

## FIRST DIVISION

[ G.R. No. 189999, June 27, 2012 ]

**ANGELES UNIVERSITY FOUNDATION, PETITIONER, VS. CITY OF ANGELES, JULIET G. QUINSAAT, IN HER CAPACITY AS TREASURER OF ANGELES CITY AND ENGR. DONATO N. DIZON, IN HIS CAPACITY AS ACTING ANGELES CITY BUILDING OFFICIAL, RESPONDENTS.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, which seeks to reverse and set aside the Decision<sup>[1]</sup> dated July 28, 2009 and Resolution<sup>[2]</sup> dated October 12, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 90591. The CA reversed the Decision<sup>[3]</sup> dated September 21, 2007 of the Regional Trial Court of Angeles City, Branch 57 in Civil Case No. 12995 declaring petitioner exempt from the payment of building permit and other fees and ordering respondents to refund the same with interest at the legal rate.

The factual antecedents:

Petitioner Angeles University Foundation (AUF) is an educational institution established on May 25, 1962 and was converted into a non-stock, non-profit education foundation under the provisions of Republic Act (R.A.) No. 6055<sup>[4]</sup> on December 4, 1975.

Sometime in August 2005, petitioner filed with the Office of the City Building Official an application for a building permit for the construction of an 11-storey building of the Angeles University Foundation Medical Center in its main campus located at MacArthur Highway, Angeles City, Pampanga. Said office issued a Building Permit Fee Assessment in the amount of P126,839.20. An Order of Payment was also issued by the City Planning and Development Office, Zoning Administration Unit requiring petitioner to pay the sum of P238,741.64 as Locational Clearance Fee.<sup>[5]</sup>

In separate letters dated November 15, 2005 addressed to respondents City Treasurer Juliet G. Quinsaat and Acting City Building Official Donato N. Dizon, petitioner claimed that it is exempt from the payment of the building permit and locational clearance fees, citing

legal opinions rendered by the Department of Justice (DOJ). Petitioner also reminded the respondents that they have previously issued building permits acknowledging such exemption from payment of building permit fees on the construction of petitioner’s 4-storey AUF Information Technology Center building and the AUF Professional Schools building on July 27, 2000 and March 15, 2004, respectively.<sup>[6]</sup>

Respondent City Treasurer referred the matter to the Bureau of Local Government Finance (BLGF) of the Department of Finance, which in turn endorsed the query to the DOJ. Then Justice Secretary Raul M. Gonzalez, in his letter-reply dated December 6, 2005, cited previous issuances of his office (Opinion No. 157, s. 1981 and Opinion No. 147, s. 1982) declaring petitioner to be exempt from the payment of building permit fees. Under the 1st Indorsement dated January 6, 2006, BLGF reiterated the aforesaid opinion of the DOJ stating further that “xxx the Department of Finance, thru this Bureau, has no authority to review the resolution or the decision of the DOJ.”<sup>[7]</sup>

Petitioner wrote the respondents reiterating its request to reverse the disputed assessments and invoking the DOJ legal opinions which have been affirmed by Secretary Gonzalez. Despite petitioner’s plea, however, respondents refused to issue the building permits for the construction of the AUF Medical Center in the main campus and renovation of a school building located at Marisol Village. Petitioner then appealed the matter to City Mayor Carmelo F. Lazatin but no written response was received by petitioner.<sup>[8]</sup>

Consequently, petitioner paid under protest<sup>[9]</sup> the following:

Medical Center (new construction)	
Building Permit and Electrical Fee	P 217,475.20
Locational Clearance Fee	283,741.64
Fire Code Fee	<u>144,690.00</u>
Total -	P 645,906.84

Petitioner likewise paid the following sums as required by the City Assessor’s Office:

Real Property Tax – Basic Fee	P 86,531.10
SEF	43,274.54
Locational Clearance Fee	<u>1,125.00</u>
Total –	P130,930.64 <sup>[10]</sup>

