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FIRST DIVISION

[G.R. No. 156052, February 13, 2008]

SOCIAL JUSTICE SOCIETY (SJS), VLADIMIR ALARIQUE T. CABIGAO and BONIFACIO S. TUMBOKON, Petitioners, vs. HON. JOSE L. ATIENZA, JR., in his capacity as Mayor of the City of Manila, Respondent.

CHEVRON PHILIPPINES INC., PETRON CORPORATION and PILIPINAS SHELL PETROLEUM CORPORATION, Movants-Intervenors.

DEPARTMENT OF ENERGY, Movant-Intervenor.

R E S O L U T I O N

CORONA, J.:

After we promulgated our decision in this case on March 7, 2007, Chevron Philippines Inc. (Chevron), Petron Corporation (Petron) and Pilipinas Shell Petroleum Corporation (Shell) (collectively, the oil companies) and the Republic of the Philippines, represented by the Department of Energy (DOE), filed their respective motions for leave to intervene and for reconsideration of the decision.

Chevron[1] is engaged in the business of importing, distributing and marketing of petroleum products in the Philippines while Shell and Petron are engaged in the business of manufacturing, refining and likewise importing, distributing and marketing of petroleum products in the Philippines.[2] The DOE is a governmental agency created under Republic Act (RA) No. 7638[3] and tasked to prepare, integrate, coordinate, supervise and control all plans, programs, projects and activities of the government relative to energy exploration, development, utilization, distribution and conservation.[4]

The facts are restated briefly as follows:

Petitioners Social Justice Society, Vladimir Alarique T. Cabigao and Bonifacio S. Tumbokon, in an original petition for *mandamus* under Rule 65 of the Rules of Court, sought to compel respondent Hon. Jose L. Atienza, Jr., then mayor of the City of Manila, to enforce Ordinance No. 8027. This ordinance was enacted by the *Sangguniang Panlungsod*

of Manila on November 20, 2001,[5] approved by respondent Mayor on November 28, 2001,[6] and became effective on December 28, 2001 after publication.[7] Sections 1 and 3 thereof state:

> SECTION 1. For the purpose of promoting sound urban planning and ensuring health, public safety, and general welfare of the residents of Pandacan and Sta. Ana as well as its adjoining areas, the land use of [those] portions of land bounded by the Pasig River in the north, PNR Railroad Track in the east, Beata St. in the south, Palumpong St. in the southwest, and Estero de Pandacan in the west[,] PNR Railroad in the northwest area, Estero de Pandacan in the [n]ortheast, Pasig River in the southeast and Dr. M.L. Carreon in the southwest. The area of Punta, Sta. Ana bounded by the Pasig River, Marcelino Obrero St., Mayo 28 St., and F. Manalo Street, are hereby reclassified from Industrial II to Commercial I.
>
> xxx xxx xxx
>
> SEC. 3. Owners or operators of industries and other businesses, the operation of which are no longer permitted under Section 1 hereof, are hereby given a period of six (6) months from the date of effectivity of this Ordinance within which to cease and desist from the operation of businesses which are hereby in consequence, disallowed.

Ordinance No. 8027 reclassified the area described therein from industrial to commercial and directed the owners and operators of businesses disallowed under the reclassification to cease and desist from operating their businesses within six months from the date of effectivity of the ordinance. Among the businesses situated in the area are the so-called "Pandacan Terminals" of the oil companies.

On June 26, 2002, the City of Manila and the Department of Energy (DOE) entered into a memorandum of understanding (MOU)[8] with the oil companies. They agreed that "the scaling down of the Pandacan Terminals [was] the most viable and practicable option." The *Sangguniang Panlungsod* ratified the MOU in Resolution No. 97.[9] In the same resolution, the *Sanggunian* declared that the MOU was effective only for a period of six months starting July 25, 2002.[10] Thereafter, on January 30, 2003, the *Sanggunian* adopted Resolution No. 13[11] extending the validity of Resolution No. 97 to April 30, 2003 and authorizing the mayor of Manila to issue special business permits to the oil companies.[12]

This was the factual backdrop presented to the Court which became the basis of our March 7, 2007 decision. We ruled that respondent had the ministerial duty under the Local Government Code (LGC) to "enforce all laws and ordinances relative to the governance of the city,"[13] including Ordinance No. 8027. We also held that we need not resolve the issue of whether the MOU entered into by respondent with the oil companies and the subsequent resolutions passed by the *Sanggunian* could amend or repeal Ordinance No.

8027 since the resolutions which ratified the MOU and made it binding on the City of Manila expressly gave it full force and effect only until April 30, 2003. We concluded that there was nothing that legally hindered respondent from enforcing Ordinance No. 8027.

After we rendered our decision on March 7, 2007, the oil companies and DOE sought to intervene and filed motions for reconsideration in intervention on March 12, 2007 and March 21, 2007 respectively. On April 11, 2007, we conducted the oral arguments in Baguio City to hear petitioners, respondent and movants-intervenors oil companies and DOE.

The oil companies called our attention to the fact that on April 25, 2003, Chevron had filed a complaint against respondent and the City of Manila in the Regional Trial Court (RTC) of Manila, Branch 39, for the annulment of Ordinance No. 8027 with application for writs of preliminary prohibitory injunction and preliminary mandatory injunction.[14] The case was docketed as civil case no. 03-106377. On the same day, Shell filed a petition for prohibition and *mandamus* likewise assailing the validity of Ordinance No. 8027 and with application for writs of preliminary prohibitory injunction and preliminary mandatory injunction.[15] This was docketed as civil case no. 03-106380. Later on, these two cases were consolidated and the RTC of Manila, Branch 39 issued an order dated May 19, 2003 granting the applications for writs of preliminary prohibitory injunction and preliminary mandatory injunction:

> WHEREFORE, upon the filing of a total bond of TWO MILLION (Php 2,000,000.00) PESOS, let a Writ of Preliminary Prohibitory Injunction be issued ordering [respondent] and the City of Manila, their officers, agents, representatives, successors, and any other persons assisting or acting in their behalf, during the pendency of the case, to REFRAIN from taking steps to enforce Ordinance No. 8027, and let a Writ of Preliminary Mandatory Injunction be issued ordering [respondent] to issue [Chevron and Shell] the necessary Business Permits to operate at the Pandacan Terminal.[16]

Petron likewise filed its own petition in the RTC of Manila, Branch 42, also attacking the validity of Ordinance No. 8027 with prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order (TRO). This was docketed as civil case no. 03-106379. In an order dated August 4, 2004, the RTC enjoined the parties to maintain the status quo.[17]

Thereafter, in 2006, the city council of Manila enacted Ordinance No. 8119, also known as the Manila Comprehensive Land Use Plan and Zoning Ordinance of 2006.[18] This was approved by respondent on June 16, 2006.[19]

Aggrieved anew, Chevron and Shell filed a complaint in the RTC of Manila, Branch 20, asking for the nullification of Ordinance No. 8119.[20] This was docketed as civil case no.

06-115334. Petron filed its own complaint on the same causes of action in the RTC of Manila, Branch 41.[21] This was docketed as civil case no. 07-116700.[22] The court issued a TRO in favor of Petron, enjoining the City of Manila and respondent from enforcing Ordinance No. 8119.[23]

Meanwhile, in civil case no. 03-106379, the parties filed a joint motion to withdraw complaint and counterclaim on February 20, 2007.[24] In an order dated April 23, 2007, the joint motion was granted and all the claims and counterclaims of the parties were withdrawn.[25]

Given these additional pieces of information, the following were submitted as issues for our resolution:

1. whether movants-intervenors should be allowed to intervene in this case; [26]

2. whether the following are impediments to the execution of our March 7, 2007 decision:

   (a) Ordinance No. 8119, the enactment and existence of which were not previously brought by the parties to the attention of the Court and

   (b) writs of preliminary prohibitory injunction and preliminary mandatory injunction and status quo order issued by the RTC of Manila, Branches 39 and 42 and

3. whether the implementation of Ordinance No. 8027 will unduly encroach upon the DOE's powers and functions involving energy resources.

During the oral arguments, the parties submitted to this Court's power to rule on the constitutionality and validity of Ordinance No. 8027 despite the pendency of consolidated cases involving this issue in the RTC.[27] The importance of settling this controversy as fully and as expeditiously as possible was emphasized, considering its impact on public interest. Thus, we will also dispose of this issue here. The parties were after all given ample opportunity to present and argue their respective positions. By so doing, we will do away with the delays concomitant with litigation and completely adjudicate an issue which will most likely reach us anyway as the final arbiter of all legal disputes.

Before we resolve these issues, a brief review of the history of the Pandacan Terminals is called for to put our discussion in the proper context.

HISTORY OF THE PANDACAN OIL TERMINALS

Pandacan (one of the districts of the City of Manila) is situated along the banks of the Pasig

river. At the turn of the twentieth century, Pandacan was unofficially designated as the industrial center of Manila. The area, then largely uninhabited, was ideal for various emerging industries as the nearby river facilitated the transportation of goods and products. In the 1920s, it was classified as an industrial zone.[28] Among its early industrial settlers were the oil companies. Shell established its installation there on January 30, 1914.[29] Caltex (now Chevron) followed suit in 1917 when the company began marketing its products in the country.[30] In 1922, it built a warehouse depot which was later converted into a key distribution terminal.[31] The corporate presence in the Philippines of Esso (Petron's predecessor) became more keenly felt when it won a concession to build and operate a refinery in Bataan in 1957.[32] It then went on to operate a state-of-the-art lube oil blending plant in the Pandacan Terminals where it manufactures lubes and greases.[33]

On December 8, 1941, the Second World War reached the shores of the Philippine Islands. Although Manila was declared an open city, the Americans had no interest in welcoming the Japanese. In fact, in their zealous attempt to fend off the Japanese Imperial Army, the United States Army took control of the Pandacan Terminals and hastily made plans to destroy the storage facilities to deprive the advancing Japanese Army of a valuable logistics weapon.[34] The U.S. Army burned unused petroleum, causing a frightening conflagration. Historian Nick Joaquin recounted the events as follows:

> After the USAFFE evacuated the City late in December 1941, all army fuel storage dumps were set on fire. The flames spread, enveloping the City in smoke, setting even the rivers ablaze, endangering bridges and all riverside buildings. … For one week longer, the "open city" blazed—a cloud of smoke by day, a pillar of fire by night.[35]

The fire consequently destroyed the Pandacan Terminals and rendered its network of depots and service stations inoperative.[36]

After the war, the oil depots were reconstructed. Pandacan changed as Manila rebuilt itself. The three major oil companies resumed the operation of their depots.[37] But the district was no longer a sparsely populated industrial zone; it had evolved into a bustling, hodgepodge community. Today, Pandacan has become a densely populated area inhabited by about 84,000 people, majority of whom are urban poor who call it home.[38] Aside from numerous industrial installations, there are also small businesses, churches, restaurants, schools, daycare centers and residences situated there.[39] Malacañang Palace, the official residence of the President of the Philippines and the seat of governmental power, is just two kilometers away.[40] There is a private school near the Petron depot. Along the walls of the Shell facility are shanties of informal settlers.[41] More than 15,000 students are enrolled in elementary and high schools situated near these facilities.[42] A university with a student population of about 25,000 is located directly across the depot on the banks of the

Pasig river.[43]

The 36-hectare Pandacan Terminals house the oil companies' distribution terminals and depot facilities.[44] The refineries of Chevron and Shell in Tabangao and Bauan, both in Batangas, respectively, are connected to the Pandacan Terminals through a 114-kilometer[45] underground pipeline system.[46] Petron's refinery in Limay, Bataan, on the other hand, also services the depot.[47] The terminals store fuel and other petroleum products and supply 95% of the fuel requirements of Metro Manila,[48] 50% of Luzon's consumption and 35% nationwide.[49] Fuel can also be transported through barges along the Pasig river or tank trucks via the South Luzon Expressway.

