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This collection contains thirty seven (37) cases summarized in this format by Michael Vernon M. Guerrero (as a senior law student) during the First Semester, school year 2005-2006 in the Political Law Review class under Dean Mariano Magsalin Jr. at the Arellano University School of Law (AUSL). Compiled as PDF, September 2012.

Berne Guerrero entered AUSL in June 2002 and eventually graduated from AUSL in 2006. He passed the Philippine bar examinations immediately after (April 2007).

berneguerrero.wordpress.com
Facts: On 11 December, 1916, the city of Manila presented a petition in the Court of First Instance (CFI) of Manila praying that certain lands (extension of Rizal Avenue within Block 3 of the district of Binondo) be expropriated for the purpose of constructing a public improvement. The Comunidad de Chinos de Manila [Chinese Community of Manila] alleged in its answer that it was a corporation organized and existing under and by virtue of the laws of the Philippine Islands, having for its purpose the benefit and general welfare of the Chinese Community of the City of Manila; that it was the owner of parcels one and two of the land described in paragraph 2 of the complaint; that it denied that it was either necessary or expedient that the said parcels be expropriated for street purposes; that existing street and roads furnished ample means of communication for the public in the district covered by such proposed expropriation; that if the construction of the street or road should be considered a public necessity, other routes were available, which would fully satisfy the City's purposes, at much less expense and without disturbing the resting places of the dead; that it had a Torrens title for the lands in question; that the lands in question had been used by the Chinese Community for cemetery purposes; that a great number of Chinese were buried in said cemetery; that if said expropriation be carried into effect, it would disturb the resting places of the dead, would require the expenditure of a large sum of money in the transfer or removal of the bodies to some other place or site and in the purchase of such new sites, would involve the destruction of existing monuments and the erection of new monuments in their stead, and would create irreparable loss and injury to the Chinese Community and to all those persons owning and interested in the graves and monuments which would have to be destroyed; that the City was without right or authority to expropriate said cemetery or any part or portion thereof for street purposes; and that the expropriation, in fact, was not necessary as a public improvement. Ildefonso Tambunting, answering the petition, denied each and every allegation of the complaint, and alleged that said expropriation was not a public improvement. Feliza Concepcion de Delgado, with her husband, Jose Maria Delgado, and each of the other defendants, answering separately, presented substantially the same defense as that presented by the Comunidad de Chinos de Manila and Ildefonso Tambunting. Judge Simplicio del Rosario decided that there was no necessity for the expropriation of the strip of land and absolved each and all of the defendants (Chinese Community, Tambunting, spouses Delgado, et. al.) from all liability under the complaint, without any finding as to costs. From the judgment, the City of Manila appealed.

Issue: Whether portions of the Chinese Cemetery, a public cemetery, may be expropriated for the construction of a public improvement.

Held: No. Section 2429 of Act 2711 (Charter of the city of Manila) provides that the city (Manila) may condemn private property for public use. The Charter of the city of Manila, however, contains no procedure by which the said authority may be carried into effect. Act 190 provides for how right of eminent domain may be exercised. Section 241 of said Act provides that the Government of the Philippine Islands, or of any province or department thereof, or of any municipality, and any person, or public or private corporation having, by law, the right to condemn private property for public use, shall exercise that right in the manner prescribed by Section 242 to 246. The right of expropriation is not an inherent power in a municipal corporation, and before it can exercise the right some law must exist conferring the power upon it. When the courts come to determine the question, they must not only find (a) that a law or authority exists for the exercise of the right of eminent domain, but (b) also that the right or authority is being exercised in accordance with the law. Herein, the cemetery in question is public (a cemetery used by the general community, or neighborhood, or church) and seems to have been established under governmental authority, as the Spanish Governor-General, in an order creating the same. Where a cemetery is open to the public, it is a public use and no part of the ground can be taken for other public uses under a general authority. To disturb the mortal remains of those endeared to us in life sometimes becomes the sad duty of the living; but, except in cases of necessity, or for laudable purposes, the sanctity of the grave, the last resting place of our friends, should be maintained, and the preventative aid of the courts should be invoked for that object. While

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cemeteries and sepulchers and the places of the burial of the dead are still within the memory and command of the active care of the living; while they are still devoted to pious uses and sacred regard, it is difficult to believe that even the legislature would adopt a law expressly providing that such places, under such circumstances, should be violated.

16 Moday vs. Court of Appeals [GR 107916, 20 February 1997]
Second Division, Romero (J): 4 concur

Facts: On 23 July 1989, the Sangguniang Bayan of the Municipality of Bunawan in Agusan del Sur passed Resolution 43-89, "Authorizing the Municipal Mayor to Initiate the Petition for Expropriation of a 1 Hectare Portion of Lot 6138-Pls-4 Along the National Highway Owned by Percival Moday for the Site of Bunawan Farmers Center and Other Government Sports Facilities." In due time, the Resolution was approved by then Municipal Mayor Anuncio C. Bustillo and transmitted to the Sangguniang Panlalawigan for its approval. On 11 September 1989, the Sangguniang Panlalawigan disapproved said Resolution and returned it with the comment that "expropriation is unnecessary considering that there are still available lots in Bunawan for the establishment of the government center." The Municipality of Bunawan subsequently filed a Petition for Eminent Domain against Percival Moday before the Regional Trial Court (RTC) at Prosperidad, Agusan del Sur. The complaint was later amended to include the registered owners, Percival Moday's parents, Zotico (+) and Leonora Moday, as party defendants. On 6 March 1991, the municipality filed a Motion to Take or Enter Upon the Possession of Subject Matter of This Case stating that it had already deposited with the municipal treasurer the necessary amount in accordance with Section 2, Rule 67 of the Revised Rules of Court and that it would be in the government's best interest for the municipality to be allowed to take possession of the property. Despite Moday's opposition and after a hearing on the merits, the RTC granted the municipality's motion to take possession of the land; holding that the Sangguniang Panlalawigan's failure to declare the resolution invalid leaves it effective, and that the duty of the Sangguniang Panlalawigan is merely to review the ordinances and resolutions passed by the Sangguniang Bayan under Section 208 (1) of BP 337 (the old Local Government Code) and that the exercise of eminent domain is not one of the two acts enumerated in Section 19 thereof requiring the approval of the Sangguniang Panlalawigan. Moday's motion for reconsideration was denied by the trial court on 31 October 1991. Moday elevated the case before the Court of Appeals in a petition for certiorari, which was dismissed on 15 July 1992. The appellate court also denied Moday's motion for reconsideration on 22 October 1992. Meanwhile, the Municipality of Bunawan had erected three buildings on the subject property: the Association of Barangay Councils (ABC) Hall, the Municipal Motorpool, both wooden structures, and the Bunawan Municipal Gymnasium, which is made of concrete. Moday filed on 23 November 1992 the petition for review before the Supreme Court.

Issue: Whether a municipality may expropriate private property by virtue of a municipal resolution which was disapproved by the Sangguniang Panlalawigan.

Held: Eminent domain, the power which the Municipality of Bunawan exercised, is a fundamental State power that is inseparable from sovereignty. It is government's right to appropriate, in the nature of a compulsory sale to the State, private property for public use or purpose. Inherently possessed by the national legislature the power of eminent domain may be validly delegated to local governments, other public entities and public utilities. For the taking of private property by the government to be valid, the taking must be for public use and there must be just compensation. The Municipality of Bunawan's power to exercise the right of eminent domain is not disputed as it is expressly provided for in Batas Pambansa 337, the Local Government Code in force at the time expropriation proceedings were initiated. The Sangguniang Panlalawigan's disapproval of Municipal Resolution 43-89 is an infirm action which does not render said resolution null and void. The law, as expressed in Section 153 of BP 337, grants the Sangguniang Panlalawigan the power to declare a municipal resolution invalid on the sole ground that it is beyond the power of the Sangguniang Bayan or the Mayor to issue. Thus, the Sangguniang Panlalawigan was without the authority to disapprove Municipal Resolution 43-89 for the Municipality of Bunawan clearly has the power to exercise the right of
eminent domain and its Sangguniang Bayan the capacity to promulgate said resolution, pursuant to the earlier-quoted Section 9 of BP337. Perforce; it follows that Resolution 43-89 is valid and binding and could be used as lawful authority to petition for the condemnation of Moday's property.

17 Republic vs. Philippine Long Distance Telephone Co. [GR L-18841, 27 January 1969]

En Banc, Reyes JBL [J]: 10 concur

Facts: The Republic of the Philippines, is a political entity exercising governmental powers through its branches and instrumentalities, one of which is the Bureau of Telecommunications. That office was created on 1 July 1947, under Executive Order 94, in addition to certain powers and duties formerly vested in the Director of Posts. Sometime in 1933, the Philippine Long Distance Telephone Company (PLDT), and the RCA Communications, Inc., entered into an agreement whereby telephone messages, coming from the United States and received by RCA's domestic station, could automatically be transferred to the lines of PLDT; and vice-versa, for calls collected by the PLDT for transmission from the Philippines to the United States. The contracting parties agreed to divide the tolls, as follows: 25% to PLDT and 75% to RCA. The sharing was amended in 1941 to 30% for PLDT and 70% for RCA, and again amended in 1947 to a 50-50 basis. The arrangement was later extended to radio-telephone messages to and from European and Asiatic countries. Their contract contained a stipulation that either party could terminate it on a 24-month notice to the other. On 2 February 1956, PLDT gave notice to RCA to terminate their contract on 2 February 1956. Soon after its creation in 1947, the Bureau of Telecommunications set up its own Government Telephone System by utilizing its own appropriation and equipment and by renting trunk lines of the PLDT to enable government offices to call private parties. At that time, the Bureau was maintaining 5,000 telephones and had 5,000 pending applications for telephone connection. The PLDT, on the other hand, was also maintaining 60,000 telephones and had also 20,000 pending applications. Through the years, neither of them has been able to fill up the demand for telephone service. The Bureau of Telecommunications had proposed to the PLDT on 8 January 1958 that both enter into an interconnecting agreement, with the government paying (on a call basis) for all calls passing through the interconnecting facilities from the Government Telephone System to the PLDT. On 5 March 1958, the Republic, through the Director of Telecommunications, entered into an agreement with RCA Communications, Inc., for a joint overseas telephone service whereby the Bureau would convey radio-telephone overseas calls received by RCA's station to and from local residents. They actually inaugurated this joint operation on 2 February 1958, under a "provisional" agreement. On 7 April 1958, PLDT complained to the Bureau of Telecommunications that said bureau was violating the conditions under which their Private Branch Exchange (PBX) is interconnected with the PLDT's facilities, referring to the rented trunk lines, for the Bureau had used the trunk lines not only for the use of government offices but even to serve private persons or the general public, in competition with the business of the PLDT; and gave notice that if said violations were not stopped by midnight of 12 April 1958, the PLDT would sever the telephone connections. When the PLDT received no reply, it disconnected the trunk lines being rented by the Bureau at midnight on 12 April 1958. The result was the isolation of the Philippines, on telephone services, from the rest of the world, except the United States. On 12 April 1958, the Republic commenced suit against PLDT, in the Court of First Instance of Manila (CFI, Civil Case 35805), praying in its complaint for judgment commanding the PLDT to execute a contract with the Republic, through the Bureau, for the use of the facilities of PLDT's telephone system throughout the Philippines under such terms and conditions as the court might consider reasonable, and for a writ of preliminary injunction against PLDT to restrain the severance of the existing telephone connections and/or restore those severed. After trial, the lower court rendered judgment that it could not compel the PLDT to enter into an agreement with the Bureau because the parties were not in agreement; that under Executive Order 94, establishing the Bureau of Telecommunications, said Bureau was not limited to servicing government offices alone, nor was there any in the contract of lease of the trunk lines, since the PLDT knew, or ought to have known, at the time that their use by the Bureau was to be public throughout the Islands, hence the Bureau was neither guilty of fraud, abuse, or misuse of the poles of the PLDT; and, in view of serious public prejudice that would result from the disconnection of the trunk lines, declared the preliminary injunction permanent, although it dismissed both the complaint and the counterclaims. Both
parties appealed.

**Issue:** Whether interconnection between PLDT and the Government Telephone System can be an valid object for expropriation, i.e. the exercise of eminent domain.

**Held:** Although parties can not be coerced to enter into a contract where no agreement is had between them as to the principal terms and conditions of the contract -- the freedom to stipulate such terms and conditions being of the essence of our contractual system, and by express provision of the statute, a contract may be annulled if tainted by violence, intimidation or undue influence -- and thus the Republic may not compel the PLDT to celebrate a contract with it, the Republic may, in the exercise of the sovereign power of eminent domain, require the telephone company to permit interconnection of the government telephone system and that of the PLDT, as the needs of the government service may require, subject to the payment of just compensation to be determined by the court. Normally, of course, the power of eminent domain results in the taking or appropriation of title to, and possession of, the expropriated property; but no cogent reason appears why the said power may not be availed of to impose only a burden upon the owner of condemned property, without loss of title and possession. It is unquestionable that real property may, through expropriation, be subjected to an easement of right of way. The use of the PLDT’s lines and services to allow interservice connection between both telephone systems is not much different. In either case private property is subjected to a burden for public use and benefit. If under Section 6, Article XIII, of the Constitution, the State may, in the interest of national welfare, transfer utilities to public ownership upon payment of just compensation, there is no reason why the State may not require a public utility to render services in the general interest, provided just compensation is paid therefor. Ultimately, the beneficiary of the interconnecting service would be the users of both telephone systems, so that the condemnation would be for public use.

18 Barangay San Roque v. Heirs of Pastor [GR 138896, 20 June 2000]

*Third Division, Panganiban (J): 3 concur, 1 on leave on official business*

**Facts:** Barangay San Roque in Talisay, Cebu filed before the Municipal Trial Court (MTC) of Talisay, Cebu (Branch 1) a Complaint to expropriate a property of Heirs of Francisco Pastor (Eugenio Sylianco, Teodoro Sylianco, Isabel Sylianco, Eugenia S. Ong, Lawrence Sylianco, Lawson Sylianco, Lawina S. Notario, Leonardo Sylianco, Jr. and Lawford Sylianco). In an Order dated 8 April 1997, the MTC dismissed the Complaint on the ground of lack of jurisdiction. It reasoned that "[e]minent domain is an exercise of the power to take private property for public use after payment of just compensation. In an action for eminent domain, therefore, the principal cause of action is the exercise of such power or right. The fact that the action also involves real property is merely incidental. An action for eminent domain is therefore within the exclusive original jurisdiction of the Regional Trial Court and not with this Court." When the complaint was filed with the Regional Trial Court (RTC), the RTC also dismissed the Complaint on 29 March 1999, holding that an action for eminent domain affected title to real property; hence, the value of the property to be expropriated would determine whether the case should be filed before the MTC or the RTC; therefore concluding that the action should have been filed before the MTC since the value of the subject property was less than P20,000. The Barangay's motion for reconsideration was likewise denied on 14 May 1999. The Barangay filed the petition for review on certiorari with the Supreme Court.

**Issue:** Whether the Regional Trial Court (RTC) or the Metropolitan Trial Court (MTC) has jurisdiction over expropriation cases.

**Held:** The primary consideration in an expropriation suit is whether the government or any of its instrumentalities has complied with the requisites for the taking of private property. Hence, the courts determine the authority of the government entity, the necessity of the expropriation, and the observance of due process. In the main, the subject of an expropriation suit is the government's exercise of eminent domain, a matter that is incapable of pecuniary estimation. True, the value of the property to be expropriated is
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estimated in monetary terms, for the court is duty-bound to determine the just compensation for it. This, however, is merely incidental to the expropriation suit. Indeed, that amount is determined only after the court is satisfied with the propriety of the expropriation. Verily, the Court held in Republic of the Philippines v. Zurbano that "condemnation proceedings are within the jurisdiction of Courts of First Instance," the forerunners of the regional trial courts (RTC). The said case was decided during the effectivity of the Judiciary Act of 1948 which, like Batas Pambansa 129 in respect to RTCs, provided that courts of first instance had original jurisdiction over "all civil actions in which the subject of the litigation is not capable of pecuniary estimation." The 1997 amendments to the Rules of Court were not intended to change these jurisprudential precedents.

19 Republic vs. Vda. de Castellvi [GR L-20620, 15 August 1974]
En Banc, Zaldívar (J): 7 concur, 4 took no part

Facts: The Republic of the Philippines occupied the land of Carmen M. vda. de Castellvi, the judicial administratrix of the estate of the late Alfonso de Castellvi, from 1 July 1947, by virtue of a contract of lease, on a year to year basis (from July 1 of each year to June 30 of the succeeding year). Before the expiration of the contract of lease on 30 June 1956, the Republic sought to renew the same but Castellvi refused. When the AFP refused to vacate the leased premises after the termination of the contract, Castellvi wrote to the Chief of Staff of the AFP on 11 July 1956, informing the latter that the heirs of the property had decided not to continue leasing the property in question because they had decided to subdivide the land for sale to the general public, demanding that the property be vacated within 30 days from receipt of the letter, and that the premises be returned in substantially the same condition as before occupancy. The Chief of Staff refused, saying that it was difficult for the army to vacate the premises in view of the permanent installations and other facilities worth almost P500,000.00 that were erected and already established on the property, and that, there being no other recourse, the acquisition of the property by means of expropriation proceedings would be recommended to the President. Castellvi then brought suit in the Court of First Instance (CFI) of Pampanga (Civil Case 1458), to eject the Philippine Air Force from the land. While this ejectment case was pending, the Republic filed on 26 June 1959 complaints for eminent domain against Castellvi, and Maria Nieves Toledo Gozun over 3 parcels of land situated in the barrio of San Jose, Floridablanca, Pampanga. In its complaint, the Republic alleged, among other things, that the fair market value of the above-mentioned lands, according to the Committee on Appraisal for the Province of Pampanga, was not more than P2,000 per hectare, or a total market value of P259,669.10; and prayed, that the provisional value of the lands be fixed at P259,669.10, that the court authorizes the Republic to take immediate possession of the lands upon deposit of that amount with the Provincial Treasurer of Pampanga; that the court appoints 3 commissioners to ascertain and report to the court the just compensation for the property sought to be expropriated, and that the court issues thereafter a final order of condemnation. The Republic was placed in possession of the lands on 10 August 1959. Meanwhile, on 21 November 1959, the CFI of Pampanga, dismissed Civil Case 1458, upon petition of the parties. After the parties filed their respective memoranda, the trial court, on 26 May 1961, rendered its decision, finding that the unanimous recommendation of the commissioners of P10.00 per square meter for the 3 lots subject of the action is fair and just; and required the Republic to pay interests. On 21 June 1961 the Republic filed a motion for a new trial and/or reconsideration, against which motion Castellvi and Toledo-Gozun filed their respective oppositions, and which the trial court denied on 12 July 1961. The Republic's record on appeal was finally submitted on 6 December 1961, after filing various ex-parte motions for extension of time within which to file its record on appeal. On 27 December 1961 the trial court dismissed both appeals for having been filed out of time, thereby. On 11 January 1962 the Republic filed a "motion to strike out the order of 27 December 1961 and for reconsideration", and subsequently an amended record on appeal, against which motion Castellvi and Toledo-Gozun filed their opposition. On 26 July 1962 the trial court issued an order, stating that "in the interest of expediency, the questions raised may be properly and finally determined by the Supreme Court," and at the same time it ordered the Solicitor General to submit a record on appeal containing copies of orders and pleadings specified therein. In an order dated 19 November 1962, the trial court approved the Republic's record on appeal as amended. Castellvi did not insist on her
**Narratives (Berne Guerrero)**

appeal. Toledo-Gozun did not appeal.

**Issue:** Whether the taking of Castellvi’s property occurred in 1947 or in 1959.

**Held:** A number of circumstances must be present in the “taking” of property for purposes of eminent domain. First, the expropriator must enter a private property. Second, the entrance into private property must be for more than a momentary period. Third, the entry into the property should be under warrant or color of legal authority. Fourth, the property must be devoted to a public use or otherwise informally appropriated or injuriously affected. Fifth, the utilization of the property for public use must be in such a way as to oust the owner and deprive him of all beneficial enjoyment of the property. The “taking” of Castellvi’s property for purposes of eminent domain cannot be considered to have taken place in 1947 when the Republic commenced to occupy the property as lessee thereof. Two essential elements in the “taking” of property under the power of eminent domain, namely: (1) that the entrance and occupation by the condemnor must be for a permanent, or indefinite period, and (2) that in devoting the property to public use the owner was ousted from the property and deprived of its beneficial use, were not present when the Republic entered and occupied the Castellvi property in 1947. The “taking” of the Castellvi property should not be reckoned as of the year 1947 when the Republic first occupied the same pursuant to the contract of lease, and that the just compensation to be paid for the Castellvi property should not be determined on the basis of the value of the property as of that year. Under Section 4 of Rule 67 of the Rules of Court, the “just compensation” is to be determined as of the date of the filing of the complaint. This Court has ruled that when the taking of the property sought to be expropriated coincides with the commencement of the expropriation proceedings, or takes place subsequent to the filing of the complaint for eminent domain, the just compensation should be determined as of the date of the filing of the complaint. Herein, it is undisputed that the Republic was placed in possession of the Castellvi property, by authority of the court, on 10 August 1959. The “taking” of the Castellvi property for the purposes of determining the just compensation to be paid must, therefore, be reckoned as of 26 June 1959 when the complaint for eminent domain was filed.

**20 City Government of Quezon City vs. Ericita [GR L-34915, 24 June 1983]**

*First Division, Gutierrez Jr. (J): 5 concur*

**Facts:** Section 9 of Ordinance 6118, S-64, entitled "Ordinance Regulating the Establishment, Maintenance and Operation of Private Memorial Type Cemetery Or Burial Ground Within the Jurisdiction of Quezon City and Providing Penalties for the Violation thereof" provides that at least 6% of the total area of the memorial park cemetery shall be set aside for charity burial of deceased persons who are paupers and have been residents of Quezon City for at least 5 years prior to their death, to be determined by competent City Authorities, and where the area so designated shall immediately be developed and should be open for operation not later than 6 months from the date of approval of the application. For several years, section 9 of the Ordinance was not enforced by city authorities but 7 years after the enactment of the ordinance, the Quezon City Council passed a resolution requesting the City Engineer, Quezon City, to stop any further selling and/or transaction of memorial park lots in Quezon City where the owners thereof have failed to donate the required 6% space intended for paupers burial. Pursuant to this petition, the Quezon City Engineer notified Himlayang Pilipino, Inc. in writing that Section 9 of Ordinance No. 6118, S-64 would be enforced. Himlayang Pilipino reacted by filing with the Court of First Instance (CFI) of Rizal (Branch XVIII at Quezon City), a petition for declaratory relief, prohibition and mandamus with preliminary injunction (Special Proceeding Q-16002) seeking to annul Section 9 of the Ordinance in question for being contrary to the Constitution, the Quezon City Charter, the Local Autonomy Act, and the Revised Administrative Code. There being no issue of fact and the questions raised being purely legal, both the City Government and Himlayang Pilipino agreed to the rendition of a judgment on the pleadings. The CFI rendered the decision declaring Section 9 of Ordinance 6118, S-64 null and void. A motion for reconsideration having been denied, the City Government and City Council filed the petition or review with the Supreme Court.