**[GRAND TOTAL - P 826,662.99]**

By reason of the above payments, petitioner was issued the corresponding Building Permit, Wiring Permit, Electrical Permit and Sanitary Building Permit. On June 9, 2006, petitioner formally requested the respondents to refund the fees it paid under protest. Under letters dated June 15, 2006 and August 7, 2006, respondent City Treasurer denied the claim for refund.<sup>[11]</sup>

On August 31, 2006, petitioner filed a Complaint<sup>[12]</sup> before the trial court seeking the refund of P826,662.99 plus interest at the rate of 12% per annum, and also praying for the award of attorney's fees in the amount of P300,000.00 and litigation expenses.

In its Answer,<sup>[13]</sup> respondents asserted that the claim of petitioner cannot be granted because its structures are not among those mentioned in Sec. 209 of the National Building Code as exempted from the building permit fee. Respondents argued that R.A. No. 6055 should be considered repealed on the basis of Sec. 2104 of the National Building Code. Since the disputed assessments are regulatory in nature, they are not taxes from which petitioner is exempt. As to the real property taxes imposed on petitioner's property located in Marisol Village, respondents pointed out that said premises will be used as a school dormitory which cannot be considered as a use exclusively for educational activities.

Petitioner countered that the subject building permit are being collected on the basis of Art. 244 of the Implementing Rules and Regulations of the Local Government Code, which impositions are really taxes considering that they are provided under the chapter on "Local Government Taxation" in reference to the "revenue raising power" of local government units (LGUs). Moreover, petitioner contended that, as held in *Philippine Airlines, Inc. v. Edu*,<sup>[14]</sup> fees may be regarded as taxes depending on the purpose of its exaction. In any case, petitioner pointed out that the Local Government Code of 1991 provides in Sec. 193 that non-stock and non-profit educational institutions like petitioner retained the tax exemptions or incentives which have been granted to them. Under Sec. 8 of R.A. No. 6055 and applicable jurisprudence and DOJ rulings, petitioner is clearly exempt from the payment of building permit fees.<sup>[15]</sup>

On September 21, 2007, the trial court rendered judgment in favor of the petitioner and against the respondents. The dispositive portion of the trial court's decision<sup>[16]</sup> reads:

WHEREFORE, premises considered, judgment is rendered as follows:

- a. Plaintiff is exempt from the payment of building permit and other fees  
Ordering the Defendants to refund the total amount of Eight Hundred Twenty Six Thousand Six Hundred Sixty Two Pesos and 99/100 Centavos (P826,662.99) plus legal interest thereon at the rate of twelve percent (12%) per

annum commencing on the date of extra-judicial demand or June 14, 2006, until the aforesaid amount is fully paid.

b. Finding the Defendants liable for attorney's fees in the amount of Seventy Thousand Pesos (Php70,000.00), plus litigation expenses.

c. Ordering the Defendants to pay the costs of the suit.

SO ORDERED.<sup>[17]</sup>

Respondents appealed to the CA which reversed the trial court, holding that while petitioner is a tax-free entity, it is not exempt from the payment of regulatory fees. The CA noted that under R.A. No. 6055, petitioner was granted exemption only from income tax derived from its educational activities and real property used exclusively for educational purposes. Regardless of the repealing clause in the National Building Code, the CA held that petitioner is still not exempt because a building permit cannot be considered as the other "charges" mentioned in Sec. 8 of R.A. No. 6055 which refers to impositions in the nature of tax, import duties, assessments and other collections for revenue purposes, following the *ejusdem generis* rule. The CA further stated that petitioner has not shown that the fees collected were excessive and more than the cost of surveillance, inspection and regulation. And while petitioner may be exempt from the payment of real property tax, petitioner in this case merely alleged that "the subject property is to be used actually, directly and exclusively for educational purposes," declaring merely that such premises is intended to house the sports and other facilities of the university but by reason of the occupancy of informal settlers on the area, it cannot yet utilize the same for its intended use. Thus, the CA concluded that petitioner is not entitled to the refund of building permit and related fees, as well as real property tax it paid under protest.