We now discuss the first issue: whether movants-intervenors should be allowed to intervene in this case.

INTERVENTION OF THE OIL COMPANIES AND THE DOE SHOULD BE ALLOWED IN THE INTEREST OF JUSTICE

Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein to enable him, her or it to protect or preserve a right or interest which may be affected by such proceedings.[50] The pertinent rules are Sections 1 and 2, Rule 19 of the Rules of Court:

> SEC. 1. Who may intervene. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.
>
> SEC. 2. Time to intervene. — The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.

Thus, the following are the requisites for intervention of a non-party:

(1) Legal interest

(a) in the matter in controversy; or
(b) in the success of either of the parties; or
(c) I against both parties; or
(d) person is so situated as to be adversely affected by a distribution or

other disposition of property in the custody of the court or of an officer thereof;

(2) Intervention will not unduly delay or prejudice the adjudication of rights of original parties;

(3) Intervenor's rights may not be fully protected in a separate proceeding[51] and

(4) The motion to intervene may be filed at any time before rendition of judgment by the trial court.

For both the oil companies and DOE, the last requirement is definitely absent. As a rule, intervention is allowed "before rendition of judgment" as Section 2, Rule 19 expressly provides. Both filed their separate motions after our decision was promulgated. In *Republic of the Philippines v. Gingoyon*,[52] a recently decided case which was also an original action filed in this Court, we declared that the appropriate time to file the motions-in-intervention was before and not after resolution of the case.[53]

The Court, however, has recognized exceptions to Section 2, Rule 19 in the interest of substantial justice:

> The rule on intervention, like all other rules of procedure, is intended to make the powers of the Court fully and completely available for justice. It is aimed to facilitate a comprehensive adjudication of rival claims overriding technicalities on the timeliness of the filing thereof.[54]

The oil companies assert that they have a legal interest in this case because the implementation of Ordinance No. 8027 will directly affect their business and property rights.[55]

> [T]he interest which entitles a person to intervene in a suit between other parties must be in the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by direct legal operation and effect of the judgment. Otherwise, if persons not parties to the action were allowed to intervene, proceedings would become unnecessarily complicated, expensive and interminable. And this would be against the policy of the law. The words "an interest in the subject" means a direct interest in the cause of action as pleaded, one that would put the intervenor in a legal position to litigate a fact alleged in the complaint without the establishment of which plaintiff could not recover.[56]

We agree that the oil companies have a direct and immediate interest in the implementation of Ordinance No. 8027. Their claim is that they will need to spend billions of pesos if they are compelled to relocate their oil depots out of Manila. Considering that they admitted

knowing about this case from the time of its filing on December 4, 2002, they should have intervened long before our March 7, 2007 decision to protect their interests. But they did not.[57] Neither did they offer any worthy explanation to justify their late intervention.

Be that as it may, although their motion for intervention was not filed on time, we will allow it because they raised and presented novel issues and arguments that were not considered by the Court in its March 7, 2007 decision. After all, the allowance or disallowance of a motion to intervene is addressed to the sound discretion of the court before which the case is pending.[58] Considering the compelling reasons favoring intervention, we do not think that this will unduly delay or prejudice the adjudication of rights of the original parties. In fact, it will be expedited since their intervention will enable us to rule on the constitutionality of Ordinance No. 8027 instead of waiting for the RTC's decision.

The DOE, on the other hand, alleges that its interest in this case is also direct and immediate as Ordinance No. 8027 encroaches upon its exclusive and national authority over matters affecting the oil industry. It seeks to intervene in order to represent the interests of the members of the public who stand to suffer if the Pandacan Terminals' operations are discontinued. We will tackle the issue of the alleged encroachment into DOE's domain later on. Suffice it to say at this point that, for the purpose of hearing all sides and considering the transcendental importance of this case, we will also allow DOE's intervention.

THE INJUNCTIVE WRITS ARE NOT IMPEDIMENTS TO THE ENFORCEMENT OF ORDINANCE NO. 8027

Under Rule 65, Section 3[59] of the Rules of Court, a petition for *mandamus* may be filed when any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station. According to the oil companies, respondent did not unlawfully fail or neglect to enforce Ordinance No. 8027 because he was lawfully prevented from doing so by virtue of the injunctive writs and status quo order issued by the RTC of Manila, Branches 39 and 42.

First, we note that while Chevron and Shell still have in their favor the writs of preliminary injunction and preliminary mandatory injunction, the status quo order in favor of Petron is no longer in effect since the court granted the joint motion of the parties to withdraw the complaint and counterclaim.[60]

Second, the original parties failed to inform the Court about these injunctive writs. Respondent (who was also impleaded as a party in the RTC cases) defends himself by saying that he informed the court of the pendency of the civil cases and that a TRO was issued by the RTC in the consolidated cases filed by Chevron and Shell. It is true that had the oil companies only intervened much earlier, the Court would not have been left in the

dark about these facts. Nevertheless, respondent should have updated the Court, by way of manifestation, on such a relevant matter.

In his memorandum, respondent mentioned the issuance of a TRO. Under Section 5 of Rule 58 of the Rules of Court, a TRO issued by the RTC is effective only for a period of 20 days. This is why, in our March 7, 2007 decision, we presumed with certainty that this had already lapsed.[61] Respondent also mentioned the grant of injunctive writs in his rejoinder which the Court, however, expunged for being a prohibited pleading. The parties and their counsels were clearly remiss in their duties to this Court.

In resolving controversies, courts can only consider facts and issues pleaded by the parties.[62] Courts, as well as magistrates presiding over them are not omniscient. They can only act on the facts and issues presented before them in appropriate pleadings. They may not even substitute their own personal knowledge for evidence. Nor may they take notice of matters except those expressly provided as subjects of mandatory judicial notice.

We now proceed to the issue of whether the injunctive writs are legal impediments to the enforcement of Ordinance No. 8027.

Section 3, Rule 58 of the Rules of Court enumerates the grounds for the issuance of a writ of preliminary injunction:

> SEC. 3. Grounds for issuance of preliminary injunction. â€• A preliminary injunction may be granted when it is established:
>
> (a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
>
> (b) That the commission, continuance or nonperformance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
>
> (c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

There are two requisites for the issuance of a preliminary injunction: (1) the right to be protected exists *prima facie* and (2) the acts sought to be enjoined are violative of that right. It must be proven that the violation sought to be prevented will cause an irreparable injustice.

The act sought to be restrained here was the enforcement of Ordinance No. 8027. It is a

settled rule that an ordinance enjoys the presumption of validity and, as such, cannot be restrained by injunction.[63] Nevertheless, when the validity of the ordinance is assailed, the courts are not precluded from issuing an injunctive writ against its enforcement. However, we have declared that the issuance of said writ is proper only when:

> ... the petitioner assailing the ordinance **has made out a case of unconstitutionality strong enough to overcome, in the mind of the judge, the presumption of validity**, in addition to a showing of a clear legal right to the remedy sought....[64] (Emphasis supplied)

Judge Reynaldo G. Ros, in his order dated May 19, 2003, stated his basis for issuing the injunctive writs:

> The Court, in resolving whether or not a Writ of Preliminary Injunction or Preliminary Mandatory Injunction should be issued, is guided by the following requirements: (1) a clear legal right of the complainant; (2) a violation of that right; and (3) a permanent and urgent necessity for the Writ to prevent serious damage. The Court believes that these requisites are present in these cases.
>
> There is no doubt that the plaintiff/petitioners have been legitimately operating their business in the Pandacan Terminal for many years and they have made substantial capital investment therein. Every year they were issued Business Permits by the City of Manila. Its operations have not been declared illegal or contrary to law or morals. In fact, because of its vital importance to the national economy, it was included in the Investment Priorities Plan as mandated under the "Downstream Oil Industry Deregulation Act of 1988 (R.A. 8479). As a lawful business, the plaintiff/petitioners have a right, therefore, to continue their operation in the Pandacan Terminal and the right to protect their investments. This is a clear and unmistakable right of the plaintiff/petitioners.
>
> The enactment, therefore, of City Ordinance No. 8027 passed by the City Council of Manila reclassifying the area where the Pandacan Terminal is located from Industrial II to Commercial I and requiring the plaintiff/petitioners to cease and desist from the operation of their business has certainly violated the rights of the plaintiff/petitioners to continue their legitimate business in the Pandacan Terminal and deprived them of their huge investments they put up therein. Thus, before the Court, therefore, determines whether the Ordinance in question is valid or not, a Writ of Preliminary Injunction and a Writ of Mandatory Injunction be issued to prevent serious and irreparable damage to plaintiff/petitioners.[65]

Nowhere in the judge's discussion can we see that, in addition to a showing of a clear legal right of Chevron and Shell to the remedy sought, he was convinced that they had made out a case of unconstitutionality or invalidity strong enough to overcome the presumption of validity of the ordinance. Statutes and ordinances are presumed valid

unless and until the courts declare the contrary in clear and unequivocal terms.[66] The mere fact that the ordinance is alleged to be unconstitutional or invalid will not entitle a party to have its enforcement enjoined.[67] The presumption is all in favor of validity. The reason for this is obvious:

> The action of the elected representatives of the people cannot be lightly set aside. The councilors must, in the very nature of things, be familiar with the necessities of their particular municipality and with all the facts and circumstances which surround the subject and necessitate action. The local legislative body, by enacting the ordinance, has in effect given notice that the regulations are essential to the well being of the people . . . The Judiciary should not lightly set aside legislative action when there is not a clear invasion of personal or property rights under the guise of police regulation.[68]

X — x — x

> ...[Courts] accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary[,] in the determination of actual cases and controversies[,] must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.[69]

The oil companies argue that this presumption must be set aside when the invalidity or unreasonableness appears on the face of the ordinance itself.[70] We see no reason to set aside the presumption. The ordinance, on its face, does not at all appear to be unconstitutional. It reclassified the subject area from industrial to commercial. *Prima facie*, this power is within the power of municipal corporations:

> The power of municipal corporations to divide their territory into industrial, commercial and residential zones is recognized in almost all jurisdictions inasmuch as it is derived from the police power itself and is exercised for the protection and benefit of their inhabitants.[71]

X — x — x

> There can be no doubt that the City of Manila has the power to divide its territory into residential and industrial zones, and to prescribe that offensive and unwholesome trades and occupations are to be established exclusively in the latter zone.