**Constitutional Law II, 2005 (6)**
Issue: Whether the setting aside of 6% of the total area of all private cemeteries for charity burial grounds of deceased paupers is tantamount to taking of private property without just compensation.

Held: There is no reasonable relation between the setting aside of at least 6% of the total area of all private cemeteries for charity burial grounds of deceased paupers and the promotion of health, morals, good order, safety, or the general welfare of the people. The ordinance is actually a taking without compensation of a certain area from a private cemetery to benefit paupers who are charges of the municipal corporation. Instead of building or maintaining a public cemetery for this purpose, the city passes the burden to private cemeteries. The expropriation without compensation of a portion of private cemeteries is not covered by Section 12(t) of Republic Act 537, the Revised Charter of Quezon City which empowers the city council to prohibit the burial of the dead within the center of population of the city and to provide for their burial in a proper place subject to the provisions of general law regulating burial grounds and cemeteries. When the Local Government Code, Batas Pambansa 337 provides in Section 177(q) that a Sangguniang panlungsod may “provide for the burial of the dead in such place and in such manner as prescribed by law or ordinance” it simply authorizes the city to provide its own city owned land or to buy or expropriate private properties to construct public cemeteries. This has been the law and practice in the past and it continues to the present. Expropriation, however, requires payment of just compensation. The questioned ordinance is different from laws and regulations requiring owners of subdivisions to set aside certain areas for streets, parks, playgrounds, and other public facilities from the land they sell to buyers of subdivision lots. The necessities of public safety, health, and convenience are very clear from said requirements which are intended to insure the development of communities with salubrious and wholesome environments. The beneficiaries of the regulation, in turn, are made to pay by the subdivision developer when individual lots are sold to homeowners.

21 People vs. Fajardo [GR L-12172, 29 August 1958]
En Banc, Reyes JBL (J): 9 concur

Facts: On 15 August 1950, during the incumbency of Juan F. Fajardo as mayor of the municipality of Baao, Camarines Sur, the municipal council passed Ordinance 7, series of 1950, providing that “any person or persons who will construct or repair a building should, before constructing or repairing, obtain a written permit from the Municipal Mayor,” that “a fee of not less than P2.00 should be charged for each building permit and P1.00 for each repair permit issued,” and that any violation of the provisions of the ordinance shall make the violator liable to pay a fine of not less than P25 nor more than P50 or imprisonment of not less than 12 days nor more than 24 days or both, at the discretion of the court; and that if said building destroys the view of the Public Plaza or occupies any public property, it shall be removed at the expense of the owner of the building or house. 4 years later, after the term of Fajardo as mayor had expired, he and his son-in-law, Pedro Babilonia, filed a written request with the incumbent municipal mayor for a permit to construct a building adjacent to their gasoline station on a parcel of land registered in Fajardo's name, located along the national highway and separated from the public plaza by a creek. On 16 January 1954, the request was denied, for the reason among others that the proposed building would destroy the view of the Public Plaza or occupies any public property, it shall be removed at the expense of the owner of the building or house. 4 years later, after the term of Fajardo as mayor had expired, he and his son-in-law, Pedro Babilonia, filed a written request with the incumbent municipal mayor for a permit to construct a building adjacent to their gasoline station on a parcel of land registered in Fajardo's name, located along the national highway and separated from the public plaza by a creek. On 16 January 1954, the request was denied, for the reason among others that the proposed building would destroy the view of the Public Plaza or occupies any public property, it shall be removed at the expense of the owner of the building or house. 4 years later, after the term of Fajardo as mayor had expired, he and his son-in-law, Pedro Babilonia, filed a written request with the incumbent municipal mayor for a permit to construct a building adjacent to their gasoline station on a parcel of land registered in Fajardo's name, located along the national highway and separated from the public plaza by a creek. On 16 January 1954, the request was denied, for the reason among others that the proposed building would destroy the view of the Public Plaza or occupies any public property, it shall be removed at the expense of the owner of the building or house. On 18 January 1954, Fajardo and Babilonia reiterated their request for a building permit, but again the request was turned down by the mayor. Whereupon, Fajardo and Babilonia proceeded with the construction of the building without a permit, because they needed a place of residence very badly, their former house having been destroyed by a typhoon and hitherto they had been living on leased property. On 26 February 1954, Fajardo and Babilonia were charged before and convicted by the justice of the peace court of Baao, Camarines Sur, for violation of Ordinance 7. Fajardo and Babilonia appealed to the Court of First Instance (CDI), which affirmed the conviction, and sentenced both to pay a fine of P35 each and the costs, as well as to demolish the building in question because it destroys the view of the public plaza of Baao. From this decision, Fajardo and Babilonia appealed to the Court of Appeals, but the latter forwarded the records to the Supreme Court because the appeal attacks the constitutionality of the ordinance in question.

Issue: Whether the refusal of the Mayor of Baao to issue a building permit on the ground that the proposed
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building would destroy the view of the public plaza is an undue deprivation of the use of the property in question, and thus a taking without due compensation.

Held: The refusal of the Mayor of Baao to issue a building permit to Fajardo and Babilonia was predicated on the ground that the proposed building would "destroy the view of the public plaza" by preventing its being seen from the public highway. Even thus interpreted, the ordinance is unreasonable and oppressive, in that it operates — to permanently deprive the latter of the right to use their own property; hence, it oversteps the bounds of police power, and amounts to a taking of the property without just compensation. But while property may be regulated in the interest of the general welfare such as to regard the beautification of neighborhoods as conducive to the comfort and happiness of residents), and in its pursuit, the State may prohibit structures offensive to the sight, the State may not, under the guise of police power, permanently divest owners of the beneficial use of their property and practically confiscate them solely to preserve or assure the aesthetic appearance of the community. As the case now stands, every structure that may be erected on Fajardo's land, regardless of its own beauty, stands condemned under the ordinance in question, because it would interfere with the view of the public plaza from the highway. Fajardo would, in effect, be constrained to let their land remain idle and unused for the obvious purpose for which it is best suited, being urban in character. To legally achieve that result, the municipality must give Fajardo just compensation and an opportunity to be heard.

22 National Power Corporation vs. Gutierrez [GR 60077, 18 January 1991]

Third Division, Bidin (J): 2 concur, 1 concurs with reservation

Facts: The National Power Corporation (NAPOCOR), a government owned and controlled entity, in accordance with Commonwealth Act 120, is invested with the power of eminent domain for the purpose of pursuing its objectives, which among others is the construction, operation, and maintenance of electric transmission lines for distribution throughout the Philippines. For the construction of its 230 KV Mexico-Limay transmission lines, NAPOCOR's lines have to pass the lands belonging to Matias Cruz, Heirs of Natalia Paule and spouses Misericordia Gutierrez and Ricardo Malit (covered by tax declarations 907, 4281 and 7582, respectively). NAPOCOR initiated negotiations for the acquisition of right of way easements over the aforementioned lots for the construction of its transmission lines but unsuccessful in this regard, NAPOCOR was constrained to file eminent domain proceedings against Gutierrez, et. al. on 20 January 1965. Upon filing of the corresponding complaint, NAPOCOR deposited the amount of P973.00 with the Provincial Treasurer of Pampanga, tendered to cover the provisional value of the land of the Malit and Gutierrez. And by virtue of which, NAPOCOR was placed in possession of the property of the spouses so it could immediately proceed with the construction of its Mexico-Limay 230 KV transmission line. In this connection, by the trial court's order of 30 September 1965, the spouses were authorized to withdraw the fixed provisional value of their land in the sum of P973.00. Meanwhile, for the purpose of determining the fair and just compensation due Gutierrez, et. al., the court appointed 3 commissioners, comprised of one representative of NAPOCOR, one for the affected families and the other from the court, who then were empowered to receive evidence, conduct ocular inspection of the premises, and thereafter, prepare their appraisals as to the fair and just compensation to he paid to the owners of the lots. Hearings were consequently held before said commissioners and during their hearings, the case of the Heirs of Natalia Paule was amicably settled by virtue of a Right of Way Grant executed by Guadalupe Sangang for herself and in behalf of her co-heirs in favor of NAPOCOR. The case against Matias Cruz was earlier decided by the court, thereby leaving only the case against the spouses Malit and Gutierrez still to be resolved. Accordingly, the commissioners submitted their individual reports. With the reports submitted, the lower court rendered a decision, ordering NAPOCOR to pay Malit and Gutierrez the sum of P10 per square meter as the fair and reasonable compensation for the right-of-way easement of the affected area, which is 760 squares, or a total sum of P7,600.00 and P800.00 as attorney's fees. Dissatisfied with the decision, NAPOCOR filed a motion for reconsideration which was favorably acted upon by the lower court, and in an order dated 10 June 1973, it amended its previous decision, reducing the amount awarded to to P5.00 per square meter as the fair and reasonable market value of the 760
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square meters belonging to the said spouses, in light of the classification of the land to be partly commercial and partly agricultural. Still not satisfied, an appeal was filed by the NAPOCOR with the Court of Appeals but appellate court, on 9 March 1982, sustained the trial court. NAPOCOR filed the petition for review on certiorari before the Supreme Court.

**Issue:** Whether the spouses are deprived of the property’s ordinary use and thus the easement of right of way in favor of NAPOCOR constitutes taking.

**Held:** The acquisition of the right-of-way easement falls within the purview of the power of eminent domain. Such conclusion finds support in similar cases of easement of right-of-way where the Supreme Court sustained the award of just compensation for private property condemned for public use. Herein, the easement of right-of-way is definitely a taking under the power of eminent domain. Considering the nature and effect of the installation of the 230 KV Mexico-Limay transmission lines, the limitation imposed by NAPOCOR against the use of the land for an indefinite period deprives spouses Malit and Gutierrez of its ordinary use. For these reasons, the owner of the property expropriated is entitled to a just compensation, which should be neither more nor less, whenever it is possible to make the assessment, than the money equivalent of said property. Just compensation has always been understood to be the just and complete equivalent of the loss which the owner of the thing expropriated has to suffer by reason of the expropriation. The price or value of the land and its character at the time it was taken by the Government are the criteria for determining just compensation. The above price refers to the market value of the land which may be the full market value thereof. It appearing that the trial court did not act capriciously and arbitrarily in setting the price of P5.00 per square meter of the affected property, the said award is proper and not unreasonable.

23 United States vs. Causby [328 US 256, 27 May 1946]

_Douglas (J)_

**Facts:** Causby owns 2.8 acres near an airport outside of Greensboro, North Carolina. It has on it a dwelling house, and also various outbuildings which were mainly used for raising chickens. The end of the airport's northwest-southeast runway is 2,220 feet from Causby's barn and 2,275 feet from their house. The path of glide to this runway passes directly over the property-which is 100 feet wide and 1,200 feet long. The 30 to 1 safe glide angle approved by the Civil Aeronautics Authority passes over this property at 83 feet, which is 67 feet above the house, 63 feet above the barn and 18 feet above the highest tree. The use by the United States of this airport is pursuant to a lease executed in May 1942, for a term commencing 1 June 1942 and ending 30 June 1942, with a provision for renewals until 30 June 1967, or 6 months after the end of the national emergency, whichever is the earlier. Various aircraft of the United States, i.e. bombers, transports and fighters, use this airport. Since the United States began operations in May 1942, its four-motored heavy bombers, other planes of the heavier type, and its fighter planes have frequently passed over Causby's land buildings in considerable numbers and rather close together. They come close enough at times to appear barely to miss the tops of the trees and at times so close to the tops of the trees as to blow the old leaves off. The noise is startling. And at night the glare from the planes brightly lights up the place. As a result of the noise, the Causbys had to give up their chicken business. As many as 6 to 10 of their chickens were killed in one day by flying into the walls from fright. The total chickens lost in that manner was about 150. Production also fell off. The result was the destruction of the use of the property as a commercial chicken farm. The Causbys are frequently deprived of their sleep and the family has become nervous and frightened. Although there have been no airplane accidents on their property, there have been several accidents near the airport and close to their place. These are the essential facts found by the Court of Claims. On the basis of these facts, it found that the property had depreciated in value. It held that the United States had taken an easement over the property on June 1, 1942, and that the value of the property destroyed and the easement taken was $2,000. The United States contends that when flights are made within the navigable airspace (Air Commerce Act of 1926, as amended by the Civil Aeronautics Act of 1938) without any physical invasion of the property of the landowners, there has been no taking of property. It says that at most there was merely incidental damage...
occurring as a consequence of authorized air navigation.

**Issue:** Whether there was taking of the Causby’s property, even in the light that the United States allegedly has complete and exclusive national sovereignty in the air space over the country.

**Held:** The United States conceded that if the flights over Causby's property rendered it uninhabitable, there would be a taking compensable under the 5th Amendment. It is the owner's loss, not the taker's gain, which is the measure of the value of the property taken. Market value fairly determined is the normal measure of the recovery. And that value may reflect the use to which the land could readily be converted, as well as the existing use. If, by reason of the frequency and altitude of the flights, Causby could not use this land for any purpose, their loss would be complete. It would be as complete as if the United States had entered upon the surface of the land and taken exclusive possession of it. Herein, there was a taking. Though it would be only an easement of flight which was taken, that easement, if permanent and not merely temporary, normally would be the equivalent of a fee interest. It would be a definite exercise of complete dominion and control over the surface of the land. The fact that the planes never touched the surface would be as irrelevant as the absence in this day of the feudal livery of seisin on the transfer of real estate. The owner's right to possess and exploit the land—that is to say, his beneficial ownership of it—would be destroyed. It would not be a case of incidental damages arising from a legalized nuisance such as was involved in Richards v. Washington Terminal Co. (233 U.S. 546). In that case property owners whose lands adjoined a railroad line were denied recovery for damages resulting from the noise, vibrations, smoke and the like, incidental to the operations of the trains. Herein, the line of flight is over the land, and the land is appropriated as directly and completely as if it were used for the runways themselves. However, since the record in the case is not clear whether the easement taken is a permanent or a temporary one, it would be premature for the Court to consider whether the amount of the award made by the Court of Claims was proper, and thus the Court remanded the cause to the Court of Claims so that it may make the necessary findings in conformity with the Court's opinion.

24 Filstream International Inc. [GR 125218 and GR 128077. 23 January 1998]

*Third Division, Francisco (J): 4 concur*

**Facts:** Filstream International, Inc., is the registered owner of the properties consisting of adjacent parcels of land situated in Antonio Rivera Street, Tondo II, Manila, with a total area of 3,571.10 square meters (TCT 203937, 203936, 169198, 169199, 169200 and 169202 of the Register of Deeds of Manila). On 7 January 1993, Filstream filed an ejectment suit before the Metropolitan Trial Court (MTC) of Manila (Branch 15, Civil Case 140817-CV) against the occupants of the parcels of land (Orlando Malit, Antonio Caguiat, Alicia Cabrera, Armando Lachica, Jacinto Caguiat, Gloria Antonio, Elizalde Navarra, Dolores Fuentes, Susana Roy, Antonio Ibañez, Benigno Basilio, Lourdes Dematulac, Florencia Gomez, Lazaro Gomez, Jose Gomez, Venancio Manaloto, Cristino Umali, Demetria Gatus, Priscilla Malong, Domingo Aguilin, Ramon San Agustin, Julian Ferrer, Jr., Francisco Galang, Florentino Maliwat, Severina Villar, Trinidad Naguit, Jose Naguit, Fortunato Agustín Cabrera, Gaudencio Intal, Danilo David, Enrique David, Vicente De Guzman, Policarpio Lumba, Belen Palma, Elen Somvillo, Leonardo Manicad, Opreng Miclat, Benita Mata, Gregorio Lopez, Marcelina Sapno, Jesus Mercado, and Calixto Gomez) on the grounds of termination of the lease contract and non-payment of rentals. Judgment was rendered by the MTC on September 14, 1993 ordering private respondents to vacate the premises and pay back rentals to Filstream. Not satisfied, malit, et. al. appealed the decision to the Regional Trial Court (RTC) of Manila (Branch 4, Civil Case 93-68130) which in turn affirmed the decision of the MTC. Still not content, Malit, et. al. proceeded to the Court of Appeals via a petition for review (CA-GR SP 33714). The result however remained the same as the appellate court affirmed the decision of the RTC in its decision dated 25 August 1994. Thereafter, no further action was taken by Malit, et. al., as a result of which the decision in the ejectment suit became final and executory.

However, during the pendency of the ejectment proceedings Malit, et. al. filed on 25 May 1993, a complaint for Annulment of Deed of Exchange against Filstream before the RTC of Manila (Branch 43, Civil Case 93-
It was at this stage that City of Manila came into the picture when the city government approved Ordinance 7813 on 5 November 1993, authorizing Mayor Alfredo S. Lim to initiate the acquisition by negotiation, expropriation, purchase, or other legal means certain parcels of land which formed part of Filstream's properties then occupied by Malit, et. al. Subsequently, the City of Manila approved Ordinance 7855 declaring the expropriation of certain parcels of land situated along Antonio Rivera and Fernando Ma. Guerrero streets in Tondo, Manila which were owned by Mr. Enrique Quijano Gutierrez, Filstream's predecessor-in-interest. The said properties were to be sold and distributed to qualified tenants of the area pursuant to the Land Use Development Program of the City of Manila. On 23 May 1994, the City of Manila filed a complaint for eminent domain before the RTC of Manila (Branch 42, Civil Case 94-70560), seeking to expropriate the parcels of land owned by Filstream which are situated at Antonio Rivera Street, Tondo II, Manila. Pursuant to the complaint filed by the City of Manila, the trial court issued a Writ of Possession in favor of the former which ordered the transfer of possession over the disputed premises to the City of Manila. Filstream filed a motion to dismiss the complaint for eminent domain as well as a motion to quash the writ of possession. On 30 September 1994, the RTC of Manila issued an order denying Filstream's motion to dismiss and the motion to quash the Writ of Possession. Filstream filed a motion for reconsideration as well as a supplemental motion for reconsideration seeking the reversal of the order but the same were denied. Still, Filstream filed a subsequent motion to be allowed to file a second motion for reconsideration but it was also denied. Aggrieved, Filstream filed on 31 March 1996, a Petition for Certiorari with the Court of Appeals (CA-GR SP 36904) seeking to set aside the RTC order. On 18 March 1996, the appellate court dismissed the petition. Filstream filed a motion for reconsideration and attached clearer copies of the pertinent documents and papers pursuant to Section 2(a), Rule 6 of the Revised Internal Rules of the Court of Appeals. But on 20 May 1996, the appellate court issued a resolution denying the motion as petitioner failed to submit clearer and readable copies of the pleadings. This prompted Filstream to proceed to the Supreme Court by filing a petition for review on certiorari.

Meanwhile, owing to the finality of the decision in the ejectment suit (Civil Case 140817-CV), the MTC of Manila, Branch 15, upon motion of Filstream, issued a Writ of Execution as well as a Notice to Vacate the disputed premises. Malit, et. al. filed a Motion to Recall/Quash the Writ of Execution and Notice to Vacate alleging the existence of a supervening event in that the properties subject of the dispute have already been ordered condemned in an expropriation proceeding in favor of the City of Manila for the benefit of the qualified occupants thereof, thus execution shall be stayed. For its part, the City of Manila filed on 13 March 1996, a motion for intervention with prayer to stay/quash the writ of execution on the ground that it is the present possessor of the property subject of execution. In its order dated 14 March 1996, the MTC of Manila denied Malit, et. al.'s motion as it found the allegations therein bereft of merit and upheld the issuance of the Writ of Execution and Notice to Vacate in Filstream's favor. Subsequently, the trial court also denied the motion filed by the City of Manila. On 22 April 1996, the trial court issued an order commanding the demolition of the structure erected on the disputed premises. To avert the demolition, Malit, et. al. filed before the RTC of Manila, (Branch 14, Civil Case 96-78098) a Petition for Certiorari and Prohibition with prayer for the issuance of a temporary restraining order and preliminary injunction. On 15 May 1996, the City of Manila filed its Petition for Certiorari and Prohibition with prayer for the issuance of a temporary restraining order and preliminary injunction which was raffled to Branch 23 of the RTC of Manila (Civil Case 96-78382), seeking the reversal of the orders issued by the MTC of Manila, Branch 14. Thereafter, upon motion filed by the City of Manila, an order was issued by the RTC of Manila, Branch 10, ordering the consolidation of Civil Case 96-78382 with Civil Case 96-78098 pending before Branch 14 of the RTC of Manila. Injunctions were issued. Filstream then filed a motion for reconsideration from the order of denial but pending resolution of this motion, it filed a motion for voluntary inhibition of the presiding judge of the RTC of Manila, Branch 14. The motion for inhibition was granted 25 and as a result, the consolidated cases (Civil Cases 96-78382 and 96-78098) were re-raffled to the RTC of Manila, Branch 33. During the proceedings before the RTC of Manila, Branch 33, Filstream moved for the dismissal of the consolidated cases (Civil Cases 96-78382 and 96-78098) for violation of Supreme Court Circular 04-94 (forum shopping) because the same parties, causes of action and subject matter involved therein have already been disposed of in the decision in the ejectment suit.
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case (Civil Case 140817) which has already become final and executory prior to the filing of these consolidated cases. On 9 December 1996, the RTC of Manila, Branch 33 ordered the dismissal of Civil Cases 96-78382 and 96-78098 due to forum shopping. Immediately thereafter, Filstream filed an Ex-parte Motion for Issuance of an Alias Writ of Demolition and Ejectment and a supplemental motion to the same dated January 10 and 13, 1997, respectively, before the MTC of Manila, Branch 15, which promulgated the decision in the ejectment suit (Civil Case No. 140817-CV). 23 On January 1997, the court granted the motion and issued the corresponding writ of demolition. As a consequence of the dismissal of the consolidated cases, Malit, et. al. filed a Petition for Certiorari and Prohibition with prayer for the issuance of a temporary restraining order and preliminary injunction before the Court of Appeals (CA-GR SP 43101). At the conclusion of the hearing for the issuance of a writ of preliminary injunction, the Court of Appeals, in its resolution dated 18 February 1997, found merit in Malit, et. al.’s allegations in support of their application of the issuance of the writ and granted the same. Filstream filed a Petition for Certiorari under Rule 65.

Issue: Whether there is violation of due process against Filstream in the manner its properties were expropriated and condemned in favor of the City of Manila.

Held: That only a few could actually benefit from the expropriation of the property does not diminish its public use character. It is simply not possible to provide all at once land and shelter for all who need them. Corollary to the expanded notion of public use, expropriation is not anymore confined to vast tracts of land and landed estates. It is therefore of no moment that the land sought to be expropriated in this case is less than half a hectare only. Through the years, the public use requirement in eminent domain has evolved into a flexible concept, influenced by changing conditions. Public use now includes the broader notion of indirect public benefit or advantage, including in particular, urban land reform and housing. The Court takes judicial notice of the fact that urban land reform has become a paramount task in view of the acute shortage of decent housing in urban areas particularly in Metro Manila. Nevertheless, despite the existence of a serious dilemma, local government units are not given an unbridled authority when exercising their power of eminent domain in pursuit of solutions to these problems. The basic rules still have to be followed, which are as follows: “no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws; private property shall not be taken for public use without just compensation”. Thus, the exercise by local government units of the power of eminent domain is not without limitations. Even Section 19 of the 1991 Local Government Code is very explicit that it must comply with the provisions of the Constitution and pertinent laws. Very clear from Sections 9 and 10 of Republic Act 7279 (Urban Development and Housing Act of 1992) are the limitations with respect to the order of priority in acquiring private lands and in resorting to expropriation proceedings as a means to acquire the same. Private lands rank last in the order of priority for purposes of socialized housing. In the same vein, expropriation proceedings are to be resorted to only when the other modes of acquisition have been exhausted. Compliance with these conditions must be deemed mandatory because these are the only safeguards in securing the right of owners of private property to due process when their property is expropriated for public use. There is nothing in the records that would indicate that City of Manila complied with Section 9 and Section 10 of RA 7279. Filstream's properties were expropriated and ordered condemned in favor of the City of Manila sans any showing that resort to the acquisition of other lands listed under Section 9 of RA 7279 have proved futile. Evidently, there was a violation of Filstream's right to due process which must accordingly be rectified.

