan na magpatuloy na

manirahan dito dahil sa hatol ng korte na dapat na silang umalis. Ang tinatawag na "slum" o "depressed community" ayon sa P.D. 2016 ay hindi karagdagang benepisyaryo sa ilalim ng Urban Land Reform Law kundi karagdagang lugar lamang na nasasakop ng nasabing batas. Ang mga benepisyaryo sa ilalim ng Urban Land Reform Law ay ang mga nangungupahang mga pamilya na may mga katangiang magpapasailaim sa batas at hindi ang lugar na nasasakop nito.

Bermudez vs. IAC

Si Bonus ay may-ari ng lupa sa Sampaloc, Manila. Nagsampa siya ng demanda sa MTC laban kina Bermudez. Ayon kay Bonus, pinayagan ng kanyang nanay na manirahan sila Bermudez sa kanilang lupa at magtayo ng kanilang bahay doon ngunit mayroon silang pag-uusap na maaari silang paalisin kapag kinailangan na ni Bonus ang lupa. Hindi pumayag na umalis sina Bermudez. Nagsampa ngayon ng demanda na ejection si Bonus. Sinabi ni Bermudez na si Mang Tomas, ang namamahala sa lupa na pagmamay-ari umano ni Rita Legarda, ay pinayagan silang manirahan sa naturang lugar. Sinabi pa ni Bermudez na nilinang nila ang lupa kapalit ng kanilang paninirahan dito, at sila ay nakatira sa lugar na ito ng higit sa





sampung taon na. Ayon kay Bermudez, hindi sila maaaring paalisin sa lupa dahil sila ay pioprotektahan ng Section 6 ng P.D. 1517 (Urban Land Reform Decree). Ayon sa MTC, hindi nga maaaring paalisin sina Bermudez dahil ang lupa ay nasasakop ng lugar na nai-proklama na kasama sa "priority development". Ang desisyon ng MTC ay sinang-ayunan ng RTC at ng IAC. Ngunit nang magsumite ng motion for reconsideration si Bonus, siya naman ang pinanigan ng IAC. Inatasan ng IAC na umalis sina Bermudez sa lupa dahil ang Urban Land Reform Decree ay hindi maaaring gamitin sa kasong ito. Ito ay dahilan sa hindi napatunayan nila Bermudez na mayron silang kontrata sa dating may-ari ng lupa na si Legarda.

Ayon sa SC, hindi maaaring maging benepisyaryo ng P.D. 1517 sila Bermudez dahil hindi naman sila legal na nangungupahan dito. Ang proteksyon ng P.D. 1517 ay maaari lamang gamitin ng mga "legitimate tenants", i.e. ang mga legal na nangungupahan at naninirahan sa lupa, at hindi sa mga taong pinapayagan lamang na manirahan sa lupa ng walang pormal na kasunduan o kontrata ayon sa Section 3 at 33 ng P.D. 1517. Ayon pa sa SC, ang P.D. 1517 ay maaari laang gamitin kung ang lupa ay binebenta ng may-ari sa isang 3rd party. Makikita sa kasong ito na nung inalok sila ni

Bonus na bilhin ang lupa ng hulugan, hindi sila pumayag dito dahil wala silang pera. Sina Bermudez ay wala nang karapatan na manatiling nakatira sa lupa.

Zansibarian Residents Association (ZRA) vs. Municipality of Makati

Ang ZRA ay binubuo ng mga miyembro na nakatira sa lupa na matatagpuan sa Brgy. San Isidro, Makati City. Ayon sa ZRA, ang kanilang miyembro ay hindi maaaring paalisin sa lupang kanilang tinitirahan dahil sa P.D. 1517, ang batas na nagpo-proklama ng Urban Land Reform sa Pilipinas at nagbubuo ng organisasyon na magpapatupad dito. Ito ay hindi na bago dahil hindi ito ang unang kaso na ipinasa ng ZRA laban sa lungsod ng Makati. Bago ang kasong ito, nagsumite na ang ZRA ng dalawang kaso para sa injunction upang pigilan ang "demolition team" ng Makati sa pag-giba ng kanilang mga tahanan. Ang dalawang kaso na ito ng injunction ay na-dismiss ng RTC.

Ayon sa SC, ang nararapat lamang na bigyan ng proteksyon ng P.D.1517 ay ang mga lehitimong nangungupahan sa mga lupa. Ang mga myembro ng ZRA ay hindi mga lehitimong nangungupahan at hindi rin sila nakatira dito dahil sa isang legal na kontrata. Isa pa, ang kasong ito ay hindi na maaaring



manalo dahil ito ay napagdesisyunan na sa naunang dalawang kaso ng injunction dahil mayroong parehong mga naglalabang partido, parehong "subject matter" at parehong "cause of action".

Santos vs. CA

Nagsampa sa Gutierrez ng kasong unlawful detainer laban kay Santos at sa mga kasamahan nito dahil: (1) kailangan na ni Gutierrez ng apartment dahil gagamitin nya ito; (2) kinakailangan na nitong marepair; at (3) hindi nagbabayad ng renta sina Santos. Sinabi ni Santos na sila ay lehitimong nangungupahan sa apartment, ayon sa kanilang buwanang kontrata ng "lease". Inutusan ng RTC na umalis na sa nasabing apartment sina Santos. Nagpasa ng certiorari sa SC sina Santos na nagsasabing nangungupahan na sila sa nasabing apartment ng 28 na taon at nararapat na mayroon silang "preferential right" upang bilhin ang apartment ayon sa P.D. 1517.

Ayon sa SC, ang kanilang kontrata ay may definite na panahon dahil ito ay buwanan. Dahil dito ang mga party sa kontrata ay nagkasundo na kapag nagbigay na ng abiso ang isang party, maaari nang matapos ang kasunduan, ayon sa kaso ng Rantael. Ang P.D. 1517 ay hindi maaaring gamitin sa kasong ito dahil ang batas na

ito ay sumasakop lang sa "urban land" na inuupahan kung saan ang nagungupahan ay nagtayo ng sarili nyang bahay at kung saan sya ay nanirahan sa loob ng sampung taon o higit pa. Kung ang lupa at bahay ay parehong pagmamay-ari ng nagpapa-upa, hindi maaaring gamitin ang "right of first refusal".

Lagmay vs. CA

Si Tuason ay nagmamay-ari ng lupa na matatagpuan sa Pasay City. Pinaupahan nya ang isang bahagi ng lupa kina Lagmay ng humigit sa 20 na taon. Ang mga nangungupahan ay nagtayo ng kani-kanilang bahay sa kanilang mga inuupahang lugar. Ang abogado ni Tuason ay nagpadala ng sulat sa mga nangungupahan na nagsasabing nais ibenta ng may-ari ang lupa na tinitirahan nila dahil kailangan nya ng pera para pambili ng gamot. Binigyan sila ng tatlong-buwang palugit upang gamitin ang kanilang karapatan upang bilhin ang nasabing lupa ngunit hindi nila ito pinansin. Tumigil na ng pangongolekta ng upa ang may-ari at hindi naman nagbayad ang mga nangungupahan. Nagpadala na naman ng sulat ang mga kapatid ni Tuason (may-ari) na nagsasabing may sakit ang kanilang kapatid at kahit na napag-desisyunan na niyang ibenta ang lupa, hindi pa rin nya ito ibinenta at pinayagan pa nyang manirahan dito ang mga nangungupahan ng dalawang taon kahit na hindi sila nagbabayad ng upa.



Naki-usap ang mga kapatid ni Tuason na umalis na ang mga nangungupahan dito upang maibenta na ni Tuason ang lupa para maka-ipon ng pera na pambayad sa kanyang mga pinagkaka-utangan. Imbes na umalis ang mga nangungupahan, inalok nila na bilhin ang lupa ni Tuason dahil may karapatan daw silang gawin ito ayon sa P.D. 1517. Nagsampa pa sila ng demanda sa RTC upang magamit nia ang kanila "pre-emptive right". Na-dismiss ng RTC ang kanilang kaso dahil ang sulat sa kanila ni Tuason ay nagsisilbing demand ng kanilang pag-alis at hindi isang alok upang bilhin ang lupa. Na-dismiss din ng CA ang kaso nila dahil ang lupa ay hindi nasasakop ng 244 na urban sites na naipoklama bilang "urban land reform areas" sa ilalim ng Proclamation No. 1967. Sinabi rin ng CA na kahit pa sabihing mayroon silang "pre-emptive right", ito ay kanila nang na-waive dahil hindi sila sumunod sa mga kinakailangang gawin upang magamit ang karapatang ito. Nagpasa ng certiorari sina Lagmay sa SC at itinatanong nila dito kung "self-executory" ba ang Section 6 ng P.D. 1517, dahil kung ito nga ay self-executory, legal ang sinasabing pre-emptive right ng mga nangungupahan.

Ayon sa SC, ang Section 6 ng P.D. 1517 ay hindi self-executing dahilang mga kondisyon ng pagbebenta ng lupa sa pamamagitan ng paggamit ng nangungupahan ng lupa sa kanyang

karapatan upang bilhin ito ay idineklara ng Urban Zone Expropriation and Management Committee. Sinabi pa ng SC na ang RTC ay tama sa pagsasabing may ilang kondisyon upang makuha ang benepisyo ng nasabing batas. Ayon sa SC, may mga proclamations tulad nito (Proc. No. 1893, na idideklara ang buong Maynila bilang Urban Land Reform Zone, at ang Proc. No. 1967, na nagbago sa Proc. No. 1893, at nagdedeklara ng 244 na lugar sa Maynila na sakop ng priority and urban land reform zones). Sinabi ng SC na ang mga proklamasyon na ito ay mga pagpapatunay na ang P.D. 1517 ay hindi self-executing dahil kinakailangan pa nito ang iba pang executive acts, katulad ng pagbubuo ng mga committees na sinasabi ng batas, na kailangan pang gawin upang maipatupad ang mga ipinag-uutos ng batas.

Isa pa, kahit pa sabihing nararapat gamitin ang P.D. 1517 sa kasong ito, may oportunidad sina Lagmay na mapasakanila ang mga inupahang lupa ngunit nawala ang pagkakatong ito dahil hindi nila ginamit ang kanilang karapatan na bilhin ang lupa sa ibinigay sa kaniang tatlong-buwang palugit.

Parañaque Kings Enterprises vs. CA

Isang kontrata ng lease ang napagkasunduan ni Frederick Chua at ni



Catalina Santos, ang may-ari ng lupa. Ang kontratang ito ay na-assign sa Parañaque Kings Enterprises (PKE), isang pribadong kompanya. Sa ilalim ng kanilang kontrata ng lease nila Santos at PKE, ang PKE ay binigyan ng "first option or priority" upang bilhin ang pinaaupahang lupa kung sakaling mapag-desisyonan ni Santos na ibenta ang lupa. Ibinenta ni Santos ang lupa kay Raymundo, sa halagang P5 million, nang hindi muna ito inaalok sa PKE. Nagreklamo ang PKE at binili ulit ni Santos ang lupa mula kay Raymundo. Pagkatapos nito, ibinenta ni Santos ang lupa sa PKE sa halagang P15 million, na hindi naman sinag-ayunan ng PKE dahil ito ay hindi kapani-paniwala. Hindi na naman sinunod ni Santos ang kontrata nang ibinenta ulit nito kay Raymundo ang lupa sa halagang P9 million, nang hindi inaalok sa PKE ang lupa sa presyong ito.

Ayon sa RTC at sa CA, walang paglabag sa kontrata ng lease dahil inalok naman ni Santos ang PKE na bilhin ang lupa, ngunit hindi naman ito sumang-ayon. Ayon naman sa SC, ang pag-aalok na ginawa ni Santos ay hindi sapat upang masabing sumunod siya sa kontrata. Upang masabing sumunod talaga siya sa kontrata nila, dapat ay inalok din ang PKE na bilhin ang lupa sa presyo ng pagkaka-benta nito kay Raymundo, sa halagang P9 million.