Petitioner filed a motion for reconsideration which was denied by the CA.

Hence, this petition raising the following grounds:

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORDANCE WITH LAW AND THE APPLICABLE DECISIONS OF THE HONORABLE COURT AND HAS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS NECESSITATING THE HONORABLE COURT'S EXERCISE OF ITS POWER OF SUPERVISION CONSIDERING THAT:

I. IN REVERSING THE TRIAL COURT'S DECISION DATED 21 SEPTEMBER 2007, THE COURT OF APPEALS EFFECTIVELY

WITHDREW THE PRIVILEGE OF EXEMPTION GRANTED TO NON-STOCK, NON-PROFIT EDUCATIONAL FOUNDATIONS BY VIRTUE OF RA 6055 WHICH WITHDRAWAL IS BEYOND THE AUTHORITY OF THE COURT OF APPEALS TO DO.

1. INDEED, RA 6055 REMAINS VALID AND IS IN FULL FORCE AND EFFECT. HENCE, THE COURT OF APPEALS ERRED WHEN IT RULED IN THE QUESTIONED DECISION THAT NON-STOCK, NON-PROFIT EDUCATIONAL FOUNDATIONS ARE NOT EXEMPT.
  2. THE COURT OF APPEALS' APPLICATION OF THE PRINCIPLE OF EJUSDEM GENERIS IN RULING IN THE QUESTIONED DECISION THAT THE TERM "OTHER CHARGES IMPOSED BY THE GOVERNMENT" UNDER SECTION 8 OF RA 6055 DOES NOT INCLUDE BUILDING PERMIT AND OTHER RELATED FEES AND/OR CHARGES IS BASED ON ITS ERRONEOUS AND UNWARRANTED ASSUMPTION THAT THE TAXES, IMPORT DUTIES AND ASSESSMENTS AS PART OF THE PRIVILEGE OF EXEMPTION GRANTED TO NON-STOCK, NON-PROFIT EDUCATIONAL FOUNDATIONS ARE LIMITED TO COLLECTIONS FOR REVENUE PURPOSES.
  3. EVEN ASSUMING THAT THE BUILDING PERMIT AND OTHER RELATED FEES AND/OR CHARGES ARE NOT INCLUDED IN THE TERM "OTHER CHARGES IMPOSED BY THE GOVERNMENT" UNDER SECTION 8 OF RA 6055, ITS IMPOSITION IS GENERALLY A TAX MEASURE AND THEREFORE, STILL COVERED UNDER THE PRIVILEGE OF EXEMPTION.
- II. THE COURT OF APPEALS' DENIAL OF PETITIONER AUF'S EXEMPTION FROM REAL PROPERTY TAXES CONTAINED IN ITS QUESTIONED DECISION AND QUESTIONED RESOLUTION IS CONTRARY TO APPLICABLE LAW AND JURISPRUDENCE.<sup>[18]</sup>

Petitioner stresses that the tax exemption granted to educational stock corporations which have converted into non-profit foundations was broadened to include any other charges imposed by the Government as one of the incentives for such conversion. These incentives necessarily included exemption from payment of building permit and related fees as otherwise there would have been no incentives for educational foundations if the privilege were only limited to exemption from taxation, which is already provided under the Constitution.

Petitioner further contends that this Court has consistently held in several cases that the primary purpose of the exaction determines its nature. Thus, a charge of a fixed sum which bears no relation to the cost of inspection and which is payable into the general revenue of the state is a tax rather than an exercise of the police power. The standard set by law in the determination of the amount that may be imposed as license fees is such that is commensurate with the cost of regulation, inspection and licensing. But in this case, the amount representing the building permit and related fees and/or charges is such an exorbitant amount as to warrant a valid imposition; such amount exceeds the probable cost of regulation. Even with the alleged criteria submitted by the respondents (e.g., character of occupancy or use of building/structure, cost of construction, floor area and height), and the construction by petitioner of an 11-storey building, the costs of inspection will not amount to P645,906.84, presumably for the salary of inspectors or employees, the expenses of transportation for inspection and the preparation and reproduction of documents. Petitioner thus concludes that the disputed fees are substantially and mainly for purposes of revenue rather than regulation, so that even these fees cannot be deemed “charges” mentioned in Sec. 8 of R.A. No. 6055, they should properly be treated as tax from which petitioner is exempt.