25 Estate or Heirs of the late ex-Justice Jose B. L. Reyes vs. City of Manila [GR 132431, 13 February 2004]; also Estate or Heirs of the late ex-Justice Jose B. L. Reyes vs. Court of Appeals [GR 137146]

Third Division, Corona (J): 2 concur, 1 took no part

Facts: Jose B. L. Reyes and Heirs of Edmundo Reyes are the pro-indiviso co-owners in equal proportion of 11 parcels of land with a total area of 13,940 square meters situated at Sta. Cruz District, Manila and covered by Transfer Certificate of Title No. 24359 issued by the Register of Deeds of Manila. These parcels of land

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are being occupied and leased by different tenants, among whom are respondents Dr. Rosario Abiog, Angelina Maglonso and members of the Sampaguita Bisig ng Magkakapitbahay, Incorporated (SBMI). The Reyeses leased to Abiog Lot 2-E, Block 3007 of the consolidated subdivision plan (LRC) Psd- 328345, with an area of 191 square meters and to Maglonso, Lot 2-R, Block 2996 of the same consolidation plan, with an area of 112 square meters. On 9 November 1993 and 26 May 1994, respectively, Jose B.L. Reyes and the Heirs of Edmundo Reyes filed ejectment complaints against Abiog and Maglonso, among others. Upon his death, Jose B.L. Reyes was substituted by his heirs. The heirs obtained favorable judgments in Civil Case 142851-CV (Metropolitan Trial Court [MTC] of Manila, Branch 10, 9 May 1994) against Abiog, and in Civil Case 144205-CV (MTC of Manila, Branch 3, 4 May 1995) against Maglonso. Abiog and Maglonso appealed the MTC decisions but the same were denied by the RTC of Manila, Branch 28, and the RTC of Manila, Branch 38, respectively. Their appeals to the Court of Appeals were likewise denied. As no appeals were further taken, the judgments of eviction against respondents Abiog and Maglonso became final and executory in 1998.

During the pendency of the two ejectment cases against Abiog and Maglonso, the City of Manila filed on 25 April 1995 a complaint for eminent domain (expropriation) of the properties of Reyeses at the RTC of Manila, Branch 9. The properties sought to be acquired by the City included parcels of land occupied by Abiog, Maglonso and members of SBMI. The complaint was based on Ordinance 7818 enacted on 29 November 1993 authorizing the City Mayor of Manila to expropriate certain parcels of land with an aggregate area of 9,930 square meters, more or less, owned by Jose B.L. Reyes and Edmundo Reyes situated along the streets of Rizal Avenue, Tecson, M. Natividad, Sampaguita, Oroquieta, M. Hizon, Felix Huertes, Bulacan, Sulu, Aurora Boulevard, Pedro Guevarra and Kalimbas in the third district of Manila. The complaint alleged that, on 10 March 1995, the City thru City Legal Officer Angel Aguirre, Jr. sent the Reyeses a written offer to purchase the subject properties for P10,285,293.38 but the same was rejected. On 15 May 1995, SBMI, a registered non-stock corporation composed of the residents of the subject properties, filed a motion for intervention and admission of their attached complaint with prayer for injunction. The trial court denied the motion for intervention in an order dated 2 June 1995. On the day SBMI’s motion for intervention was denied, the Reyeses filed a motion to dismiss the complaint for eminent domain for lack of merit, alleging various grounds, among them, "that instead of expropriating the subject property which enjoys the least priority in the acquisition by the City of Manila for socialized housing under Sec. 9(t) of R.A. 7279, the money to be paid should be channeled to the development of 244 sites in Metro Manila designated as area for priority development." On 6 June 1995, the trial court allowed the City to take possession of the subject property upon deposit of the amount of P1,542,793, based on the P10,285,293.38 offer by the City to the Reyeses which the trial court fixed as the provisional amount of the subject properties. On 14 June 1995, the City filed an opposition to the Reyeses’ motion to dismiss. On 3 October 1995, the City’s complaint for eminent domain was dismissed. The City’s motion for reconsideration was denied. On 12 January 1996, the City appealed the decision of the trial court to the Court of Appeals. Thereafter, several motions seeking the issuance of a temporary restraining order (TRO) and preliminary injunction were filed by the City to prevent petitioners from ejecting the occupants of the subject premises. On 21 March 1996, the Court of Appeals issued a resolution denying the motions for lack of merit. The City’s motion for reconsideration was likewise denied. Meanwhile, on 27 January 1997, in view of the finality of the judgment in the ejectment case against Abiog, the MTC of Manila, Branch 10, issued a writ of execution. On 31 January 1997, SBMI filed in the Court of Appeals a motion for leave to intervene with prayer for injunctive relief praying that the ejectment cases be suspended or that the execution thereof be enjoined in view of the pendency of the expropriation case filed by the City over the same parcels of land. Abiog also filed a reiteratory motion for issuance of TRO and to stop the execution of the order of the MTC of Manila, Branch 10. On 26 August 1997, the Court of Appeals issued a resolution finding prima facie basis to grant SBMI's motions, and issued a TRO to Judge Salvador, his employees and agents to maintain the status quo. On 27 January 1998, the Court of Appeals rendered the decision reversing the trial court judgment and upholding as valid City’s exercise of its power of eminent domain over the Reyeses’ properties. From the aforementioned decision of the Court of Appeals, the Reyeses filed on 19 March 1998 the petition for review before the Supreme Court.
Issue: Whether there is violation of due process against the Reyeses in the manner their property were expropriated and condemned in favor of the City of Manila.

Held: The Filstream case is substantially similar in facts and issues to the present case. In Filstream vs. Court of Appeals, the Court held that the Sections 9 and 10 of Republic Act 7279 are limitations to the exercise of the power of eminent domain, specially with respect to the order of priority in acquiring private lands and in resorting to expropriation proceedings as a means to acquire the same. Private lands rank last in the order of priority for purposes of socialized housing. In the same vein, expropriation proceedings are to be resorted to only after the other modes of acquisition have been exhausted. Compliance with these conditions is mandatory because these are the only safeguards of often-times helpless owners of private property against violation of due process when their property is forcibly taken from them for public use. Herein, the City failed to prove strict compliance with the requirements of Sections 9 and 10 of RA 7279. The City neither alleged in its complaint nor proved during the proceedings before the trial court that it complied with said requirements. Even in the Court of Appeals, the City in its pleadings failed to show its compliance with the law. The Court of Appeals was likewise silent on this specific jurisdictional issue. This is a clear violation of the right to due process of the Reyeses.

26 City of Mandaluyong vs. Aguilar [GR 137152, 29 January 2001]
First Division, Puno (J): 4 concur

Facts: Antonio, Francisco, Thelma, Eusebio, and Rodolfo N. Aguilar, constructed residential houses several decades ago on a portion of the 3 lots located at 9 de Febrero Street, Barangay Mauwag, City of Mandaluyong. The Aguilars had since leased out these houses to tenants until the present. On the vacant portion of the lots, other families constructed residential structures which they likewise occupied. In 1983, the lots were classified by Resolution 125 of the Board of the Housing and Urban Development Coordinating Council as an Area for Priority Development for urban land reform under Proclamation 1967 and 2284 of then President Marcos. As a result of this classification, the tenants and occupants of the lots offered to purchase the land from the Aguilars, but the latter refused to sell. On 7 November 1996, the Sangguniang Panlungsod of Mandaluyong, upon petition of the Kapitbisig, an association of tenants and occupants of the subject land, adopted Resolution 516, Series of 1996 authorizing Mayor Benjamin Abalos of the City of Mandaluyong to initiate action for the expropriation of the subject lots and construction of a medium-rise condominium for qualified occupants of the land. On 10 January 1996, Mayor Abalos allegedly sent a letter to the Aguilars offering to purchase the said property at P3,000.00 per square meter. On 4 August 1997, the City filed with the Regional Trial Court (RTC), Branch 168, Pasig City a complaint for expropriation, seeking to expropriate 3 adjoining parcels of land with an aggregate area of 1,847 square meters in the names of the Aguilars, and praying that the fixing of just compensation at the fair market value of P3,000.00 per square meter. In their answer, the Aguilars, except Eusebio who died in 1995, denied having received a copy of Mayor Abalos' offer to purchase their lots. They alleged that the expropriation of their land is arbitrary and capricious, and is not for a public purpose; that the subject lots are their only real property and are too small for expropriation, while the City has several properties inventoried for socialized housing; and that the fair market value of P3,000.00 per square meter is arbitrary because the zonal valuation set by the Bureau of Internal Revenue is P7,000.00 per square meter. As counterclaim, the Aguilars prayed for damages of P21 million. On 5 November 1997, the City filed an Amended Complaint and named as an additional defendant Virginia N. Aguilar and, at the same time, substituted Eusebio Aguilar with his heirs. The City also excluded from expropriation TCT N59870 and thereby reduced the area sought to be expropriated from three (3) parcels of land to two (2) parcels totalling 1,636 square meters. The Amended Complaint was admitted by the trial court on 18 December 1997. On 17 September 1998, the trial court issued an order dismissing the Amended Complaint after declaring the Aguilars as "small property owners" whose land is exempt from expropriation under Republic Act 7279. The court also found that the expropriation was not for a public purpose for the City's failure to present any evidence that the intended beneficiaries of the expropriation are
landless and homeless residents of Mandaluyong. The City moved for reconsideration. On 29 December 1998, the court denied the motion. The City filed a petition for review with the Supreme Court.

**Issue:** Whether the City has exhausted all means to acquire the land under the hands of private persons, but which is within the Areas for Priority Development (APD).

**Held:** Presidential Decree (PD) 1517, the Urban Land Reform Act, was issued by then President Marcos in 1978. The decree adopted as a State policy the liberation of human communities from blight, congestion and hazard, and promotion of their development and modernization, the optimum use of land as a national resource for public welfare. Pursuant to this law, Proclamation 1893 was issued in 1979 declaring the entire Metro Manila as Urban Land Reform Zone for purposes of urban land reform. This was amended in 1980 by Proclamation 1967 and in 1983 by Proclamation 2284 which identified and specified 245 sites in Metro Manila as Areas for Priority Development and Urban Land Reform Zones. The acquisition of lands for socialized housing is governed by several provisions in the law. Pursuant to Section 9 of RA 7279, Lands for socialized housing are to be acquired in the following order: (1) government lands; (2) alienable lands of the public domain; (3) unregistered or abandoned or idle lands; (4) lands within the declared Areas for Priority Development (APD), Zonal Improvement Program (ZIP) sites, Slum Improvement and Resettlement (SIR) sites which have not yet been acquired; (5) BLISS sites which have not yet been acquired; and (6) privately-owned lands. Section 9, however, is not a single provision that can be read separate from the other provisions of the law. It must be read together with Section 10 of RA 7279. Thus, lands for socialized housing under RA 7279 are to be acquired in several modes. Among these modes are the following: (1) community mortgage; (2) land swapping, (3) land assembly or consolidation; (4) land banking; (5) donation to the government; (6) joint venture agreement; (7) negotiated purchase; and (8) expropriation. The mode of expropriation is subject to two conditions: (a) it shall be resorted to only when the other modes of acquisition have been exhausted; and (b) parcels of land owned by small property owners are exempt from such acquisition. The acquisition of the lands in the priority list must be made subject to the modes and conditions set forth in the next provision. In other words, land that lies within the APD may be acquired only in the modes under, and subject to the conditions of, Section 10. Herein, the City claims that it had faithfully observed the different modes of land acquisition for socialized housing under RA 7279 and adhered to the priorities in the acquisition for socialized housing under said law. It, however, did not state with particularity whether it exhausted the other modes of acquisition in Section 9 of the law before it decided to expropriate the subject lots. The law states "expropriation shall be resorted to when other modes of acquisition have been exhausted." The City alleged only one mode of acquisition, i.e., by negotiated purchase. The City, through the City Mayor, tried to purchase the lots from the Aguilars but the latter refused to sell. As to the other modes of acquisition, no mention has been made. Not even Resolution 516, Series of 1996 of the Sangguniang Panlungsod authorizing the Mayor of Mandaluyong to effect the expropriation of the subject property states whether the city government tried to acquire the same by community mortgage, land swapping, land assembly or consolidation, land banking, donation to the government, or joint venture agreement under Section 9 of the law.

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**27 Heirs of Juancho Ardana vs. Reyes** [GR L-60549, 60553 to 60555; 26 October 1983]  
*En Banc, Gutierrez Jr. (J): 7 concur, 1 concur in result, 1 on leave*

**Facts:** The Philippine Tourism Authority filed 4 complaints with the Court of First Instance of Cebu City for the expropriation of some 282 hectares of rolling land situated in barangays Malubog and Babag, Cebu City, under PTA's express authority "to acquire by purchase, by negotiation or by condemnation proceedings any private land within and without the tourist zones" for the purposes indicated in Section 5, paragraph B(2), of its Revised Charter (PD 564), more specifically, for the development into integrated resort complexes of selected and well-defined geographic areas with potential tourism value, specifically for the construction of a sports complex (basketball courts, tennis courts, volleyball courts, track and field, baseball and softball diamonds, and swimming pools), clubhouse, gold course, children's playground and a nature area for picnics and horseback riding for the use of the public. The Heirs of Juancho Ardana (Represented by Gloria Ardana)
Narratives (Berne Guerrero)

Anastacio C. Cabilao, Heirs of Cipriano Cabilao (Represented by Jose Cabilao) Modesta Cabilao, Heirs of Roman Cabuenas (Represented by Alberto Cabuenas), Agrupino Gabisay and Prudencia Mabini, Antonio Labrador and Lucia Gabisay, Geronimo Mabini and Marcelina Sabal, Inocencio Mabini and Arsenia Reyes, Patricio Mabini and Gregoria Borres, Aniceto Gadapan and Maxima Gabisay, Bartolome Magno and Calineca E. Magno, Alberto Cabuenas, Narciso Cabuenas and Victoria Cabuenas, Eutiquioseno, Heirs of Esperidion Cabuenas (Represented by Alberto Cabuenas), Maximina Navaro, Sulpicio Navaro, Eduardo Navaro, Martiniano Roma (In Representation of Arcadio Mabini, Deceased), Martin Seno, Fausto Arda, Maxima Cabilao, Estrella Seno, Eduvegis S. Cabilao, Rosario Cabilao, Minors Danilo, Socorro, Josefina and Marites, All Surnamed Cabilao, Juan Borres (Represented by Francisca Borres), Ramon Jabadan, Jesus Alipar and Leonila Kabahar, Antonio Labrador, Heirs of Nicasio Gabisay (Represented by Arsenio Gabisay), Pacifico Labrador, Demetrio Labrador and Fructosa Tabura, Venancio Del Mar, Marino Del Mar, Heirs of Teodora Arcillo (Represented by Brigida Arcillo) Dionisia Gabunada, Heirs of Buenaventura Francisco (Represented by Felicidad Sadaya Francisco), Heirs of Victoria C. Cabuenas (Represented by Alberto Cabuenas) Heirs of Cipriano Gabunada (Represented by Claudio Gabunada) filed their oppositions, and had a common allegation in that the taking is allegedly not impressed with public use under the Constitution; alleging that there is no specific constitutional provision authorizing the taking of private property for tourism purposes; that assuming that PTA has such power, the intended use cannot be paramount to the determination of the land as a land reform area; that limiting the amount of compensation by legislative fiat is constitutionally repugnant; and that since the land is under the land reform program, it is the Court of Agrarian Relations and not the Court of First Instance (CFI), that has jurisdiction over the expropriation cases. The Philippine Tourism Authority having deposited with the Philippine National Bank, Cebu City Branch, an amount equivalent to 10% of the value of the properties pursuant to Presidential Decree No. 1533, the lower court issued separate orders authorizing PTA to take immediate possession of the premises and directing the issuance of writs of possession. The Heirs of Ardonas, et. al. filed a petition for certiorari with preliminary injunction before the Supreme Court.

Issue: Whether the expropriation of parcels of land for the purpose of constructing a sports complex, including a golf course, by the Philippine Tourism Authority be considered taking for “public use.”

Held: There are three provisions of the 1973 Constitution which directly provide for the exercise of the power of eminent domain. Section 2, Article IV states that private property shall not be taken for public use without just compensation. Section 6, Article XIV allows the State, in the interest of national welfare or defense and upon payment of just compensation to transfer to public ownership, utilities and other private enterprises to be operated by the government. Section 13, Article XIV states that the Batasang Pambansa may authorize upon payment of just compensation the expropriation of private lands to be subdivided into small lots and conveyed at cost to deserving citizens. While not directly mentioning the expropriation of private properties upon payment of just compensation, the provisions on social justice and agrarian reforms which allow the exercise of police power together with the power of eminent domain in the implementation of constitutional objectives are even more far reaching insofar as taxing of private property is concerned. The restrictive view of public use may be appropriate for a nation which circumscribes the scope of government activities and public concerns and which possesses big and correctly located public lands that obviate the need to take private property for public purposes. Neither circumstance applies to the Philippines. The Philippines has never been a laissez faire State, and the necessities which impel the exertion of sovereign power are all too often found in areas of scarce public land or limited government resources. There can be no doubt that expropriation for such traditional purposes as the construction of roads, bridges, ports, waterworks, schools, electric and telecommunications systems, hydroelectric power plants, markets and slaughterhouses, parks, hospitals, government office buildings, and flood control or irrigation systems is valid. However, the concept of public use is not limited to traditional purposes. Here as elsewhere the idea that “public use” is strictly limited to clear cases of “use by the public” has been discarded. The Philippine Tourism Authority has stressed that the development of the 808 hectares includes plans that would give the Heirs of Ardonas, et. al. and other displaced persons productive employment, higher incomes, decent housing, water and electric facilities, and
better living standards. The Court’s dismissal of the petition is, in part, predicated on those assurances. The right of the PTA to proceed with the expropriation of the 282 hectares already identified as fit for the establishment of a resort complex to promote tourism is, therefore, sustained.

28 Sumulong vs. Guerrero [GR L-48685, 30 September 1987]

Facts: On 5 December 1977 the National Housing Authority (NHA) filed a complaint for expropriation of parcels of land covering approximately 25 hectares, (in Antipolo Rizal) including the lots of Lorenzo Sumulong and Emilia Vidanes-Balaoing with an area of 6,667 square meters and 3,333 square meters respectively. The land sought to be expropriated were valued by the NHA at P1.00 per square meter adopting the market value fixed by the provincial assessor in accordance with presidential decrees prescribing the valuation of property in expropriation proceedings. Together with the complaint was a motion for immediate possession of the properties. The NHA deposited the amount of P158,980.00 with the Philippine National Bank, representing the “total market value” of the subject 25 hectares of land, pursuant to Presidential Decree 1224 which defines "the policy on the expropriation of private property for socialized housing upon payment of just compensation." On 17 January 1978, Judge Buenaventura Guerrero issued the order issuing a writ of possession in favor of NHA. Sumulong and Vidanes-Balaoing filed a motion for reconsideration on the ground that they had been deprived of the possession of their property without due process of law. This was, however, denied. They filed a petition for certiorari with the Supreme Court.

Issue: Whether the taking of private property for “socialized housing,” which would benefit a few and not all citizens, constitutes taking for "public use."

Held: The exercise of the power of eminent domain is subject to certain limitations imposed by the constitution (1973), i.e. that private property shall not be taken for public use without just compensation" (Art. IV, sec. 9); and that no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws" (Art. IV, sec. 1). The "public use" requirement for a valid exercise of the power of eminent domain is a flexible and evolving concept influenced by changing conditions. The term "public use" has acquired a more comprehensive coverage. To the literal import of the term signifying strict use or employment by the public has been added the broader notion of indirect public benefit or advantage. Specifically, urban renewal or redevelopment and the construction of low-cost housing is recognized as a public purpose, not only because of the expanded concept of public use but also because of specific provisions in the Constitution. The 1973 Constitution made it incumbent upon the State to establish, maintain and ensure adequate social services including housing [Art. II, sec. 7]. Housing is a basic human need. Shortage in housing is a matter of state concern since it directly and significantly affects public health, safety, the environment and in sum, the general welfare. The public character of housing measures does not change because units in housing projects cannot be occupied by all but only by those who satisfy prescribed qualifications. A beginning has to be made, for it is not possible to provide housing for all who need it, all at once. "Socialized housing" falls within the confines of "public use". Provisions on economic opportunities inextricably linked with low-cost housing, or slum clearance, relocation and resettlement, or slum improvement emphasize the public purpose of the project. Herein, the use to which it is proposed to put the subject parcels of land meets the requisites of "public use". The lands in question are being expropriated by the NHA for the expansion of Bagong Nayon Housing Project to provide housing facilities to low-salaried government employees. The Supreme Court holds that "socialized housing" defined in Presidential Decree 1224, as amended by Presidential Decrees 1259 and 1313, constitutes "public use" for purposes of expropriation. However, as previously held by the Supreme Court, the provisions of such decrees on just compensation are unconstitutional. Herein, the Court finds that the Orders issued pursuant to the corollary provisions of those decrees authorizing immediate taking without notice and hearing are violative of due process.
Narratives (Berne Guerrero)

29 Province of Camarines Sur vs. Court of Appeals [GR 103125, 17 May 1993]
First Division, Quiason (J): 3 concur

Facts: On 22 December 1988, the Sangguniang Panlalawigan of the Province of Camarines Sur passed Resolution 129, Series of 1988, authorizing the Provincial Governor to purchase or expropriate property contiguous to the provincial capitol site, in order to establish a pilot farm for non-food and non-traditional agricultural crops and a housing project for provincial government employees. Pursuant to the Resolution, the Province of Camarines Sur, through its Governor, Hon. Luis R. Villafuerte, filed two separate cases for expropriation against Ernesto N. San Joaquin and Efren N. San Joaquin with the Regional Trial Court, Pili, Camarines Sur (Hon. Benjamin V. Panga presiding; Special Civil Action Nos. P-17-89 and P-19-89). Fortwith, the Province of Camarines Sur filed a motion for the issuance of a writ of possession. The San Joaquins failed to appear at the hearing of the motion. The San Joaquins moved to dismiss the complaints on the ground of inadequacy of the price offered for their property. In an order dated 6 December 1989, the trial court denied the motion to dismiss and authorized the Province of Camarines Sur to take possession of the property upon the deposit with the Clerk of Court of the amount of P5,714.00, the amount provisionally fixed by the trial court to answer for damages that San Joaquin may suffer in the event that the expropriation cases do not prosper. The trial court issued a writ of possession in an order dated 18 January 1990. The San Joaquins filed a motion for relief from the order, authorizing the Province of Camarines Sur to take possession of their property and a motion to admit an amended motion to dismiss. Both motions were denied in the order dated 26 February 1990. The San Joaquins filed their petition before the Court of Appeals, praying (a) that Resolution No. 129, Series of 1988 of the Sangguniang Panlalawigan be declared null and void; (b) that the complaints for expropriation be dismissed; and (c) that the order dated December 6, 1989 (i) denying the motion to dismiss and (ii) allowing the Province of Camarines Sur to take possession of the property subject of the expropriation and the order dated February 26, 1990, denying the motion to admit the amended motion to dismiss, be set aside. They also asked that an order be issued to restrain the trial court from enforcing the writ of possession, and thereafter to issue a writ of injunction. The Court of Appeals set aside the order of the trial court, and ordered the trial court to suspend the expropriation proceedings until after the Province of Camarines Sur shall have submitted the requisite approval of the Department of Agrarian Reform to convert the classification of the property of the San Joaquins from agricultural to non-agricultural land. The Province of Camarines Sur filed a petition for certiorari before the Supreme Court.