Sinabi ng PKE na may karapatan ito na bilhin ang lupa sa ilalim ng P.D. 1517 dahil sila ay lehitimong nangungupahan dito ayon sa kanilang kontrata. Sa kanilang kontrata, ang PKE ay nangungupahan na sa lugar na ito sa loob ng 14 na taon. Sinabi ng SC na kahit hindi nila alamin kung lehitimong nangungupahan ba talaga ang PKE ayon sa nasabing batas, ang magsasabi ng mga kondisyon upang maibenta at mabili ng nangungupahan ang kanilang inuupahang lupa, ay ang Urban Zone Expropriation and Land Management Committee. Binanggit nito ang kaso ni Lagmay kung saan sinabing kailangan munang masunod na ilang kondisyon upang magamit ang karapatang bilhin ang lupa. Sinabi ng SC na walang ebidensya na nasunod ang mga kondisyon na ito at walang "cause of action" ang PKE base sa argumentong ito.

2. UDHA CASES

A. PAG-IWAS SA ISYU NG CONSTITUTIONALITY

Macasiano vs. NHA

Bilang consultant ng DPWH, hinamon ni Police General Macasiano ang pagiging ayon sa saligang batas ng Section 28 at 44 ng R.A. 7279. Ayon sa kanya, pinapawalang bisa ng Section 28 ang demolisyon at nagbibigay



pa ito ng mga panuntunin na dapat sundin sa pagpapatupad ng mga atas ng demolisyon at ebiksyon. Sinabi pa ni Macasiano na dahil sa batas na ito, hindi na niya maipagpapatuloy ang paggiba ng mga ilegal na istruktura na madalas niyang ginagawa dati. Bilang mamamayang nagbabayad ng buwis, ayon sa kanya, siya daw ay may direktang interes na makita ang wastong paggamit ng pera ng bayan. Ayon naman sa National Mapping and Resource Information, ang pagpapatupad ng mga nasabing bahagi ng batas ay hindi na sakop ng kanyang jurisdiction ngunit ang mga ito ay hindi lumalabag sa saligang batas. Ang Section 28 ay nagpapatupad lamang ng makataong paraan ng pagpapa-alis at hindi nito ipinagbabawal ang demolisyon, at ang Section 44 naman ay tumutukoy lamang sa program beneficiaries.

Ayon sa SC, ang pagsang-ayon ng isang batas na gawa ng lehislatura sa saligang batas ay hindi pinapakialaman ng korte kung ito ay hindi naiparating sa korte sa pamamagitan ng wastong kaso at kung hindi ito kinakailangan para sa tamang pagdedesiyon ng kaso. Ang katanungan na ito ay maaari lang desisyunan ng SC kung ito ay isinampa ng wastong tao. Sa kasong ito, si Macasiano ay hindi ang wastong tao upang iharap ang katanungang ito sa korte dahil hindi niya napatunayan na siya ay nagtamo o magtatamo ng pinsala bilang resulta ng pagpapatupad ng nasabing

batas. Hindi niya rin napatunayan na mayroon siyang kapangyarihan upang maggiba ng mga istrukturang nakakaharang o nakatayo sa mga lupa ng gobyerno, lalo na ng mga lupain ng pribadong tao. Hindi rin nya napatunayan na nagmamay-ari siya ng lupa at ang kanyang pag-gamit dito ay maapektuhan ng mga nasasabing bahagi ng UDHA.

Garcia vs. Executive Secretary

Ayon kay Congressman Garcia, ang R.A. 7042 (Foreign Investments Act) ay hindi sang-ayon sa saligang batas. Sinabi ng SC na hindi pinapakialaman ng korte ang mga katanungan ukol sa pag-sang-ayon sa saligang batas ng mga batas na ginagawa ng lehislatura at ang mga ito ay PRESUMED wasto sa kakulangan ng ebidensya na ito nga ay hindi constitutional. Ang PRESUMPTION na ito ay base sa paghihiwalay ng kapangyarihan ng chekutibo, lehislatura at ng mga korte. Ang isang batas na resulta ng pinagsamang gawain ng Kongreso at ng Presidente ng Pilipinas ay malamang na pinag-isipang mabuti ng mga gumawa nito at ito ay naaayon sa saligang batas. Ang desisyong ito ng SC ay binanggit sa Macasiano vs. NHA.

Kilosbayan vs. Guingona

Ang Kilosbayan ay isang



B. ISANG MALING PAGBASA NG SECTION 28

Banson vs. CA

Si Blandura ang dating may-ari ng lupa. Inalok niya ang mga nagungupahan dito na sina Banson at Berdugo na bilhin ang lupa, pero ng hindi sila nagpakita ng intensyon na bilhin ang bahay, pinadalhan sila ni Blandura ng sulat para paalisin sila. Ang bagong may-ari, si Diocampo, ay nagpadala rin ng mga sulat na nagsasabing dapat nang umalis sina Blandura, na hindi rin nila pinansin, kaya nagkaroon ng demanda na unlawful detainer laban sa kanila. Ayon sa MTC, sina Banson at Berdugo ay hindi lehitimong nangungupahan sa lupa dahil ang napagkasunduan nilang kontrata na hindi nasusulat, ay buwanan lamang, at ito ay tinapos na ng dating may-ari ng lupa bago pa man ito nabili ni Diocampo. Pagkatapos mabili ang nasabing lupa, ang pagtira nila Banson dito ay pinapayagan lamang ni Blandura. Dahil dito, ang kanilang paninirahan ay may kakabit na obligasyon na umalis sa lugar na yon kapag kinuha na ng may-ari. Ayon din sa MTC, ang P.D. 1517, ang Urban Land Reform Law, at ang B.P. 877, ang New Rental Law, ay hindi nararapat sa kasong ito dahil hindi nga lehitimo ang pag-upa nila Banson. Ang desisyon na ito ng MTC ay sinang-ayunan ng RTC at CA.

korporasyon na binubuo ng mga mamamayan ng Pilipinas. Sang-ayon sa charter ng PCSO, nagpasya itong magtayo ng isang "online lottery system" upang mapataas pa ang kita nito at magsisilbi rin itong pagkukuhanan ng pondo. Ang isyu sa kasong ito ay ang LOCUS STANDI ng Kilosbayan.

Ayon sa SC, ang karapatan ng isang panig upang magsampa ng kaso ay isang teknikal na depensa, at ang korte, sa paggamit ng wastong pagpapasya, ay maaari itong ipagsawalang-bahala dahil importante ang mga isyung ito. Sa mga tinaguriang "Emergency Powers Cases", ipinagsawalang-bahala ng SC ang mga teknikal na depensa dahil sa "transcendental importance" sa publiko ng mga kaso at dapat na itong mapagdesisyunan sa lalong madaling panahon. Ang mga kaso na hinaharap ng mga tao bilang mamamayang nagbabayad ng batas ay nasa pagpapaya ng korte kung ito ay pagbibigyang pansin o hindi.

Ito rin ang sinasabi ng mga kasong ito: **Kilusang Mayo Uno Labor Center vs. Garcia Kilosbayan vs. Morato Tatad vs. Garcia Tatad vs. Secretary of Department of Energy Association of Small Landowners in the Philippines vs. Secretary of Agrarian Reform**





Ayon sa SC, ang kontrata ng lease ay buwanan, ito ay may definite period at maaaring matapos kada buwan. Pagkatapos magbigay ng demand to vacate kay Banson at Berdugo at hindi pa rin sila umalis, sila ay naging usurpers. Hindi na sila bonafide lessees. Ang PD 1517 na nagproklama ng urban land reform sa Pilipinas, at ang RA 7279 (UDHA) ay hindi nararapat na gamitin sa kasong ito dahil sina Banson ay hindi lehitimong nangungupahan o legitimate tenant. Isa pa, ang lupang tinatayuan ng kanilang bahay ay hindi sakop ng mga nasabing batas. Ang mga batas ay sumasakop lamang sa mga lupa na nasa urban na lugar, kasama na ang areas for priority development, zonal improvement sites, slum improvement, resettlement sites, at iba pang lugar na maaaring iklasipika ng LGU's bilang naaayon sa socialized housing.

C. ANG KASO NG MGA "RASCALS"

Galay vs. CA

Si Wong ay nagsampa ng kasong ejectment laban kay Galay at sa mga kasama nito, na nag-ookupa sa lupang pagmamay-ari ni Wong sa Quezon City. Hindi ina-angkin nila Galay ang pagmamay-ari ng lupa, ngunit sinasabi nila na hindi si Wong ang may-ari

nito at sila daw ay nakatira sa lupang ito mula pa noong 1972 dahil sila ay pinayagan ni Dr. Lopez, na, ayon sa kanila, ay siyang magmamay-ari ng lupa. Natalo sina Galay sa MTC, RTC at CA. Ang desisyon ay naging final. Upang mapigilan ang pagpapa-alis sa kanila sa lupa, nagsampa sila ng injunction sa RTC ngunit hindi naman ito pinayagan ng korte. Nagsampa ulit sila ng injunction sa CA dahil hindi sila maaaring paalisin sa lugar nang hindi sumusunod sa Section 28 (c) ng RA 7279 (UDHA). Pinayagan naman ito ng CA. Nagsampa ng Motion to Lift/Dissolve Injunction ang abogado ni Wong dahil mayroon naman daw "substantial compliance" sa RA 7279 dahil ang Urban Poor Affairs Office (People's Bureau) ay nabigyan na ng notice at mahigit na sa 45 na araw ang lumipas mula sa nasabing notice. Ayon sa CA, dapat ay umalis na sina Galay sa lupa at hayaan nila ang People's Bureau na I-relocate sila o bayaran sila ng daily allowance hanggang sila ay ma-relocate.

Ayon sa SC, ang kaso ng ejectment ay na-resolve na at final na nang ang apela nila Galay ay hindi sinang-ayunan ng CA. Ang mga sumunod na proceedings ay naglalayon lamang na ma-enforce ang desisyon ng pagpapa-alis sa kanila sa lupa, na sinubikang depensahan nila Galay sa pamamagitan ng pag-gamit ng Section 28 ng UDHA. Nang sumunod sila Wong sa



iniuutos ng batas, ang karapatan nila Galay na manatili sa lupa ay natapos na. Kailangan na nilang umalis sa nasabing lupa.

Ukol naman sa isyu ng social justice na iniharap nila Galay, nasabi na ng SC na hindi tama na kilingan ang mahihirap DAHIL LANG sa pagiging mahirap nila, o magdesisyon laban sa mayayaman dahil lang sa mayaman sila, dahil ang hustisya ay para sa lahat, na naaayon sa batas". Ang policy ng social justice ay hindi nilayon na gamitin upang patawarin ang isang pagkakamali dahil lamang ito ay nagawa ng isang maralita. Maaaring bumaba ang parusa ngunit hindi nito mabubura ang pagkakamali. Ang pagiging maawain sa mga maralita ay dapat gawin ng isang sibilisadong komunidad ngunit hindi kapag ang maralita ay isang "RASCAL" na humihingi ng isang pribilehiyo na hindi naman nararapat sa kanya.

D. ISANG MALINAW NA "OMISSION"

Puncia vs. Gerona

Si Puncia at Balantes ay nangungupahan sa isang 105 sq.m. na parte ng lupa na pagmamay-ari ni Roberto Roco. Si Roco ay nagsampa ng demandang "unlawful detainer" laban kina Puncia sa

MTC dahil hindi nagbabayad ang mga ito ng buwanang upa. Pagkatapos ng 10 taon, lumabas ang desisyon ng MTC. Inutusan nito sina Puncia na umalis sa lupa. Nagpasa ng mga petition at appeal sina Puncia sa mababang hukuman. Nang ito ay hindi sinang-ayunan ng korte, nagsampa sila ng certiorari sa SC dahil daw ang judge sa RTC ay may "abuse of discretion" sa pag-uutos na I-demolish ang kanilang bahay. Ayon kay Puncia, nilabag ng judge ang RA 7279 (UDHA) na nagbibigay ng tatlong taong moratorium sa pagpapa-alis at pag-giba ng bahay ng mga "program beneficiaries" na nagsimula noong naipasa ang nasabing batas noong March 1992. Ang batas ay nag-uutos din na bigyan ng notice ang mga maaapektuhan ng demolisyon 30 na araw bago gawin ang nasabing pagpapa-alis o pagde-demolish. Sinabi rin ni Puncia na sila ay umalis na sa nasabing lupa.