In their Comment, respondents maintain that petitioner is not exempt from the payment of building permit and related fees since the only exemptions provided in the National Building Code are public buildings and traditional indigenous family dwellings. *Inclusio unius est exclusio alterius*. Because the law did not include petitioner’s buildings from those structures exempt from the payment of building permit fee, it is therefore subject to the regulatory fees imposed under the National Building Code.

Respondents assert that the CA correctly distinguished a building permit fee from those “other charges” mentioned in Sec. 8 of R.A. No. 6055. As stated by petitioner itself, charges refer to pecuniary liability, as rents, and fees against persons or property. Respondents point out that a building permit is classified under the term “fee.” A fee is generally imposed to cover the cost of regulation as activity or privilege and is essentially derived from the exercise of police power; on the other hand, impositions for services rendered by the local government units or for conveniences furnished, are referred to as “service charges”.

Respondents also disagreed with petitioner’s contention that the fees imposed and collected are exorbitant and exceeded the probable expenses of regulation. These fees are based on computations and assessments made by the responsible officials of the City Engineer’s Office in accordance with the Schedule of Fees and criteria provided in the National Building Code. The bases of assessment cited by petitioner (e.g. salary of employees, expenses of transportation and preparation and reproduction of documents) refer to charges and fees on business and occupation under Sec. 147 of the Local Government Code, which do not apply to building permit fees. The parameters set by the National Building Code can be considered as complying with the reasonable cost of regulation in the assessment and collection of building permit fees. Respondents likewise contend that the presumption of regularity in the performance of official duty applies in this case. Petitioner should have

presented evidence to prove its allegations that the amounts collected are exorbitant or unreasonable.

For resolution are the following issues: (1) whether petitioner is exempt from the payment of building permit and related fees imposed under the National Building Code; and (2) whether the parcel of land owned by petitioner which has been assessed for real property tax is likewise exempt.

R.A. No. 6055 granted tax exemptions to educational institutions like petitioner which converted to non-stock, non-profit educational foundations. Section 8 of said law provides:

**SECTION 8. The Foundation shall be exempt from the payment of all taxes, import duties, assessments, and other charges imposed by the Government on all income derived from or property, real or personal, used exclusively for the educational activities of the Foundation.**(Emphasis supplied.)

On February 19, 1977, Presidential Decree (P.D.) No. 1096 was issued adopting the National Building Code of the Philippines. The said Code requires every person, firm or corporation, including any agency or instrumentality of the government to obtain a building permit for any construction, alteration or repair of any building or structure.

[19] Building permit refers to “a document issued by the Building Official x x x to an owner/applicant to proceed with the construction, installation, addition, alteration, renovation, conversion, repair, moving, demolition or other *work activity* of a specific project/building/structure or portions thereof after the accompanying principal plans, specifications and other pertinent documents with the duly notarized application are found satisfactory and substantially conforming with the National Building Code of the Philippines x x x and its Implementing Rules and Regulations (IRR).” [20] Building permit fees refers to the basic permit fee and other charges imposed under the National Building Code.

Exempted from the payment of building permit fees are: (1) public buildings and (2) traditional indigenous family dwellings. [21] Not being expressly included in the enumeration of structures to which the building permit fees do not apply, petitioner’s claim for exemption rests solely on its interpretation of the term “other charges imposed by the National Government” in the tax exemption clause of R.A. No. 6055.