Issue: Whether the establishment of the Pilot Development Center and the housing project are deemed for “public use.”

Held: Local government units have no inherent power of eminent domain and can exercise it only when expressly authorized by the legislature. In delegating the power to expropriate, the legislature may retain certain control or impose certain restraints on the exercise thereof by the local governments. While such delegated power may be a limited authority, it is complete within its limits. Moreover, the limitations on the exercise of the delegated power must be clearly expressed, either in the law conferring the power or in other legislations. It is the legislative branch of the local government unit that shall determine whether the use of the property sought to be expropriated shall be public, the same being an expression of legislative policy. The courts defer to such legislative determination and will intervene only when a particular undertaking has no real or substantial relation to the public use. Statutes conferring the power of eminent domain to political subdivisions cannot be broadened or constricted by implication. Section 9 of BP 337 does not intimate in the least that local government units must first secure the approval of the Department of Land Reform for the conversion of lands from agricultural to non-agricultural use, before they can institute the necessary expropriation proceedings. Likewise, there is no provision in the Comprehensive Agrarian Reform Law which expressly subjects the expropriation of agricultural lands by local government units to the control of the Department of Agrarian Reform. The rules on conversion of agricultural lands found in Section 4 (k) and 5 (1) of Executive Order 129-A, Series of 1987, cannot be the source of the authority of the Department of Agrarian Reform to determine the suitability of a parcel of agricultural land for the purpose to which it would
be devoted by the expropriating authority. While those rules vest on the Department of Agrarian Reform the exclusive authority to approve or disapprove conversions of agricultural lands for residential, commercial or industrial uses, such authority is limited to the applications for reclassification submitted by the land owners or tenant beneficiaries. Further, there has been a shift from the literal to a broader interpretation of "public purpose" or "public use" for which the power of eminent domain may be exercised. The old concept was that the condemned property must actually be used by the general public (e.g. roads, bridges, public plazas, etc.) before the taking thereof could satisfy the constitutional requirement of "public use". Under the new concept, "public use" means public advantage, convenience or benefit, which tends to contribute to the general welfare and the prosperity of the whole community, like a resort complex for tourists or housing project. The expropriation of the property authorized by Resolution 129, Series of 1988, is for a public purpose. The establishment of a pilot development center would inure to the direct benefit and advantage of the people of the Province of Camarines Sur. Once operational, the center would make available to the community invaluable information and technology on agriculture, fishery and the cottage industry. Ultimately, the livelihood of the farmers, fishermen and craftsmen would be enhanced. The housing project also satisfies the public purpose requirement of the Constitution. Housing is a basic human need. Shortage in housing is a matter of state concern since it directly and significantly affects public health, safety, the environment and in sum the general welfare. Thus, the decision of the Court of Appeals is set aside insofar as it (a) nullifies the trial court's order allowing the Province of Camarines Sur to take possession of the property of the San Joaquins; (b) orders the trial court to suspend the expropriation proceedings; and (c) requires the Province of Camarines Sur to obtain the approval of the Department of Agrarian Reform to convert or reclassify the property of the San Joaquins property from agricultural to non-agricultural use.

30 Manosca vs. Court of Appeals [GR 106440, 29 January 1996]
First Division, Vitug (J): 4 concur

Facts: Alejandro, Asuncion and Leonica Manosca inherited a piece of land located at P. Burgos Street, Calzada, Taguig, Metro Manila, with an area of about 492 square meters. When the parcel was ascertained by the National Historical Institute (NHI) to have been the birthsite of Felix Y. Manalo, the founder of Iglesia Ni Cristo, it passed Resolution 1, Series of 1986, pursuant to Section 4 of Presidential Decree 260, declaring the land to be a national historical landmark. The resolution was, on 6 January 1986, approved by the Minister of Education, Culture and Sports (MECS). Later, the opinion of the Secretary of Justice was asked on the legality of the measure. In his opinion 133, Series of 1987, the Secretary of Justice replied in the affirmative. Accordingly, on 29 May 1989, the Republic, through the office of the Solicitor-General, instituted a complaint for expropriation before the Regional Trial Court of Pasig for and in behalf of the NHI. At the same time, the Republic filed an urgent motion for the issuance of an order allowing it to take immediate possession of the property. The motion was opposed by the Manoscas. After a hearing, the trial court issued, on 3 August 1989, an order fixing the provisional market (P54,120.00) and assessed (P16,236.00) values of the property and authorizing the Republic to take over the property once the required sum would have been deposited with the Municipal Treasurer of Taguig, Metro Manila. The Manoscas moved to dismiss the complaint on the main thesis that the intended expropriation was not for a public purpose and, incidentally, that the act would constitute an application of public funds, directly or indirectly, for the use, benefit, or support of Iglesia ni Cristo, a religious entity, contrary to the provision of Section 29(2), Article VI, of the 1987 Constitution. The trial court issued its denial of said motion to dismiss. The Manoscas moved for reconsideration but were denied. The Manoscas then lodged a petition for certiorari and prohibition with the Court of Appeals. On 15 January 1992, the appellate court dismissed the petition for reconsideration of the decision was denied by the appellate court on 23 July 1992. The Manoscas filed a petition for review on certiorari with the Supreme Court.

Issue: Whether the setting up of the marker in commemoration of Felix Manalo, the founder of the religious sect Iglesia ni Cristo, constitutes “public use.”
Held: Eminent domain, also often referred to as expropriation and, with less frequency, as condemnation, is, like police power and taxation, an inherent power of sovereignty. It need not be clothed with any constitutional gear to exist; instead, provisions in our Constitution on the subject are meant more to regulate, rather than to grant, the exercise of the power. Eminent domain is generally so described as “the highest and most exact idea of property remaining in the government” that may be acquired for some public purpose through a method in the nature of a forced purchase by the State. It is a right to take or reassert dominion over property within the state for public use or to meet a public exigency. It is said to be an essential part of governance even in its most primitive form and thus inseparable from sovereignty. The only direct constitutional qualification is that “private property shall not be taken for public use without just compensation.” This prescription is intended to provide a safeguard against possible abuse and so to protect as well the individual against whose property the power is sought to be enforced. The term "public use," not having been otherwise defined by the constitution, must be considered in its general concept of meeting a public need or a public exigency. The validity of the exercise of the power of eminent domain for traditional purposes is beyond question; it is not at all to be said, however, that public use should thereby be restricted to such traditional uses. The idea that "public use" is strictly limited to clear cases of "use by the public" has long been discarded. The purpose in setting up the marker is essentially to recognize the distinctive contribution of the late Felix Manalo to the culture of the Philippines, rather than to commemorate his founding and leadership of the Iglesia ni Cristo. The attempt to give some religious perspective to the case deserves little consideration, for what should be significant is the principal objective of, not the casual consequences that might follow from, the exercise of the power. The practical reality that greater benefit may be derived by members of the Iglesia ni Cristo than by most others could well be true but such a peculiar advantage still remains to be merely incidental and secondary in nature. Indeed, that only a few would actually benefit from the expropriation of property does not necessarily diminish the essence and character of public use.

31 Estate of Salud Jimenez vs. Philippine Export Processing Zone [GR 137285, 16 January 2001]
Second Division, De Leon Jr. (J): 4 concur

Facts: On 15 May 1981, Philippine Export Processing Zone (PEZA), then called as the Export Processing Zone Authority (EPZA), initiated before the Regional Trial Court of Cavite expropriation proceedings on 3 parcels of irrigated riceland in Rosario, Cavite. One of the lots, Lot 1406 (A and B) of the San Francisco de Malabon Estate, with an approximate area of 29,008 square meters, is registered in the name of Salud Jimenez (TCT T-113498 of the Registry of Deeds of Cavite). More than 10 years later, the said trial court in an Order dated 11 July 1991 upheld the right of PEZA to expropriate, among others, Lot 1406 (A and B). Reconsideration of the said order was sought by the Estate of Salud Jimenez contending that said lot would only be transferred to a private corporation, Philippine Vinyl Corp., and hence would not be utilized for a public purpose. In an Order dated 25 October 1991, the trial court reconsidered the Order dated 11 July 1991 and released Lot 1406-A from expropriation while the expropriation of Lot 1406-B was maintained. Finding the said order unacceptable, PEZA interposed an appeal to the Court of Appeals. Meanwhile, the Estate and PEZA entered into a compromise agreement, dated 4 January 1993. The compromise agreement provides “(1) That plaintiff agrees to withdraw its appeal from the Order of the Honorable Court dated October 25, 1991 which released lot 1406-A from the expropriation proceedings. On the other hand, defendant Estate of Salud Jimenez agrees to waive, quitclaim and forfeit its claim for damages and loss of income which it sustained by reason of the possession of said lot by plaintiff from 1981 up to the present. (2) That the parties agree that defendant Estate of Salud Jimenez shall transfer lot 1406-B with an area of 13,118 square meters which forms part of the lot registered under TCT No. 113498 of the Registry of Deeds of Cavite to the name of the plaintiff and the same shall be swapped and exchanged with lot 434 with an area of 14,167 square meters and covered by Transfer Certificate of Title No. 14772 of the Registry of Deeds of Cavite which lot will be transferred to the name of Estate of Salud Jimenez. (3) That the swap arrangement recognizes the fact that the lot 1406-B covered by TCT No. T-113498 of the estate of defendant Salud Jimenez is considered expropriated in favor of the government based on Order of the Honorable Court dated July 11, 1991. However, instead of being paid

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the just compensation for said lot, the estate of said defendant shall be paid with lot 434 covered by TCT No. T-14772. (4) That the parties agree that they will abide by the terms of the foregoing agreement in good faith and the Decision to be rendered based on this Compromise Agreement is immediately final and executory.

The Court of Appeals remanded the case to the trial court for the approval of the said compromise agreement entered into between the parties, consequent with the withdrawal of the appeal with the Court of Appeals. In the Order dated 23 August 1993, the trial court approved the compromise agreement. However, PEZA failed to transfer the title of Lot 434 to the Estate inasmuch as it was not the registered owner of the covering TCT T-14772 but Progressive Realty Estate, Inc. Thus, on 13 March 1997, the Estate filed a "Motion to Partially Annul the Order dated August 23, 1993." In the Order dated 4 August 1997, the trial court annulled the said compromise agreement entered into between the parties and directed PEZA to peacefully turn over Lot 1406-A to the Estate. Disagreeing with the said Order of the trial court, respondent PEZA moved for its reconsideration, which was denied in an order dated 3 November 1997. On 4 December 1997, the trial court, at the instance of the Estate, corrected the Orders dated 4 August 1997 and 3 November 1997 by declaring that it is Lot 1406-B and not Lot 1406-A that should be surrendered and returned to the Estate. On 27 November 1997, PEZA interposed before the Court of Appeals a petition for certiorari and prohibition seeking to nullify the Orders dated 4 August 1997 and 3 November 1997 of the trial court. Acting on the petition, the Court of Appeals, in a Decision dated 25 March 1998, partially granted the petition by setting aside the order of the trial court regarding "the peaceful turn over to the Estate of Salud Jimenez of Lot 1406-B" and instead ordered the trial judge to "proceed with the hearing of the expropriation proceedings regarding the determination of just compensation over Lot 1406-B." The Estate sought reconsideration of the Decision dated 25 March 1998. However, the appellate court in a Resolution dated 14 January 1999 denied the Estate's motion for reconsideration. The Estate filed a petition for review on certiorari with the Supreme Court.

**Issue:** Whether the purpose of the expropriation by PEZA is of "public use."

**Held:** This is an expropriation case which involves two (2) orders: an expropriation order and an order fixing just compensation. Once the first order becomes final and no appeal thereto is taken, the authority to expropriate and its public use cannot anymore be questioned. Contrary to the Estate's contention, the incorporation of the expropriation order in the compromise agreement did not subject said order to rescission but instead constituted an admission by the Estate of PEZA's authority to expropriate the subject parcel of land and the public purpose for which it was expropriated. This is evident from paragraph three (3) of the compromise agreement which states that the "swap arrangement recognizes the fact that Lot 1406-B covered by TCT T-113498 of the estate of defendant Salud Jimenez is considered expropriated in favor of the government based on the Order of the Honorable Court dated 11 July 1991." It is crystal clear from the contents of the agreement that the parties limited the compromise agreement to the matter of just compensation to the Estate. Said expropriation order is not closely intertwined with the issue of payment such that failure to pay by PEZA will also nullify the right of PEZA to expropriate. No statement to this effect was mentioned in the agreement. The Order was mentioned in the agreement only to clarify what was subject to payment. Since the compromise agreement was only about the mode of payment by swapping of lots and not about the right and purpose to expropriate the subject Lot 1406-B, only the originally agreed form of compensation that is by cash payment, was rescinded. PEZA has the legal authority to expropriate the subject Lot 1406-B and that the same was for a valid public purpose. PEZA expropriated the subject parcel of land pursuant to Proclamation 1980 dated 30 May 1980 issued by former President Ferdinand Marcos. Meanwhile, the power of eminent domain of respondent is contained in its original charter, Presidential Decree 66. Accordingly, subject Lot 1406-B was expropriated "for the construction of terminal facilities, structures and approaches thereto." The authority is broad enough to give PEZA substantial leeway in deciding for what public use the expropriated property would be utilized. Pursuant to this broad authority, PEZA leased a portion of the lot to commercial banks while the rest was made a transportation terminal. Said public purposes were even reaffirmed by Republic Act 7916, a law amending PEZA's original charter. As reiterated in various case, the "public use" requirement for a valid exercise of the power of eminent domain is a flexible and evolving concept influenced by changing conditions. The term "public use" has acquired a more
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comprehensive coverage. To the literal import of the term signifying strict use or employment by the public has been added the broader notion of indirect public benefit or advantage. What ultimately emerged is a concept of public use which is just as broad as "public welfare."

32 Municipality of Meycauayan vs. Intermediate Appellate Court [GR L-72126, 29 January 1988]

Third Division, Gutierrez Jr. (J): 4 concur

Facts: In 1975, the Philippine Pipes and Merchandising Corporation (PPMC) filed with the Office of the Municipal Mayor of Meycauayan, Bulacan, an application for a permit to fence a parcel of land with a width of 26.8 meters and a length of 184.37 meters covered by TCTs 215165 and 37879. The fencing of said property was allegedly to enable the storage of PMC's heavy equipment and various finished products such as large diameter steel pipes, pontoon pipes for ports, wharves, and harbors, bridge components, pre-stressed girders and piles, large diameter concrete pipes, and parts for low cost housing. In the same year, the Municipal Council of Meycauayan, headed by then Mayor Celso R. Legaspi, passed Resolution 258, Series of 1975, manifesting the intention to expropriate the respondent's parcel of land covered by TCT 37879. An opposition to the resolution was filed by the PPMC with the Office of the Provincial Governor, which, in turn, created a special committee of four members to investigate the matter. On 10 March 1976, the Special Committee recommended that the Provincial Board of Bulacan disapprove or annul the resolution in question because there was no genuine necessity for the Municipality of Meycauayan to expropriate the respondent's property for use as a public road. On the basis of this report, the Provincial Board of Bulacan passed Resolution 238, Series of 1976, disapproving and annulling Resolution 258, Series of 1975, of the Municipal Council of Meycauayan. The PPMC, then, reiterated to the Office of the Mayor its petition for the approval of the permit to fence the aforesaid parcels of land. On 21 October 1983, however, the Municipal Council of Meycauayan, now headed by Mayor Adriano D. Daez, passed Resolution 21, Series of 1983, for the purpose of expropriating anew PPMC's land. The Provincial Board of Bulacan approved the aforesaid resolution on 25 January 1984. Thereafter, the Municipality of Meycauayan, on 14 February 1984, filed with the Regional Trial Court of Malolos, Bulacan, Branch VI, a special civil action for expropriation. Upon deposit of the amount of P24,025.00, which is the market value of the land, with the Philippine National Bank, the trial court on 1 March 1984 issued a writ of possession in favor of the municipality. On 27 August 1984, the trial court issued an order declaring the taking of the property as lawful and appointing the Provincial Assessor of Bulacan as court commissioner who shall hold the hearing to ascertain the just compensation for the property. PPMC went to the Intermediate Appellate Court on petition for review. On 10 January 1985, the appellate court affirmed the trial court's decision. However, upon motion for reconsideration by PPMC, the decision was re-examined and reversed. The appellate court held that there is no genuine necessity to expropriate the land for use as a public road as there were several other roads for the same purpose and another more appropriate lot for the proposed public road. The court, taking into consideration the location and size of the land, also opined that the land is more ideal for use as storage area for respondent's heavy equipment and finished products. After its motion for reconsideration was denied, the municipality went to the Supreme Court on petition for review on certiorari on 25 October 1985.

Issue: Whether there is genuine necessity to expropriate PPMC’s property for the purpose of a connecting road, in light of other appropriate lots for the purpose.

Held: There is no question here as to the right of the State to take private property for public use upon payment of just compensation. What is questioned is the existence of a genuine necessity therefor. The foundation of the right to exercise the power of eminent domain is genuine necessity and that necessity must be of a public character. Condemnation of private property is justified only if it is for the public good and there is a genuine necessity of a public character. Consequently, the courts have the power to require into the legality of the exercise of the right of eminent domain and to determine whether there is a genuine necessity therefor. The government may not capriciously choose what private property should be taken. With due recognition then of the power of Congress to designate the particular property to be taken and how much

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thereof may be condemned in the exercise of the power of expropriation, it is still a judicial question whether in the exercise of such competence, the party adversely affected is the victim of partiality and prejudice. That the equal protection clause will not allow. The Special Committee's Report, dated 10 March 1976, stated that "there is no genuine necessity for the Municipality of Meycauayan to expropriate the aforesaid property of the Philippine Pipes and Merchandizing Corporation for use as a public road. Considering that in the vicinity there are other available road and vacant lot offered for sale situated similarly as the lot in question and lying idle, unlike the lot sought to be expropriated which was found by the Committee to be badly needed by the company as a site for its heavy equipment after it is fenced together with the adjoining vacant lot, the justification to condemn the same does not appear to be very imperative and necessary and would only cause unjustified damage to the firm. The desire of the Municipality of Meycauayan to build a public road to decongest the volume of traffic can be fully and better attained by acquiring the other available roads in the vicinity maybe at lesser costs without causing harm to an establishment doing legitimate business therein. Or, the municipality may seek to expropriate a portion of the vacant lot also in the vicinity offered for sale for a wider public road to attain decongestion of traffic because as observed by the Committee, the lot of the Corporation sought to be taken will only accommodate a one-way traffic lane and therefore, will not suffice to improve and decongest the flow of traffic and pedestrians in the Malhacan area." There is absolutely no showing in the petition why the more appropriate lot for the proposed road which was offered for sale has not been the subject of the municipalities's attempt to expropriate assuming there is a real need for another connecting road.

33 De Knecht vs. Bautista [GR L-51078, 30 October 1980]

First Division, Fernandez (J): 4 concur

Facts: In 1970, the government through the Department of Public Works and Communications (now Ministry of Public Highways [MPH]) prepared a plan to extend Epifanio de los Santos Avenue (EDSA) to Roxas Boulevard. The proposed extension, an adjunct of another road-building program, the Manila—Cavite Coastal Road Project, would pass through Cuneta Avenue up to Roxas Boulevard. The route was designed to be a straight one, taking into account the direction of EDSA. Preparatory to the implementation of the aforesaid plan, or on 13 December 1974, then Secretary Baltazar Aquino of the Department of Public Highways directed the City Engineer of Pasay City not to issue temporary or permanent permits for the construction and/or improvement of buildings and other structures located within the proposed extension through Cuneta Avenue. Shortly thereafter the Department of Public Highways decided to make the proposed extension go through Fernando Rein and Del Pan Streets which are lined with old substantial houses. Upon petition of the residents therein to the President of the Philippines for the implementation of the original plan, the President referred the matter to the Human Settlements Commission. The Commission submitted its report recommending the reversion to the original plan passing through Cuneta Avenue. Notwithstanding said recommendation, the MPH insisted on implementing the plan to make the extension of EDSA go through Fernando Rein and Del Pan Streets. In February 1979, the government filed in the Court of First Instance (CFI) of Rizal, Branch III, Pasay City (Judge Pedro JL. Bautista presiding; Civil Case 7001-P), a complaint for expropriation against the owners of the houses standing along Fernando Rein and Del Pan Streets, among them Cristina de Knecht. De Knecht filed a motion to dismiss dated 9 March 1979. An urgent motion dated 28 March 1979 for preliminary injunction was also filed. In June 1979 the Republic of the Philippines filed a motion for the issuance of a writ of possession of the property sought to be expropriated on the ground that said Republic had made the required deposit with the Philippine National Bank. Judge Bautista issued a writ of possession dated 14 June 1979 authorizing the Republic of the Philippines to take and enter upon the possession of the properties sought so be condemned. De Knecht filed a petition for certiorari and prohibition with the Supreme Court, praying that judgment be rendered annulling the order for immediate possession issued by respondent court in the expropriation proceedings and commanding the Republic to desist from further proceedings in the expropriation action or the order for immediate possession issued in said action.