Xxx xxx xxx

> Likewise, it cannot be denied that the City of Manila has the authority, derived

> from the police power, of forbidding the appellant to continue the manufacture of toyo in the zone where it is now situated, which has been declared residential....[72]

Courts will not invalidate an ordinance unless it clearly appears that it is unconstitutional. There is no such showing here. Therefore, the injunctive writs issued in the Manila RTC's May 19, 2003 order had no leg to stand on.

We are aware that the issuance of these injunctive writs is not being assailed as tainted with grave abuse of discretion. However, we are confronted with the question of whether these writs issued by a lower court are impediments to the enforcement of Ordinance No. 8027 (which is the subject of the *mandamus* petition). As already discussed, we rule in the negative.

ORDINANCE NO. 8027 WAS NOT SUPERSEDED BY ORDINANCE NO. 8119

The March 7, 2007 decision did not take into consideration the passage of Ordinance No. 8119 entitled "An Ordinance Adopting the Manila Comprehensive Land Use Plan and Zoning Regulations of 2006 and Providing for the Administration, Enforcement and Amendment thereto" which was approved by respondent on June 16, 2006. The simple reason was that the Court was never informed about this ordinance.

While courts are required to take judicial notice of the laws enacted by Congress, the rule with respect to local ordinances is different. Ordinances are not included in the enumeration of matters covered by mandatory judicial notice under Section 1, Rule 129 of the Rules of Court.[73]

Although, Section 50 of RA 409[74] provides that:

> SEC. 50 Judicial notice of ordinances. - All courts sitting in the city shall take judicial notice of the ordinances passed by the [*Sangguniang Panglungsod*].

This cannot be taken to mean that this Court, since it has its seat in the City of Manila, should have taken steps to procure a copy of the ordinance on its own, relieving the party of any duty to inform the Court about it.

Even where there is a statute that requires a court to take judicial notice of municipal ordinances, a court is not required to take judicial notice of ordinances that are not before it and to which it does not have access. The party asking the court to take judicial notice is obligated to supply the court with the full text of the rules the party desires it to have notice of.[75] Counsel should take the initiative in requesting that a trial court take judicial notice of an ordinance even where a statute requires courts to take judicial notice of local ordinances.[76]

The intent of a statute requiring a court to take judicial notice of a local ordinance is to remove any discretion a court might have in determining whether or not to take notice of an ordinance. Such a statute does not direct the court to act on its own in obtaining evidence for the record and a party must make the ordinance available to the court for it to take notice.[77]

In its defense, respondent claimed that he did not inform the Court about the enactment of Ordinance No. 8119 because he believed that it was different from Ordinance No. 8027 and that the two were not inconsistent with each other.[78]

In the same way that we deem the intervenors' late intervention in this case unjustified, we find the failure of respondent, who was an original party here, inexcusable.

THE RULE ON JUDICIAL ADMISSIONS IS NOT APPLICABLE AGAINST RESPONDENT

The oil companies assert that respondent judicially admitted that Ordinance No. 8027 was repealed by Ordinance No. 8119 in civil case no. 03-106379 (where Petron assailed the constitutionality of Ordinance No. 8027) when the parties in their joint motion to withdraw complaint and counterclaim stated that "the issue ...has been rendered moot and academic by virtue of the passage of [Ordinance No. 8119]."[79] They contend that such admission worked as an estoppel against the respondent.

Respondent countered that this stipulation simply meant that Petron was recognizing the validity and legality of Ordinance No. 8027 and that it had conceded the issue of said ordinance's constitutionality, opting instead to question the validity of Ordinance No. 8119. [80] The oil companies deny this and further argue that respondent, in his answer in civil case no. 06-115334 (where Chevron and Shell are asking for the nullification of Ordinance No. 8119), expressly stated that Ordinance No. 8119 replaced Ordinance No. 8027:[81]

> ... Under Ordinance No. 8027, businesses whose uses are not in accord with the reclassification were given six months to cease [their] operation. **Ordinance No. 8119, which in effect, replaced Ordinance [No.] 8027**, merely took note of the time frame provided for in Ordinance No. 8119.... Ordinance No. 8119 thus provided for an even longer term, that is[,] seven years;[82] (Emphasis supplied)

Rule 129, Section 4 of the Rules of Court provides:

> Section 4. Judicial admissions. â€• An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made. (Emphasis supplied)

While it is true that a party making a judicial admission cannot subsequently take a position contrary to or inconsistent with what was pleaded,[83] the aforestated rule is not applicable here. Respondent made the statements regarding the ordinances in civil case nos. 03-106379 and 06-115334 which are not "the same" as this case before us.[84] To constitute a judicial admission, the admission must be made in the same case in which it is offered.

Hence, respondent is not estopped from claiming that Ordinance No. 8119 did not supersede Ordinance No. 8027. On the contrary, it is the oil companies which should be considered estopped. They rely on the argument that Ordinance No. 8119 superseded Ordinance No. 8027 but, at the same time, also impugn its (8119's) validity. We frown on the adoption of inconsistent positions and distrust any attempt at clever positioning under one or the other on the basis of what appears advantageous at the moment. Parties cannot take vacillating or contrary positions regarding the validity of a statute[85] or ordinance. Nonetheless, we will look into the merits of the argument of implied repeal.

ORDINANCE NO. 8119 DID NOT IMPLIEDLY REPEAL ORDINANCE NO. 8027

Both the oil companies and DOE argue that Ordinance No. 8119 repealed Ordinance No. 8027. They assert that although there was no express repeal[86] of Ordinance No. 8027, Ordinance No. 8119 impliedly repealed it.

According to the oil companies, Ordinance No. 8119 reclassified the area covering the Pandacan Terminals to "High Density Residential/Mixed Use Zone (R-3/MXD)"[87] whereas Ordinance No. 8027 reclassified the same area from Industrial II to Commercial I:

> SECTION 1. For the purpose of promoting sound urban planning and ensuring health, public safety, and general welfare of the residents of Pandacan and Sta. Ana as well as its adjoining areas, the land use of [those] portions of land bounded by the Pasig River in the north, PNR Railroad Track in the east, Beata St. in the south, Palumpong St. in the southwest, and Estero de Pancacan in the west[,] PNR Railroad in the northwest area, Estero de Pandacan in the [n]ortheast, Pasig River in the southeast and Dr. M.L. Carreon in the southwest. The area of Punta, Sta. Ana bounded by the Pasig River, Marcelino Obrero St., Mayo 28 St., and F. Manalo Street, are hereby reclassified from Industrial II to Commercial I. (Emphasis supplied)

Moreover, Ordinance No. 8119 provides for a phase-out of seven years:

> SEC. 72. Existing Non-Conforming Uses and Buildings. - The lawful use of any building, structure or land at the time of the adoption of this Ordinance may be continued, although such use does not conform with the provision of the Ordinance, provided:

xxx xxx xxx

2 In case the non-conforming use is an industrial use:

xxx xxx xxx

d. **The land use classified as non-conforming shall program the phase-out and relocation of the non-conforming use within seven (7) years from the date of effectivity of this Ordinance.** (Emphasis supplied)

This is opposed to Ordinance No. 8027 which compels affected entities to vacate the area within six months from the effectivity of the ordinance:

SEC. 3. Owners or operators of industries and other businesses, the operation of which are no longer permitted under Section 1 hereof, are hereby given a period of six (6) months from the date of effectivity of this Ordinance within which to cease and desist from the operation of businesses which are hereby in consequence, disallowed.

Ordinance No. 8119 also designated the Pandacan oil depot area as a "Planned Unit Development/Overlay Zone (O-PUD)":

SEC. 23. Use Regulations in Planned Unit Development/Overlay Zone (O-PUD). – O-PUD Zones are identified specific sites in the City of Manila wherein the project site is comprehensively planned as an entity via unitary site plan which permits flexibility in planning/ design, building siting, complementarily of building types and land uses, usable open spaces and the preservation of significant natural land features, pursuant to regulations specified for each particular PUD. Enumerated below are identified PUD:

xxx xxx xxx

6. **Pandacan Oil Depot Area**

xxx xxx xxx

Enumerated below are the allowable uses:

1. all uses allowed in all zones where it is located

2. the [Land Use Intensity Control (LUIC)] under which zones are located shall, in all instances be complied with

3. the validity of the prescribed LUIC shall only be [superseded] by the development controls and regulations specified for each PUD as provided for each PUD as provided for by the masterplan of respective PUDs.[88] (Emphasis supplied)

Respondent claims that in passing Ordinance No. 8119, the *Sanggunian* did not intend to repeal Ordinance No. 8027 but meant instead to carry over 8027's provisions to 8119 for the purpose of making Ordinance No. 8027 applicable to the oil companies even after the passage of Ordinance No. 8119.[89] He quotes an excerpt from the minutes of the July 27, 2004 session of the *Sanggunian* during the first reading of Ordinance No. 8119:

> Member GARCIA: Your Honor, iyong patungkol po roon sa oil depot doon sa amin sa Sixth District sa Pandacan, wala pong nakalagay eith sa ordinansa rito na taliwas o kakaiba roon sa ordinansang ipinasa noong nakaraang Konseho, iyong Ordinance No. 8027. So kung ano po ang nandirito sa ordinansa na ipinasa ninyo last time, iyon lang po ang ni-lift eithe at inilagay eith. At eith eith ordinansang …iyong naipasa ng huling Konseho, niri-classify [ninyo] from Industrial II to Commercial C-1 ang area ng Pandacan kung nasaan ang oil depot. So ini-lift lang po [eithe] iyong definition, density, at saka po yon pong … ng… noong ordinansa ninyo na siya eith naming inilagay eith, iniba lang po naming iyong title. **So wala po kaming binago na taliwas o nailagay na taliwas doon sa ordinansang ipinasa ninyo, ni-lift lang po [eithe] from Ordinance No. 8027."**[90] (Emphasis supplied)

We agree with respondent.