Ayon sa SC, hindi nararapat na gamitin ang RA 7279 sa kasong ito. Ayon sa Section 44 ng nasabing batas, ang moratorium ay hindi maaring gamitin ng mga taong nagtayo ng bahay pagkatapos ng March 1992 at ng mga taong sumasailalim sa Section 28. Ayon sa Section 28 (c), and pagpapa-alis o pagde-demolish ay maaaring payagan kapag mayroong utos ng korte na nag-papaalis sa kanila. Hindi sakop ng moratorium ang "court ordered" evictions.





E. KAPAG NAGTAGPO ANG COURT-ORDERED DEMOLITION AT EXPROPRIATION

Filstream vs. CA

Ang Filstream ay nagmamay-ari ng isang lupa na matatagpuan sa Tondo, Manila. Ito ay nagsampa ng kasong ejectment laban sa mga taong naninirahan doon dahil natapos na ang kanilang kontrata ng lease at hindi rin nagbabayad ng upa ang mga nainirahan doon. Ang Filstream ay sinang-ayunan ng MTC, RTC at CA. Hindi nagsampa ng appeal ang mga nangungupahan kaya ang desisyon ay naging final. Habang mayroon pang proceedings sa kasong ejectment, ang mga nangungupahan sa nasabing lupa ay nagsampa ng demanda na Annulment of Deed of Exchange laban sa Filstream. Ayon sa kanila, pinayagan ng City of Manila ang Mayor upang kunin ang lupa na pagmamay-ari ng Filstream sa pamamagitan ng negotiation, expropriation o pagbili ng lupa o kahit anong legal na pamamaraan. Ang City of Manila ay naglabas ng isang ordinansa na idinedeklara ang pag-expropriate ng nasabing lupa. Nagsampa naman ng kaso na eminent domain ang City of Manila para ma-expropriate ang lupa. Naglabas ng writ of possession ang RTC para sa City of Manila. Nagsampa naman ng Motion to Dismiss ang Filstream laban sa kasong eminent domain

dahil nailalayon lamang nitong iwasan ang writ of execution na inutos ng RTC sa kasong ejectment. Ito ay hindi sinang-ayunan ng RTC at ng CA.

Ayon sa SC, ang City of Manila ay may malinaw na karapatan na gamitin ang kapangyarihan nito sa eminent domain sa nasasakupan nitong lugar. Ang karapatan na bilhin ang isang pribadong lupa upang gamitin ng publiko ay makikita sa Local Government Code. Ang City of Manila ay may kapangyarihan din na mag-expropriate ng pribadong lupa na maaring gamitin nito sa programa ng urabn lang reform and housing. Ngunit ang kapangyarihan na ito ay may limitasyon. Dapat mayroong due process at dapat ay bigyan ng just compensation ang pribadong tao na kinuhanan ng lupa. Isa pa, ayon sa UDHA, may mga limitasyon sa pagkakasunod-sunod o priority sa pagbili ng mga pribadong lupa at sa pag-gamit ng mga pribadong lupa ang pinaka-huli sa order of priority ng mga pag-aaring maaring gamitin sa socialized housing. Dapat ding mahuli ang pamamaraan ng expropriation sa priorities ng pamamaraan ng pagkuha o pagbili ng lupa. Ang expropriation ay maaari lamang gawin kapag nasubukan nang gamitin ang ibang pamamaraan. Sa kasong ito, hindi naipakita ng City of Manila na sinunod nito ang mga inuutos ng batas kaugnay sa order of



priorities. Mayroong paglabag sa karapatan ng Filstream sa due process.

Philippine Columbian Association vs. Panis

Ang PCA ay nagmamay-ari ng lupa na dating kasama sa Fabie Estate. Sina Panis ay naninirahan sa nasabing lupa. Nagsampa ng kasong ejectment ang PCA laban kay Panis at sa mga kasamahan nito. Nanalo ang PCA sa MTC. Ayon sa MTC, dapat nang umalis sina Panis sa nasabing lupa. Naglabas ng writ of demolition ang korte. Nagpasa ng petition for injunction si Panis upang mapigilan ang pagpapalis sa kanila at ang pag-giba ng kanilang bahay. Nagsampa naman ng kaso ng expropriation ang City of Manila upang bilhin ang nasabing lupa ng PCA. Nagpasa ng opposition dito ang PCA dahil hindi pinapayagan ng charter ng Manila ang City na mag-expropriate ng lupa. Sinabi rin ng PCA na ang pag-expropriate sa kanilang lupa ay hindi para sa pampublikong gamit, ngunit ito ay "politically motivated".

Ayon sa SC, ang Revised Charter of the City of Manila (R.A. 409) ay nagbibigay ng kapangyarihan sa City of Manila upang bumili ng pribadong lupa na ilalaan sa pampublikong gamit at kapangyarihang bumili ng pribadong lupa upang hatiin ito sa

homelots at ipagbili sa mga naninirahan sa lungsod. Ang salitang "public use" o ilalaan sa "pampublikong gamit" ay naiimpluwensyahan ng mga paggo-bagong kondisyon sa kasalukuyan. Maaaring sumailalim dito ang hindi direktang pagkuha ng benepisyo ng publiko, kasama na rito ang urban land reform and housing.

Republic vs. Tagle

Si Benitez ay nagmamay-ari ng 2 lupa na matatagpuan sa Dasmariñas, Cavite. Ang gobyerno ng Pilipinas, sa pamamagitan ng Philippine Human Resources Development Center (PHRDC) ay nagkaroon ng negosasyon sa isang ahensyang Hapon ukol sa pagtatayo ng isang Construction Manpower Development Center. Si Benitez at ang PHRDC ay pumirma sa isang Memorandum of Agreement na nagsasabing si Benitez ay magpapa-upa o magbebenta ng isang parte ng lupa nya sa PHRDC sa loob ng 20 na taon. Ang Philippine Women's University (PWU) at si Benitez ay nagbigay ng permit sa PHRDC upang gamitin ang nasabing lupa. Nagkaroon naman ng kasunduan ang PWU at PHRDC na isang lease agreement ng isang 10 hectare na lupa na, ayon sa PWU, ay ibinigay ni Benitez sa kanila bilang donation. Ngunit ang deed of donation ay ginawa PAGKATAPOS gawin





ang nasabing lease contract. Nang matapos ang termino ng lease contract, nagkaroon naman ng negosasyon tungkol sa pagbili ng lupa. Ngunit hindi pinirmahan ni Benitez ang Deed of Absolute Sale pero hinigi nito na magbayad ang PHRDC ng upa at umalis sa lupa sa loob ng 30 araw mula nang matanggap nila ang notice. Nagsampa rin ng kasong unlawful detainer si Benitez laban sa PHRDC. Nang hindi mabilio ng PHRDC ang lupa sa pamamagitan ng negotiated sale, ang PHRDC ay nagsampa ng demanda na eminent domain ayon sa EO 1035, sa pamamagitan ng DTI. Nagdeposito ang petitioner ng halagang naaayon sa provisional value ng lupa. Nagpasa ang PHRDC ng Motion for Issuance of a Writ of Possession, na ibinigay naman ng judge. Nagsampa naman ng Motion for Reconsideration ang PHRDC na siya namang sinang-ayunan din ng judge. Ang Writ of Possession ay napawalangbisa.

Ayon sa SC, hindi maaaring mapawalang bisa ng judge ang writ of possession dahil lamang ang nag-*expropriate* ay umo-okupa na sa nasabing lupa. Sa pag-gamit ng kapangyarihan ng eminent domain, hoindi lamang ang pag-possess sa lupa ang kinukuha ng gobyerno kundi pati ang pagbili at pagmamay-ari ng nasabing lupa. Ang EO 1035 ay ginawang batas upang maisulong ang pagbili ng gobyerno sa pribadong lupa

na maaaring gamitin sa infrastructure o iba pang proyekto ng gobyerno. Sa ilalim ng Section 7 ng EO 1035, isang ministerial duty ng mga korte ang maglalabas ng writ of possession sa loob ng 5 araw mula ng magdeposito ang gobyerno ng 10% ng halaga ng lupa. Ang nasabing writ ay hindi maaaring mapawalangbisa ng isang desisyon na nagsasabing panalo ang isang tao sa kaso ng ejectment na sumasakop sa iisang lupa at parehong mga naglalabang panig. Ang ejectment suit ay hindi maaaring maging mas mataas sa kapangyarihan ng Estado na eminent domain.

F. APLIKASYON NG MORATORIUM

Serapion vs. CA

Ang mag-asawang Alberto ay nagsampa ng demanda na unlawful detainer laban kay Serapion sa MTC ng Valenzuela. Ayon sa kanila, ayaw umalis ni Serapion sa lupa kahit na natapos na ang termino ng kanilang kontrata. Ayon naman kay Serapion, sila ay may isa pang kontrata sa dating may-ari ng lupa na tatay ni Magdalena Alberto na hindi pa tapos ang termino dahil ito ay maaaring i-renew ng 5 taon pa, ayon sa kanilang (Serapion) pagpapasya. Sinabi na ni Serapion na walang bisa ang kanyang



kontrata ng lease sa mag-asawang Alberto dahil ang nasabing kontrata ay nagawa lamang sa pamamagitan ng panloloko, at pagpilit sa kanila. Sinang-ayunan ng MTC ang mag-asawang Alberto at inutusan nito si Serapion na umalis sa lupa at magbayad ng upa. 2 araw matapos maibigay ang desisyon kay Serapion, nagpasa naman ng Motion for Execution sina Alberto sa korte nang hindi binibigyan ng notice si Serapion. Ito ay sinang-ayunan ng korte. Nang sumunod na araw, nagpasa ng "Motion for Reconsideration of Decision and Recall of Writ of Execution" si Serapion dahil mayroong mga requirements at guidelines sa pagpapa-alis ng mga naninirahan sa urban at rural na lugar na nakasaad sa Constitution at sa RA 7279. Ang Motion na ito ay hindi sinang-ayunan ng korte. Imbes na magpasa ng appeal, nag-sampa ng certiorari sa RTC si Serapion dahil, ayon sa kanya, mayroong grave abuse of discretion ang judge ng MTC dahil bigla na lang itong nagbigay ng writ of execution ng hindi muna sumusunod sa atas ng RA 7279. Naglabas naman ng writ of demolition ang MTC. Nagsampa ng Motion for Reconsideration si Serapion at pinawalang bisa ng judge ng RTC ang writ of execution at demolition dahil hindi nabigyan ng notice sila Serapion at maytoon pa silang 8 na araw para magpasa ng appeal. Sa appeal, sinabi ng RTC na hindi maaaring paalisin sina Serapion sa lupa kahit na natapos na ang

termino ng kanilang kontrata ng lease dahil ayon sa RA 7279, mayroong moratorium sa pagpapa-alis ng mga naninirahan sa urban na lugar at ito ay epektibo sa loob ng tatlong taon matapos maipasa ang RA 7279 noong 1992. Nagpasa naman ng petition for review sa CA sina Alberto. Ayon sa CA, ang RA 7279 ay hindi maaaring gamitin sa kasong ito dahil: (1) hindi nagbigay ng ebidensya asina Serapion na sila ay mga beneficiaries na nakarehistro sa Socialized Housing Program; at (2) ang isyung ito ay lumabas lamang sa appeal. Sinabi naman ni Serapion na hindi nila nagamit ang RA 7279 sa kaso sa trial court dahil ang nasabing batas ay naipasa lamang habang ang kaso ay nasa MTC na. Sinabi rin ni Serapion na sila ay nasasakop ng moratorium sa pagpapa-alis dahil sila ay nakatira sa "urban at urbanizable areas" at sila ay "underprivileged and homeless citizens".