Issue: Whether the expropriation of the residential lots in Fernando Rein and Del Pan Streets is genuinely
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necessary, in light of similar acceptable lots along cuneta avenue which were subject of the original plan.

held: there is no question as to the right of the republic of the philippines to take private property for public use upon the payment of just compensation. section 2, article iv of the constitution of the philippines provides that "private property shall not be taken for public use without just compensation." it is recognized, however, that the government may not capriciously or arbitrarily choose what private property should be taken. a landowner is covered by the mantle of protection due process affords. it is a mandate of reason. it frowns on arbitrariness, it is the antithesis of any governmental act that smacks of whim or caprice. it negates state power to act in an oppressive manner. it is, as had been stressed so often, the embodiment of the sporting idea off air play. in that sense, it stands as a guaranty of justice. that is the standard that must be met by any governmental agency in the exercise of whatever competence is entrusted to it. as was so emphatically stressed by the present chief justice, acts of congress, as well as those of the executive, can deny due process only under pain of nullity. herein, it is a fact that the department of public highways originally establish the extension of edsa along cuneta avenue. it is to be presumed that the department of public highways made studies before deciding on cuneta avenue. it is indeed odd why suddenly the proposed extension of edsa to roxas boulevard was changed to go through fernando rein — del pan streets which the solicitor general concedes "the del pan — fernando rein streets line follows northward and inward direction while admitting "that both lines, cuneta avenue and del pan — fernando rein streets lines, meet satisfactorily planning and design criteria and therefore are both acceptable", the solicitor general justifies the change to del pan — fernando rein streets on the ground that the government "wanted to minimize the social impact factor or problem involved." it is doubtful whether the extension of edsa along cuneta avenue can be objected to on the ground of social impact. the improvements and buildings along cuneta avenue to be affected by the extension are mostly motels. even granting, arguendo, that more people will be affected, the human settlements commission has suggested coordinative efforts of said commission with the national housing authority and other government agencies in the relocation and resettlement of those adversely affected. from the facts of record and recommendations of the human settlements commission, it is clear that the choice of fernando rein — del pan streets as the line through which the epifanio de los santos avenue should be extended to roxas boulevard is arbitrary and should not receive judicial approval.

34 republic vs. de knecht [gr 87335, 12 february 1990]

first division, gancayco (j): 3 concur

facts: on 20 february 1979 the republic of the philippines filed in the court of first instance (cfi) of rizal in pasay city an expropriation proceedings against the owners of the houses standing along fernando rein-del pan streets among them cristina de knecht together with concepcion cabarrus, and some 15 other defendants (civil case 7001-p). on 19 march 1979, de knecht filed a motion to dismiss alleging lack of jurisdiction, pendency of appeal with the president of the philippines, prematureness of complaint and arbitrary and erroneous valuation of the properties. on 29 march 1979 de knecht filed an ex parte urgent motion for the issuance by the trial court of a restraining order to restrain the republic from proceeding with the taking of immediate possession and control of the property sought to be condemned. in june 1979, the republic filed a motion for the issuance of a writ of possession of the property to be expropriated on the ground that it had made the required deposit with the philippine national bank (pnb) of 10% of the amount of compensation stated in the complaint. in an order dated 14 june 1979 the lower court issued a writ of possession authorizing the republic to enter into and take possession of the properties sought to be condemned, and created a committee of three to determine the just compensation for the lands involved in the proceedings. on 16 july 1979, de knecht filed with this court a petition for certiorari and prohibition (gr no. l-51078) and directed against the order of the lower court dated 14 june 1979 praying that the republic be commanded to desist from further proceeding in the expropriation action and from implementing said order. on 30 october 1980, the supreme court rendered a decision, granting the petition for certiorari and prohibition and setting aside the 14 june 1979 order of the judge bautista.
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On 8 August 1981, Maria Del Carmen Roxas Vda. de Elizalde, Francisco Elizalde and Antonio Roxas moved to dismiss the expropriation action in compliance with the dispositive portion of the aforesaid decision of the Supreme Court which had become final and in order to avoid further damage to latter who were denied possession of their properties. The Republic filed a manifestation on 7 September 1981 stating, among others, that it had no objection to the said motion to dismiss as it was in accordance with the aforesaid decision. However, on 2 September 1983, the Republic filed a motion to dismiss said case due to the enactment of the Batas Pambansa 340 expropriating the same properties and for the same purpose. The lower court in an order of 2 September 1983 dismissed the case by reason of the enactment of the said law. The motion for reconsideration thereof was denied in the order of the lower court dated 18 December 1986. De Knecht appealed from said order to the Court of Appeals wherein in due course a decision was rendered on 28 December 1988, setting aside the order appealed from and dismissing the expropriation proceedings. The Republic filed the petition for review with the Supreme Court.

Issue: Whether an expropriation proceeding that was determined by a final judgment of the Supreme Court may be the subject of a subsequent legislation for expropriation.

Held: While it is true that said final judgment of the Supreme Court on the subject becomes the law of the case between the parties, it is equally true that the right of the Republic to take private properties for public use upon the payment of the just compensation is so provided in the Constitution and our laws. Such expropriation proceedings may be undertaken by the Republic not only by voluntary negotiation with the land owners but also by taking appropriate court action or by legislation. When on 17 February 1983 the Batasang Pambansa passed BP 340 expropriating the very properties subject of the present proceedings, and for the same purpose, it appears that it was based on supervening events that occurred after the decision of the Supreme Court was rendered in De Knecht in 1980 justifying the expropriation through the Fernando Rein-Del Pan Streets. The social impact factor which persuaded the Court to consider this extension to be arbitrary had disappeared. All residents in the area have been relocated and duly compensated. 80% of the EDSA outfall and 30% of the EDSA extension had been completed. Only De Knecht remains as the solitary obstacle to this project that will solve not only the drainage and flood control problem but also minimize the traffic bottleneck in the area. Moreover, the decision, is no obstacle to the legislative arm of the Government in thereafter making its own independent assessment of the circumstances then prevailing as to the propriety of undertaking the expropriation of the properties in question and thereafter by enacting the corresponding legislation as it did in this case. The Court agrees in the wisdom and necessity of enacting BP 340. Thus the anterior decision of this Court must yield to this subsequent legislative fiat.

35 Philippine Press Institute vs. Commission on Elections [GR 119694, 22 May 1995]

Resolution En Banc, Feliciano (J): 12 concur, 1 on leave

Facts: On 2 March 1995, the Commission on Elections (Comelec) promulgated Resolution 2772, which provided that (1) the Commission shall procure free print space of not less than 1/2 page in at least one newspaper of general circulation in every province or city for use as "Comelec Space" from 6 March until 12 May 1995; and that in the absence of said newspaper, "Comelec Space" shall be obtained from any magazine or periodical of said province or city; (2) that "Comelec Space" shall be allocated by the Commission, free of charge, among all candidates within the area in which the newspaper, magazine or periodical is circulated to enable the candidates to make known their qualifications, their stand on public issues and their platforms and programs of government; and that the "Comelec Space" shall also be used by the Commission for dissemination of vital election information' among others. Apparently in implementation of the Resolution, Comelec through Commissioner Regalado E. Maambong sent identical letters, dated 22 March 1995, to various publishers of newspapers like the Business World, the Philippine Star, the Malaya and the Philippine Times Journal, all members of Philippine Press Institute (PPI), advising the latter that they are directed to provide free print space of not less than 1/2 page for use as "Comelec Space" or similar to the print support which the latter have extended during the 11 May 1992 synchronized elections which was 2 full pages for

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each political party fielding senatorial candidates, from 6 March to 6 May 1995, to make known to their qualifications, their stand on public issues and their platforms and programs of government. PPI filed a Petition for Certiorari and Prohibition with prayer for the issuance of a Temporary restraining order before the Supreme Court to assail the validity of Resolution 2772 and the corresponding directive dated 22 March 1995.

Issue: Whether there was necessity for the taking, i.e. compelling print media companies to donate “Comelec space.”

Held: To compel print media companies to donate "Comelec space" of the dimensions specified in Section 2 of Resolution 2772 (not less than 1/2 Page), amounts to "taking" of private personal property for public use or purposes. Section 2 failed to specify the intended frequency of such compulsory "donation." The extent of the taking or deprivation is not insubstantial; this is not a case of a de minimis temporary limitation or restraint upon the use of private property. The monetary value of the compulsory "donation," measured by the advertising rates ordinarily charged by newspaper publishers whether in cities or in non-urban areas, may be very substantial indeed. The taking of print space here sought to be effected may first be appraised under the public of expropriation of private personal property for public use. The threshold requisites for a lawful taking of private property for public use need to be examined here: one is the necessity for the taking; another is the legal authority to effect the taking. The element of necessity for the taking has not been shown by the Comelec. It has not been suggested that the members of PPI are unwilling to sell print space at their normal rates to Comelec for election purposes. Similarly, it has not been suggested, let alone demonstrated, that Comelec has been granted the power of eminent domain either by the Constitution or by the legislative authority. A reasonable relationship between that power and the enforcement and administration of election laws by Comelec must be shown; it is not casually to be assumed. That the taking is designed to subserve "public use" is not contested by PPI. Only that, under Section 3 of Resolution 2772, the free "Comelec space" sought by the Comelec would be used not only for informing the public about the identities, qualifications and programs of government of candidates for elective office but also for "dissemination of vital election information" (including, presumably, circulars, regulations, notices, directives, etc. issued by Comelec). It seems to the Court a matter of judicial notice that government offices and agencies (including the Supreme Court) simply purchase print space, in the ordinary course of events, when their rules and regulations, circulars, notices and so forth need officially to be brought to the attention of the general public. The taking of private property for public use, of course, authorized by the Constitution, but not without payment of "just compensation." Thus, although there is nothing at all to prevent newspaper and magazine publishers from voluntarily giving free print space to Comelec for the purposes contemplated in Resolution 2772; Section 2 of resolution 2772 does not provide a constitutional basis for compelling publishers, against their will to provide free print space for Comelec purposes. Section 2 does not constitute a valid exercise of the power of eminent domain.

**36 National Housing Authority vs. Heirs f Isidro Guivelondo [GR 154411, 19 June 2003]**

First Division, Ynares-Santiago (J): 4 concur

**Facts:** On 23 February 1999, the National Housing Authority (NHA) filed with the Regional Trial Court (RTC) of Cebu City, Branch 11, an Amended Complaint for eminent domain against Asociacion Benevola de Cebu, Engracia Urot and the Heirs of Isidro Guivelondo (Civil Case CEB-23386), alleging that Asociacion Benevola de Cebu was the claimant/owner of Lot 108-C located in the Banilad Estate, Cebu City; that Engracia Urot was the claimant/owner of Lots 108-F, 108-I, 108-G, 6019-A and 6013-A, all of the Banilad Estate; that the Heirs of Isidro Guivelondo were the claimants/owners of Cadastral Lot 1613-D located at Carreta, Mabolo, Cebu City; and that the lands are within a blighted urban center which petitioner intends to develop as a socialized housing project. On 12 November 1999, the Heirs of Isidro Guivelondo, filed a Manifestation stating that they were waiving their objections to the NHA’s power to expropriate their properties. Hence, the trial court issued an Order declaring that the NHA has a lawful right to expropriate the
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properties of the heirs of Isidro Guivelondo. Thereafter, the trial court appointed 3 Commissioners to ascertain the correct and just compensation of the properties of the Heirs. On 17 April 2000, the Commissioners submitted their report wherein they recommended that the just compensation of the subject properties be fixed at P11,200.00 per square meter. On 7 August 2000, the trial court rendered Partial Judgment adopting the recommendation of the Commissioners and fixing the just compensation of the lands of the Heirs at P11,200.00 per square meter. The NHA filed two motions for reconsideration dated 30 August 2000 and 31 August 2000, assailing the inclusion of Lots 12, 13 and 19 as well as the amount of just compensation, respectively. The Heirs also filed a motion for reconsideration of the Partial Judgment. On 11 October 2000, the trial court issued an Omnibus Order denying the motion for reconsideration of the Heirs and the 31 August 2000 motion of petitioner, on the ground that the fixing of the just compensation had adequate basis and support. On the other hand, the trial court granted NHA’s 30 August 2000 motion for reconsideration on the ground that the Commissioner’s Report did not include Lots 12, 13 and 19 within its coverage. The NHA filed with the Court of Appeals a petition for certiorari (CA-GR SP 61746). Meanwhile, on 31 October 2000, the trial court issued an Entry of Judgment over the Partial Judgment dated 7 August 2000 as modified by the Omnibus Order dated 11 October 2000. Subsequently, the Heirs filed a Motion for Execution, which was granted on 22 November 2000. On 31 January 2001, the Court of Appeals dismissed the petition for certiorari on the ground that the fixing of the just compensation had adequate basis and support. NHA’s Motion for Reconsideration and Urgent Ex-Parte Motion for a Clarificatory Ruling were denied in a Resolution dated 18 March 2001. A petition for review was filed by the NHA with the Supreme Court (GR 147527). However, the same was denied in a Minute Resolution dated 9 May 2001 for failure to show that the Court of Appeals committed a reversible error. NHA filed a Motion for Reconsideration which was however denied with finality on 20 August 2001.

Prior to the denial of the Motion for Reconsideration, NHA, on 16 July 2001, filed with the trial court a Motion to Dismiss Civil Case CEB-23386, complaint for eminent domain, alleging that the implementation of its socialized housing project was rendered impossible by the unconscionable value of the land sought to be expropriated, which the intended beneficiaries can not afford. The Motion was denied on 17 September 2001, on the ground that the Partial Judgment had already become final and executory and there was no just and equitable reason to warrant the dismissal of the case. NHA filed a Motion for Reconsideration, which was denied in an Order dated 20 November 2001. NHA thus filed a petition for certiorari with the Court of Appeals (CA-GR SP 68670), praying for the annulment of the Order of the trial court denying its Motion to Dismiss and its Motion for Reconsideration. On 5 February 2002, the Court of Appeals summarily dismissed the petition. Immediately thereafter, Sheriff Pascual Y. Abordo of the Regional Trial Court (RTC) of Cebu City, Branch 11, served on the NHA a Notice of Levy pursuant to the Writ of Execution issued by the trial court to enforce the Partial Judgment of 7 August 2000 and the Omnibus Order of 11 October 2000. On 18 February 2002, the Court of Appeals set aside the dismissal of the petition and reinstated the same. Thereafter, a temporary restraining order was issued enjoining the sheriff to preserve the status quo. On 27 May 2002, the sheriff served on the Landbank of the Philippines a Notice of Third Garnishment against the deposits, moneys and interests of NHA therein. Subsequently, the sheriff levied on funds and personal properties of the NHA. On 16 July 2002, the Court of Appeals dismissed the petition for certiorari. NHA filed the petition for review before the Supreme Court.

Issue: Whether the NHA can abandon an expropriation proceedings if it disagrees with the price recommended by the Commissioners appointed by the court as just compensation.

Held: Expropriation proceedings consists of two stages: first, condemnation of the property after it is determined that its acquisition will be for a public purpose or public use and, second, the determination of just compensation to be paid for the taking of private property to be made by the court with the assistance of not more than three commissioners. The first is concerned with the determination of the authority of the plaintiff to exercise the power of eminent domain and the propriety of its exercise in the context of the facts involved in the suit. It ends with an order, if not of dismissal of the action, “of condemnation declaring that the
plaintiff has a lawful right to take the property sought to be condemned, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the filing of the complaint." An order of dismissal, if this be ordained, would be a final one, of course, since it finally disposes of the action and leaves nothing more to be done by the Court on the merits. So, too, would an order of condemnation be a final one, for thereafter, as the Rules expressly state, in the proceedings before the Trial Court, "no objection to the exercise of the right of condemnation (or the propriety thereof) shall be filed or heard." The second phase of the eminent domain action is concerned with the determination by the Court of "the just compensation for the property sought to be taken." This is done by the Court with the assistance of not more than three (3) commissioners. The order fixing the just compensation on the basis of the evidence before, and findings of, the commissioners would be final, too. It would finally dispose of the second stage of the suit, and leave nothing more to be done by the Court regarding the issue. Obviously, one or another of the parties may believe the order to be erroneous in its appreciation of the evidence or findings of fact or otherwise. Obviously, too, such a dissatisfied party may seek a reversal of the order by taking an appeal therefrom. Herein, the NHA did not appeal the Order of the trial court dated 10 December 1999, which declared that it has a lawful right to expropriate the properties of the Heirs of Isidro Guivelondo. Hence, the Order became final and may no longer be subject to review or reversal in any court. A final and executory decision or order can no longer be disturbed or reopened no matter how erroneous it may be. Although judicial determinations are not infallible, judicial error should be corrected through appeals, not through repeated suits on the same claim. The public purpose of the socialized housing project is not in any way diminished by the amount of just compensation that the court has fixed. The need to provide decent housing to the urban poor dwellers in the locality was not lost by the mere fact that the land cost more than the NHA had expected. It is worthy to note that petitioner pursued its petition for certiorari with the Court of Appeals assailing the amount of just compensation and its petition for review with the Supreme Court which eloquently indicates that there still exists a public use for the housing project. It was only after its appeal and petitions for review were dismissed that the NHA made a complete turn-around and decided it did not want the property anymore. The landowners had already been prejudiced by the expropriation case. The NHA cannot be permitted to institute condemnation proceedings against respondents only to abandon it later when it finds the amount of just compensation unacceptable.

37 Eslaban vs. Vda. de Onorio [GR 146062, 28 June 2001]  
Second Division, Mendoza (J): 4 concur

Facts: Clarita Vda. de Onorio is the owner of a lot in Barangay M. Roxas, Sto. Nino, South Cotabato with an area of 39,512 square meters (Lot 1210-A-Pad-11-000586, TCT T-22121 of the Registry of Deeds, South Cotabato). On 6 October 1981, Santiago Eslaban, Jr., Project Manager of the NIA, approved the construction of the main irrigation canal of the NIA on the said lot, affecting a 24,660 square meter portion thereof. De Onorio's husband agreed to the construction of the NIA canal provided that they be paid by the government for the area taken after the processing of documents by the Commission on Audit. Sometime in 1983, a Right-of-Way agreement was executed between De Onorio and the NIA. The NIA then paid De Onorio the amount of P4,180.00 as Right-of-Way damages. De Onorio subsequently executed an Affidavit of Waiver of Rights and Fees whereby she waived any compensation for damages to crops and improvements which she suffered as a result of the construction of a right-of-way on her property. The same year, Eslaban offered De Onorio the sum of P35,000,00 by way of amicable settlement (financial assistance) pursuant to Executive Order 1035, §18. De Onorio demanded payment for the taking of her property, but Eslaban/NIA refused to pay. Accordingly, De Onorio filed on 10 December 1990 a complaint against Eslaban before the Regional Trial Court (RTC), praying that Eslaban/NIA be ordered to pay the sum of P111,299.55 as compensation for the portion of her property used in the construction of the canal constructed by the NIA, litigation expenses, and the costs. Eslaban admitted that NIA constructed an irrigation canal over the property of De Onorio and that NIA paid a certain landowner whose property had been taken for irrigation purposes, but Eslaban interposed the defense that: (1) the government had not consented to be sued; (2) the total area used by the NIA for its irrigation canal was only 2.27 hectares, not 24,600 square meters; and (3) that De Onorio was not entitled to
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compensation for the taking of her property considering that she secured title over the property by virtue of a homestead patent under Commonwealth Act 141. On 18 October 1993, the trial court rendered a decision, ordering the NIA to pay to De Onorio the sum of P107,517.60 as just compensation for the questioned area of 24,660 square meters of land owned by De Onorio and taken by the NIA which used it for its main canal plus costs. On 15 November 1993, the NIA appealed to the Court of Appeals which, on 31 October 2000, affirmed the decision of the Regional Trial Court. NIA filed the petition for review.

Issue: Whether the valuation of just compensation is determined at the time the property was taken or at the time the complaint for expropriation is filed.

Held: Whenever public lands are alienated, granted or conveyed to applicants thereof, and the deed grant or instrument of conveyance [sales patent] registered with the Register of Deeds and the corresponding certificate and owner's duplicate of title issued, such lands are deemed registered lands under the Torrens System and the certificate of title thus issued is as conclusive and indefeasible as any other certificate of title issued to private lands in ordinary or cadastral registration proceedings. The only servitude which a private property owner is required to recognize in favor of the government is the easement of a "public highway, way, private way established by law, or any government canal or lateral thereof where the certificate of title does not state that the boundaries thereof have been pre-determined." This implies that the same should have been pre-existing at the time of the registration of the land in order that the registered owner may be compelled to respect it. Conversely, where the easement is not pre-existing and is sought to be imposed only after the land has been registered under the Land Registration Act, proper expropriation proceedings should be had, and just compensation paid to the registered owner thereof. Herein, the irrigation canal constructed by the NIA on the contested property was built only on 6 October 1981, several years after the property had been registered on 13 May 1976. Accordingly, prior expropriation proceedings should have been filed and just compensation paid to the owner thereof before it could be taken for public use. With respect to the compensation which the owner of the condemned property is entitled to receive, it is likewise settled that it is the market value which should be paid or "that sum of money which a person, desirous but not compelled to buy, and an owner, willing but not compelled to sell, would agree on as a price to be given and received therefor." Further, just compensation means not only the correct amount to be paid to the owner of the land but also the payment of the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered "just" for then the property owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss. Nevertheless, there are instances where the expropriating agency takes over the property prior to the expropriation suit, in which case just compensation shall be determined as of the time of taking, not as of the time of filing of the action of eminent domain. The value of the property, thus, must be determined either as of the date of the taking of the property or the filing of the complaint, "whichever came first."

38 Republic vs. Intermediate Appellate Court [GR 71176, 21 May 1990]

Third Division, Fernan (CJ): 2 concur, 2 took no part

Facts: Avegon, Inc., offered 4 parcels of land with a total area of 9,650 square meters located at 2090 Dr. Manuel L. Carreon Street, Manila, for sale to the City School Board of Manila on 21 July 1973 at P2,300,000. The school board was willing to buy at P1,800,000 but the then Mayor of Manila intervened and volunteered to negotiate with Avegon, Inc. for a better price. Inasmuch as the alleged negotiation did not materialize, on 3 June 1974, Avegon, Inc. sold the property and its improvements to Amerex Electronics, Phils. Corporation for P1,800,000. Thereafter, TCTs 115571, 115572, 115573 and 115574 were issued in favor of Amerex. On 29 August 1975, the Solicitor General filed for the Department of Education and Culture (DEC) a complaint against Amerex for the expropriation of said property before the Court of First Instance of Manila (Civil Case 99190), stating therein that the property was needed by the government as a permanent site for the Manuel de la Fuente High School (later renamed Don Mariano Marcos Memorial High School); that the fair market

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value of the property had been declared by Amerex as P2,435,000, and that the assessor had determined its market value as P2,432,042 and assessed it for taxation purposes in the amount of P1,303,470. On 9 October 1975, the court issued an order directing the sheriff to place the Republic in possession of the property, after informing the court that the assessed value of the property for taxation purposes had been deposited with the Philippine National Bank (PNB) in Escolta, Manila on 30 September 1975. The plaintiff took actual possession thereof on 13 October 1975. Amerex filed a motion to dismiss the complaint stating that while it was not contesting the merits of the complaint, the same failed to categorically state the amount of just compensation for the property. It therefore prayed that in consonance with Presidential Decree 794, the just compensation be fixed at P2,432,042, the market value of the property determined by the assessor which was lower than Amerex's own declaration. Alleging that its motion to dismiss merely sought a clarification on the just compensation for the property, Amerex filed a motion to withdraw the Republic's deposit of P1,303,470 with the PNB without prejudice to its entitlement to the amount of P1,128,572, the balance of the just compensation of P2,432,042 insisted upon. On 3 December 1975, the lower court issued an order vesting the Republic with the lawful right to take the property upon payment of just compensation as provided by law. On 19 December 1975, after the parties had submitted the names of their respective recommendees to the appraisal committee, the lower court appointed Atty. Narciso Pena, Aurelio V. Aquino and Atty. Higinio Sunico as commissioners. On 24 January 1977, the commissioners submitted their appraisal report finding that the fair market value of the property was P2,763,400. Both parties objected to the report of the commissioners. On 15 March 1977, the lower court rendered a decision, "fixing the amount of P2,258,018.57 as just compensation for the property of the defendant and declaring the plaintiff entitled to possess and appropriate it to the public use alleged in the complaint and to retain it upon payment of the said amount, after deducting the amount of P1,303,470.00, with legal interest from October 13, 1975 when the plaintiff was placed in possession of the real property, and upon payment to each of the commissioners of the sum of P35.00 for their attendance during the hearings held on January 23, February 16, May 11, July 23, September 17, October 12 and December 10, 1976, plus P500.00 each for the preparation of the report, and the costs.” The Republic elevated the case to the then Intermediate Appellate Court (IAC) for review. On 29 October 1984, it affirmed the appealed decision with the modification that the Republic of the Philippines be exempted from the payment of the commissioners' fees, the P500.00 granted each of them for his preparation of the report and the costs. Its motion for the reconsideration of said decision having been denied, the Republic filed the petition for review.