Repeal by implication proceeds on the premise that where a statute of later date clearly reveals the intention of the legislature to abrogate a prior act on the subject, that intention must be given effect.[91]

There are two kinds of implied repeal. The first is: where the provisions in the two acts on the same subject matter are irreconcilably contradictory, the latter act, to the extent of the conflict, constitutes an implied repeal of the earlier one.[92] The second is: if the later act covers the whole subject of the earlier one and is clearly intended as a substitute, it will operate to repeal the earlier law.[93] The oil companies argue that the situation here falls under the first category.

Implied repeals are not favored and will not be so declared unless the intent of the legislators is manifest.[94] As statutes and ordinances are presumed to be passed only after careful deliberation and with knowledge of all existing ones on the subject, it follows that, in passing a law, the legislature did not intend to interfere with or abrogate a former law relating to the same subject matter.[95] If the intent to repeal is not clear, the later act should be construed as a continuation of, and not a substitute for, the earlier act.[96]

These standards are deeply enshrined in our jurisprudence. We disagree that, in enacting Ordinance No. 8119, there was any indication of the legislative purpose to repeal Ordinance No. 8027.[97] The excerpt quoted above is proof that there was never such an intent. While it is true that both ordinances relate to the same subject matter, i.e. classification of the land use of the area where Pandacan oil depot is located, if there is no intent to repeal the earlier enactment, every effort at reasonable construction must be made to reconcile the ordinances so that both can be given effect:

> The fact that a later enactment may relate to the same subject matter as that of an earlier statute is not of itself sufficient to cause an implied repeal of the prior act, since the new statute may merely be cumulative or a continuation of the old one. What is necessary is a manifest indication of legislative purpose to repeal.[98]

For the first kind of implied repeal, there must be an irreconcilable conflict between the two ordinances. There is no conflict between the two ordinances. Ordinance No. 8027 reclassified the Pandacan area from Industrial II to Commercial I. Ordinance No. 8119, in Section 23, designated it as a "Planned Unit Development/Overlay Zone (O-PUD)." In its Annex C which defined the zone boundaries,[99] the Pandacan area was shown to be within the "High Density Residential/Mixed Use Zone (R-3/MXD)." These zone classifications in Ordinance No. 8119 are not inconsistent with the reclassification of the Pandacan area from Industrial to Commercial in Ordinance No. 8027. The "O-PUD" classification merely made Pandacan a "project site ... comprehensively planned as an entity via unitary site plan which permits flexibility in planning/design, building siting, complementarity of building types and land uses, usable open spaces and the preservation of significant natural land features...."[100] Its classification as "R-3/MXD" means that it should "be used primarily for high-rise housing/dwelling purposes and limited complementary/supplementary trade, services and business activities."[101] There is no conflict since both ordinances actually have a common objective, i.e., to shift the zoning classification from industrial to commercial (Ordinance No. 8027) or mixed residential/commercial (Ordinance No. 8119).

Moreover, it is a well-settled rule in statutory construction that a subsequent general law does not repeal a prior special law on the same subject unless it clearly appears that the legislature has intended by the latter general act to modify or repeal the earlier special law. *Generalia specialibus non derogant* (a general law does not nullify a specific or special law).[102] This is so even if the provisions of the general law are sufficiently comprehensive to include what was set forth in the special act.[103] The special act and the general law must stand together, one as the law of the particular subject and the other as the law of general application.[104] The special law must be taken as intended to constitute an exception to, or a qualification of, the general act or provision.[105]

> The reason for this is that the legislature, in passing a law of special character,

> considers and makes special provisions for the particular circumstances dealt with by the special law. This being so, the legislature, by adopting a general law containing provisions repugnant to those of the special law and without making any mention of its intention to amend or modify such special law, cannot be deemed to have intended an amendment, repeal or modification of the latter. [106]

Ordinance No. 8027 is a special law[107] since it deals specifically with a certain area described therein (the Pandacan oil depot area) whereas Ordinance No. 8119 can be considered a general law[108] as it covers the entire city of Manila.

The oil companies assert that even if Ordinance No. 8027 is a special law, the existence of an all-encompassing repealing clause in Ordinance No. 8119 evinces an intent on the part of the *Sanggunian* to repeal the earlier ordinance:

> Sec. 84. Repealing Clause. – All ordinances, rules, regulations in conflict with the provisions of this Ordinance are hereby repealed; PROVIDED, That the rights that are vested upon the effectivity of this Ordinance shall not be impaired.

They cited *Hospicio de San Jose de Barili, Cebu City v. Department of Agrarian Reform:* [109]

> The presence of such general repealing clause in a later statute clearly indicates the legislative intent to repeal all prior inconsistent laws on the subject matter, whether the prior law is a general law or a special law... Without such a clause, a later general law will ordinarily not repeal a prior special law on the same subject. But with such clause contained in the subsequent general law, the prior special law will be deemed repealed, as the clause is a clear legislative intent to bring about that result.[110]

This ruling in not applicable here. The repealing clause of Ordinance No. 8119 cannot be taken to indicate the legislative intent to repeal all prior inconsistent laws on the subject matter, including Ordinance No. 8027, a special enactment, since the aforequoted minutes (an official record of the discussions in the *Sanggunian*) actually indicated the clear intent to preserve the provisions of Ordinance No. 8027.

To summarize, the conflict between the two ordinances is more apparent than real. The two ordinances can be reconciled. Ordinance No. 8027 is applicable to the area particularly described therein whereas Ordinance No. 8119 is applicable to the entire City of Manila.

MANDAMUS LIES TO COMPEL RESPONDENT MAYOR TO ENFORCE ORDINANCE NO. 8027

The oil companies insist that *mandamus* does not lie against respondent in consideration of

the separation of powers of the executive and judiciary.[111] This argument is misplaced. Indeed,

> [the] Courts will not interfere by *mandamus* proceedings with the legislative [or executive departments] of the government in the legitimate exercise of its powers, except to enforce mere ministerial acts required by law to be performed by some officer thereof.[112] (Emphasis Supplied)

since this is the function of a writ of *mandamus*, which is the power to compel "the performance of an act which the law specifically enjoins as a duty resulting from office, trust or station."[113]

They also argue that petitioners had a plain, speedy and adequate remedy to compel respondent to enforce Ordinance No. 8027 which was to seek relief from the President of the Philippines through the Secretary of the Department of Interior and Local Government (DILG) by virtue of the President's power of supervision over local government units. Again, we disagree. A party need not go first to the DILG in order to compel the enforcement of an ordinance. This suggested process would be unreasonably long, tedious and consequently injurious to the interests of the local government unit (LGU) and its constituents whose welfare is sought to be protected. Besides, petitioners' resort to an original action for *mandamus* before this Court is undeniably allowed by the Constitution. [114]

ORDINANCE NO. 8027 IS CONSTITUTIONAL AND VALID

Having ruled that there is no impediment to the enforcement of Ordinance No. 8027, we now proceed to make a definitive ruling on its constitutionality and validity.

The tests of a valid ordinance are well established. For an ordinance to be valid, it must not only be within the corporate powers of the LGU to enact and be passed according to the procedure prescribed by law, it must also conform to the following substantive requirements: (1) must not contravene the Constitution or any statute; (2) must not be unfair or oppressive; (3) must not be partial or discriminatory; (4) must not prohibit but may regulate trade; (5) must be general and consistent with public policy and (6) must not be unreasonable.[115]

THE CITY OF MANILA HAS THE POWER TO ENACT ORDINANCE NO. 8027

Ordinance No. 8027 was passed by the *Sangguniang Panlungsod* of Manila in the exercise of its police power. Police power is the plenary power vested in the legislature to make statutes and ordinances to promote the health, morals, peace, education, good order or safety and general welfare of the people.[116] This power flows from the recognition that *salus populi est suprema lex* (the welfare of the people is the supreme law).[117] While police power rests primarily with the national legislature, such power may be delegated.

[118] Section 16 of the LGC, known as the general welfare clause, encapsulates the delegated police power to local governments:[119]

> Section 16. General Welfare. â€• Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

LGUs like the City of Manila exercise police power through their respective legislative bodies, in this case, the *Sangguniang Panlungsod* or the city council. Specifically, the *Sanggunian* can enact ordinances for the general welfare of the city:

> Section. 458. – Powers, Duties, Functions and Compensation. – (a) The sangguniang panglungsod, as the legislative branch of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code xxxx

This police power was also provided for in RA 409 or the Revised Charter of the City of Manila:

> Section 18. Legislative powers. — The [City Council] shall have the following legislative powers:
>
> xxx xxx xxx
>
> (g) To enact all ordinances it may deem necessary and proper for the sanitation and safety, the furtherance of the prosperity, and the promotion of the morality, peace, good order, comfort, convenience, and general welfare of the city and its inhabitants, and such others as may be necessary to carry into effect

and discharge the powers and duties conferred by this chapter xxxx[120]

Specifically, the *Sanggunian* has the power to "reclassify land within the jurisdiction of the city."[121]

THE ENACTMENT OF ORDINANCE NO. 8027 IS A LEGITIMATE EXERCISE OF POLICE POWER

As with the State, local governments may be considered as having properly exercised their police power only if the following requisites are met: (1) the interests of the public generally, as distinguished from those of a particular class, require its exercise and (2) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals. In short, there must be a concurrence of a lawful subject and a lawful method.[122]

Ordinance No. 8027 was enacted "for the purpose of promoting sound urban planning, ensuring health, public safety and general welfare"[123] of the residents of Manila. The *Sanggunian* was impelled to take measures to protect the residents of Manila from catastrophic devastation in case of a terrorist attack on the Pandacan Terminals. Towards this objective, the Sanggunian reclassified the area defined in the ordinance from industrial to commercial.