Ayon sa SC, ang RA 7279 ay hindi maaaring pigilan ng prescription NGUNIT hindi ito "supervening cause" na maaaring purnigil sa pagpapa-alis kay Serapion sa lupa dahil hindi nila napatunayan na sila ay program beneficiaries. Kahit na sinasabi nilang sila ay "underprivileged and homeless citizens", hindi automatic na sila ay program beneficiaries. Ayon sa Section 44 ng Article XII ng batas, ang "program beneficiaries" ay: (a) Filipino citizens; (b) underprivileged and homeless citizens...; (c) hindi nagmamay-



ari ng real property sa urban o rural na lugar; at (d) hindi professional squatter o myembro ng squatting syndicates. Ang mga taong sumasailalim sa depinisyon na ito ay maaring mairehistro bilang socialized housing program beneficiaries ayon sa paraan na nakasulat sa Implementing Rules and Regulations Governing the Registration of Socialized Housing Beneficiaries na ginawa ng HUDCC at DILG. Ang paglilista na ito ay dapat magbigay daan sa ilang validation procedures na gagawin ng LGU's na magdedetermina kung ang isang tao ay nararapat na maging beneficiary sa socialized housing. Ang pagiging beneficiary ay nakasalalay sa maraming proseso at hindi pwedeng malaman lamang sa pamamagitan ng sariling pagkaklasipika ng mga tao. Sa kasong ito, kahit na sabihin pang sakop sila ng batas, lumipas na rin ang panahon para sa moratorium.

G. MAHIGPIT NA INTERPRETASYON NG SALIGANG BATAS

People vs. Leachon

Amg Provincial Prosecutor ay nagsampa ng dalawang demanda ng paglabag ng PD 772 (Anti-Squatting Law) laban kay Hablo, Mapindan, at Escala. Ang judge ay naglabas

ng isang desisyon na nagdi-dismiss ng kaso dahil wala daw syang jurisdiction. Ang desisyon na ito ay inapela sa CA. Sinabi ng CA na dapat ituloy ng judge ang pagdinig sa kaso. Ngunit, imbes na ipagpatuloy ng judge ang pagdinig sa kaso, naglabas nanaman ng desisyon ang judge na dini-dismiss ang kaso dahil, ayon sa kanya, and PD 772 ay napawalang bisa na ng Section 9 at 10 ng 1987 Constitution, na nagsasabing hindi maaaring paalisin ang mga naninirahan sa urban at rural na lugar at hindi maring gibain ang kanilang mga bahay nang hindi sumusunod sa batas, at ginamitan ng "just and humane" na pamamaraan. Sinabi ng judge na wala pang resettlement area na itinatayo ang gobyerno kaya hindi nito natupad ang batas na nag-uutos ng pagpapa-alis sa pamamagitan ng makataong pamamaraan.

Ayon sa SC, nagkamali ang judge sa pagbase sa pagkakaroon ng resettlement area ang legalidad ng pagpapa-alis sa mga nakatira sa lupa. Ang sinasabi ng Saligang Batas na "just and humane manner" ay hindi nakabase sa pagkakaroon ng resettlement area. Ang ibig lang sabihin nito ay mapapaalis lang ang isang tao kung binigyan sya ng due process o ng oportunidad na labanan ang kaso na isinampa sa kanya. At kung mapatunayan na hindi nga legal ang kanyang pag-okupa sa lupa, sya ay bibigyan ng notice



bago isagawa ang pag-giba ng bahay. Dapat din ay walang mamamatay, masasaktan, o mawawaln ng kagamitan kapag ginawa ang demolition.

Sinabi pa ng SC na ang pag-pasa ng batas na Anti-Squatting o PD 772 ay nagbibigay ng oportunidad sa mga squatters na ipahayag ang kanilang panig sa harap ng isang korte kung saan ang kanilang mga karapatan ay mapo-protektahan at mabibigyan sila ng due process. Sinabi rin ng korte na ang PD 772 ay sumusunod sa Constitution dahil pino-protektahan nito ang karapatan ng isang may-ari ng lupa laban sa ilegal na panghihimasok.

Ngunit, ang petition na ito ay hindi maaaring sang-ayunan ng Korte dahil noong October 27, 1997, ay ipinasa ang batas na R.A. 8368, "An Act Repealing P.D. 772 Entitled 'Penalizing Squatting and Other Similar Acts'". Ayon sa Section 3 ng nasabing batas, lahat ng kaso na nasa ilalim ng PD 772 ay kailangang i-dismiss kapag naging epektibo na ang batas.



THE AIR POLLUTION ACT

As part of the government's strategy to reduce air pollution, the Air Pollution Act 1987 was introduced. This Act gives the Secretary of State the power to make regulations to control air pollution from various sources, including industry, transport, and agriculture. The Act also provides for the establishment of air quality management areas (AQMAs) where air quality is or may be poor. In these areas, the Secretary of State must prepare an air quality management plan (AQMP) to identify the sources of pollution and the measures to be taken to improve air quality. The Act also sets out the requirements for the monitoring of air quality and the publication of air quality information to the public.

THE AIR POLLUTION ACT 1987

The Air Pollution Act 1987 is a key piece of legislation in the UK's environmental law framework. It provides the legal basis for the government's air quality policy and the implementation of various measures to reduce air pollution. The Act is particularly important in the context of the UK's commitment to the European Union's air quality directives and the World Health Organization's (WHO) air quality guidelines. The Act also provides for the establishment of the Air Quality Index (AQI) and the publication of air quality information to the public.

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Laws and Issuances



**SUPREME COURT OF THE PHILIPPINES
MANILA**

**REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA**

From the Chambers of

Hilario G. Davide, Jr.
Chief Justice

1st Endorsement
15 November 2001

Respectfully referred to the Committee on Revision of the Rules of Court, through Mr. Justice Reynato S. Puno, Chairman, for whatever action the Committee may deem appropriate, the attached letter dated 14 November 2001 of Hon. Percival C. Chavez, Chairperson/CEO, Presidential Commission for the Urban Poor, Office of the President, Malacañang, requesting that the Committee issue a circular to ensure the courts' compliance with Section 28, Republic Act No. 7279 or the Urban Development and Housing Act of 1992.

HILARIO G. DAVIDE, JR.

Gentlemen:

Quoted hereunder, for your information, is a resolution of the Court En Banc dated 27 November 2001.

In Re: Proposed Administrative Circular for the Observance of Section 28, R.A. No. 7279 (Urban Poor [sic] and Housing Act of 1992). Acting on the request of Hon. Percival C. Chavez, Chairperson/CEO of the Presidential Commission for the Urban Poor, for the issuance by the Court of an Administrative Circular to insure the lower courts' compliance with paragraph (8), Section 28 of R.A. 7279 (Urban Development and Housing Act of 1992), the Court resolved to DENY the request for reasons that: (1) the right granted under said law should be raised by the proper parties involved in or affected by eviction and demolition; and (2) the matter of compliance with said Section 28 involves factual issues which should be resolved by the trial court which rendered the judgment for eviction and demolition and/or issued the writ of eviction and demolition.

Buena, J. abroad on official business.



Very truly yours,

LUZVIMINDA D. PUNO
Clerk of Court

By:
MA. LUISA D. VILLARAMA (sgd.)
Assistant Clerk of Court

Hon. Percival C. Chavez (reg)
Chairperson
Presidential Commission for the Urban Poor
Executive Building, Malacañang, Manila

**Republic of the Philippines
Supreme Court**

**Office of the Court Administrator
Manila**

OCA CIRCULAR NO. 72 - 2003

**TO : ALL JUDGES, CLERKS OF
COURTS, AND SHERIFFS OF FIRST
AND SECOND LEVEL COURTS**

**RE : EVICTION AND DEMOLITION
CASES INVOLVING URBAN POOR**

In a dialogue with the Presidential Commission for the Urban Poor PCUP), concerns were raised regarding reports that writs of eviction and / or demolition issued by the courts in relation to matters covered by Republic Act No. 7279 (Urban Development and Housing Act of 1992) were being implemented without full compliance with the prerequisites established by that law.

Please be informed that the second paragraph of Section 28, Article VII of RA 7279 provides that:

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

X X X

(8) Adequate relocation, whether temporary or permanent: Provided, however, That in cases of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, relocation shall be undertaken by the local government unit concerned and the National Housing Authority with the assistance of other government agencies within forty-five (45) days from service of notice of final judgment by the court,





after which period the said order shall be executed: Provided, further, That should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing minimum daily wage multiplied by sixty (60) days shall be extended to the affected families by the local government unit concerned.

Further, considering that the PCUP, under Executive Order No. 152, Series of 2002 is the sole clearing house and monitoring body relative to eviction and demolition in compliance with the provisions of RA 7279, all first and second level courts are hereby DIRECTED to furnish the Presidential Commission for the Urban Poor, Office of the President, Malacanang, copies of decisions issued in cases involving the urban poor in order for the Commission to properly and effectively carry out its mandate. Writs of eviction / demolition in those cases shall also be furnished the Commission five (5) days prior to its intended implementation.

For your compliance.
16 June 2003

PRESBITERO J. VELASCO, Jr. (SGD.)
Court Administrator

**MEMORANDUM ORDER NO. 74
DIRECTING THE HOUSING
AND URBAN DEVELOPMENT
COORDINATING COUNCIL (HUDCC)
TO FORMULATE AND ADOPT CERTAIN
GUIDELINES AND IMPLEMENT POST-
PROCLAMATION ACTIVITIES IN THE
AREAS PROCLAIMED AS SOCIALIZED
HOUSING SITES**

2002
S. Vel-13

WHEREAS, one of the Administration's priority concerns is to provide land to the deserving landless and homeless Filipinos;

WHEREAS, pursuant to this priority concern, the Administration has launched a program that regularizes the tenurial status of informal settlers or occupants in certain socialized housing sites;

WHEREAS, there is a need to orchestrate the various activities in the proclaimed sites, particularly the complementary roles of the National Government Agencies (NGAs) and the Local Government Units (LGUs) concerned, in order to expedite the implementation of Republic act No. 7279, otherwise known as the Urban and Development and Housing Act (UDHA), and the National Shelter Plan;



WHEREAS, the magnitude and extent of the program in terms of area, location, and number of families affected require the active participation and support of the heads of the key agencies for the implementation of projects in these proclaimed sites;

WHEREAS, it is desirable that the Non-Governmental Organizations (NGOs), People's Organizations (POs) and Private Sector (PS) representatives on the proclaimed sites be given maximum participation in the planning and development in their housing community in order to demonstrate a new and effective alternative method of implementing a social housing project within a proclaimed area;

WHEREAS, there is a need to ensure that lands proclaimed by the President are disposed of to the intended beneficiaries in the most expeditious, equitable, and participatory manner;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, do hereby order and direct the following:

SECTION 1. The Housing and Urban Development Coordinating Council (HUDCC) shall confer with the Local Government Unit (LGU), within fifteen (15)

days from the issuance of the Presidential Proclamation, for the purpose of facilitating and expediting the conduct of post-proclamation activities necessary to dispose of the proclaimed site to their actual bona fide occupants, to the end that these informal settlers are finally granted the titles to the lands they are occupying at the earliest possible time and in order that these lands are developed as a viable community through participatory planning and utilization of appropriate development schemes.

SECTION 2. The HUDCC, in coordination with the concerned LGU within whose territorial jurisdiction the proclaimed site is situated, shall primarily exercise the following powers and functions:

1. Formulate and adopt the necessary rules and policy guidelines to implement the provisions of the pertinent Presidential Proclamation and this Order, pursuant to the policies and guidelines set forth herein;
2. Come up with a schematic workflow plan that shall embody the most expeditious manner of disposition of the land to the beneficiaries;
3. Formulate systems and procedures as well as identify and mobilize fund resources for project





implementation;

4. Approve the master list of qualified beneficiaries, in coordination with the LGU concerned;
5. Coordinate the participation and inputs of the various participating offices and agencies of the national government, as well as the NGOs, POs, and Private Sector groups based in or operating within the proclaimed area;
6. Supervise and monitor the progress of the implementation of projects in the proclamation area and prescribe corrective measures to the agencies and LGU concerned, if necessary;
7. Provide general policies to aid the LGU in the exercise of its mandate set forth herein;
8. Formulate measures to contain and maintain the peaceful possession of existing occupants and their structures relative to Section 7 hereof;
9. Make final decisions on all cases affecting project implementation which cannot be resolved at the operations level; and
10. Call on any government department or agency for assistance whenever necessary.

SECTION 3. Within ten (10) days from such meeting, the HUDCC shall execute with the LGU concerned the necessary memorandum of agreement or understanding detailing their respective roles and functions relative to the conduct of post-proclamation activities, with complimentary, coordination, and efficient project implementation as principal considerations.