**Issue:** Whether the just compensation for the expropriated property should be the price first offered to the Government in 1973.

**Held:** The determination of just compensation for a condemned property is basically a judicial function. As the court is not bound by the commissioners' report, it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of its right of condemnation, and to the defendant just compensation for the property expropriated. For that matter, the Supreme Court may even substitute its own estimate of the value as gathered from the record. Hence, although the determination of just compensation appears to be a factual matter which is ordinarily outside the ambit of its jurisdiction, the Supreme Court may disturb the lower court's factual finding on appeal when there is clear error or grave abuse of discretion. Herein, the just compensation prescribed by the lower court is based on the commissioners' recommendation which in turn is founded on the "audited" statements of Amerex that the property is worth P2,258,018.57. The Certification from the accounting firm issued to Amerex merely compared the figures in the schedules or "audited" statements with those of the records and books of accounts of Amerex. As no investigation was made as to the veracity of the figures in the account, there was no audit in the real sense of the term. Thus, the accuracy of the "audited" statements is therefore suspect. Besides the fact that the Republic was not furnished a copy of the audited statements which were also not introduced in evidence, Enrique P. Esteban, vice-president and treasurer of Amerex, and even a representative of the accounting firm, were likewise not presented during the trial thereby depriving the Republic of the opportunity to cross-examine them. The Supreme Court having declared as unconstitutional the mode of...
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fixing just compensation under Presidential Decree 794 in Export Processing Zone Authority vs. Dulay (GR 59603, 29 April 1987), just compensation should be determined either at the time of the actual taking of the government or at the time of the judgment of the court, whichever comes first. The reasonableness of the 5 June 1975 appraisal fixing at P2,400,000 the fair market value of the property, is bolstered by the fact that on 4 June 1975, Traders Commodities Corporation offered to buy the property at P2,750,000. It must be emphasized, however, that legal interest on the balance of the just compensation of P2,400,000 after deducting the amount of P1,303,470 which had been delivered to Amerex, should be paid by the Republic from the time the government actually took over the property. Much as the Court realizes the need of the government, under these trying times, to get the best possible price for the expropriated property considering the ceaseless and continuing necessity for schools, the Court cannot agree with the Republic that the just compensation for the property should be the price it commanded when it was first offered for sale to the City School Board of Manila.

39 City of Cebu vs. Dedamo [GR 142971, 7 May 2002]

Davide Jr. (CJ): 5 concur

Facts: On 17 September 1993, the City of Cebu filed in Civil Case CEB-14632 a complaint for eminent domain against the spouses Apolonio and Blasa Dedamo, alleging that it needed the latter's parcels of land for a public purpose, i.e., for the construction of a public road which shall serve as an access/relief road of Gorordo Avenue to extend to the General Maxilum Avenue and the back of Magellan International Hotel Roads in Cebu City; the lots being the most suitable site for the purpose. The total area sought to be expropriated is 1,624 square meters with an assessed value of P1,786,400. The City deposited with the Philippine National Bank (PNB) the amount of P51,156 representing 15% of the fair market value of the property to enable the City to take immediate possession of the property pursuant to Section 19 of Republic Act (RA) 7160. The spouses, filed a motion to dismiss the complaint because the purpose for which their property was to be expropriated was not for a public purpose but for benefit of a single private entity, the Cebu Holdings, Inc., besides that the price offered was very low in light of the consideration of P20,000 per square meter, more or less, which the City paid to the neighboring lots. On 23 August 1994, the City filed a motion for the issuance of a writ of possession pursuant to Section 19 of RA7160. The motion was granted by the trial court on 21 September 1994. On 14 December 1994, the parties executed and submitted to the trial court an Agreement wherein they declared that they have partially settled the case. Pursuant to said agreement, the trial court appointed three commissioners to determine the just compensation of the lots sought to be expropriated. Thereafter, the commissioners submitted their report, which contained their respective assessments of and recommendation as to the valuation of the property. On the basis of the commissioners' report and after due deliberation thereon, the trial court rendered its decision on 7 May 1996, directing the City to pay the spouses Dedamo the amount of P24,865,930.00 representing the compensation. The City filed a motion for reconsideration on the ground that the commissioners' report was inaccurate since it included an area which was not subject to expropriation (i.e. 478 of 793 square meters only of Lot 1528). On 16 August 1996, the commissioners submitted an amended assessment for the 478 square meters of Lot 1528 and fixed it at P12,824.10 per square meter, or in the amount of P20,826,395.50. The assessment was approved as the just compensation thereof by the trial court in its Order of 27 December 1996. Accordingly, the dispositive portion of the decision was amended to reflect the new valuation. The City elevated the case to the Court of Appeals, which affirmed in toto the decision of the trial court. The City filed with the Supreme Court the petition for review.

Issue: Whether the valuation of the just compensation that which was recommended by the appointed commissioners.

Held: Eminent domain is a fundamental State power that is inseparable from sovereignty. It is the Government's right to appropriate, in the nature of a compulsory sale to the State, private property for public use or purpose. However, the Government must pay the owner thereof just compensation as consideration
therefor. Herein, the applicable law as to the point of reckoning for the determination of just compensation is Section 19 of Republic Act 7160, which expressly provides that just compensation shall be determined as of the time of actual taking. Further, the Court did not categorically rule in the case of NAPOCOR vs. Court of Appeals that just compensation should be determined as of the filing of the complaint. What the Court explicitly stated therein was that although the general rule in determining just compensation in eminent domain is the value of the property as of the date of the filing of the complaint, the rule "admits of an exception: where this Court fixed the value of the property as of the date it was taken and not at the date of the commencement of the expropriation proceedings." Furthermore, the parties, by a solemn document freely and voluntarily agreed upon by them, agreed to be bound by the report of the commission and approved by the trial court. Records show that the City consented to conform with the valuation recommended by the commissioners. It cannot detract from its agreement now and assail correctness of the commissioners' assessment.

40 Export Processing Zone Authority vs. Dulay [GR L-59603, 29 April 1987]

En Banc, Gutierrez Jr. (J): 10 concur, 1 concurs in result, 1 on leave

Facts: On 15 January 1979, the President of the Philippines, issued Proclamation 1811, reserving a certain parcel of land of the public domain situated in the City of Lapu-Lapu, Island of Mactan, Cebu and covering a total area of 1,193,669 square meters, more or less, for the establishment of an export processing zone by petitioner Export Processing Zone Authority (EPZA). Not all the reserved area, however, was public land. The proclamation included, among others, 4 parcels of land with an aggregate area of 22,328 square meters owned and registered in the name of the San Antonio Development Corporation. The EPZA, therefore, offered to purchase the parcels of land from the corporation in accordance with the valuation set forth in Section 92, Presidential Decree (PD) 464, as amended. The parties failed to reach an agreement regarding the sale of the property. EPZA filed with the then Court of First Instance of Cebu, Branch XVI, Lapu-Lapu City, a complaint for expropriation with a prayer for the issuance of a writ of possession against the corporation, to expropriate the aforesaid parcels of land pursuant to PD 66, as amended, which empowers EPZA to acquire by condemnation proceedings any property for the establishment of export processing zones, in relation to Proclamation 1811, for the purpose of establishing the Mactan Export Processing Zone. On 21 October 1980, Judge Ceferino E. Dulay issued a writ of possession authorizing EPZA to take immediate possession of the premises. At the pre-trial conference on 13 February 1981, the judge issued an order stating that the parties have agreed that the only issue to be resolved is the just compensation for the properties and that the pre-trial is thereby terminated and the hearing on the merits is set on 2 April 1981. On 17 February 1981, the judge issued the order of condemnation declaring EPZA as having the lawful right to take the properties sought to be condemned, upon the payment of just compensation to be determined as of the filing of the complaint. The respondent judge also issued a second order appointing certain persons as commissioners to ascertain and report to the court the just compensation for the properties sought to be expropriated. On 19 June 1981, the three commissioners submitted their consolidated report recommending the amount of P15.00 per square meter as the fair and reasonable value of just compensation for the properties. On 29 July 1981, EPZA filed a Motion for Reconsideration of the order of 19 February 1981 and Objection to Commissioner's Report on the grounds that PD 1533 has superseded Sections 5 to 8 of Rule 67 of the Rules of Court on the ascertainment of just compensation through commissioners; and that the compensation must not exceed the maximum amount set by PD 1533. On 14 November 1981, the trial court denied EPZA's motion for reconsideration. On 9 February 1982, EPZA filed the petition for certiorari and mandamus with preliminary restraining order, enjoining the trial court from enforcing the order dated 17 February 1981 and from further proceeding with the hearing of the expropriation case.

Issue: Whether the exclusive and mandatory mode of determining just compensation in Presidential Decree 1533 is valid and constitutional, and whether the lower values given by provincial assessors be the value of just compensation.
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**Held:** Presidential Decree 76 provides that "For purposes of just compensation in cases of private property acquired by the government for public use, the basis shall be the current and fair market value declared by the owner or administrator, or such market value as determined by the Assessor, whichever is lower." Section 92 of PD 464 provides that "In determining just compensation which private property is acquired by the government for public use, the basis shall be the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower." Section 92 of PD 794, on the other hand, provides that "In determining just compensation when private property is acquired by the government for public use, the same shall not exceed the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower." Lastly, Section 1 of PD 1533 provides that "In determining just compensation for private property acquired through eminent domain proceedings, the compensation to be paid shall not exceed the value declared by the owner or administrator or anyone having legal interest in the property or determined by the assessor, pursuant to the Real Property Tax Code, whichever value is lower, prior to the recommendation or decision of the appropriate Government office to acquire the property." The provisions of the Decrees on just compensation unconstitutional and void as the method of ascertaining just compensation under the said decrees constitutes impermissible encroachment on judicial prerogatives. It tends to render the Supreme Court inutile in a matter which under the Constitution is reserved to it for final determination. The valuation in the decree may only serve as a guiding principle or one of the factors in determining just compensation but it may not substitute the court's own judgment as to what amount should be awarded and how to arrive at such amount. Further, various factors can come into play in the valuation of specific properties singled out for expropriation. The values given by provincial assessors are usually uniform for very wide areas covering several barrios or even an entire town with the exception of the poblacion. Individual differences are never taken into account. The value of land is based on such generalities as its possible cultivation for rice, corn, coconuts, or other crops. Very often land described as "cogonal" has been cultivated for generations. Buildings are described in terms of only two or three classes of building materials and estimates of areas are more often inaccurate than correct. Thus, tax values can serve as guides but cannot be absolute substitutes for just compensation.

41 Ansaldo vs. Tantuico [GR 50147, 3 August 1990]

*First Division, Narvasa (J): 4 concur*

**Facts:** Two lots of private ownership were taken by the Government and used for the widening of a road more than forty-three years ago, without benefit of an action of eminent domain or agreement with its owners, albeit without protest by the latter. The lots belong to Jose Ma. Ansaldo and Maria Angela Ansaldo, are covered by title in their names, and have an aggregate area of 1,041 square meters. These lots were taken from the Ansaldos sometime in 1947 by the Department of Public Works, Transportation and Communication and made part of what used to be Sta. Mesa Street and is now Ramon Magsaysay Avenue at San Juan, Metro Manila. Said owners made no move whatever until 26 years later. They wrote to ask for compensation for their land on 22 January 1973. Their claim was referred to the Secretary of Justice who rendered an opinion dated 22 February 1973, that just compensation should be paid in accordance with Presidential Decree (PD) 76, and thus advised that the corresponding expropriation suit be forthwith instituted to fix the just compensation to be paid to the Ansaldos. Pursuant to the said opinion, the Commissioner of Public Highways requested the Provincial Assessor of Rizal to make a redetermination of the market value of the Ansaldos' property in accordance with PD 76. The new valuation was made, after which the Auditor of the Bureau of Public Highways forwarded the Ansaldos' claim to the Auditor General with the recommendation that payment be made on the basis of the "current and fair market value and not on the fair market value at the time of taking." The Commission on Audit, however, declined to adopt the recommendation. In a decision handed down on 26 September 1973, the Acting Chairman ruled that "the amount of compensation to be paid to the claimants is to be determined as of the time of the taking of the subject lots," i.e. 1947. The ruling was reiterated by the Commission on 8 September 1978, and again on 25 January 1979 when it denied the Ansaldos' motion for reconsideration. The Ansaldos appealed to the Supreme Court.

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Issue: Whether the valuation of just compensation should be determined at the time of taking in 1947, especially in light of the absence of any expropriation proceeding undertaken before the said taking.

Held: Where the institution of an expropriation action precedes the taking of the property subject thereof, the just compensation is fixed as of the time of the filing of the complaint. This is so provided by the Rules of Court, the assumption of possession by the expropriator ordinarily being conditioned on its deposits with the National or Provincial Treasurer of the value of the property as provisionally ascertained by the court having jurisdiction of the proceedings. There are instances, however, where the expropriating agency takes over the property prior to the expropriation suit. In these instances, the just compensation shall be determined as of the time of taking, not as of the time of filing of the action of eminent domain. There was undoubtedly a taking of the Ansaldos' property when the Government obtained possession thereof and converted it into a part of a thoroughfare for public use. It is as of the time of such a taking, to repeat, that the just compensation for the property is to be established. The value of the Ansaldos' property must be ascertained as of the year 1947, when it was actually taken, and not at the time of the filing of the expropriation suit, which, by the way, still has to be done. It is as of that time that the real measure of their loss may fairly be adjudged. The value, once fixed, shall earn interest at the legal rate until full payment is effected, conformably with other principles laid down by case law. The Court thus directed the Department of Public Works and Highways to institute the appropriate expropriation action over the land in question so that the just compensation due its owners may be determined in accordance with the Rules of Court, with interest at the legal rate of 6% per annum from the time of taking until full payment is made.

42 National Power Corporation vs. Court of Appeals [GR 107631, 26 February 1996]
Third Division, Francisco (J): 4 concur

Facts: A contract was forged between the government through the National Power Corporation (NAPOCOR) and PECORP, Inc. (PECORP, formerly Pacific Equipment Corporation, as party-CONTRACTOR on 27 June 1974 for the construction of the Mariveles Dam 1 and appurtenant structures of the water supply system of the Bataan Export Processing Zone at Mariveles, Bataan. It was agreed upon that the contract is of a "Cost-Plus a Percentage" type — meaning, PECORP will be paid a certain percentage as fee based on the "Actual Final Cost" of the work, and what constitutes "Actual Final Cost" is the total cost to NAPOCOR of all the work performed by PECORP which includes cost of materials and supplies, structures, furnitures, charges, etc. and all other expenses as are inherent in a Cost- Plus and Percentage Contract and necessary for the prosecution of the work that are approved by NAPOCOR. In a letter dated 11 July 1974, NAPOCOR communicated to PECORP that it was inclined to contract directly and separately with Philippine Grouting and Guniting., Inc. (GROGUN) for the drilling and grouting work on the construction project and consequently, PECORP will not be entitled to any fees for said task. Contending that such NAPOCOR-GROGUN arrangement will violate its rights under the NAPOCOR-PECORP contract, PECORP made known to NAPOCOR its desire to bring the matter to arbitration. The NAPOCOR-GROGUN drilling and grouting contract, nonetheless, pushed through on 23 August 1974. As a result of such purported "withdrawal", it appeared that the drilling and grouting work ceased to be a Part of the NAPOCOR-PECORP contract. Roughly 5 years after, PECORP on 14 June 1979 presented to NAPOCOR 4 claims, i.e. (1) Fee on the cost of drilling and grouting which is 10% of the Actual Final Cost of ₱6,962,519.50, or ₱696,251.95; (2) Fee on the minimum guaranteed equipment rental which is 10% of the Actual Final Cost of ₱1.67 million, or ₱167,000.00; (3) Fee on the inventory of unused stocks and POL, ₱155,844.95; and (4) Reimbursement of Medical Hospital expenses re: TK-001 Accident case, or ₱50,085.93, coupled with a request for arbitration. A board of arbitrators was thereafter convened. But after a series of written communications among the board, NAPOCOR and PECORP, it appeared that NAPOCOR was willing to arbitrate on claims (3) and (4) only. As NAPOCOR was uncompromising, PECORP filed an action in the Regional Trial Court of Manila to compel NAPOCOR to submit/confirm/certify all the 4 claims for arbitration, where judgment was thereafter rendered in favor of PECORP. After the trial court denied NAPOCOR's motion for reconsideration of its decision, the Court of Actividad de Constitucional Law II, 2005 (34)
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Appeals, on appeal, affirmed the same but deleted the award of attorney's fees. However, in affirming said decision which merely ordered NAPOCOR and PECORP to arbitrate on all 4 claims, the appellate court went further in disposing of issues which could have been appropriately ventilated and passed upon in the arbitration proceedings. From the adverse judgment, NAPOCOR filed the petition for review with the Supreme Court.

Issue: Whether PECORP is entitled to the collection of fees for drilling and grouting work conducted by GROGUN under the NAPOCOR-GROGUN contract.

Held: The NAPOCOR-PECORP Contract is for the construction, complete, of the Mariveles Dam 1. Drilling and grouting work is just a part of the complete construction of the total project, hence, covered by and within the scope of the NAPOCOR-PECORP Contract. The word "Project" is defined in the contract to mean the Dam and Appurtenant Structures. Drilling and Grouting is part of the dam or appurtenant structures, and therefore a part of PECORP's scope of work. Article 1725 of the New Civil Code, which provides that "The owner may withdraw at will from the construction of the work, although it may have been commenced, indemnifying the contractor for all the latter's expenses, work and the usefulness which the owner may obtain therefrom, and damages," is not applicable herein inasmuch as (a) there was actually no withdrawal from the "construction of the work," but only a transfer of a part of the construction, which is the drilling and grouting work, and (b) said drilling and grouting still forms part of the project as a mere NAPOCOR-GROGUN sub-contract. Since the NAPOCOR-GROGUN Contract did not amend nor nullify the "cost plus" provision of the NAPOCOR-Pecorp Contract, therefore, appellee Pecorp is still entitled to the said 10% fee. Further, the allegation that PECORP withdrew its claim for fee on the minimum guaranteed equipment rental hours of P167,000.00 is without merit, as it is clear that withdrawal is only a proposal conditioned upon NAPOCOR's adjudication, endorsement and approval of all the 3 other claims. However, as the record shows, NAPOCOR refused to certify for arbitration all the said 3 other claims, hence, the withdrawal was rendered null and void. These were the findings of the Court of Appeals which were approved by the Supreme Court.

43 Association of Small Landowners in the Philippines Inc. vs. Secretary of Agrarian Reform [GR 78741, 14 July 1989]; Also Acuna vs. Arroyo [GR 79310], Pabico vs. Juico [GR 79744], and Manaay vs. Juico [GR 79777]

En Banc, Cruz (J): 14 concur

Facts: On 17 July 1987, President Corazon C. Aquino issued Executive Order (EO) 228, declaring full land ownership in favor of the beneficiaries of Presidential Decree (PD) 27 and providing for the valuation of still unvalued lands covered by the decree as well as the manner of their payment. This was followed on 22 July 1987 by PD 131, instituting a comprehensive agrarian reform program (CARP), and EO 229, providing the mechanics for its implementation. Subsequently, with its formal organization, the revived Congress of the Philippines took over legislative power from the President and started its own deliberations, including extensive public hearings, on the improvement of the interests of farmers. The result, after almost a year of spirited debate, was the enactment of Republic Act (RA) 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, which President Aquino signed on 10 June 11988. This law, while considerably changing RA 3844 (Agricultural Land Reform Code, 8 August 1963) and PD 27 (21 October 1972), nevertheless gives them suppletory effect insofar as they are not inconsistent with its provisions.

[GR 79777] Nicolas Manaay and his wife owned a 9-hectare riceland worked by 4 tenants, while Augustin Hermano Jr. owned a 5-hectare riceland worked by four tenants. The tenants therein were declared full owners of these lands by EO 228 as qualified farmers under PD 27. Manaay and Hermano questioned the constitutionality of PD 27, and EOs 228 and 229, before the Supreme Court, in GR 79777, on grounds inter alia of separation of powers, due process, equal protection and the constitutional limitation that no private property shall be taken for public use without just compensation. In the amended petition dated 22 November 1988, it was contended that PD 27, EOs 228 and 229 (except Sections 20 and 21) have been impliedly
repealed by RA 6657, but that the latter statute should itself also be declared unconstitutional because it suffers from substantially the same infirmities as the earlier measures. A petition for intervention was filed with leave of court on 1 June 1988 by Vicente Cruz, owner of a 1.83-hectare land, who complained that the department of Agrarian Reform (DAR) was insisting on the implementation of PD 27 and EO 228 despite a compromise agreement he had reached with his tenant on the payment of rentals.

[GR 79310] Arsenio Al. Acuña, Newton Jison, Victorino Ferraris, Dennis Jereza, Herminigildo Gustilo, and Paulino D. Tolentino are landowners and sugar planters in the Victorias Mill District, Victorias, Negros Occidental; while the Planters’ Committee, Inc. is an organization composed of 1,400 planter-members. They filed a petition (GR 79310) seeking to prohibit the implementation of Proclamation 131 and EO 229, claiming that the power to provide for a Comprehensive Agrarian Reform Program as decreed by the Constitution belongs to Congress and not the President; that although they agree that the President could exercise legislative power until the Congress was convened, she could do so only to enact emergency measures during the transition period; and that, even assuming that the interim legislative power of the President was properly exercised, Proclamation 131 and EO 229 would still have to be annulled for violating the constitutional provisions on just compensation, due process, and equal protection. Furthermore, they contend that taking must be simultaneous with payment of just compensation as it is traditionally understood, i.e., with money and in full, but no such payment is contemplated in Section 5 of the EO 229. On the contrary, Section 6 thereof provides that the Land Bank of the Philippines “shall compensate the landowner in an amount to be established by the government, which shall be based on the owner’s declaration of current fair market value as provided in Section 4 hereof, but subject to certain controls to be defined and promulgated by the Presidential Agrarian Reform Council.” This compensation may not be paid fully in money but in any of several modes that may consist of part cash and part bond, with interest, maturing periodically, or direct payment in cash or bond as may be mutually agreed upon by the beneficiary and the landowner or as may be prescribed or approved by the PARC. A motion for intervention was filed on 27 August 1987 by the National Federation of Sugarcane Planters (NASP) which claims a membership of at least 20,000 individual sugar planters all over the country. On 10 September 1987, another motion for intervention was filed, this time by Manuel Barcelona, et al., representing coconut and riceland owners. Both motions were granted by the Court. On 11 April 1988, Prudencio Serrano, a coconut planter, filed a petition on his own behalf, assailing the constitutionality of EO 229. In addition to the arguments already raised, Serrano contends that the measure is unconstitutional because (1) only public lands should be included in the CARP; (2) EO 229 embraces more than one subject which is not expressed in the title; (3) The power of the President to legislate was terminated on 2 July 1987; and (4) The appropriation of a P50 billion special fund from the National Treasury did not originate from the House of Representatives.