A “charge” is broadly defined as the “price of, or rate for, something,” while the word “fee” pertains to a “charge fixed by law for services of public officers or for use of a privilege under control of government.” [22] As used in the Local Government Code of 1991 (R.A. No. 7160), *charges* refers to pecuniary liability, as rents or fees against persons or property, while *fee* means a charge fixed by law or ordinance for the regulation or inspection of a business or activity. [23]

That “charges” in its ordinary meaning appears to be a general term which could cover a specific “fee” does not support petitioner’s position that building permit fees are among those “other charges” from which it was expressly exempted. Note that the “other charges” mentioned in Sec. 8 of R.A. No. 6055 is qualified by the words “imposed by the Government *on all x x x property* used exclusively for the educational activities of the foundation.” Building permit fees are not impositions on property but on the activity subject of government regulation. While it may be argued that the fees relate to particular properties, i.e., buildings and structures, they are actually imposed on certain activities the owner may conduct either to build such structures or to repair, alter, renovate or demolish the same. This is evident from the following provisions of the National Building Code:

### **Section 102. Declaration of Policy**

It is hereby declared to be the policy of the State *to safeguard life, health, property, and public welfare*, consistent with the principles of sound environmental management and control; and to this end, make it the purpose of this Code to provide for all buildings and structures, *a framework of minimum standards and requirements to regulate and control* their location, site, design quality of materials, construction, use, occupancy, and maintenance.

### **Section 103. Scope and Application**

(a) The provisions of this Code shall apply to the design, location, siting, construction, alteration, repair, conversion, use, occupancy, maintenance, moving, demolition, and addition to public and private buildings and structures, except traditional indigenous family dwellings as defined herein.

x x x x

### **Section 301. Building Permits**

No person, firm or corporation, including any agency or instrumentality of the government *shall erect, construct, alter, repair, move, convert or demolish* any building or structure or cause the same to be done without first obtaining a building permit therefor from the Building Official assigned in the place where the subject building is located or the building work is to be done. (Italics supplied.)

That a building permit fee is a regulatory imposition is highlighted by the fact that in processing an application for a building permit, the Building Official shall see to it that the applicant satisfies and conforms with approved standard requirements on zoning and land use, lines and grades, structural design, sanitary and sewerage, environmental health, electrical and mechanical safety as well as with other rules and regulations implementing



the National Building Code.<sup>[24]</sup> Thus, ancillary permits such as electrical permit, sanitary permit and zoning clearance must also be secured and the corresponding fees paid before a building permit may be issued. And as can be gleaned from the implementing rules and regulations of the National Building Code, clearances from various government authorities exercising and enforcing regulatory functions affecting buildings/structures, like local government units, may be further required before a building permit may be issued.<sup>[25]</sup>

Since building permit fees are not charges on property, they are not impositions from which petitioner is exempt.

As to petitioner's argument that the building permit fees collected by respondents are in reality taxes because the primary purpose is to raise revenues for the local government unit, the same does not hold water.

A charge of a fixed sum which bears no relation at all to the cost of inspection and regulation may be held to be a tax rather than an exercise of the police power.<sup>[26]</sup> In this case, the Secretary of Public Works and Highways who is mandated to prescribe and fix the amount of fees and other charges that the Building Official shall collect in connection with the performance of regulatory functions,<sup>[27]</sup> has promulgated and issued the Implementing Rules and Regulations<sup>[28]</sup> which provide for the bases of assessment of such fees, as follows:

1. Character of occupancy or use of building
2. Cost of construction “ 10,000/sq.m (A,B,C,D,E,G,H,I), 8,000 (F), 6,000 (J)
3. Floor area
4. Height

Petitioner failed to demonstrate that the above bases of assessment were arbitrarily determined or unrelated to the activity being regulated. Neither has petitioner adduced evidence to show that the rates of building permit fees imposed and collected by the respondents were unreasonable or in excess of the cost of regulation and inspection.