The following facts were found by the Committee on Housing, Resettlement and Urban Development of the City of Manila which recommended the approval of the ordinance:

> (1) the depot facilities contained 313.5 million liters of highly flammable and highly volatile products which include petroleum gas, liquefied petroleum gas, aviation fuel, diesel, gasoline, kerosene and fuel oil among others;
>
> (2) the depot is open to attack through land, water or air;
>
> (3) it is situated in a densely populated place and near Malacañang Palace and
>
> (4) in case of an explosion or conflagration in the depot, the fire could spread to the neighboring communities.[124]

The ordinance was intended to safeguard the rights to life, security and safety of all the inhabitants of Manila and not just of a particular class.[125] The depot is perceived, rightly

or wrongly, as a representation of western interests which means that it is a terrorist target. As long as it there is such a target in their midst, the residents of Manila are not safe. It therefore became necessary to remove these terminals to dissipate the threat. According to respondent:

> Such a public need became apparent after the 9/11 incident which showed that what was perceived to be impossible to happen, to the most powerful country in the world at that, is actually possible. The destruction of property and the loss of thousands of lives on that fateful day became the impetus for a public need. In the aftermath of the 9/11 tragedy, the threats of terrorism continued [such] that it became imperative for governments to take measures to combat their effects. [126]

Wide discretion is vested on the legislative authority to determine not only what the interests of the public require but also what measures are necessary for the protection of such interests.[127] Clearly, the *Sanggunian* was in the best position to determine the needs of its constituents.

In the exercise of police power, property rights of individuals may be subjected to restraints and burdens in order to fulfill the objectives of the government.[128] Otherwise stated, the government may enact legislation that may interfere with personal liberty, property, lawful businesses and occupations to promote the general welfare.[129] However, the interference must be reasonable and not arbitrary. And to forestall arbitrariness, the methods or means used to protect public health, morals, safety or welfare must have a reasonable relation to the end in view.[130]

The means adopted by the *Sanggunian* was the enactment of a zoning ordinance which reclassified the area where the depot is situated from industrial to commercial. A zoning ordinance is defined as a local city or municipal legislation which logically arranges, prescribes, defines and apportions a given political subdivision into specific land uses as present and future projection of needs.[131] As a result of the zoning, the continued operation of the businesses of the oil companies in their present location will no longer be permitted. The power to establish zones for industrial, commercial and residential uses is derived from the police power itself and is exercised for the protection and benefit of the residents of a locality.[132] Consequently, the enactment of Ordinance No. 8027 is within the power of the *Sangguniang Panlungsod* of the City of Manila and any resulting burden on those affected cannot be said to be unjust:

There can be no doubt that the City of Manila has the power to divide its territory into residential and industrial zones, and to prescribe that offensive and unwholesome trades and occupations are to be established exclusively in the latter zone.

> "The benefits to be derived by cities adopting such regulations (zoning) may be summarized as follows: They attract a desirable and assure a permanent citizenship; they foster pride in and attachment to the city; they promote happiness and contentment; they stabilize the use and value of property and promote the peace, [tranquility], and good order of the city. We do not hesitate to say that the attainment of these objects affords a legitimate field for the exercise of the police power. He who owns property in such a district is not deprived of its use by such regulations. He may use it for the purposes to which the section in which it is located is dedicated. That he shall not be permitted to use it to the desecration of the community constitutes no unreasonable or permanent hardship and results in no unjust burden."
>
> Xxx xxx xxx
>
> "The 14th Amendment protects the citizen in his right to engage in any lawful business, but it does not prevent legislation intended to regulate useful occupations which, because of their nature or location, may prove injurious or offensive to the public."[133]

We entertain no doubt that Ordinance No. 8027 is a valid police power measure because there is a concurrence of lawful subject and lawful method.

ORDINANCE NO. 8027 IS NOT UNFAIR, OPPRESSIVE OR CONFISCATORY WHICH AMOUNTS TO TAKING WITHOUT COMPENSATION

According to the oil companies, Ordinance No. 8027 is unfair and oppressive as it does not only regulate but also absolutely prohibits them from conducting operations in the City of Manila. Respondent counters that this is not accurate since the ordinance merely prohibits the oil companies from operating their businesses in the Pandacan area.

Indeed, the ordinance expressly delineated in its title and in Section 1 what it pertained to. Therefore, the oil companies' contention is not supported by the text of the ordinance. Respondent succinctly stated that:

> The oil companies are not forbidden to do business in the City of Manila. They may still very well do so, except that their oil storage facilities are no longer allowed in the Pandacan area. Certainly, there are other places in the City of Manila where they can conduct this specific kind of business. Ordinance No. 8027 did not render the oil companies illegal. The assailed ordinance affects the

oil companies business only in so far as the Pandacan area is concerned.[134]

The oil companies are not prohibited from doing business in other appropriate zones in Manila. The City of Manila merely exercised its power to regulate the businesses and industries in the zones it established:

> As to the contention that the power to regulate does not include the power to prohibit, it will be seen that the ordinance copied above does not prohibit the installation of motor engines within the municipality of Cabanatuan but only within the zone therein fixed. If the municipal council of Cabanatuan is authorized to establish said zone, it is also authorized to provide what kind of engines may be installed therein. In banning the installation in said zone of all engines not excepted in the ordinance, the municipal council of Cabanatuan did no more than regulate their installation by means of zonification.[135]

The oil companies aver that the ordinance is unfair and oppressive because they have invested billions of pesos in the depot.[136] Its forced closure will result in huge losses in income and tremendous costs in constructing new facilities.

Their contention has no merit. In the exercise of police power, there is a limitation on or restriction of property interests to promote public welfare which involves no compensable taking. Compensation is necessary only when the state's power of eminent domain is exercised. In eminent domain, property is appropriated and applied to some public purpose. Property condemned under the exercise of police power, on the other hand, is noxious or intended for a noxious or forbidden purpose and, consequently, is not compensable.[137] The restriction imposed to protect lives, public health and safety from danger is not a taking. It is merely the prohibition or abatement of a noxious use which interferes with paramount rights of the public.

Property has not only an individual function, insofar as it has to provide for the needs of the owner, but also a social function insofar as it has to provide for the needs of the other members of society.[138] The principle is this:

> Police power proceeds from the principle that every holder of property, however absolute and unqualified may be his title, holds it under the implied liability that his use of it shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the right of the community. Rights of property, like all other social and conventional rights, are

> subject to reasonable limitations in their enjoyment as shall prevent them from being injurious, and to such reasonable restraints and regulations established by law as the legislature, under the governing and controlling power vested in them by the constitution, may think necessary and expedient.[139]

In the regulation of the use of the property, nobody else acquires the use or interest therein, hence there is no compensable taking.[140] In this case, the properties of the oil companies and other businesses situated in the affected area remain theirs. Only their use is restricted although they can be applied to other profitable uses permitted in the commercial zone.

ORDINANCE NO. 8027 IS NOT PARTIAL AND DISCRIMINATORY

The oil companies take the position that the ordinance has discriminated against and singled out the Pandacan Terminals despite the fact that the Pandacan area is congested with buildings and residences that do not comply with the National Building Code, Fire Code and Health and Sanitation Code.[141]

This issue should not detain us for long. An ordinance based on reasonable classification does not violate the constitutional guaranty of the equal protection of the law.[142] The requirements for a valid and reasonable classification are: (1) it must rest on substantial distinctions; (2) it must be germane to the purpose of the law; (3) it must not be limited to existing conditions only and (4) it must apply equally to all members of the same class. [143]

The law may treat and regulate one class differently from another class provided there are real and substantial differences to distinguish one class from another.[144] Here, there is a reasonable classification. We reiterate that what the ordinance seeks to prevent is a catastrophic devastation that will result from a terrorist attack. Unlike the depot, the surrounding community is not a high-value terrorist target. Any damage caused by fire or explosion occurring in those areas would be nothing compared to the damage caused by a fire or explosion in the depot itself. Accordingly, there is a substantial distinction. The enactment of the ordinance which provides for the cessation of the operations of these terminals removes the threat they pose. Therefore it is germane to the purpose of the ordinance. The classification is not limited to the conditions existing when the ordinance was enacted but to future conditions as well. Finally, the ordinance is applicable to all businesses and industries in the area it delineated.

ORDINANCE NO. 8027 IS NOT INCONSISTENT WITH RA 7638 AND RA 8479

The oil companies and the DOE assert that Ordinance No. 8027 is unconstitutional because it contravenes RA 7638 (DOE Act of 1992)[145] and RA 8479 (Downstream Oil Industry

Deregulation Law of 1998).[146] They argue that through RA 7638, the national legislature declared it a policy of the state "to ensure a continuous, adequate, and economic supply of energy"[147] and created the DOE to implement this policy. Thus, under Section 5 I, DOE is empowered to "establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling, and storage of energy resources." Considering that the petroleum products contained in the Pandacan Terminals are major and critical energy resources, they conclude that their administration, storage, distribution and transport are of national interest and fall under DOE's primary and exclusive jurisdiction.[148]

They further assert that the terminals are necessary for the delivery of immediate and adequate supply of oil to its recipients in the most economical way.[149] Local legislation such as Ordinance No. 8027 (which effectively calls for the removal of these terminals) allegedly frustrates the state policy of ensuring a continuous, adequate, and economic supply of energy expressed in RA 7638, a national law.[150] Likewise, the ordinance thwarts the determination of the DOE that the terminals' operations should be merely scaled down and not discontinued.[151] They insist that this should not be allowed considering that it has a nationwide economic impact and affects public interest transcending the territorial jurisdiction of the City of Manila.[152]

According to them, the DOE's supervision over the oil industry under RA 7638 was subsequently underscored by RA 8479, particularly in Section 7 thereof:

> SECTION 7. Promotion of Fair Trade Practices. â€• The Department of Trade and Industry (DTI) and DOE shall take all measures to promote fair trade and prevent cartelization, monopolies, combinations in restraint of trade, and any unfair competition in the Industry as defined in Article 186 of the Revised Penal Code, and Articles 168 and 169 of Republic Act No. 8293, otherwise known as the "Intellectual Property Rights Law". **The DOE shall continue to encourage certain practices in the Industry which serve the public interest and are intended to achieve efficiency and cost reduction, ensure continuous supply of petroleum products,** and enhance environmental protection. These practices may include borrow-and-loan agreements, rationalized depot and manufacturing operations, hospitality agreements, joint tanker and pipeline utilization, and joint actions on oil spill control and fire prevention. (Emphasis supplied)

Respondent counters that DOE's regulatory power does not preclude LGUs from exercising their police power.[153]

Indeed, ordinances should not contravene existing statutes enacted by Congress. The

rationale for this was clearly explained in *Magtajas vs. Pryce Properties Corp., Inc.*:[154]

> The rationale of the requirement that the ordinances should not contravene a statute is obvious. Municipal governments are only agents of the national government. Local councils exercise only delegated legislative powers conferred on them by Congress as the national lawmaking body. The delegate cannot be superior to the principal or exercise powers higher than those of the latter. It is a heresy to suggest that the local government units can undo the acts of Congress, from which they have derived their power in the first place, and negate by mere ordinance the mandate of the statute.
>
> "Municipal corporations owe their origin to, and derive their powers and rights wholly from the legislature. It breathes into them the breath of life, without which they cannot exist. As it creates, so it may destroy. As it may destroy, it may abridge and control. Unless there is some constitutional limitation on the right, the legislature might, by a single act, and if we can suppose it capable of so great a folly and so great a wrong, sweep from existence all of the municipal corporations in the State, and the corporation could not prevent it. We know of no limitation on the right so far as to the corporation themselves are concerned. They are, so to phrase it, the mere tenants at will of the legislature."
>
> This basic relationship between the national legislature and the local government units has not been enfeebled by the new provisions in the Constitution strengthening the policy of local autonomy. Without meaning to detract from that policy, we here confirm that Congress retains control of the local government units although in significantly reduced degree now than under our previous Constitutions. The power to create still includes the power to destroy. The power to grant still includes the power to withhold or recall. True, there are certain notable innovations in the Constitution, like the direct conferment on the local government units of the power to tax, which cannot now be withdrawn by mere statute. By and large, however, the national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it.[155]

The question now is whether Ordinance No. 8027 contravenes RA 7638 and RA 8479. It does not.