SECTION 4. The HUDCC may call on government departments or agencies, such as the Department of Environment and Natural Resources (DENR), the National Housing Authority (NHA), the Presidential Commission for the Urban Poor (PCUP), and the National Anti-Poverty Commission (NAPC), which are hereby enjoined to provide the necessary assistance in facilitating and implementing the activities in the proclaimed site.

SECTION 5. The HUDCC shall ensure that the LGU concerned, through its local housing board, if any has been constituted, or its equivalent, shall function as the local post-proclamation secretariat, and shall implement the policies and work plans drawn up pursuant to the provisions of the pertinent Presidential Proclamation and this Order. The LGUs without local housing boards shall create their respective housing boards, or their equivalent, within thirty (30) days from



the effectivity of this Order.

SECTION 6. The funds necessary to carry out the requisite activities in the proclaimed sites shall be incorporated in the annual budget of the HUDCC and the other participating agencies under the General Appropriations Act.

The LGU concerned shall likewise provide the necessary funds to carry out its role and tasks relative to the proclaimed site and this Order. Additional funding requirements for operations shall be included in the LGU's regular budgets as part of its socialized or mass housing programs as mandated by pertinent laws.

SECTION 7. In order to ensure that only qualified occupants shall be awarded the lots for disposition, the HUDCC, through the local housing board concerned, shall institute the following containment measures:

1. Prevention and prohibition of the entry of new settlers or occupants as well as the construction of new structures within the proclamation site; and
2. Ensuring the peaceful possession of existing occupants and their structures in the proclaimed site.

For purposes of this Order, "new settlers or occupants" shall mean individuals who enter or occupy portions of the proclaimed area after the conduct of initial survey and tagging by the concerned agencies in the pre-proclamation phase. The HUDCC shall ensure compliance with this provision and may institute the proper actions and remedies for this purpose.

SECTION 8. In order to facilitate the early development of the areas for disposition, the DENR shall, upon written request by the HUDCC, immediately undertake the necessary boundary, topographic, structural and subdivision surveys of the proclaimed areas and shall, upon approval thereof, issue the corresponding special patents on similar documents.

SECTION 9. The HUDCC shall submit periodic reports to the Office of the President, through the Office of the Executive Secretary, relative to the status of post-proclamation activities in each of the proclaimed sites pursuant to its mandates under the pertinent Proclamation and this Order.

SECTION 10. All previous issuances inconsistent with the provisions of this Executive Order shall be deemed revoked or amended accordingly.





SECTION 11. This Memorandum Order shall take effect immediately.

Done in the City of Manila, this 13th day of September, in the year of Our Lord, two thousand and two.

Gloria Macapagal Arroyo (SGD.)

By the President:

ALBERTO G. ROMULO (SGD.)
Executive Secretary

**EXECUTIVE ORDER NO. 153
INSTITUTING THE NATIONAL DRIVE
TO SUPPRESS AND ERADICATE
PROFESSIONAL SQUATTING AND
SQUATTING SYNDICATES, AMENDING
EXECUTIVE ORDERS NOS. 178, S. 1999
AND 129, S. 1993, AND FOR OTHER
PURPOSES**

WHEREAS, various instruments have been issued under Republic Act No. 7279, otherwise known as the Urban Development and Housing Act (UDHA) of 1992, instituting mechanisms to curb the nefarious

activities of professional squatters and squatting syndicates;

WHEREAS, there is need to further intensify the national drive against these criminal elements that prey on people who need most the protection of the law;

WHEREAS, there is need to re-orient and strengthen the existing mechanisms to effectively curtail said menace; and

WHEREAS, Section 31, Chapter 10, Title III, Book III of Executive Order No. 292, or the Administrative Code of 1987, provides for the continuing authority of the President to reorganize the administrative structure of the Office of the President.

NOW, THEREFORE, I, **GLORIA MACAPAGAL-ARROYO**, President of the Philippines, by virtue of the powers vested in me by law and the constitution, do hereby order:

SECTION 1. Instituting the National Drive Against Professional Squatting and Squatting Syndicates. – The national drive against professional squatting and squatting syndicates is hereby instituted.

SECTION 2. HUDCC and DOJ as Lead Agencies. – The Housing and Urban

Dec 15, 1992



Development Coordinating Council (HUDCC) is hereby directed to take the lead in the identification of professional squatters and squatting syndicates, monitor and launch operations, through the proper agency or body, to curtail their activities.

The Department of Justice (DOJ), in conjunction with HUDCC's functions under this Order, shall take the lead in the prosecution of identified professional squatters and squatting syndicates.

The National Committee Against Squatting Syndicates and Professional Squatters established under Executive Order No. 129 dated 15 October 1993 is hereby abolished. All the functions thereof are hereby transferred to the HUDCC. Any reference to the National Committee shall be by virtue hereof be read as referring to HUDCC insofar as such is not inconsistent with the provisions of this Order.

SECTION 3. Support of Relevant Agencies. – The HUDCC and DOJ shall have authority to call on the following government agencies to give their full support, assistance and cooperation in the course of the implementation of the provisions of this Order:

- a. Presidential Commission for the Urban Poor (PCUP);

- b. Department of Interior and Local Government (DILG);
- c. Department of Environment and Natural Resources (DENR);
- d. Philippine National Police (PNP);
- e. National Urban Poor Sectoral Council of the National Anti-Poverty Commission (NUPSC-NAPC);
- f. National Bureau of Investigation (NBI);
- g. Land Registration Authority (LRA);
- h. Office of the Solicitor General (OSG);

The above agencies are hereby directed to designate full-time staff who shall be tasked to coordinate with and work closely with HUDCC and DOJ.

SECTION 4. Strengthening of the National Police Task Force. – The National Police Task Force (NPTF) to Apprehend Squatting Syndicates and Professional Squatters created under Executive Order No. 178 dated 23 November 1999 is hereby strengthened. It shall serve as the operational arm of HUDCC in the drive against professional squatters and squatting syndicates.

The Philippine National Police





(PNP) is hereby directed to designate full-time staff and/or personnel for the NPTF.

SECTION 5. Secretariat. – The Presidential Commission for the Urban Poor (PCUP) shall provide secretariat support to HUDCC, DOJ and the NPTF.

SECTION 6. Funding Requirements. – The initial funding requirements for the implementation of the provisions of this Order shall come from the budgets of HUDCC, DOJ, PNP, and PCUP respecting each of their functions herein. Subsequent funding shall be incorporated into their respective regular budgets.

SECTION 7. Reporting to the Executive Secretary. – The HUDCC and the DOJ shall submit regular reports to the Executive Secretary relative to the implementation of the provisions of this Order.

SECTION 8. Implementing Guidelines. – The HUDCC and the DOJ, in consultation with relevant agencies and other stakeholders, shall jointly formulate and adopt guidelines for the effective implementation of this Order.

SECTION 9. Repealing or Amendatory Clause. – All other executive orders, rules, regulations and other issuances or parts

thereof inconsistent with this Order are hereby repealed, superseded, or modified accordingly.

SECTION 10. Effectivity. – This Order shall take effect immediately.

Done in the City of Manila, this 10th day of December, in the year of Our Lord, Two Thousand Two.

Gloria Macapagal Arroyo (SGD.)
By the President:

ALBERTO G. ROMULO (SGD.)
Executive Secretary

**EXECUTIVE ORDER NO. 152
DESIGNATING THE PRESIDENTIAL
COMMISSION FOR THE URBAN POOR
AS THE SOLE CLEARING HOUSE FOR
THE CONDUCT OF DEMOLITION AND
EVICION ACTIVITIES INVOLVING THE
HOMELESS AND UNDERPRIVILEGED
CITIZENS AND ESTABLISHING FOR
THE PURPOSE A MECHANISM TO
ENSURE STRICT COMPLIANCE WITH
THE REQUIREMENTS OF JUST AND
HUMANE DEMOLITION AND EVICION
UNDER THE URBAN DEVELOPMENT
AND HOUSING ACT OF 1992, AND FOR**

*annulled Eo 708
by
Dec 10, 02
(264)*



OTHER PURPOSES

WHEREAS, Section 10 of Article 13 of the Constitution provides that “urban and rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner”;

WHEREAS, pursuant to such constitutional mandate, Section 28 of Republic Act No. 7279, or the Urban Development and Housing Act (UDHA) of 1992 prescribes the instances where evictions may be undertaken as well as certain requirements that must be met for an eviction involving homeless and underprivileged citizens to become valid;

WHEREAS, the provision of the said law notwithstanding, it has been observed that several evictions and demolitions affecting the homeless and underprivileged citizens have been conducted in utter disregard of the above legal requirements;

WHEREAS, there is an urgent need for the government to take steps to ensure strict implementation of the said law and its related rules and regulations and thus upholds the constitutionally guaranteed rights of the disadvantaged sectors of the society; and

WHEREAS, Section 31, Chapter 10, Title

III, Book III of Executive No. 292, or the Administrative Code of 1987, provides for the continuing authority of the President to reorganize the administrative structure of the Office of the President.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Philippines, by virtue of the powers vested in me by law and the constitution, do hereby order:

SECTION 1. Clearing House for Demolition and Eviction. – The Presidential Commission for the Urban Poor (PCUP) is hereby designated as the sole clearing house for the conduct of demolition and eviction activities involving the homeless and underprivileged citizens. In pursuit of its mandate under this Order, the PCUP shall exercise, among others, the following powers and functions:

1. Monitor all evictions and demolitions, whether extrajudicial or court-ordered, involving homeless and underprivileged citizens;
2. Require the concerned departments and agencies, including concerned local government units (LGUs), proposing to undertake demolition and eviction activities to secure first from either the PCUP Central Office





(in the case of national projects) or from the PCUP Regional Office (in the case of regional or local projects) the checklists, guidelines and compliance certificates on demolition and eviction prior to the actual implementation thereof and thereafter, submit to the PCUP the completed checklist, attested to under oath by the proponent and indicating that:

- a. adequate consultations with the affected families have already been undertaken;
 - b. adequate resettlement site and relocation facilities are available; and
 - c. the provisions of Section 3, Paragraph 1 of the Implementing Rules and Regulations of Section 28 of R.A. 7279 (Pre-Relocation) have been complied with.
3. Based on the completed checklist, and subject to further verification, issue demolition and eviction compliance certificates to propose demolitions and evictions involving the homeless and underprivileged citizens;
 4. Investigate motu proprio or upon complaint by any party, any violation of the provisions of Section 28 of R.A. 7279 or its implementing rules and regulations;
 5. File motu proprio, or by way of assistance to any aggrieved party, the appropriate criminal, civil or administrative case against any person or persons found to have violated the provisions of Section 28 of R.A. 7279 or its implementing rules and regulations;
 6. Recommend to the President any appropriate measures for the implementation and enforcement of Section 28 of R.A. 7279 or its implementing rules and regulations, including possible administrative sanctions against national or local government officials who have violated the said law, rules and regulations;
 7. Request any government agency for assistance and necessary information in the discharge of their respective functions under this Order;
 8. Publicize matter covered by its investigation of violations of the provisions of Section 28 of R.A. 7279 or its implementing rules and regulations, when circumstance so warrant and with due prudence: Provided, however, that the PCUP shall, under the rules and regulations shall hereafter promulgate, determine what cases may not be made public: Provided, further, that any publicity



issued by the PUCP shall be balanced, fair and true;

9. Administer oaths, issue subpoena and subpoena duces tecum, and take the testimonies of witnesses in the course of its investigation;
10. Adopt its own operational guidelines and rules of procedures, as well as rules and regulations not otherwise inconsistent with the existing laws, rules and regulations, to effectively carry out its mandate; and
11. Perform such other function as may hereafter be provided by law or executive issuance.

SECTION 2. Delegation of Functions to PCUP Regional Officials. -- The PCUP shall properly delegate to its regional officials the performance of any of the functions mentioned in the preceding Section insofar as they relate to purely regional or local concerns.

SECTION 3. Monitoring Support from NUPSC. -- The National Urban Poor Sectoral Council (NUPSC), one of the sectoral organizations represented in the national anti-poverty commission (NAPC), is hereby deputized as the civilian arm of the PCUP in the conduct of monitoring activities at the local level relative to the

implementation of the provisions of this Order. The NUPSC shall report directly to the PCUP Central or concerned Regional Office regarding compliance with or violations of any of such provisions.