In *Chevron Philippines, Inc. v. Bases Conversion Development Authority*,<sup>[29]</sup> this Court explained:

In distinguishing tax and regulation as a form of police power, the determining factor is the purpose of the implemented measure. If the purpose is primarily to raise revenue, then it will be deemed a tax even though the measure results in some form of regulation. On the other hand, **if the purpose is primarily to regulate, then it is deemed a regulation and an exercise of the police power**

**of the state, even though incidentally, revenue is generated.** Thus, in *Gerochi v. Department of Energy*, the Court stated:

“The conservative and pivotal distinction between these two (2) powers rests in the purpose for which the charge is made. If generation of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, **the fact that revenue is incidentally raised does not make the imposition a tax.**”<sup>[30]</sup> (Emphasis supplied.)

Concededly, in the case of building permit fees imposed by the National Government under the National Building Code, revenue is incidentally generated for the benefit of local government units. Thus:

### **Section 208. Fees**

Every Building Official shall keep a permanent record and accurate account of all fees and other charges fixed and authorized by the Secretary to be collected and received under this Code.

Subject to existing budgetary, accounting and auditing rules and regulations, the Building Official is hereby authorized to retain not more than twenty percent of his collection for the operating expenses of his office.

The remaining eighty percent shall be deposited with the provincial, city or municipal treasurer and shall accrue to the General Fund of the province, city or municipality concerned.

Petitioner’s reliance on Sec. 193 of the Local Government Code of 1991 is likewise misplaced. Said provision states:

SECTION 193. *Withdrawal of Tax Exemption Privileges.* -- Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, **non-stock and non-profit hospitals and educational institutions**, are hereby withdrawn upon the effectivity of this Code. (Emphasis supplied.)

Considering that exemption from payment of regulatory fees was not among those

“incentives” granted to petitioner under R.A. No. 6055, there is no such incentive that is retained under the Local Government Code of 1991. Consequently, no reversible error was committed by the CA in ruling that petitioner is liable to pay the subject building permit and related fees.

Now, on petitioner’s claim that it is exempted from the payment of real property tax assessed against its real property presently occupied by informal settlers.

Section 28(3), Article VI of the 1987 Constitution provides:

x x x x

(3) Charitable institutions, churches and parsonages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, **actually, directly and exclusively used** for religious, charitable or **educational purposes** shall be exempt from taxation.

x x x x (Emphasis supplied.)

Section 234(b) of the Local Government Code of 1991 implements the foregoing constitutional provision by declaring that --

SECTION 234. *Exemptions from Real Property Tax.*– The following are exempted from payment of the real property tax:

x x x x

(b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, non-profit or religious cemeteries and all lands, buildings, and improvements **actually, directly, and exclusively used** for religious, charitable or **educational purposes**;

x x x x (Emphasis supplied.)

In *Lung Center of the Philippines v. Quezon City*,<sup>[31]</sup> this Court held that only portions of the hospital actually, directly and exclusively used for charitable purposes are exempt from real property taxes, while those portions leased to private entities and individuals are not exempt from such taxes. We explained the condition for the tax exemption privilege of charitable and educational institutions, as follows:

Under the 1973 and 1987 Constitutions and Rep. Act No. 7160 in order to be

entitled to the exemption, the petitioner is burdened to prove, by clear and unequivocal proof, that (a) it is a charitable institution; and (b) its real properties are **ACTUALLY, DIRECTLY** and **EXCLUSIVELY** used for charitable purposes. “Exclusive” is defined as possessed and enjoyed to the exclusion of others; debarred from participation or enjoyment; and “exclusively” is defined, “in a manner to exclude; as enjoying a privilege exclusively.” If real property is used for one or more commercial purposes, it is not exclusively used for the exempted purposes but is subject to taxation. The words “dominant use” or “principal use” cannot be substituted for the words “used exclusively” without doing violence to the Constitutions and the law. Solely is synonymous with exclusively.

*What is meant by actual, direct and exclusive use of the property for charitable purposes is the direct and immediate and actual application of the property itself to the purposes for which the charitable institution is organized.* It is not the use of the income from the real property that is determinative of whether the property is used for tax-exempt purposes.<sup>[32]</sup> (Emphasis and underscoring supplied.)