Under Section 5 I of RA 7638, DOE was given the power to "establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling, and storage of energy resources." On the other hand, under Section 7 of RA 8749, the DOE "shall continue to encourage certain practices in the Industry which serve the public interest and are intended to achieve efficiency and cost

reduction, ensure continuous supply of petroleum products." Nothing in these statutes prohibits the City of Manila from enacting ordinances in the exercise of its police power.

The principle of local autonomy is enshrined in and zealously protected under the Constitution. In Article II, Section 25 thereof, the people expressly adopted the following policy:

> Section 25. The State shall ensure the autonomy of local governments.

An entire article (Article X) of the Constitution has been devoted to guaranteeing and promoting the autonomy of LGUs. The LGC was specially promulgated by Congress to ensure the autonomy of local governments as mandated by the Constitution:

> Sec. 2. Declaration of Policy. â€• (a) **It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals.** Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the National Government to the local government units. (Emphasis supplied)

We do not see how the laws relied upon by the oil companies and DOE stripped the City of Manila of its power to enact ordinances in the exercise of its police power and to reclassify the land uses within its jurisdiction. To guide us, we shall make a brief survey of our decisions where the police power measure of the LGU clashed with national laws.

In *Tan v. Pereña*,[156] the Court ruled that Ordinance No. 7 enacted by the municipality of Daanbantayan, Cebu allowing the operation of three cockpits was invalid for violating PD 449 (or the Cockfighting Law of 1974) which permitted only one cockpit per municipality.

In *Batangas CATV, Inc. v. Court of Appeals,*[157] the Sangguniang Panlungsod of Batangas City enacted Resolution No. 210 granting Batangas CATV, Inc. a permit to operate a cable television (CATV) system in Batangas City. The Court held that the LGU did not have the authority to grant franchises to operate a CATV system because it was the National Telecommunications Commission (NTC) that had the power under EO Nos. 205 and 436 to regulate CATV operations. EO 205 mandated the NTC to grant certificates of authority to

CATV operators while EO 436 vested on the NTC the power to regulate and supervise the CATV industry.

In *Lina, Jr. v. Paño*,[158] we held that *Kapasiyahan Bilang 508, Taon 1995* of the *Sangguniang Panlalawigan* of Laguna could not be used as justification to prohibit lotto in the municipality of San Pedro, Laguna because lotto was duly authorized by RA 1169, as amended by BP 42. This law granted a franchise to the Philippine Charity Sweepstakes Office and allowed it to operate lotteries.

In *Magtajas v. Pryce Properties Corp., Inc.*,[159] the *Sangguniang Panlungsod* of Cagayan de Oro City passed Ordinance Nos. 3353 and 3375-93 prohibiting the operation of casinos in the city. We ruled that these ordinances were void for contravening PD 1869 or the charter of the Philippine Amusements and Gaming Corporation which had the power to operate casinos.

The common dominator of all of these cases is that the national laws were clearly and expressly in conflict with the ordinances/resolutions of the LGUs. The inconsistencies were so patent that there was no room for doubt. This is not the case here.

The laws cited merely gave DOE general powers to "establish and administer programs for the exploration, transportation, marketing, distribution, utilization, conservation, stockpiling, and storage of energy resources" and "to encourage certain practices in the [oil] industry which serve the public interest and are intended to achieve efficiency and cost reduction, ensure continuous supply of petroleum products." These powers can be exercised without emasculating the LGUs of the powers granted them. When these ambiguous powers are pitted against the unequivocal power of the LGU to enact police power and zoning ordinances for the general welfare of its constituents, it is not difficult to rule in favor of the latter. Considering that the powers of the DOE regarding the Pandacan Terminals are not categorical, the doubt must be resolved in favor of the City of Manila:

> SECTION 5. Rules of Interpretation. â€• In the interpretation of the provisions of this Code, the following rules shall apply:
>
> (a) Any provision on a power of a local government unit shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of devolution of powers and of the lower local government unit. Any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government unit concerned;
>
> xxx xxx xxx
>
> (c) IThe general welfare provisions in this Code shall be liberally interpreted to give more powers to local government units in accelerating economic development and upgrading the quality of life for the people in the community xxxx

The least we can do to ensure genuine and meaningful local autonomy is not to force an interpretation that negates powers explicitly granted to local governments. To rule against the power of LGUs to reclassify areas within their jurisdiction will subvert the principle of local autonomy guaranteed by the Constitution.[160] As we have noted in earlier decisions, our national officials should not only comply with the constitutional provisions on local autonomy but should also appreciate the spirit and liberty upon which these provisions are based.[161]

THE DOE CANNOT EXERCISE THE POWER OF CONTROL OVER LGUS

Another reason that militates against the DOE's assertions is that Section 4 of Article X of the Constitution confines the President's power over LGUs to one of general supervision:

> SECTION 4. The President of the Philippines shall exercise general supervision over local governments. Xxxx

Consequently, the Chief Executive or his or her alter egos, cannot exercise the power of control over them.[162] Control and supervision are distinguished as follows:

> [Supervision] means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them, the former may take such action or step as prescribed by law to make them perform their duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer ha[s] done in the performance of his duties and to substitute the judgment of the former for that of the latter.[163]

Supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does not include any restraining authority over such body.[164] It does not allow the supervisor to annul the acts of the subordinate.[165] Here, what the DOE seeks to do is to set aside an ordinance enacted by local officials, a power that not even its principal, the President, has. This is because:

> Under our present system of government, executive power is vested in the President. The members of the Cabinet and other executive officials are merely alter egos. As such, they are subject to the power of control of the President, at whose will and behest they can be removed from office; or their actions and decisions changed, suspended or reversed. In contrast, the heads of political subdivisions are elected by the people. Their sovereign powers emanate from the electorate, to whom they are directly accountable. By constitutional fiat, they are subject to the President's supervision only, not control, so long as their acts are exercised within the sphere of their legitimate powers. By the same token, the President may not withhold or alter any authority or power given them by the Constitution and the law.[166]

Thus, the President and his or her alter egos, the department heads, cannot interfere with the activities of local governments, so long as they act within the scope of their authority. Accordingly, the DOE cannot substitute its own discretion for the discretion exercised by the *sanggunian* of the City of Manila. In local affairs, the wisdom of local officials must prevail as long as they are acting within the parameters of the Constitution and the law.[167]

ORDINANCE NO. 8027 IS NOT INVALID FOR FAILURE TO COMPLY WITH RA 7924 AND EO 72

The oil companies argue that zoning ordinances of LGUs are required to be submitted to the Metropolitan Manila Development Authority (MMDA) for review and if found to be in compliance with its metropolitan physical framework plan and regulations, it shall endorse the same to the Housing and Land Use Regulatory Board (HLURB). Their basis is Section 3 (e) of RA 7924:[168]

> SECTION 3. Scope of MMDA Services. â€• **Metro-wide services under the jurisdiction of the MMDA** are those services which have metro-wide impact and transcend local political boundaries or entail huge expenditures such that it would not be viable for said services to be provided by the individual [LGUs] comprising Metropolitan Manila. These services shall include:
>
> xxx xxx xxx
>
> (e) **Urban renewal, zoning, and land use planning**, and shelter services which include the formulation, adoption and implementation of policies, standards, rules and regulations, programs and projects to rationalize and optimize urban land use and provide direction to urban growth and expansion, the rehabilitation and development of slum and blighted areas, the development of shelter and housing facilities and the provision of necessary social services thereof. (Emphasis supplied)

Reference was also made to Section 15 of its implementing rules:

> Section 15. Linkages with HUDCC, HLURB, NHA, LGUs and Other National Government Agencies Concerned on Urban Renewal, Zoning and Land Use Planning and Shelter Services. Within the context of the National Housing and Urban Development Framework, and pursuant to the national standards, guidelines and regulations formulated by the Housing and Land Use Regulatory Board [HLURB] on land use planning and zoning, the [MMDA] shall prepare a metropolitan physical framework plan and regulations which shall complement and translate the socio-economic development plan for Metro Manila into physical or spatial terms, and provide the basis for the preparation, review, integration and implementation of local land use plans and zoning, ordinance of cities and municipalities in the area.

Said framework plan and regulations shall contain, among others, planning and zoning policies and procedures that shall be observed by local government units in the preparation of their own plans and ordinances pursuant to Section 447 and 458 of RA 7160, as well as the identification of sites and projects that are considered to be of national or metropolitan significance.

Cities and municipalities shall prepare their respective land use plans and zoning ordinances and submit the same for review and integration by the [MMDA] and indorsement to HLURB in accordance with Executive Order No. 72 and other pertinent laws.

In the preparation of a Metropolitan Manila physical framework plan and regulations, the [MMDA] shall coordinate with the Housing and Urban Development Coordinating Council, HLURB, the National Housing Authority, Intramuros Administration, and all other agencies of the national government which are concerned with land use and zoning, urban renewal and shelter services. (Emphasis supplied)

They also claim that EO 72[169] provides that zoning ordinances of cities and municipalities of Metro Manila are subject to review by the HLURB to ensure compliance with national standards and guidelines. They cite Section 1, paragraphs I, (e), (f) and (g):

SECTION 1. Plan formulation or updating. â€•

xxx xxx xxx

(c) Cities and municipalities of Metropolitan Manila shall continue to formulate or update their respective **comprehensive land use plans,** in accordance with the land use planning and zoning standards and guidelines prescribed by the HLURB pursuant to EO 392, S. of 1990, and other pertinent national policies.