[GR 79744] Inocentes Pabico in his petition (GR 79744) alleges that the then Secretary of Department of Agrarian Reform, in violation of due process and the requirement for just compensation, placed his landholding under the coverage of Operation Land Transfer. Certificates of Land Transfer were subsequently issued to Salvador Talento, Jaime Abogado, Conrado Avanceña, and Roberto Taay, who then refused payment of lease rentals to him. On 3 September 1986, Pabico protested the erroneous inclusion of his small landholding under Operation Land Transfer and asked for the recall and cancellation of the Certificates of Land Transfer in the name of the Talento, et. al. Pabico claims that on 24 December 1986, his petition was denied without hearing. On 17 February 1987, he filed a motion for reconsideration, which had not been acted upon when EO 228 and 229 were issued. These orders rendered his motion moot and academic because they directly effected the transfer of his land to Talento, et. al. Pabico argues that (1) EOs 228 and 229 were invalidly issued by the President of the Philippines; (2) the said executive orders are violative of the constitutional provision that no private property shall be taken without due process or just compensation; and (3) Pabico is denied the right of maximum retention provided for under the 1987 Constitution.

Llamido, Fausto J. Salva, Reynaldo G. Estrada, Felisa C. Bautista, Esmenia J. Cabe, Teodoro B. Madriaga, Aurea J. Prestosa, Emerenciana J. Isla, Felisimina C. Apresto, Consuelo M. Morales, Benjamin R. Segismundo, Cirila A. Jose, and Napoleon S. Ferrer invoke in their petition (GR 78742) the right of retention granted by PD 27 to owners of rice and corn lands not exceeding 7 hectares as long as they are cultivating or intend to cultivate the same. Their respective lands do not exceed the statutory limit but are occupied by tenants who are actually cultivating such lands. They claim they cannot eject their tenants and so are unable to enjoy their right of retention because the Department of Agrarian Reform (DAR) has so far not issued the implementing rules required under PD 316, implementing PD 27. They therefore ask the Court for a writ of mandamus to compel the Secretary of Agrarian Reform to issue the said rules.

**Issue:** Whether just compensation should exclusively be made in money and not other things of value.

**Held:** This is not an ordinary expropriation where only a specific property of relatively limited area is sought to be taken by the State from its owner for a specific and perhaps local purpose. What is dealt with herein is a revolutionary kind of expropriation. The Court assumes that the framers of the Constitution were aware of this difficulty when they called for agrarian reform as a top priority project of the government. It is a part of this assumption that when they envisioned the expropriation that would be needed, they also intended that the just compensation would have to be paid not in the orthodox way but a less conventional if more practical method. There can be no doubt that they were aware of the financial limitations of the government and had no illusions that there would be enough money to pay in cash and in full for the lands they wanted to be distributed among the farmers. The court may therefore assume that their intention was to allow such manner of payment as is now provided for by the CARP Law, particularly the payment of the balance (if the owner cannot be paid fully with money), or indeed of the entire amount of the just compensation, with other things of value. The Court has not found in the records of the Constitutional Commission any categorical agreement among the members regarding the meaning to be given the concept of just compensation as applied to the comprehensive agrarian reform program being contemplated. On the other hand, there is nothing in the records either that militates against the assumptions we are making of the general sentiments and intention of the members on the content and manner of the payment to be made to the landowner in the light of the magnitude of the expenditure and the limitations of the expropriator. Accepting the theory that payment of the just compensation is not always required to be made fully in money, the Court find further that the proportion of cash payment to the other things of value constituting the total payment, as determined on the basis of the areas of the lands expropriated, is not unduly oppressive upon the landowner. It is noted that the smaller the land, the bigger the payment in money, primarily because the small landowner will be needing it more than the big landowners, who can afford a bigger balance in bonds and other things of value. No less importantly, the government financial instruments making up the balance of the payment are “negotiable at any time.” The other modes, which are likewise available to the landowner at his option, are also not unreasonable because payment is made in shares of stock, LBP bonds, other properties or assets, tax credits, and other things of value equivalent to the amount of just compensation. Admittedly, the compensation contemplated in the law will cause the landowners, big and small, not a little inconvenience. However, this cannot be avoided.

44    Department of Agrarian Reform vs. Court of Appeals [GR 118745, 6 October 1995]; also Land Bank of the Philippines vs. Court of Appeals [GR 118712]

*Second Division, Francisco (J): 3 concur, 1 on leave*

**Facts:** On 4 September 1992, the TCTs of Pedro L. Yap were totally cancelled by the Registrar of Deeds of Leyte and were transferred in the names of farmer beneficiaries collectively, based on the request of the Department of Agrarian Reform (DAR) together with a certification of the Landbank that the sum of P735,337.77 and P719,869.54 have been earmarked for Yap for the parcels of lands covered by TCTs 6282 and 6283 respectively, without notice to Yap and without complying with the requirement of Section 16 (e) of RA 6657 to deposit the compensation in cash and Landbank bonds in an accessible bank. On the other hand, in November and December 1990, without notice to the heirs of Emiliano F. Santiago, the owners of a parcel
of land located at Laur, Nueva Ecija (18.5615 hectares, TCT NT-60359 of the registry of Deeds of Nueva Ecija), the Landbank (or DAR, according to Landbank) required and the beneficiaries executed Actual tillers Deed of Undertaking to pay rentals to the Landbank for the use of their farmlots equivalent to at least 25% of the net harvest. On 24 October 1991 the DAR Regional Director issued an order directing the Landbank to pay the heirs directly or through the establishment of a trust fund in the amount of P135,482.12. On 24 February 1992, the Landbank reserved in trust P135,482.12 in the name of Emiliano F. Santiago. The beneficiaries stopped paying rentals to the heirs after they signed the Actual Tiller's Deed of Undertaking committing themselves to pay rentals to the Landbank (The Landbank, although armed with the ATDU, allegedly did not collect any amount as rental from the substituting beneficiaries). Lastly, the Agricultural Management and Development Corporation (AMADCOR) owned properties in San Francisco, Quezon (a parcel of land with an area of 209.9215 hectares, TCT 34314; another parcel with an area of 163.6189 hectares, TCT 10832), and in Tabaco, Albay (a parcel of land with an area of 1,629.4578 hectares, TCT T-2466 of the Register of Deeds of Albay). Without notice to AMADCOR, a summary administrative proceeding to determine compensation of the property covered by TCT 34314 was conducted by the DARAB in Quezon City. A decision was rendered on 24 November 1992 fixing compensation for the parcel of land covered by TCT 34314 with an area of 209.9215 hectares at P2,768,326.34 and ordering the Landbank to pay or establish a trust account in the name of AMADCOR. With respect to AMADCOR's property in Albay, emancipation patents were issued covering an area of 701.8999 hectares which were registered on 15 February 1988 but no action was taken thereafter by the DAR to fix the compensation for said land. On 21 April 1993, a trust account in the name of AMADCOR was established in the amount of P12,247,217.83, three notices of acquisition having been previously rejected by AMADCOR. Thus, Yap, the Heirs of Santiago, AMADCOR, being landowners whose landholdings were acquired by the DAR and subjected to transfer schemes to qualified beneficiaries under the Comprehensive Agrarian Reform Law, and were aggrieved by the alleged lapses of the Department of Agrarian Reform (DAR) and the Landbank with respect to the valuation and payment of compensation for their land pursuant to the provisions of Republic Act (RA) 6657, filed with the Supreme Court a Petition for Certiorari and Mandamus with prayer for preliminary mandatory injunction, questioning the validity of DAR Administrative Order 6, Series of 1992 and DAR Administrative Order 9, Series of 1990, and sought to compel the DAR to expedite the pending summary administrative proceedings to finally determine the just compensation of their properties, and the Landbank to deposit in cash and bonds the amounts respectively "earmarked", "reserved" and "deposited in trust accounts" for private respondents, and to allow them to withdraw the same. Through a Resolution of the Second Division dated 9 February 1994, the Supreme Court referred the petition to respondent Court of Appeals for proper determination and disposition. On 20 October 1994, the Court of Appeals granted the petition, declaring that DAR Administrative order 9, Series of 1990, null and void insofar as it provides for the opening of trust accounts in lieu of deposits in cash or bonds; ordering Landbank to immediately deposit — not merely "earmark," "reserve" or "deposit in trust" — with an accessible bank designated by DAR in the names of Yap, the Heirs of Santiago, and AMADCO the amounts of P1,455,207.31, P135,482.12, and P15,914,127.77 respectively in cash and in government financial instruments within the parameters of Sec. 18 (1) of RA 6657; ordering the DAR-designated bank to allow Yap, et. al. to withdraw the amounts without prejudice to the final determination of just compensation by the proper authorities; and ordering DAR to immediately conduct summary administrative proceedings to determine the just compensation for the lands in question giving Yap, et. al. 15 days from notice within which to submit evidence and to decide the cases within 30 days after they are submitted for decision. DAR and Landbank moved for reconsideration, but were denied on 18 January 1995. DAR and Landbank filed their respective petitions for review with the Supreme Court.

**Issue:** Whether the deposit may be made in other forms besides cash or LBP bonds, and whether there should be a distinction between the deposit of compensation and the determination of just compensation.

**Held:** It is very explicit in Section 16(e) of Republic Act 6657 that the deposit must be made only in "cash" or in "LBP bonds". Nowhere does it appear nor can it be inferred that the deposit can be made in any other form.
If it were the intention to include a "trust account" among the valid modes of deposit, that should have been made express, or at least, qualifying words ought to have appeared from which it can be fairly deduced that a "trust account" is allowed. In sum, there is no ambiguity in Section 16(e) of RA 6657 to warrant an expanded construction of the term "deposit". Herein, the DAR clearly overstepped the limits of its power to enact rules and regulations when it issued Administrative Circular 9. There is no basis in allowing the opening of a trust account in behalf of the landowner as compensation for his property because Section 16(e) of RA 6657 is very specific that the deposit must be made only in "cash" or in "LBP bonds". In the same vein, DAR and Landbank cannot invoke LRA Circular 29, 29-A and 54 because these implementing regulations cannot outweigh the clear provision of the law. There should be no distinction between the deposit of compensation under Section 16(e) of RA 6657 and determination of just compensation under Section 18. To withhold the right of the landowners to appropriate the amounts already deposited in their behalf as compensation for their properties simply because they rejected the DAR's valuation, and notwithstanding that they have already been deprived of the possession and use of such properties, is an oppressive exercise of eminent domain. The irresistible expropriation of Yap, et. al.'s properties was painful enough for them; but DAR rubbed it in all the more by withholding that which rightfully belongs to Yap, et. al. in exchange for the taking, under an misplaced appreciation of the Association of Small Landowners case. It must be noted that the immediate effect in both situations, the deposit of compensation and determination of just compensation, is the same; the landowner is deprived of the use and possession of his property for which he should be fairly and immediately compensated. Thus, to reiterate the cardinal rule, "within the context of the State's inherent power of eminent domain, just compensation means not only the correct determination of the amount to be paid to the owner of the land but also the payment of the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered 'just' for the property owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss."

45 Manila Electric Company (MERALCO) vs. Pineda [GR 59791, 13 February 1992]

Facts: For the purpose of constructing a 230 KV Transmission line from Barrio Malaya to Tower 220 at Pililla, Rizal, the Manila Electric Company (MERALCO) needed portions of the land of Teofilo Arayon, Sr., Gil de Guzman, Lucito Santiago and Teresa Bautista (simple fee owners), consisting of an aggregate area of 237,321 square meters. Despite MERALCO's offers to pay compensation and attempts to negotiate with Arayon, et. al., the parties failed to reach an agreement. On 29 October 1974, a complaint for eminent domain was filed by MERALCO against 42 defendants (including Teofilo Arayon Sr., Gil de Guzman, Lucito Santiago, and Teresa Bautista) with the Court of First Instance (now Regional Trial Court) of Rizal, Branch XXII, Pasig, Metro Manila. Despite the opposition of Arayon, et. al., the court issued an Order dated 13 January 1975 authorizing MERALCO to take or enter upon the possession of the property sought to be expropriated. On 13 July 1976, Arayon, et. al., filed a motion for withdrawal of deposit claiming that they are entitled to be paid at P40.00 per square meter or an approximate sum of P272,000.00 and prayed that they be allowed to withdraw the sum of P71,771.50 from MERALCO's deposit-account with the Philippine National Bank (PNB), Pasig Branch. However, Arayon, et. al.'s motion was denied in an order dated 3 September 1976. Pursuant to a government policy, MERALCO on 30 October 1979 sold to the National Power Corporation (NAPOCOR) the power plants and transmission lines, including the transmission lines traversing Arayon, et. al.'s property. On 11 February 1980, the court issued an Order appointing the members of the Board of Commissioners to make an appraisal of the properties. On 5 June 1980, MERALCO filed a motion to dismiss the complaint on the ground that it has lost all its interests over the transmission lines and properties under expropriation because of their sale to the NAPOCOR. In view of this motion, the work of the Commissioners was suspended. On 9 June 1981, Arayon, et. al. filed another motion for payment, but despite the opposition of MERALCO, the court issued an order dated 4 December 1981 granting the motion for payment of Arayon, et. al. (P20,400 or P3.00 per square meter without prejudice to the just compensation that may be proved in the final adjudication of the case). On 15 December 1981, Arayon, et. al. filed an Omnibus
Motion praying that they be allowed to withdraw an additional sum of P90,125.50 from MERALCO's deposit-account with PNB. By order dated 21 December 1981, the court granted the Omnibus Motion. Arayon, et. al. filed another motion dated 8 January 1982 praying that MERALCO be ordered to pay the sum of P169,200.00. On 12 January 1982, MERALCO filed a motion for reconsideration of the Orders and to declare Arayon, et. al. in contempt of court for forging or causing to be forged the receiving stamp of MERALCO's counsel and falsifying or causing to be falsified the signature of its receiving clerk in their Omnibus Motion. On 9 February 1982, the court denied MERALCO's motion for reconsideration and motion for contempt. In said order, the Court adjudged in favor of Arayon, et. al. the fair market value of their property taken by MERALCO at P40.00 per square meter for a total of P369,720.00; the amount to bearing legal interest from 24 February 1975 until fully paid plus consequential damages in terms of attorney's fees in the sum of P10,000.00; all these sums to be paid by MERALCO the former with costs of suit, minus the amount of P102,800.00 already withdrawn by Arayon, et. al. Furthermore, the court stressed in said order that "at this stage, the Court starts to appoint commissioners to determine just compensation or dispenses with them and adopts the testimony of a credible real estate broker, or the Judge himself would exercise his right to formulate an opinion of his own as to the value of the land in question. Nevertheless, if he formulates such an opinion, he must base it upon competent evidence." MERALCO filed a petition for review on certiorari.

**Issue:** Whether the court can dispense with the assistance of a Board of Commissioners in an expropriation proceeding and determine for itself the just compensation.

**Held:** In an expropriation case where the principal issue is the determination of just compensation, a trial before the Commissioners is indispensable to allow the parties to present evidence on the issue of just compensation. The appointment of at least 3 competent persons as commissioners to ascertain just compensation for the property sought to be taken is a mandatory requirement in expropriation cases. While it is true that the findings of commissioners may be disregarded and the court may substitute its own estimate of the value, the latter may only do so for valid reasons, i.e., where the Commissioners have applied illegal principles to the evidence submitted to them or where they have disregarded a clear preponderance of evidence, or where the amount allowed is either grossly inadequate or excessive (Manila Railroad Company v. Velasquez, 32 Phil. 286) Thus, trial with the aid of the commissioners is a substantial right that may not be done away with capriciously or for no reason at all. Moreover, in such instances, where the report of the commissioners may be disregarded, the trial court may make its own estimate of value from competent evidence that may be gathered from the record. The "Joint Venture Agreement on Subdivision and Housing Projects" executed by ABA Homes and Arayon, et. al. relied upon by the judge, in the absence of any other proof of valuation of said properties, is incompetent to determine just compensation. The judge's act of determining and ordering the payment of just compensation without the assistance of a Board of Commissioners is a flagrant violation of MERALCO's constitutional right to due process and is a gross violation of the mandated rule established by the Revised Rules of Court.

**46 National Power Corporation vs. Henson [GR 129998, 29 December 1998]**

**Third Division, Pardo (J): 3 concur**

**Facts:** On 21 March 1990, the National Power Corporation (NAPOCOR) originally instituted with the Regional Trial Court (RTC), Third Judicial District, Branch 46, San Fernando, Pampanga a complaint for eminent domain, later amended on 11 October 1990, for the taking for public use of 5 parcels of land, owned or claimed by Lourdes Henson (married to Eugenio Galvez), Josefina Henson (married to Petronio Katigbak, Jesusa Henson, Corazon Henson (married to Jose Ricafort), Alfredo Tanchiatco, Bienvenido David, Maria Bondoc Capili (married to Romeo Capili), and Miguel Manoloto, with a total aggregate area of 58,311 square meters, for the expansion of the NAPOCOR Mexico Sub-Station. On 28 March 1990, NAPOCOR filed an urgent motion to fix the provisional value of the subject parcels of land. On 20 April 1990, Henson, et. al. filed a motion to dismiss. They did not challenge NAPOCOR's right to condemn their property, but declared that the fair market value of their property was from P180.00 to P250.00 per square meter. On 10 July 1990,
the trial court denied Henson, et. al.’s motion to dismiss, but the court did not declare that NAPOCOR had a lawful right to take the property sought to be expropriated. However, the court fixed the provisional value of the land at P100.00 per square meter, for a total area of 63,220 square meters of Henson, et. al.’s property, to be deposited with the Provisional Treasurer of Pampanga. NAPOCOR deposited the amount on 29 August 1990. On 5 September 1990, the trial court issued a writ of possession in favor of NAPOCOR, and, on 11 September 1990, the court’s deputy sheriff placed NAPOCOR in possession of the subject land. On 22 November 1990, and 20 December 1990, the trial court granted the motions of Henson, et. al. to withdraw the deposit made by NAPOCOR of the provisional value of their property amounting to P5,831,100.00, with a balance of P690,900.00, remaining with the Provisional Treasurer of Pampanga. On 5 April 1991, the trial court issued an order appointing 3 commissioners to aid in the reception of evidence to determine just compensation for the taking of subject property. After receiving the evidence and conducting an ocular inspection, the commissioners submitted to the court their individual reports. However, the trial court did not conduct a hearing on any of the reports. On 19 May 1993, the trial court rendered judgment fixing the amount of just compensation to be paid by the NAPOCOR for the taking of the entire area of 63,220 squares meters at P400.00 per square meter, with legal interest thereon computed from 11 September 1990, when NAPOCOR was placed in possession of the land, plus attorney's fees of P20,000.00, and costs of the proceedings. In due time, NAPOCOR appealed to the Court of Appeals. On 23 July 1997, the Court of Appeals rendered decision affirming that of the Regional Trial Court, except that the award of P20,000.00 as attorney's fees was deleted. NAPOCOR filed a petition for review before the Supreme Court.

**Issue:** Whether the determination of the court would be valid without hearing on the report of the Commissioners.

**Held:** The trial court and the Court of Appeals fixed the value of the land at P400.00 per square meter, which was the selling price of lots in the adjacent fully developed subdivision, the Santo Domingo Village Subdivision. The parcels of land sought to be expropriated, however, are undeniably idle, undeveloped, raw agricultural land, bereft of any improvement. Except for the Henson family, all the other landowners were admittedly farmer beneficiaries under operation land transfer of the Department of Agrarian Reform. However, the land has been reclassified as residential. The nature and character of the land at the time of its taking is the principal criterion to determine just compensation to the landowner. Unfortunately, the trial court, after creating a board of commissioners to help it determine the market value of the land did not conduct a hearing on the report of the commissioners. The trial court fixed the fair market value of subject land in an amount equal to the value of lots in the adjacent fully developed subdivision. This finds no support in the evidence. The valuation was even higher than the recommendation of anyone of the commissioners (Commissioner Mariano C. Tiglao fixed the fair market value at P350.00 per square meter, while Commissioner Arnold P. Atienza fixed it at P375.00 per square meter, and Commissioner Victorino Oracio fixed it at P170.00 per square meter). Commissioner Atienza's recommendation appears to be the closest valuation to the market value of lots in the adjoining fully developed subdivision. Considering that the subject parcels of land are undeveloped raw land, the price of P375.00 per square meter would appear to the Court as the just compensation for the taking of such raw land.

47 National Power Corporation vs. Angas [GR 60225-26, 8 May 1992]

**Second Division, Paras (J):** 4 concur

**Facts:** On 13 April and 3 December 1974, the National Power Corporation (NAPOCOR), a government-owned and controlled corporation and the agency through which the government undertakes the on-going infrastructure and development projects throughout the country, filed two complaints for eminent domain with the Court of First Instance (now Regional Trial Court) of Lanao del Sur (against Lacsama Batugan, and/or Guimba Shipping & Development Corporation, Magancong Digayan, Moctara Lampaco, Lampaco Pasandalan, Dimaporo Subang, Hadji Daluma Kinidar, Dimaampao Baute, Panganotan Cosna Tagol, Salacop Dimacaling, Hadji Sittie Sohra Linang Batara, Bertudan Pimping And/Or Cadurog Pimping, Butuan Tagol,
Disangcopan Marabong, and Hadji Salic Sawa in Civil Case 2248; and against Mangorsi Casan, Casnangan Batugan, Pundamarug Atocal, Pasayod Pado, Dimaampao Baute, Casnangan Baute, Dimaporo Subang, Tambilawan Ote, Manisun Atocal, and Masacal Tomiara in Civil Case 2277). The complaint which sought to expropriate certain specified lots situated at Limogao, Saguiaran, Lanao del Sur was for the purpose of the development of hydro-electric power and production of electricity as well as the erection to such subsidiary works and constructions as may be necessarily connected therewith. Both cases were jointly tried upon agreement of the parties. After a series of hearings were held, on 15 June 1979, a consolidated decision was rendered by the lower court, declaring and confirming that the lots mentioned and described in the complaints have entirely been lawfully condemned and expropriated by NAPOCOR, and ordering the latter to pay the landowners certain sums of money as just compensation for their lands expropriated "with legal interest thereon until fully paid. Two consecutive motions for reconsideration of the consolidated decision were filed by NAPOCOR. The same were denied by the court. NAPOCOR did not appeal on the consolidated decision, which became final and executory. Thus, on 16 May 1980, one of the landowners (Sittie Sohra Batara) filed an ex-parte motion for the execution of the decision, praying that petitioner be directed to pay her the unpaid balance of ₱14,300.00 for the lands expropriated from her, including legal interest which she computed at 6% per annum. The said motion was granted by the lower court. Thereafter, the lower court directed the petitioner to deposit with its Clerk of Court the sums of money as adjudged in the joint decision dated 15 June 1979. NAPOCOR complied with said order and deposited the sums of money with interest computed at 6% per annum. On 10 February 1981, another landowner (Pangonatan Cosna Tagol) filed with the trial court an ex-parte motion praying, for the first time, that the legal interest on the just compensation awarded to her by the court be computed at 12% per annum as allegedly "authorized under and by virtue of Circular 416 of the Central Bank issued pursuant to Presidential Decree 116 and in a decision of the Supreme Court that legal interest allowed in the judgment of the courts, in the absence of express contract, shall be computed at 12% per annum." On 11 February 1981, the lower court granted the said motion allowing 12% interest per annum. Subsequently, the other landowners filed motions also praying that the legal interest on the just compensation awarded to them be computed at 12% per annum, on the basis of which the lower court issued on 10 March 1981 and 28 August 1981 orders bearing similar import. NAPOCOR moved for the reconsideration of the lower court's last order dated 28 August 1981, which the court denied on 25 January 1982. NAPOCOR filed a petition for certiorari and mandamus with the Supreme Court.