Subject to the availability of resources, the PCUP shall likewise provide the necessary technical administrative and financial support to the NUPSC, and to such other similar organizations as may hereafter be deputized, to enable them to carry out their monitoring activities in accordance with the provisions of this Order.

SECTION 4. Provision of Police Assistance. -- The concerned departments and agencies of the government, the LGUs, or other proponents of eviction and demolition activities shall be provided authorized police assistance only upon their prior compliance with the statutory requirements under Section 28 of R.A. 7279 or its implementing rules and regulations as well as with the checklist and compliance certificate requirements, as certified by the PCUP.

Police assistance, as used in this Order, shall be limited to peace-keeping and law-enforcement and shall, in no way, mean participation in actual eviction or demolition.

SECTION 5. Police Assistance; When





Authorized. – The foregoing provisions notwithstanding, police activities or assistance shall be allowed only under any of the following circumstances:

1. In pursuance of any court order specifying police action or assistance;
2. In any case or event where voluntary dismantling of structures has been agreed upon in writing by the parties concerned and approved by the PCUP, or where police assistance shall be necessary to preserve peace and order;
3. In cases of local infrastructure projects, provided however, that the duly authorized official of the PCUP at the regional or local level has approved the same in writing; and
4. In cases of national infrastructure projects, provided however, that the PCUP Central Office has approved the same in writing.

In any of the circumstances specified in this Section, the members of the PNP tapped to provide police assistance shall be in proper uniform and, in appropriate cases, carry with them the necessary papers and documents supporting the provision of police action or assistance.

SECTION 6. Non-compliance with the Checklist Requirement. – Failure on the part of the proponent of demolition or eviction activities to submit to the PCUP the required checklist, or submission by the former of a false or fraudulent checklist shall subject the concerned government official or local chief executive to appropriate disciplinary action pursuant to the provisions of Section 61 of Republic Act No. 7160 or the Local Government Code of 1991 and other relevant laws, rules and regulations, without prejudice to the institution of separate criminal or civil actions that may be applicable under the circumstances.

SECTION 7. Demolition Without Completed Checklist or Unauthorized Police Assistance. – Any official of the PCUP who shall cause the endorsement of a demolition or eviction activity without a completed checklist, or if such checklist is submitted but the veracity of which has not been certified, or any of the officers and members of the PNP who shall take part in or provide assistance to demolition or eviction activities without prior authorization from the PCUP, shall likewise be meted proper disciplinary action, without prejudice to other criminal and civil actions.

SECTION 8. Cooperation of Concerned Agencies. All concerned government



agencies, such as the Department of Interior and Local Government (DILG), Philippine National Police (PNP), Department of Social Welfare and Development (DSWD), Department of Public Works and Highways (DPWH), Department of Health (DOH), Housing and Urban Development Coordinating Council (HUDCC), and the National Housing Authority (NHA), are hereby called upon to extend full cooperation to the PCUP, and where necessary, to make available to the latter such materials, data and other resources to ensure the effective and efficient implementation of this Order.

SECTION 9. Submission of Periodic Reports. – The PCUP shall submit periodic reports to the Office of the President, through the Office of the Executive Secretary, relative to the status of compliance with the provisions of this Order and the pertinent provisions governing eviction, demolition and relocation activities.

SECTION 10. Funding. – The funds necessary to carry out the provisions of this Order shall be incorporated in the annual budget of the PCUP under the General Appropriations Act.

SECTION 11. Separability Clause. – Should any provision of this Order be declared invalid, the validity of other

provisions hereof shall be unaffected thereby.

SECTION 12. Effectivity. – This Executive Order shall take effect upon its publication in a national newspaper of general circulation.

Done in the City of Manila, this 10th day of December, in the year of Our Lord, Two Thousand and Two.

Gloria Macapagal Arroyo (SGD.)
By the President:

ALBERTO G. ROMULO (SGD.)
Executive Secretary

REPUBLIC OF THE PHILIPPINES
OFFICE OF THE PRESIDENT
PRESIDENTIAL COMMISSION FOR THE
URBAN POOR

IMPLEMENTING GUIDELINES OF
EXECUTIVE ORDER NO. 152, SERIES OF
2002

Pursuant to Executive Order No. 152, Series of 2002, the following Implementing Guidelines are hereby promulgated and adopted.





SECTION 1. Title. These Implementing Guidelines shall be referred to as the Implementing Guidelines of Executive Order No. 152, Series of 2002.

SECTION 2. SCOPE OF APPLICATION. –

1. Broad monitoring coverage - The monitoring function of PCUP shall cover all types of evictions and demolitions, whether voluntary, extra-judicial, summary, or court-ordered, as herein defined, involving underprivileged and homeless citizens.

2. Coverage of applications for compliance certificate – While the monitoring function mentioned in the preceding number covers all types of evictions and demolitions, only the following proponents are required to submit to the PCUP applications for compliance certificate for voluntary, extra-judicial and summary evictions and demolitions as herein defined :

- a) national government departments, agencies, institutions or their authorized proponents;
- b) local governments or their authorized proponents.

The compliance certificate requirement shall not cover court-ordered evictions and demolitions and as such shall not require the courts or their officers from applying for PCUP compliance certifications.

SECTION 3. DEFINITION OF TERMS. – For the purpose of these

Implementing Guidelines, the terms or words and phrases used herein shall mean or be understood as follows:

- a) **Extra-judicial eviction and demolition.** Refers to the eviction and demolition of underprivileged and homeless citizens and their dwellings occupying danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways; public places such as sidewalks, public cemeteries, roads, parks, and playgrounds; government infrastructure projects with available funding that are to be implemented by national or local governments or any legally authorized agency of government without the need of a court order. The definition shall also include eviction and demolition of underprivileged and homeless citizens who are subject to any other form of eviction and demolition that do not fall under summary eviction and demolition as defined herein.
- b) **Application for Certificate**



of Compliance. Refers to the prescribed form which includes a list of necessary requirements needed by the eviction and demolition proponent to be complied with in order that the certificate of compliance may be issued prior to the conduct of eviction and demolition. This shall likewise refer to the modified form for summary eviction and demolition applications for certificate of compliance.

- c) **Civil Society Organization. –** Refers to non-government or people's organizations as defined herein.
- d) **Court Order.** Refers only to a writ of eviction and/ or demolition issued by a court of competent jurisdiction.
- e) **Danger areas.** Refer to areas which when occupied for residential purposes, actually pose a danger to the life, safety and property of either the concerned residents or of the general community. The danger is due to an unavoidable source of probable harm to human life or well-being.
- f) **Demolition.** Refers to the dismantling by the LGU, or any legally authorized agency of government of all structures within the premises subject for clearing.
- g) **Eviction.** Refers to the removal of a

person and their belongings from a subject building/structure or area, or both, in accordance with law.

- h) **Government funded infrastructure project.** Refers to a project initiated by government whose purpose is to introduce, enhance, or add to the local or national infrastructure, i.e. the interrelated web of roads, highways, public buildings, socialized housing projects, public utilities, flood control projects and the like.
- i) **National Urban Poor Sectoral Council (NUPSC)–** Refers to the council of the urban poor representatives collectively representing the disadvantaged sector of society and working directly under National Anti-Poverty Commission by virtue of RA 8425.
- j) **New Illegal Structure.** Refers to a structure constructed on danger areas, public places and government infrastructure project sites after March 28, 1992.
- k) **Non Government Organizations –** Refers to duly registered non-stock, non-profit organizations focusing on the upliftment of the basic or disadvantaged sectors of society by providing advocacy, training, community organizing, research, access to resources, and other similar activities.





- l) **People's Organization** – Refers to a self help group belonging to the basic sectors and/ or disadvantaged groups composed of members having a common bond of interest who voluntarily join together to achieve a lawful common social or economic end.
 - m) **Police Assistance.** – Refers to Philippine National Police peace-keeping and law enforcement support during the conduct of evictions and demolitions and shall not in any way include participation in actual eviction or demolition.
 - n) **Professional Squatters.** – refers the refers to individuals or groups who:
 - (i) occupy lands without the express consent of the landowner and who have sufficient income for legitimate housing;
 - (ii) The term shall also apply to persons who have previously been awarded homelots or housing units by the Government but who sold, leased or transferred the same to settle illegally in the same place or in another urban area; and
 - (iii) non-bonafide occupants and intruders of lands reserved for socialized housing.
- The term shall not apply to individuals or groups who simply rent land and housing from professional squatters or squatting syndicates;
- o) **Rules on Summary eviction and demolition.** – Refers to the existing implementing rules and regulations promulgated by the Housing and Urban Development Coordinating Council (HUDCC) and Department of Interior and Local Governments (DILG) relative to Sections 27 and 30 of the UDHA.
 - p) **Summary eviction and demolition.** – Refers to the immediate removal of professional squatters and members of squatting syndicates and the dismantling of their structures by the local government units or government agency authorized to demolish pursuant to the pertinent rules on summary eviction and demolition. It shall likewise refer to the immediate dismantling of new illegal structures as defined herein, by the local government units or government agency authorized to demolish pursuant to the pertinent rules on summary eviction and demolition.
 - q) **Squatting syndicates.** – refers to groups of persons engaged in the



- r) **Underprivileged and homeless citizens.** Refer to individuals or families residing in urban and urbanizable areas whose income or combined household income falls within the poverty threshold as defined by the National Economic and Development Authority and who do not own housing facilities. This shall include those who live in makeshift dwelling units and do not enjoy security of tenure and who do not own land / real estate properties anywhere in the country.
 - s) **Voluntary eviction and dismantling / demolition.** – Refers to the act of willingly vacating the subject premises and the dismantling / demolishing or allowing the dismantling or demolition of his/her structure subject to certain conditions and considerations pursuant to a written agreement or memorandum.
- business of squatter housing for profit or gain;
- secure a Compliance Certificate from PCUP. The process of applying for certificate of compliance shall be as follows:
- Applications within Luzon and NCR:
- a) In cases of extra-judicial eviction and demolitions involving underprivileged and homeless citizens pursuant to Section 28 of the UDHA, the proponent shall obtain from the PCUP Central Office the proper application for certificate of compliance and submit the same together with the required documents at least fifteen working (15) days prior to the actual conduct of eviction and demolition.
- In cases of voluntary eviction and dismantling / demolition, the proponent shall obtain from the PCUP Central Office the proper application for certificate of compliance and submit the same together with the required documents at least fifteen working (15) days prior to the actual conduct of eviction and demolition.
- In cases of summary eviction and demolition, the proponent shall likewise obtain an application for certificate of compliance therefore; Provided that said application shall be submitted at least seven (7) working days