Xxx xxx xxx

(e) Pursuant to LOI 729, S. of 1978, EO 648, S. of 1981, and RA 7279, the **comprehensive land use plans** of provinces, highly urbanized cities and independent component cities shall be reviewed and ratified by the HLURB to ensure compliance with national standards and guidelines.

(f) Pursuant to EO 392, S. of 1999, the **comprehensive land use plans** of cities and municipalities of Metropolitan Manila shall be reviewed by the HLURB to ensure compliance with national standards and guidelines.

(g) Said review shall be completed within three (3) months upon receipt thereof

otherwise, the same shall be deemed consistent with law, and, therefore, valid. (Emphasis supplied)

They argue that because Ordinance No. 8027 did not go through this review process, it is invalid.

The argument is flawed.

RA 7942 does not give MMDA the authority to review land use plans and zoning ordinances of cities and municipalities. This was only found in its implementing rules which made a reference to EO 72. EO 72 expressly refers to comprehensive land use plans (CLUPs) only. Ordinance No. 8027 is admittedly not a CLUP nor intended to be one. Instead, it is a very specific ordinance which reclassified the land use of a defined area in order to prevent the massive effects of a possible terrorist attack. It is Ordinance No. 8119 which was explicitly formulated as the "Manila [CLUP] and Zoning Ordinance of 2006." CLUPs are the ordinances which should be submitted to the MMDA for integration in its metropolitan physical framework plan and approved by the HLURB to ensure that they conform with national guidelines and policies.

Moreover, even assuming that the MMDA review and HLURB ratification are necessary, the oil companies did not present any evidence to show that these were not complied with. In accordance with the presumption of validity in favor of an ordinance, its constitutionality or legality should be upheld in the absence of proof showing that the procedure prescribed by law was not observed. The burden of proof is on the oil companies which already had notice that this Court was inclined to dispose of all the issues in this case. Yet aside from their bare assertion, they did not present any certification from the MMDA or the HLURB nor did they append these to their pleadings. Clearly, they failed to rebut the presumption of validity of Ordinance No. 8027.[170]

CONCLUSION

Essentially, the oil companies are fighting for their right to property. They allege that they stand to lose billions of pesos if forced to relocate. However, based on the hierarchy of constitutionally protected rights, the right to life enjoys precedence over the right to property.[171] The reason is obvious: life is irreplaceable, property is not. When the state or LGU's exercise of police power clashes with a few individuals' right to property, the former should prevail.[172]

Both law and jurisprudence support the constitutionality and validity of Ordinance No. 8027. Without a doubt, there are no impediments to its enforcement and implementation. Any delay is unfair to the inhabitants of the City of Manila and its leaders who have categorically expressed their desire for the relocation of the terminals. Their power to chart and control their own destiny and preserve their lives and safety should not be curtailed by the intervenors' warnings of doomsday scenarios and threats of economic disorder if the ordinance is enforced.

Secondary to the legal reasons supporting the immediate implementation of Ordinance No. 8027 are the policy considerations which drove Manila's government to come up with such a measure:

> ... [The] oil companies still were not able to allay the apprehensions of the city regarding the security threat in the area in general. No specific action plan or security measures were presented that would prevent a possible large-scale terrorist or malicious attack especially an attack aimed at Malacañang. The measures that were installed were more directed towards their internal security and did not include the prevention of an external attack even on a bilateral level of cooperation between these companies and the police and military.
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> Xxx xxx xxx
>
> It is not enough for the city government to be told by these oil companies that they have the most sophisticated fire-fighting equipments and have invested millions of pesos for these equipments. The city government wants to be assured that its residents are safe at any time from these installations, and in the three public hearings and in their position papers, not one statement has been said that indeed the absolute safety of the residents from the hazards posed by these installations is assured.[173]

We are also putting an end to the oil companies' determination to prolong their stay in Pandacan despite the objections of Manila's residents. As early as October 2001, the oil companies signed a MOA with the DOE obliging themselves to:

> ... undertake a comprehensive and comparative study ... [which] shall include the preparation of a Master Plan, whose aim is to determine the scope and timing of the feasible location of the Pandacan oil terminals and all associated facilities and infrastructure including government support essential for the relocation such as the necessary transportation infrastructure, land and right of way acquisition, resettlement of displaced residents and environmental and social acceptability which shall be based on mutual benefit of the Parties and the public.[174]

Now that they are being compelled to discontinue their operations in the Pandacan Terminals, they cannot feign unreadiness considering that they had years to prepare for this eventuality.

Just the same, this Court is not about to provoke a crisis by ordering the immediate relocation of the Pandacan Terminals out of its present site. The enforcement of a decision of this Court, specially one with far-reaching consequences, should always be within the bounds of reason, in accordance with a comprehensive and well-coordinated plan, and

within a time-frame that complies with the letter and spirit of our resolution. To this end, the oil companies have no choice but to obey the law.

A WARNING TO PETITIONERS' COUNSEL

We draw the attention of the parties to a matter of grave concern to the legal profession.

Petitioners and their counsel, Atty. Samson Alcantara, submitted a four-page memorandum that clearly contained either substance nor research. It is absolutely insulting to this Court.

We have always tended towards judicial leniency, temperance and compassion to those who suffer from a wrong perception of what the majesty of the law means. But for a member of the bar, an officer of the court, to file in this Court a memorandum of such unacceptable quality is an entirely different matter.

It is indicative less of a personal shortcoming or contempt of this Court and more of a lawyer's sorry descent from a high sense of duty and responsibility. As a member of the bar and as an officer of the court, a lawyer ought to be keenly aware that the chief safeguard of the body politic is respect for the law and its magistrates.

There is nothing more effective than the written word by which counsel can persuade this Court of the righteousness of his cause. For if truth were self-evident, a memorandum would be completely unnecessary and superfluous.

The inability of counsel to prepare a memorandum worthy of this Court's consideration is an ejemplo malo to the legal profession as it betrays no genuine interest in the cause he claims to espouse. Or did counsel think he can earn his moment of glory without the hard work and dedication called for by his petition?

A Final Word

On Wednesday, January 23, 2008, a defective tanker containing 2,000 liters of gasoline and 14,000 liters of diesel exploded in the middle of the street a short distance from the exit gate of the Pandacan Terminals, causing death, extensive damage and a frightening conflagration in the vicinity of the incident. Need we say anthing about what will happen if it is the estimated 162 to 211 million liters[175] of petroleum products in the terminal complex which blow up?

WHEREFORE, the motions for leave to intervene of Chevron Philippines Inc., Petron Corporation and Pilipinas Shell Petroleum Corporation, and the Republic of the Philippines, represented by the Department of Energy, are hereby **GRANTED**. Their respective motions for reconsideration are hereby **DENIED**. The Regional Trial Court, Manila, Branch 39 is **ORDERED** to **DISMISS** the consolidated cases of Civil Case No. 03-106377 and Civil Case No. 03-106380.

We reiterate our order to respondent Mayor of the City of Manila to enforce Ordinance No. 8027. In coordination with the appropriate agencies and other parties involved, respondent Mayor is hereby ordered to oversee the relocation and transfer of the Pandacan Terminals out of its present site.

To ensure the orderly transfer, movement and relocation of assets and personnel, the intervenors Chevron Philippines Inc., Petron Corporation and Pilipinas Shell Petroleum Corporation shall, within a non-extendible period of ninety (90) days, submit to the Regional Trial Court of Manila, Branch 39, the comprehensive plan and relocation schedule which have allegedly been prepared. The presiding judge of Manila RTC, Branch 39 will monitor the strict enforcement of this resolution.

Atty. Samson Alcantara is hereby ordered to explain within five (5) days from notice why he should not be disciplined for his refusal, or inability, to file a memorandum worthy of the consideration of this Court.

Treble costs against petitioners' counsel, Atty. Samson Alcantara.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna and *Leonardo-De Castro, JJ.*, concur.

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[1] Formerly known as Caltex (Philippines), Inc.

[2] *Rollo*, p. 192.

[3] Entitled "An Act Creating the Department of Energy, Rationalizing the Organization and Functions of Government Agencies Related to Energy, and for Other Purposes" also known as the "DOE Act of 1992" and approved on December 9, 1992. Prior to RA 7638, a Department of Energy was established under Presidential Decree No. 1206, "Creating the Department of Energy," approved on October 6, 1977.

[4] RA 7638, Section 4.

[5] Entitled "Ordinance Reclassifying the Land Use of [Those] Portions of Land Bounded by the Pasig River In The North[,] PNR Railroad Track in the East, Beata St. in the South, Palumpong St. in the Southwest and Estero De Pandacan in the West, PNR Railroad in the Northwest Area, Estero of Pandacan in the Northeast, Pasig River in the Southeast and Dr. M. L. Carreon in the Southwest; the Area of Punta, Sta. Ana Bounded by the Pasig River, Marcelino Obrero St.[,] Mayo 28 St. and the F. Manalo Street from Industrial II to Commercial I."

[6] *Rollo*, p. 12.

[7] Id., p. 6.

[8] Id., pp. 16-18. This MOU modified the Memorandum of Agreement (MOA) executed on October 12, 2001 by the oil companies and the DOE. This MOA called for close coordination among the parties with a view of formulating appropriate measures to arrive at the best possible option to ensure, maintain and at the same time harmonize the interests of both government and the oil companies; id., pp. 413-415.

[9] Entitled "Resolution Ratifying the Memorandum of Understanding (MOU) Entered into by and among the Department of Energy, the City of Manila, Caltex (Philippines), Inc., Petron Corporation and Pilipinas Shell Petroleum Corporation on 26 June 2002, and Known as Document No. 60, Page No. 12, Book No. 1, Series of 2002 in the Notarial Registry of Atty. Neil Lanson Salcedo, Notary Public for and in the City of Manila;" id., p. 36.

[10] Id.

[11] Entitled "Resolution Extending the Validity of Resolution 97, Series of 2002, to April 30, 2003, Thereby Authorizing his Honor Mayor Jose L. Atienza, Jr., to Issue Special Business Permits to Caltex Phil., Inc., Petron Corporation and Pilipinas Shell Petroleum Corporation Situated within the Pandacan Oil Terminal Covering the said Period;" id., p. 38.

[12] Id.

[13] Section 455 (b) (2).

[14] *Rollo*, p. 280.

[15] Id., p. 333.

[16] Penned by Judge Reynaldo G. Ros, id., p. 388.

[17] Penned by Judge Guillermo G. Purganan, id., p. 423.

[18] Id., p. 458.

[19] Id., p. 493.

[20] Id., p. 495.

[21] Petron tried to intervene in civil case no. 06-115334 but the court denied its motion; id., pp. 692-694.

[22] Memorandum of oil companies, p. 25.

[23] *Rollo*, p. 238.

[24] Id., p. 698.