Petitioner failed to discharge its burden to prove that its real property is actually, directly and exclusively used for educational purposes. While there is no allegation or proof that petitioner leases the land to its present occupants, still there is no compliance with the constitutional and statutory requirement that said real property is actually, directly and exclusively used for educational purposes. The respondents correctly assessed the land for real property taxes for the taxable period during which the land is not being devoted solely to petitioner’s educational activities. Accordingly, the CA did not err in ruling that petitioner is likewise not entitled to a refund of the real property tax it paid under protest.

**WHEREFORE**, the petition is **DENIED**. The Decision dated July 28, 2009 and Resolution dated October 12, 2009 of the Court of Appeals in CA-G.R. CV No. 90591 are **AFFIRMED**.

No pronouncement as to costs.

**SO ORDERED.**

*Leonardo-De Castro*,<sup>\*</sup> (*Acting Chairperson*), *Bersamin, Perez*,<sup>\*\*</sup> and *Perlas-Bernabe*,<sup>\*\*\*</sup> *JJ.*, concur.

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<sup>\*</sup> Designated Acting Chairperson of the First Division per Special Order No. 1226 dated May 30, 2012.

**\*\*** Designated Additional Member per Raffle dated June 25, 2012 vice Associate Justice Mariano C. Del Castillo who recused himself from the case due to close association to one of the parties.

**\*\*\*** Designated Acting Member of the First Division per Special Order No. 1227 dated May 30, 2012.

[1] *Rollo*, pp. 45-59. Penned by Associate Justice Rosmari D. Carandang with Associate Justices Mariflor P. Punzalan Castillo and Ramon M. Bato, Jr. concurring.

[2] *Id.* at 61-62.

[3] *Records*, pp. 184-194. Penned by Judge Omar T. Viola.

[4] An Act To Provide For The Conversion Of Educational Institutions From Stock Corporations To Non-Profit Foundations, Directing The Government Service Insurance System, The Social Security System And The Development Bank Of The Philippines To Assist In Such Conversion, And For Other Purposes. Approved on August 4, 1969.

[5] *Records*, pp. 19-20.

[6] *Id.* at 26-29.

[7] *Id.* at 30-37.

[8] *Id.* at 38-49.

[9] *Id.* at 48-56, 66-74, 87-89.

[10] *Id.* at 75-80, 90.

[11] *Id.* at 57-64, 81-97.

[12] *Id.* at 2-16.

[13] *Id.* at 105-110.

[14] No. L-41383, August 15, 1988, 164 SCRA 320.

[15] *Supra* note 5.

[16] *Id.* at 184-194.

[17] *Id.* at 194.

[18] *Rollo*, pp. 19-21.

[19] Sec. 301, P.D. No. 1096.

[20] Rule I, Sec. 106, 2004 Revised Implementing Rules and Regulations of the National Building Code of the Philippines (P.D. 1096). Italics supplied.

[21] Sec. 209, P.D. 1096.

[22] Black's Law Dictionary, Fifth Edition, pp. 211 and 553.

[23] Sec. 131 (g) and (l), Local Government Code of 1991.

[24] Sec. 303, P.D. No. 1096.

[25] *Office of the Ombudsman v. Espiritu*, G.R. No. 174826, April 8, 2008, 550 SCRA 695, 705.

[26] *Progressive Development Corporation v. Quezon City*, G.R. No. 36081, April 24, 1989, 172 SCRA 629, 636, citing *Saldaña v. City of Iloilo*, 104 Phil. 28, 33 (1958).

[27] Sec. 203 (4), P.D. No. 1096.

[28] Rule 11, No. 3 (1), IRR of P.D. No. 1096.

[29] G.R. No. 173863, September 15, 2010, 630 SCRA 519.

[30] *Id.* at 526.

[31] G.R. No. 144104, June 29, 2004, 433 SCRA 119, 138.

[32] *Id.* at 137-138.

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*Supreme Court E-Library*