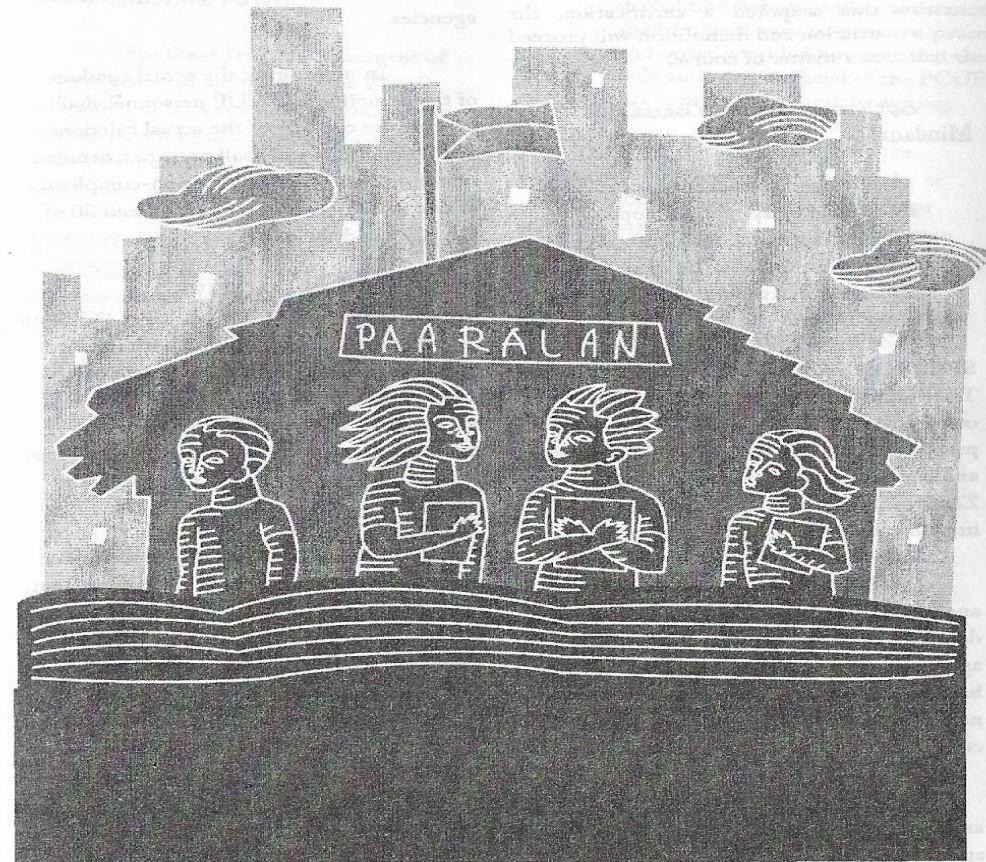
prior to the conduct of the same, pursuant to the rules on summary demolitions. Pursuant to the rules on summary eviction and demolition, the application for certificate of compliance shall have a checklist which shall require the following: a) names, addresses or location of each affected person; b) the recommendation or finding by the proper local or national government agency addressed to the mayor or head of office for the conduct of summary eviction and demolitions; c) the grounds and proof / evidence constituting the basis for the summary eviction and demolition; d) sample of notice/s given; e) a certification that the affected persons are not included in the list of potential socialized housing beneficiaries as provided by Section 17 in relation to Section 16 of the UDHA, as well as other supporting proof or evidences thereof.

In the event that affected persons are found to be among those subject to extra-judicial eviction or demolition, as defined herein, the PCUP shall immediately inform the proponent and require the proper application for certificate of compliance.

- b) If the application is sufficient in form and substance, the PCUP upon verification approves the application, issues the proper certificate of compliance and notifies the proponent.
- c) The certification shall indicate the name of the Applicant / Proponent, the purpose and location of the area applied for clearing, a statement of compliance to the pertinent rules covering the eviction or demolition applied for, an authorization or approval for the rendering of police assistance, validity period, the date of issuance, and the authorized signature.
- d) If the application is not sufficient, PCUP will inform the proponent and the latter will have to comply with the deficiency within ten working (10) days from notification in all cases, with the exception of summary evictions and demolitions which shall be complied with within three (3) working days from notification.

In the event that the deficiencies are not complied with within the periods mentioned herein, the proponents shall be required to re-apply for a new compliance certificate.

- e) In cases where the PCUP issues a certification or the proponent has already complied with the deficient





requirements for application and thus acquired a certification, the eviction and demolition will proceed as a matter of course.

Applications within Visayas and Mindanao:

The same procedure as provided above shall be applied for applications of compliance certificate provided that the applications shall be made to the respective Visayas and Mindanao offices of the PCUP.

SECTION 5. MONITORING. -

The PCUP shall, in coordination with other government agencies including the proponent, monitor the conduct of evictions and demolitions in accordance with Sections 27, 28 and 30 of RA 7279 and their implementing rules and regulations.

In cases of voluntary, extra-judicial and summary evictions and demolitions as defined herein, the compliance certificate applications shall constitute inputs for data-banking activities, and serve as advance notice to ensure PCUP presence during the conduct of eviction and demolitions.

In cases of court ordered eviction and demolition, the PCUP shall establish the appropriate schemes to monitor the same in

coordination with the pertinent government agencies.

In monitoring the actual conduct of the demolitions, PCUP personnel shall observe the conduct of the actual evictions and demolitions and shall prepare a detailed report on the compliance or non-compliance of said activity to Sections 27, 28 and 30 of RA 7279 and their IRR.

SECTION 6. PROACTIVE MONITORING SCHEME.

The PCUP in coordination and cooperation with the local government units, people's organizations, other pertinent government agencies and the judiciary, shall establish a proactive monitoring scheme to properly address future or impending evictions and demolitions.

SECTION 7. PROVISION OF POLICE ASSISTANCE. -

The concerned departments and agencies of the government, the LGUs, or other proponents of eviction and demolition activities shall be provided authorized police assistance as herein defined, only upon their prior compliance with the statutory requirements under Sections 27, 30 or 28 of RA 7279 and their implementing rules and regulations as well as with the checklist and compliance certificate requirements, or with the written notice requirement when applicable, as certified or



authorized by the PCUP.

For these IRR, the statement of authorization or approval by the PCUP contained in the certificate of compliance already issued to the proponent concerned shall be sufficient for the grant of police assistance.

SECTION 8. AUTHORIZED POLICE ASSISTANCE. -

Police activities or assistance shall be allowed only under the following circumstances:

- a) In pursuance of any court order specifying police action or assistance;
- b) In any case or event where voluntary eviction and dismantling of structures has been agreed upon in writing by the parties concerned and approved by the PCUP;
- c) In cases of local infrastructure projects, provided however, that the duly authorized official of the PCUP has approved the same in writing;
- d) In cases of national infrastructure projects, provided however, that the duly authorized official of the PCUP level has approved the same in writing;
- e) In any other case of eviction and

demolition where police assistance shall be necessary to preserve peace and order, provided however, that the duly authorized official of the PCUP has approved the same in writing.

For letter (a), notwithstanding the absence of a provision in the court order or writ specifying police assistance, a written request by the sheriff for police assistance in the execution of the order or writ, shall suffice. Provided that, the authorized police officer shall notify the PCUP in writing of the grant of police assistance and the date of eviction and demolition at least three (3) days prior to the actual conduct of the same. Provided further, that the written notice by the police shall contain copies of the sheriff's request for police assistance, the order or writ to be implemented, and other pertinent documents.

In any of the circumstances specified in this section, the members of the PNP tapped to provide police assistance should be in proper uniform and, in appropriate cases, carry with them the necessary documents supporting the provision of police action or assistance.

The provisions of the above notwithstanding, the request for police assistance shall still be subject to pertinent guidelines and regulations of the PNP or





other agencies concerned.

SECTION 9. DELEGATION OF MONITORING AND COMPLIANCE FUNCTIONS TO REGIONAL OFFICES. - The monitoring functions and the verification of certificate of compliance applications of the Central Office as provided for in Sections 4, 5 and 6 herein, shall be delegated to the respective regional offices.

SECTION 10. MONITORING SUPPORT FROM THE NATIONAL URBAN POOR SECTORAL COUNCIL (NUPSC) AND OTHER DEPUTIZED ORGANIZATIONS. - The NUPSC shall be deputized to monitor the conduct of evictions and demolitions at the local level. Civil Society Organizations (CSOs) shall also be deputized subject to the proper guidelines and criteria.

The NUPSC and the deputized organizations shall likewise be involved in the proactive monitoring activities mentioned in Section 6 hereof. The NUPSC and the deputized organizations shall report directly to the PCUP Central or the concerned Regional Offices regarding the conduct of evictions and demolitions and the proactive monitoring activities at the local level.

SECTION 11. ACTIONS ON

VIOLATIONS ON THE RULES ON EVICTION AND DEMOLITION UNDER SECTION 28 OF UDHA. - The PCUP shall investigate *motu proprio* or upon complaint by any party, any violation of the provisions of Section 28 of the RA 7279 or its implementing rules and regulations.

The PCUP shall coordinate with pertinent government agencies or officials in administering oaths, issuing subpoena and subpoena duces tecum, taking testimonies of witnesses in the course of investigating alleged violations and in appropriate cases, in filing the appropriate charges.

SECTION 12. SEPARABILITY CLAUSE. - Should any provision of these IMPLEMENTING RULES AND REGULATIONS be declared invalid, the validity of the other provisions hereof shall be unaffected thereby.

SECTION 13. EFFECTIVITY. - These Implementing Guidelines shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

APPROVED, this _____ day of _____, 2003, _____ City.



PERCIVAL C. CHAVEZ
Chairperson / CEO
Presidential Commission for the Urban Poor

ANTONIO ALVARADO
Commissioner

MOHAMMAD VERGEL DE DIOS
Commissioner

LUZMINDA SALCEDO
Commissioner

PETER VAL MENDOZA
Commissioner

EXECUTIVE ORDER NO. 131
DECLARING OPEN TO DISPOSITION
FOR SOCIALIZED HOUSING PURPOSES
CERTAIN GOVERNMENT-OWNED
LANDS DEFINED UNDER REPUBLIC ACT
NO. 7279, OTHERWISE KNOWN AS THE
URBAN DEVELOPMENT AND HOUSING
ACT OF 1992, AND PROVIDING FOR
DISPOSITION THEREOF

WHEREAS, under Republic Act No. 7279, otherwise known as the Urban Development

and Housing Act of 1992 (UDHA), government-owned lands which have not been used for the purposes for which they have been reserved or set-aside for the past ten (10) years from the effectivity of UDHA including government-owned idle lands and alienable lands of the public domain -- and are suitable for socialized housing shall be subject to disposition in favor of UDHA beneficiaries or for socialized housing purposes;

WHEREAS, mass housing has been reaffirmed by this government as a centerpiece program in its poverty alleviation efforts pursuant to Executive Order No. 20 dated 28 May 2001;

WHEREAS, mass housing may be effected, among others, through the regularization of land tenure of informal settlers on government-owned lands which have not been used for the purposes for which they have been reserved or set-aside for the past ten (10) years from the effectivity of the UDHA including government-owned idle lands and alienable lands of the public domain and are suitable for socialized housing; and

WHEREAS, through numerous laws and executive issuances, the Housing and Urban Development Coordinating Council





(HUDCC) has been identified as the sole lead agency in the implementation of the government's shelter/housing program.

NOW, THEREFORE, I, GLORIA MACAPAGAL ARROYO, President of the Philippines do hereby declare and order:

SECTION 1. Declaration of Certain Government-Owned Lands under UDHA as Available for Disposition to Qualified UDHA Beneficiaries or for Socialized Housing Purposes. Lands owned by the Government or any of its subdivisions, instrumentalities, agencies or government-owned or controlled corporations such as but not limited to military reservations, land reserved for government offices, facilities and other installations, and other land assets which have not been used for the purposes for which they have been reserved or set-aside for the past ten (10) years, from the effectivity of the UDHA, as well as government-owned idle lands and alienable lands of the public domain which are suitable for socialized housing purposes: Provided, that other lands defined under Section 5 of the UDHA whose use or purpose has ceased to exist and identified as suitable for socialized housing shall be subject to this provision.

SECTION 2. Designation of the National

Housing Authority (NHA) as a Lead Agency in the Disposition Program. The NHA, under the supervision of the HUDCC, shall take the lead in the disposition of the lands in the preceding section: Provided, that disposition activities shall include the preliminary stages of identification and evaluation of lands suitable for disposition under this Order.

The HUDCC is hereby directed to submit immediately an updated list of government-owned lands suitable for socialized housing purposes.

The HUDCC shall make recommendation for the President relative to the disposition of the lands subject thereof.

All government agencies, instrumentalities, subdivisions, or government-owned or controlled corporations which HUDCC may call upon to participate in the disposition program pursuant to the provisions of this Order are hereby directed to give full cooperation and support to HUDCC.

SECTION 3. Regular Reporting to the Executive Secretary. The HUDCC shall make regular reports to the Executive Secretary for purposes of monitoring the status of implementation of the provisions of this Order.



SECTION 4. Funding for the Implementation of the Provisions of this Order. The initial funding requirements for the implementation of the Order shall be sourced from HUDCC and the subsequent funding requirements shall be incorporated into its budget.

SECTION 5. Amending Clause. All previous issuances inconsistent with the provisions of this Executive Order shall be deemed revoked or amended accordingly.

SECTION 6. Separability Clause. In the event any provision hereof are declared null and void by any competent court or tribunal, the other provisions hereof unaffected thereby shall remain in full force and effect.