**Issue:** Whether, in the computation of the legal rate of interest on just compensation for expropriated lands, the rate applicable as legal interest is 6% (Article 2209 of the Civil Code) or 12% (Central Bank Circular 416).

**Held:** Article 2209 of the Civil Code, which provides that "If the obligation consists in the payment of a sum of money, and the debtor incurs a delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six percent per annum," and not Central Bank Circular 416, is the law applicable. The Central Bank circular applies only to loan or forbearance of money, goods or credits and to judgments involving such loan or forbearance of money, goods or credits. This is evident not only from said circular but also from Presidential Decree 116, which amended Act 2655, otherwise known as the Usury Law. On the other hand, Article 2209 of the Civil Code applies to transactions requiring the payment of indemnities as damages, in connection with any delay in the performance of the obligation arising therefrom other than those covering loan or forbearance of money, goods or credits. Herein, the transaction involved is clearly not a loan or forbearance of money, goods or credits but expropriation of certain parcels of land for a public purpose, the payment of which is without stipulation regarding interest, and the interest adjudged by the trial court is in the nature of indemnity for damages. The legal interest required to be paid on the amount of just compensation for the properties expropriated is manifestly in the form of indemnity for damages for the delay in the payment thereof. Therefore, since the kind of interest involved in the joint judgment of the lower court sought to be enforced in this case is interest by way of damages, and not by way of earnings from loans, etc. Article 2209 of the Civil Code shall apply.
Republic of the Philippines vs. Salem Investment Corporation [GR 137569, 23 June 2000]
Second Division, Mendoza (J): 4 concur

Facts: On 17 February 1983, Batas Pambansa 340 was passed authorizing the expropriation of parcels of lands in the names of Maria del Carmen Roxas de Elizalde and Concepcion Cabarrus Vda. de Santos, including a portion of the land, consisting of 1,380 square meters, belonging to Milagros and Inocentes De la Rama covered by TCT 16913. On 14 December 1988, or 5 years thereafter, Milagros and Inocentes De la Rama entered into a contract with Alfredo Guerrero whereby the De la Ramas agreed to sell to Guerrero the entire property covered by TCT 16213, consisting of 4,075 square meters for the amount of P11,800,000.00. The De la Ramas received the sum of P2,200,000.00 as partial payment of the purchase price, the balance thereof to be paid upon release of the title by the Philippine Veterans Bank. On 3 November 1989, Guerrero filed in the Regional Trial Court in Pasay City a complaint for specific performance (Civil Case 6974-P) to compel the De la Ramas to proceed with the sale. On 10 July 1990, while the case was pending, the Republic of the Philippines filed the case (Civil Case 7327) for expropriation pursuant to BP 340. Among the defendants named in the complaint were Milagros and Inocentes De la Rama as registered owners of Lot 834, a portion of which (Lot 834-A) was part of the expropriated property. Upon the deposit of P12,970,350.00 representing 10% of the approximate market value of the subject lands, a writ of possession was issued on 29 August 1990 in favor of the government. On 2 May 1991, Guerrero filed a motion for intervention alleging that the De la Ramas had agreed to sell to him the entire Lot 834 on 14 December 1988 and that a case for specific performance had been filed by him against the De la Ramas. On 9 September 1991, the trial court approved payment to the De la Ramas at the rate of P23,976.00 per square meter for the taking of 920 square meters out of the 1,380 square meters. Meanwhile, on 18 September 1991, the trial court rendered a decision in the case for specific performance upholding the validity of the contract to sell and ordering the De la Ramas to execute the corresponding deed of sale covering the subject property in favor of Guerrero. The De la Ramas appealed to the Court of Appeals (CA-GR CV-35116) but their petition was dismissed on 28 July 1992. They tried to appeal to the Supreme Court (GR 106488) but again they failed in their bid as their petition for review was denied on 7 December 1992. Meanwhile, on 2 October 1991, Guerrero filed an Omnibus Motion praying that the just compensation for the land be deposited in court pursuant to Rule 67, §9 of the Rules of Court. As his motion for intervention and omnibus motion had not yet been resolved, Guerrero filed with the Court of Appeals a petition for mandamus, certiorari, and injunction with temporary restraining order (CA-GR SP 28311) to enjoin the Republic from releasing or paying to the De la Ramas any amount corresponding to the payment of the expropriated property and to compel the trial court to resolve his two motions. On 12 January 1993, the Court of Appeals rendered a decision granting the writ of mandamus. Nonetheless, the De la Ramas filed on 17 March 1993 a Motion for Authority to Withdraw the deposit made by the Republic in 1991, which was denied on 7 May 1993. On 16 June 1993, the De la Ramas filed a Motion for Execution again praying that the court's order dated 9 September 1991, approving the recommendation of the appraisal committee, be enforced. On 22 June 1993, the trial court denied the motion of the De la Ramas holding that there had been a change in the situation of the parties, therefore, making the execution of 9 September 1991 Order inequitable, impossible, or unjust. Thus, with the decision in the action for specific performance in Civil Case 6974-P having become final, an order of execution was issued by the Pasay City RTC, and as a result of which, a deed of absolute sale was executed by the Branch Clerk of Court on 8 March 1994 in favor of Guerrero upon payment by him of the sum of P8,808,000.00 on 11 January 1994 and the further sum of P1,608,900.00 on 1 February 1994 as full payment for the balance of the purchase price under the contract to sell. The entire amount was withdrawn and duly received by the De la Ramas. Thereafter, the De la Ramas sought the nullification of the 22 June 1993 order of the trial by filing a petition for certiorari and mandamus in the Court of Appeals. This petition was, however, dismissed in a decision dated 29 July 1994 of the appellate court. Finally, on 5 April 1995, the Pasay City Regional Trial Court, Branch 111, declared Guerrero the rightful owner of the 920-square meter expropriated property and ordered payment to him of just compensation for the taking of the land. This decision was subsequently affirmed by the Court of Appeals. The De la Ramas filed a petition for review.
Narratives (Berne Guerrero)

**Issue:** Whether the legal interest should be 6% or 12%

**Held:** The decision dated 18 September 1991 has long become final and executory. The decision therein ordered the De la Ramas to pay Guerrero, among others, the legal interest of the amount of P2,200,000.00 from 2 August 1989 until the deed of absolute sale is executed in favor of Guerrero. Specifically, the court therein rationalized that (1) the legal rate of interest for damages, and even for loans where interest was not stipulated, is 6% per annum (Article 2209, Civil Code); that (2) the rate of 12% per annum was established by the Monetary Board when, under the power vested in it by PD 116 to amend Act 2655 (more commonly known as the Anti Usury Law), it amended Section 1 by increasing the rate of legal interest for loans, renewals and forbearance thereof, as well as for judgments, from 6% per annum to 12% per annum; and that (3) inasmuch as the Monetary Board may not repeal or amend the Civil Code, in the face of the apparent conflict between Article 2209 and Act 2655 as amended, the ruling of the Monetary Board applies only to banks, financing companies, pawnshops and intermediaries performing quasi-banking functions, all of which are under the control and supervision of the Central Bank and of the Monetary Board. Thus, the court held therein that (1) the interest rate on the P2,200,000.00 paid to the de la Ramas by Guerrero at the inception of the transactions should be only 6% per annum from 2 August 1989, and as of 2 January 1994 this amounts to the sum of P583,000.00 and P11,000.00 every month thereafter until the deed of absolute sale over the property subject matter of this case is executed; that (2) the amounts payable by the de la Ramas to Guerrero therefore stands at a total of P1,383,000.00. Offsetting this amount from the balance of P8,800,000.00, Guerrero must still pay to the de la Ramas the sum of P7,417,000.00; and that (3) since Guerrero has already deposited with the Clerk of Court of the court the sum of P5,808,100.00 as of 11 January 1994; he should add to this the sum of P1,608,900.00. The De la Ramas can no longer question a judgment which has already become final and executory. Hence, they are already barred from questioning it in a proceeding before the Supreme Court.

49 City of Manila, vs. Serrano [GR 142304, 20 June 2001]

*Second Division, Mendoza (J): 4 concur*

**Facts:** On 21 December 1993, the City Council of Manila enacted Ordinance 7833, authorizing the expropriation of certain properties in Manila's First District in Tondo, covered by TCTs 70869, 105201, 105202, and 138273 of the Register of Deeds of Manila, which are to be sold and distributed to qualified occupants pursuant to the Land Use Development Program of the City of Manila. One of the properties sought to be expropriated, denominated as Lot 1-C, consists of 343.10 square meters, and was in the name of Feliza de Guia. Lot 1-C was assigned to Edgardo De Guia, one of the heirs of Alberto De Guia, in turn one of the heirs of Feliza de Guia. On 29 July 1994, the said property was transferred to Lee Kuan Hui, in whose name TCT 217018 was issued. The property was subsequently sold on 24 January 1996 to Demetria De Guia to whom TCT 226048 was issued. On 26 September 1997, the City of Manila filed an amended complaint for expropriation (Civil Case 94-72282) with the Regional Trial Court, Branch 16, Manila, against the supposed owners of the lots covered by TCTs 70869 (including Lot 1-C), 105201, 105202, and 138273, which included herein respondents Oscar, Felicitas, Jose, Benjamin, Estelita, Leonora, Adelaida, all surnamed Serrano. On 12 November 1997, the Serranos filed a consolidated answer, praying the exemption of Lot 1-C from expropriation. Upon motion by the City, the trial court issued an order, dated 9 October 1998, directing the City to deposit the amount of P1,825,241.00 equivalent to the assessed value of the properties. After the City had made the deposit, the trial court issued another order, dated 15 December 1998, directing the issuance of a writ of possession in favor of the City. The Serranos filed a petition for certiorari with the Court of Appeals. On 16 November 1999, the Court of Appeals rendered a decision holding that although Lot 1-C is not exempt from expropriation because it undeniably exceeds 300 square meters which is no longer considered a small property within the framework of RA 7279, the other modes of acquisition of lands enumerated in §559-10 of the law must first be tried by the city government before it can resort to expropriation, and thus enjoined the City from expropriating Lot 1-C. In its resolution, dated 23 February 2000, the Court of Appeals likewise
denied two motions for reconsideration filed by the City. The City filed a petition for review on certiorari before the Supreme Court.

**Issue:** Whether it was premature to determine whether the requirements of RA 7279, §§9-10 have been complied with.

**Held:** Rule 67, §2 provides that "Upon the filing of the complaint or at any time thereafter and after due notice to the defendant, the plaintiff shall have the right to take or enter upon the possession of the real property involved if he deposits with the authorized government depository an amount equivalent to the assessed value of the property for purposes of taxation to be held by such bank subject to the orders of the court. Such deposit shall be in money, unless in lieu thereof the court authorizes the deposit of a certificate of deposit of a government bank of the Republic of the Philippines payable on demand to the authorized government depository. If personal property is involved, its value shall be provisionally ascertained and the amount to be deposited shall be fixed by the court. After such deposit is made the court shall order the sheriff or other proper officer to forthwith place the plaintiff in possession of the property involved and promptly submit a report thereof to the court with service of copies to the parties." Thus, a writ of execution may be issued by a court upon the filing by the government of a complaint for expropriation sufficient in form and substance and upon deposit made by the government of the amount equivalent to the assessed value of the property subject to expropriation. Upon compliance with these requirements, the issuance of the writ of possession becomes ministerial. Herein, these requirements were satisfied and, therefore, it became the ministerial duty of the trial court to issue the writ of possession. The distinction between the Filstream and the present case is that in the former, the judgment in that case had already become final while herein, the trial court has not gone beyond the issuance of a writ of possession. Hearing is still to be held to determine whether or not petitioner indeed complied with the requirements provided in RA 7279. Whether the City has complied with these provisions requires the presentation of evidence, although in its amended complaint petitioner did allege that it had complied with the requirements. The determination of this question must await the hearing on the complaint for expropriation, particularly the hearing for the condemnation of the properties sought to be expropriated. Expropriation proceedings consists of two stages: first, condemnation of the property after it is determined that its acquisition will be for a public purpose or public use and, second, the determination of just compensation to be paid for the taking of private property to be made by the court with the assistance of not more than three commissioners.

50  
City of Baguio vs. National Waterworks and Sewerage Authority [GR L-12032, 31 August 1959]  
*En Banc, Bautista Angelo (J): 6 concur, 1 concur in result*

**Facts:** The City of Baguio filed on 25 April 1956, in the Court of First Instance of Baguio, a complaint for declaratory relief against the National Waterworks and Sewerage Authority (NAWASA), a public corporation created by Republic Act 1383, contending that said Act does not include within its purview the Baguio Waterworks System; that assuming that it does, said Act is unconstitutional because it has the effect of depriving the City of the ownership, control and operation of said waterworks system without compensation and without due process of law, and that it is oppressive, unreasonable and unjust to plaintiff and other cities, municipalities and municipal districts similarly situated. On 22 May 1956, NAWASA filed a motion to dismiss. On 21 June 1956, the Court, acting on the motion to dismiss as well as on the answer and rejoinder filed by both parties, denied the motion and ordered NAWASA to file its answer to the complaint. On 6 July 1956, NAWASA filed its answer reiterating and amplifying the grounds already advanced in its motion to dismiss. On 14 August 1956, the parties submitted a written stipulation of facts and filed written memoranda. And after allowing the City to file a supplementary complaint, the Court on 5 November 1956, rendered decision holding that the waterworks system of the City of Baguio falls within the category of "private property," as contemplated by our Constitution and may not be expropriated without just compensation. NAWASA filed a motion for reconsideration, and upon its denial, it took the present appeal.
Narratives (Berne Guerrero)

**Issue:** Whether the Baguio Waterworks partakes of the nature of public property or private/patrimonial property of the City.

**Held:** The Baguio Waterworks System is not like any public road, park, street or other public property held in trust by a municipal corporation for the benefit of the public but it is rather a property owned by the City in its proprietary character. While the cases may differ as to the public or private character of waterworks, the weight of authority as far as the legislature is concerned classes them as private affairs. (sec. 239, Vol. I, Revised, McQuilllin Municipal Corporations, p. 239; Shrik vs. City of Lancaster, 313 Pa. 158, 169 Atl. 557). And in this jurisdiction, this Court has already expressed the view that a waterworks system is patrimonial property of the city that has established it. (Mendoza vs. De Leon, 33 Phil. 509). And being owned by a municipal corporation in a proprietary character, waterworks cannot be taken away without observing the safeguards set by our Constitution for the protection of private property. The State may, in the interest of National welfare, transfer to public ownership any private enterprise upon payment of just compensation. At the same time, one has to bear in mind that no person can be deprived of his property except for public use and upon payment of just compensation. Unless the City is given its due compensation, the City cannot be deprived of its property even if NAWASA desires to take over its administration in line with the spirit of the law (Republic Act 1383). The law, insofar as it expropriates the waterworks in question without providing for an effective payment of just compensation, violates our Constitution.

En Banc, Bengzon (J): 8 concur, 1 on leave

**Facts:** Prior to its incorporation as a chartered city, the Municipality of Zamboanga used to be the provincial capital of the then Zamboanga Province. On 12 October 1936, Commonwealth Act (CA) 39 was approved converting the Municipality of Zamboanga into Zamboanga City. Section 50 of the Act also provided that "buildings and properties which the province shall abandon upon the transfer of the capital to another place will be acquired and paid for by the City of Zamboanga at a price to be fixed by the Auditor General." The properties and buildings referred to consisted of 50 lots and some buildings constructed thereon, located in the City of Zamboanga and covered individually by Torrens certificates of title in the name of Zamboanga Province. The lots are utilized as the Capitol Site (1 lot), School site (3 lots), Hospital site (3 lots), Leprosarium (3 lots), Curuan school (1 lot), Trade school (1 lot), Burleigh school (2 lots), burleigh (9 lots), high school playground (2 lots), hydro-electric site (1 lot), san roque (?1 lot), and another 23 vacant lots. In 1945, the capital of Zamboanga Province was transferred to Dipolog and on 16 June 1948, Republic Act (RA) 286 created the municipality of Molave and making it the capital of Zamboanga Province. On 26 May 1949, the Appraisal Committee formed by the Auditor General, pursuant to CA 39, fixed the value of the properties and buildings in question left by Zamboanga Province in Zamboanga City at P1,294,244.00. However, on 14 July 1951, a Cabinet Resolution was passed, conveying all the said 50 lots and buildings thereon to Zamboanga City for P1.00, effective as of 1945, when the provincial capital of the Zamboanga Province was transferred to Dipolog. On 6 June 1952, RA 711 was approved dividing the province of Zamboanga into Zamboanga del Norte and Zamboanga del Sur. As to how the assets and obligations of the old province were to be divided between the two new ones, Section 6 of the law provided that “upon the approval of the Act, the funds, assets and other properties and the obligations of the province of Zamboanga shall be divided equitably between the Province of Zamboanga del Norte and the Province of Zamboanga del Sur by the President of the Philippines, upon the recommendation of the Auditor General." On 11 January 1955, the Auditor General apportioned the assets and obligations of the defunct Province of Zamboanga, apportioning 54.39% for Zamboanga del Norte and 45.61% for Zamboanga del Sur. On 17 March 1959, the Executive Secretary, by order of the President, issued a ruling holding that Zamboanga del Norte had a vested right as owner (should be co-owner pro-indiviso) of the properties mentioned in Section 50 of CA 39, and is entitled to the price thereof, payable by Zamboanga City. This effectively revoked the Cabinet Resolution of 14 July 1951. The Secretary of Finance then authorized the Commissioner of Internal Revenue to deduct an amount equal to 25% of the regular internal revenue allotment for the City of Zamboanga for the quarter ending 31 March
1960, then for the quarter ending 30 June 1960, and again for the first quarter of the fiscal year 1960-1961. The deductions, all aggregating P57,373.46 was credited to the province of Zamboanga del Norte, in partial payment of the P704,220.05 due it. However, on 17 June 1961, RA 3039 was approved amending Section 50 of CA 39 by providing that "all buildings, properties and assets belonging to the former province of Zamboanga and located within the City of Zamboanga are hereby transferred, free of charge, in favor of the said City of Zamboanga."

On 12 July 1961, the Secretary of Finance ordered the Commissioner of Internal Revenue to stop from effecting further payments to Zamboanga del Norte and to return to Zamboanga City the sum of P57,373.46 taken from it out of the internal revenue allotment of Zamboanga del Norte. Zamboanga City admits that since the enactment of RA 3039, P43,030.11 of the P57,373.46 has already been returned to it. This constrained Zamboanga del Norte to file on 5 March 1962, a complaint entitled "Declaratory Relief with Preliminary Mandatory Injunction" in the CFI Zamboanga del Norte against Zamboanga City, the Secretary of Finance and the Commissioner of Internal Revenue. On 4 June 1962, the lower court ordered the issuance of preliminary injunction as prayed for. After trial and on 12 August 1963, judgment was rendered declaring RA 3039 unconstitutional as it deprives the province of its private properties, ordered the city to pay the province the sum of P704,200.05 and in relation to this ordered the finance secretary to direct the Commissioner of Internal revenue to deduct from its regular quarterly internal revenue allotment equivalent to 25%, 25% from the regular quarterly internal revenue allotment for the City and to remit the same to the province until the sum has been fully paid; ordered the province to execute the corresponding public instrument deeding to the city the 50 parcels of land and the improvements thereon under the certificates of title upon full payment; dismissed the counterclaim of the city; and declared permanent the preliminary mandatory injunction issued on 8 June 1967. The province filed a motion to reconsider praying that the City be ordered instead to pay the P704,220.05 in lump sum with 6% interest per annum. Over the city’s opposition, the lower court granted the province’s motion. Hence, the appeal to the Supreme Court.

**Issue:** Whether Zamboanga del Norte is entitled to its share of the value of the properties belonging to the former Zamboanga province that were transferred to the City of Zamboanga.

**Held:** Article 423 of the Civil Code provides that “the property of provinces, cities and municipalities, is divided into property for public use and patrimonial properly.” Article 424 of the same code provides that “property for public use, in the provinces, cities, and municipalities, consists of the provincial roads, city streets, municipal streets, the squares, fountains, public waters, promenades, and public works for public service paid for by said provinces, cities, or municipalities. All other property possessed by any of them is patrimonial and shall be governed by this Code, without prejudice to the provisions of special laws.” Applying the norm in the Civil Code, all the properties in question, except the two (2) lots used as High School playgrounds, could be considered as patrimonial properties of the former Zamboanga province. Even the capitol site, the hospital and leprosarium sites, and the school sites will be considered patrimonial for they are not for public use inasmuch as they would not fall under the phrase “public works for public service.” Under the ejusdem generis rule, such public works must be for free and indiscriminate use by anyone, just like the preceding enumerated properties in the first paragraph of Article 424. The playgrounds, however, would fit into this category. The records do not disclose, however, whether the buildings were constructed at the expense of the former Province of Zamboanga. Considering however the fact that said buildings must have been erected even before 1936 when CA 39 was enacted and the further fact that provinces then had no power to authorize construction of buildings at their own expense, it can be assumed that said buildings were erected by the National Government, using national funds. Hence, Congress could very well dispose of said buildings in the same manner that it did with the lots in question. On the other hand, Republic Act 3039 cannot be applied to deprive Zamboanga del Norte of its share in the value of the rest of the 26 remaining lots which are patrimonial properties since they are not being utilized for distinctly governmental purposes. The fact that these 26 lots are registered strengthens the proposition that they are truly private in nature. Thus, Zamboanga del Norte is still entitled to collect from the City of Zamboanga the former’s 54.39% share in the 26 properties which are patrimonial in nature, said share to be computed on the basis of the valuation of said
Narratives (Berne Guerrero)

26 properties as contained in Resolution 7, dated 26 March 1949, of the Appraisal Committee formed by the Auditor General. The share, however, cannot be paid in lump sum, except as to the P43,030.11 already returned to the City, as the return of said amount to the city was without legal basis. RA 3039 took effect only on 17 June 1961 after a partial payment of P57,373.46 had already been made. Since the law did not provide for retroactivity, it could not have validly affected a completed act. Hence, the amount of P43,030.11 should be immediately returned by the City to the province. The remaining balance, if any, in the amount of plaintiff's 54.39% share in the 26 lots should then be paid by the City in the same manner originally adopted by the Secretary of Finance and the Commissioner of Internal Revenue, and not in lump sum.