SECTION 7. Effectivity Clause. This Order shall take effect immediately.

Done in the City of Manila, this 1st day of October, in the year of Our Lord, two thousand and two.

Gloria Macapagal Arroyo (SGD.)

By the President:



ALBERTO G. ROMULO (SGD.)
Executive Secretary

MALACANANG
Manila

Jan 26, 04

EXECUTIVE ORDER NO. 272

AUTHORIZING THE CREATION OF THE SOCIAL HOUSING FINANCE CORPORATION AND DIRECTING THE TRANSFER OF THE COMMUNITY MORTGAGE PROGRAM, ABOT-KAYA PABAHAY FUND PROGRAM, AND OTHER SOCIAL HOUSING POWERS AND FUNCTIONS OF THE NATIONAL HOME MORTGAGE FINANCE CORPORATION TO THE SOCIAL HOUSING FINANCE CORPORATION

WHEREAS, the Constitution mandates the State to undertake a continuing program of 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;

WHEREAS, the National Home Mortgage Finance Corporation (NHMFC) was created under Presidential Decree No. 1267 with the



primary purpose of developing and providing a secondary market for home mortgages granted by public and/ or private home financing institutions;

WHEREAS, Republic Act No. 6846 (RA 6846), otherwise known as the "Social Housing Support Fund Act of 1990", as amended by Republic Act No. 7835 (RA 7835), otherwise known as the "Comprehensive and Integrated Shelter Financing Act of 1994", created the Abot-Kaya Pabahay Fund (AKPF) to enhance the affordability of low-cost housing projects by low-income families, provide developmental financing for low-cost housing projects, and eliminate the risks for the government funding agencies involved in housing, and designated the NHMFC to act as the trustee of the AKPF and exercise administration and control over the AKPF amortization support program and AKPF developmental financing program;

WHEREAS, Republic Act No. 7279 (RA 7279), otherwise known as the "Urban Development and Housing Act of 1992", adopted the community mortgage program (CMP) as a component of the National Shelter Program to assist legally-organized associations of underprivileged and homeless citizens to purchase and develop a tract of land and to own lots they occupy or where

they chose to relocate to, under the concept of community ownership, and designated the NHMFC as the administrator of the CMP;

WHEREAS, the Housing and Urban Development Coordinating Council (HUDCC) Secretariat, through the HUDCC Chairman, has recommended the creation of the Social Housing Finance Corporation (SHFC) a wholly-owned subsidiary of the NHMFC, to perform the latter's powers and functions relating to the administration, management, and development of the CMP and the AKPF Program (amortization support program and developmental financing program, as well as other social housing functions of the NHMFC, in order to allow the NHMFC to devote full attention to its mandate to develop and provide a secondary market for home mortgages granted by public and / or private home financing institutions;

NOW, THEREFORE, I GLORIA MACAPAGAL-ARROYO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

SECTION 1. Authority to Establish the Social Housing Finance Corporation. - The National Home Mortgage Finance Corporation (NHMFC) is hereby authorized to organize and establish a body corporate



to be known as the Social Housing Finance Corporation (SHFC), as a wholly-owned subsidiary, to be formed in accordance with the Corporation Code and pertinent rules and regulations issued by the Securities and Exchange Commission (SEC). Upon its incorporation, the SHFC shall be under the administrative supervision of the HUDCC.

SECTION 2. Mandate. - the SHFC shall be the lead government agency to undertake social housing programs that will cater to the formal and informal sectors in the low-income bracket and shall take charge of developing and administering social housing program schemes, particularly the CMP and AKPF Program (amortization support program and developmental financing program).

SECTION 3. Capitalization, Powers, and Functions of the SHFC. - The NGMFC, as the incorporator and holding company of the SHFC, shall determine the capitalization, powers and functions of the SHFC.

SECTION 4. Board of Directors of the SHFC. - the Board of Directors of the SHFC shall be composed of the following:

- a) HUDCC Chairman as ex-officio Chairman;

- b) SHFC President as ex-officio Vice-Chairman;
- c) Secretary of the Department of Finance or his designated representative;
- d) Secretary of the Department of the Interior and Local Government, or his designated representative;
- e) Secretary of the Department of Budget and Management, or his designated representative;
- f) Representative from the Bangko Sentral ng Pilipinas (BSP) designated by the BSP Governor;
- g) Representative from the NHMFC designated by the Board of Directors of NHMFC;
- h) Four (4) representatives from the private sector, who shall be nominated by the President of the Republic of the Philippines.

SECTION 5. President of the SHFC. - The President of the SHFC shall be nominated by the President of the Republic of the Philippines.

SECTION 6. Transfer. - Upon the incorporation of the SHFC, the following funds and programs directed towards social housing shall be transferred from the





NHMFC to the SHFC:

- a) The CMP, including all funds appropriated for the CMP;
- b) The AKPF Program (amortization, support program and the developmental financing program); and
- c) Such other funds, programs and functions related to social housing as may be determined by the NHMFC.

Upon such transfer, all powers, functions, rights and duties previously exercised by the NHMFC relating to the administration, management and development of the CMP and the AKPF Program (amortization, support program and the developmental financing program), whether as administrator or as trustee, as well as the other social housing functions of the NHMFC to be determined by the NHMFC Board, shall be transferred to and exercised by the SHFC.

SECTION 7. Transfer Committee.

– A Transfer Committee composed of the HUDCC Chairman, the NHMFC President, a representative from the DBM, and two (2) representatives from the HUDCC, shall prepare the necessary plans and measures to effect the transfer of all assets, liabilities

and records of the CMP and the AKFP program (amortization, support program and the developmental financing program) to the SHFC within thirty (30) days from the issuance of this Executive Order.

The NHMFC, SHFC and the Transfer Committee are hereby directed to take all the necessary steps towards effecting the efficient transfer of the CMP and the AKFP (amortization, support program and the developmental financing program) from the NHMFC to the SHFC and shall jointly submit a report to the President on all actions taken to implement the provisions of this Executive Order within thirty (30) days after the SHFC shall have been organized and established.

SECTION 8. Personnel. – The SHFC position structure and staffing pattern shall be subject to the approval of the DBM. To ensure the continued implementation of the CMP and the AKPF program (amortization, support program and the developmental financing program) during the period of transfer and transition, the NHMFC personnel who are performing the functions transferred to the SHFC shall continue to perform their duties; provided that those personnel whose positions or job descriptions are not included in the SHFC position structure and staffing pattern may, at their



option, remain with the NHMFC, retire, or be separated from the service, and shall be entitled to the benefits provided by law at the time of retirement or separation.

SECTION 9. Existing Policies and Rules.

– Existing policies, guidelines, rules and regulations with respect to the functions of the NHMFC which are contrary or inconsistent with the provisions of the Executive Order are hereby repealed or modified accordingly.

SECTION 10. Repealing Clause. – All executive issuances, guidelines, rules and regulations, or parts thereof which are contrary or inconsistent with the provisions of this Executive Order are hereby repealed or modified accordingly.

SECTION 11. Effectivity. – This Executive Order shall take effect immediately.

City of Manila, January 20, 2004.

GLORIA MACAPAGAL-ARROYO
President

By the President:

ALBERTO G. ROMULO
Executive Secretary

Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

25 September 2003

MR. PERCIVAL C. CHAVEZ
Chairperson and CEO
Presidential Commission for the Urban Poor (PCUP)
Project 7, Quezon City

Sir:

This pertains to your request for opinion on certain issues regarding Executive Order (EO) No. 152, Series of 2002¹, and the Implementing Rules and Regulations of Sections 27 and 30 of the Urban Development and Housing Act (RA 7279) on summary demolitions, which was referred by the Department of the Interior and Local Government (DILG) to this Department for appropriate action.





The request, it appears, stemmed from the queries and applications for compliance and exemptions from national agencies and local governments brought to the PCUP after the effectivity of EO 152.

Specifically you seek legal opinion on the following issues:

-XXX-

2. Pertaining to Section 30 of UDHA, specifically the 1st paragraph thereof, in relation to Section 29 of the UDHA, can local government units (LGUs) summarily dismantle new illegal structures on a private property situated within their respective localities?

-XXX-

Anent the second question, we find that Sections 29 and 30 cannot be used as basis should an LGU decide to summarily dismantle new illegal structures on a private property situated within their respective localities. Section 30 contains the prohibition in the construction of new illegal structures in areas mentioned in Section 29 specifically, in esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and in other public places such as sidewalks, roads,

parks, and playgrounds. The principle of *expressio unius est exclusio alterio* denotes that what is expressed puts an end to that which is implied. *Expressum facit cessare tacitum*². Thus, where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters.³

-XXX-

Very truly yours,

SIMEON A. DATUMANONG (SGD.)
Secretary

Republic of the Philippines
Congress of the Philippines
Metro Manila
Twelfth Congress
Second Regular Session

Begun and held in Metro Manila, the twenty-second day of July, two thousand two.

REPUBLIC ACT NO. 9207
AN ACT DECLARING



CERTAIN PORTIONS OF THE NATIONAL GOVERNMENT CENTER SITE OPEN FOR DISPOSITION TO BONA FIDE RESIDENTS AND LOCAL GOVERNMENT OR COMMUNITY FACILITIES, CHARITABLE EDUCATIONAL AND RELIGIOUS INSTITUTIONS ACTUALLY OCCUPYING THE SAME FOR SOCIO-ECONOMIC, CIVIC AND RELIGIOUS PURPOSES, AMENDING FOR THIS PURPOSE PROCLAMATION NO. 1826, SERIES OF 1979 AND FOR OTHER PURPOSES

socioeconomic, civic, educational, religious and other purposes.

SECTION 3. Disposition of Certain Portions of the National Government Center Site to Bona Fide Residents.

– Proclamation No. 1826, Series of 1979, is hereby amended by excluding from the coverage thereof, 184 hectares on the west side and 238 hectares on the east side of Commonwealth Avenue, and declaring the same open for disposition to *bona fide* residents therein: *Provided*, That the determination of the *bona fide* residents on the west side shall be based on the census survey conducted in 1994 and the determination of the *bona fide* residents on the east side shall be based on the census survey conducted in 1994 and occupancy verification survey conducted in 2000:

Provided, further, That all existing legal agreements, programs and plans signed, drawn up or implemented and actions taken, consistent with the provisions of this Act are hereby adopted.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as the “National Government Center (NGC) Housing and Land Utilization Act of 2003.”

SECTION 2. Declaration of Policy. – It is hereby declared the policy of the State to secure the land tenure of the urban poor. Toward this end, lands located in the NGC, Quezon City shall be utilized for housing,

SECTION 4. Disposition of Certain Portions of the National Government Center Site for Local Government or Community Facilities, Socioeconomic, Charitable, Educational and Religious Purposes. – Certain portions of land within the aforesaid area for local government





SECTION 13. Effectivity. This Act shall take effect upon its approval.

Approved,

JOSE DE VENECIA JR. (Sgd.)
Speaker of the House of Representatives

FRANKLIN M. DRILON (Sgd.)
President of the Senate

This Act, which is a consolidation of Senate Bill No. 2449 and House Bill No. 5121 was finally passed by the Senate and the House of Representatives on May 14, 2003.

ROBERTO P. NAZARENO (Sgd.)
Secretary General
House of Representatives

OSCAR G. YABES (Sgd.)
Secretary of the Senate

Approved: May 17, 2003

GLORIA MACAPAGAL – ARROYO
(Sgd.)
President of the Philippines

(Footnotes)

¹ DESIGNATING THE PRESIDENTIAL COMMISSION FOR THE URBAN POOR AS THE SOLE CLEARING HOUSE FOR THE CONDUCT OF DEMOLITION AND EVICTION ACTIVITIES INVOLVING THE HOMELESS AND UNDERPRIVILEGED CITIZENS AND ESTABLISHING FOR THE PURPOSE A MECHANISM TO ENSURE STRICT COMPLIANCE WITH THE REQUIREMENTS OF JUST AND HUMANE DEMOLITION AND EVICTION UNDER THE URBAN DEVELOPMENT AND HOUSING ACT

² Appalo, Statutory Construction, citing cases

³ Collanta vs. Carnation Phil., Inc., 145 SCRA 268 (1986)