[25] Footnote no. 50 of memorandum of oil companies, id., p. 26.

[26] According to the oil companies, they were informed that their and the DOE's motions to intervene had already been granted (Memorandum of oil companies, p. 28). However, this contention is not supported by the records.

[27] Transcript of April 11, 2007 Oral Arguments, pp. 125, 192-195.

[28] G. B. Bagayaua, *Pandacan's Ring of Fire*, Newsbreak 3(4): 12 (March 3, 2003).

[29] *Pandacan Installation Profile*, (visited March 11, 2007).

[30] *History: More than 85 years of Philippine Partnership,* (visited March 11, 2007).

[31] *Rollo*, p. 300.

[32] (visited May 15, 2007).

[33] (visited May 15, 2007).

[34] *United States v. Caltex, Phils., et. al.*, 344 U.S. 149 (1952).

[35] N. JOAQUIN, ALMANAC FOR MANILEÑOS 97 (1979).

[36] *Supra* note 30.

[37] *Pandacan oil depots: A disaster waiting to happen* (visited May 15, 2007).

[38] Id.

[39] Safety and health risks in the Philippines (visited May 15, 2007).

[40] *Supra* note 37.

[41] *Supra* note 28.

[42] *Supra* note 37.

[43] Id.

[44] *Rollo*, p. 221.

[45] *Supra* note 28 at 13.

[46] *Supra* note 44.

[47] Id., p. 223.

[48] Id., p. 222.

[49] Id., p. 731.

[50] *Hi-Tone Marketing Corporation v. Baikal Realty Corporation*, G.R. No. 149992, 20 August 2004, 437 SCRA 121, 139, citing *Manalo v. Court of Appeals*, G.R. No. 141297, 8 October 2001, 366 SCRA 752, 766 (2001), which in turn cited *First Philippine Holdings Corporation v. Sandiganbayan*, 253 SCRA 30 (1996).

[51] *See Ortega v. Court of Appeals*, 359 Phil. 126, 139 (1998), citing the 1997 *Rules of Civil Procedure by Feria,* pp. 71-72.

[52] G.R. No. 166429, 1 February 2006, 481 SCRA 457.

[53] Id., p. 470.

[54] *Pinlac v. Court of Appeals*, 457 Phil. 527, 534 (2003), citing *Director of Lands v. Court of Appeals*, G.R. No. L-45168, 25 September 1979, 93 SCRA 238, 246.

[55] *Rollo*, p. 203.

[56] *Alfelor v. Halasan*, G.R. No. 165987, 31 March 2006, 486 SCRA 451, 461, citing *Nordic Asia Ltd. v. Court of Appeals*, 451 Phil. 482, 492-493 (2003).

[57] To justify their late intervention, the oil companies explained that [they] were aware of this Petition before the Honorable Court but they opted not to intervene then because they believed that it was more proper to directly attack the validity of Ordinance No. 8027 (Memorandum, p. 22). They also said that they did not deem it necessary to intervene then because they relied in good faith that respondent [Mayor] would, as a conscientious litigant, interpose a fitting defense of the instant Petition. (Footnote no. 2, id., p. 3)

[58] Hi-Tone Marketing Corporation v. Baikal Realty Corporation, supra note 50 at 140.

[59] The full text reads:

SEC. 3. *Petition for Mandamus.* — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent. xxx

[60] *Supra* note 25.

[61] Footnote no. 24, p. 9 of the decision.

[62] *Logronio v. Taleseo*, 370 Phil. 907, 910 (1999).

[63] *Vera v. Hon. Judge Arca*, 138 Phil. 369, 384 (1969).

[64] *Filipino Metals Corporation v. Secretary of Department of Trade and Industry*, G.R. No. 157498, 15 July 2005, 463 SCRA 616, 624 citing *Valley Trading Co., Inc. v. CFI of Isabela, Br. II*, G.R. No. 49529, 31 March 1989, 171 SCRA 501, 508, in turn citing *Tablarin v. Gutierrez*, G.R. No. L-78104, 31 July 1987, 52 SCRA 731, 737.

[65] *Rollo*, pp. 387-388.

[66] *Valley Trading Co., Inc. v. CFI of Isabela*, Br. II, *supra* note 64.

[67] Id., citations omitted.

[68] *Ermita-Malate Hotel and Motel Operators Association, Inc. v. Hon. City Mayor of Manila*, 127 Phil. 306, 314-315 (1967), citing *US v. Salaveria*, 39 Phil. 102, 111 (1918).

[69] *Angara v. Electoral Commission*, 63 Phil. 139, 158-159 (1936).

[70] Memorandum of oil companies, p. 38, citing *City of Manila v. Laguio, Jr.*, G.R. No. 118127, 12 April 2005, 455 SCRA 308, 358-359.

[71] *People v. De Guzman, et al.*, 90 Phil. 132, 135 (1951), citations omitted.

[72] *Seng Kee & Co. v. Earnshaw and Piatt*, 56 Phil. 204, 212-213 (1931).

[73] Sec. 1. Judicial notice, when mandatory. - A court shall take judicial notice, without introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time and the geographical divisions.

[74] Revised Charter of the City of Manila.

[75] 29 AmJur 2d 156, Evidence, Section 126 citing *Faustrum v. Board of Fire & Police Comm'rs*, (2d Dist) 240 III App 3d 947, 181 Ill Dec 567, 608 NE2d 640, app den 151 III 2d 563, 186 III Dec 380, 616 NE2d 333.

[76] Id., citing *Dream Mile Club, Inc. v. Tobyhanna Township Bd. of Supervisors*, 150 Pa Cmwlth 309, 615 A2d 931.

[77] Id.

[78] Transcript of April 11, 2007 Oral Arguments, p. 244.

[79] *Rollo*, p. 698.

[80] Memorandum of respondent, pp. 30-31.

[81] Memorandum of oil companies, p. 26.

[82] Answer, paragraphs 20.1 and 20.3, pp. 20-21.

[83] *Alfelor v. Halasan*, supra note 56 at 460, citing *Cunanan v. Amparo*, 80 Phil. 227, 232 (1948), in turn citing *McDaniel v. Apacible*, 44 Phil. 248 (1922).

[84] *Republic Glass Corporation v. Qua*, G.R. No. 144413, 30 July 2004, 435 SCRA 480, 492.

[85] *Republic of the Philippines v. Court of Appeals*, 359 Phil. 530, 582 (1998), Romero, J., separate opinion.

[86] Sec. 84 of Ordinance No. 8119 provides:

"Repealing Clause. - All ordinances, rules or regulations in conflict with the provisions of this Ordinance are hereby repealed; PROVIDED, That the rights that are vested upon the effectivity of this Ordinance shall not be impaired." (*Rollo*, p. 493.)

[87] Memorandum of oil companies, pp. 44-45, citing Annex "C" of Ordinance No. 8119. Annex "C" (Zone Boundaries) of Ordinance No. 8119 enumerates and specifies the areas covered by the different zones:

"High Density Residential/Mixed Use
Zone R-3/MXD
Color: Yellow District I

1. area covered by Smokey Mountain Development and Reclamation Project.
2. area bounded on the N by Manila–Navotas boundary, on the SW by Estero de Maypajo, on the NW by Malaya, on the NE by Simeon de Jesus, and on the NW by Taliba
3. area bounded on the N by Estero de Maypajo, on the SW by Estero de Sunog Apog/Rodriguez, on the NW by Younger, and on the NE by Estaro de Maypajo
4. area occupied by a portion in Vitas Complex (as indicated in the Zoning Map)
5. area bounded on the SE by F. Varona, on the SW by Lallana, on the NW by Roxas, and on the NE by Jacinto
6. area bounded on the E by Estero de Vitas, on the SW by C-2 Road, on the NW by Velasquez, and on the NE by Osorio
7. area bounded on the SE by Varona, on the NW by Pitong Gatang, on the SW by Lacson, on the S by Chesa, on the W by Quezon, on the NW by Liwayway, on the W by Garcia, and on the NE by Harbosa (except the area covered by C-2/MXD Zone – area bounded on the N by Bulacan, on the E by Magsaysay, on the S by Dandan, and on the W by Garcia)
8. area bounded on the SE by Estero de Vitas, on the SW by Zamora, on the NW by Herbosa, on the SW by Franco, on the NW by Concha/Nolasco, on the SE by Pavia, on the NE Sta. Maria, on the SW by Perla, on the W by Varona, on the NE by

Herbosa on the NW by Velasquez, and on the NE by Inocencio (except the area covered by INS-G – bounded on the SE by Dandan, on the SW by Sta. Maria, and on the NW by Peñalosa/Sta. Maria)
9. area bounded on the SE by Corcuera/Estero dela Reina, on the NW by Pavia, and on the NE by J. Luna
10. area bounded on the SE by a line parallel/extending from Arqueros, on the SW by Dist. 1/Dist. II boundary on the NW by a line parallel/extending from Ricafort, and on the NE by Dagupan Ext.
11. area bounded on the E by Dama de Noche, on the SW by Lakandula, on the SE by Asuncion, on the SW by C.M. Recto, on the W by Del Pan, on the S by Zaragosa, on the W by Kagitingan, and on the N/NE by Tuazon

Distinct II

1. area bounded on the N by Manila-Kalookan boundary, and on the E/S/W by Estero de Maypajo
2. area bounded ion the N by Manila-Kalookan boundary, on the SW by J. Luna, on the NW by Antipolo, and on the NE by Estero de Sunog Apog
3. area bounded on the SE by Avellana, on the SW by Dagupan, on the NW by Bualcan, and on the NE by J. Luna
4. area bounded on the SE by Manila-Kalookan boundary, on the SW buy Rizal Avenue, on the NW by Teodoro/Tabora/Estero de Maypajo and on the N/NW/NE by Manila-Kalookan boundary
5. area bounded on the SE by Laguna, on the SW by Estero de San Lazaro, on the S by Herrera, and on the NE by J. Abad Santos
6. area bounded on the SE by a line parallel/extending from Arqueros, on the SW by A. Rivera, on the NW by a line parallel/extending from La Torre, and on the NE by Dist. I – Dist. II boundary

District III

1. area bounded on the SE by Chu Chin Road, on the E by L. Rivera, on the NW by Aurora Blvd., and on the NE by Liat Su
2. area bounded on the N by Laguna, on the E by T. Mapua, on the S by S. Herrera, and on the W by Dist II – Dist. III boundary

District IV

1. area bounded on the SE by Manila-Quezon City boundary, on the SW by Piy Margal, on the NW by Casañas, on the SW by Dapitan, on the NW by Ibarra, and on the NE by Simoun
2. area bounded on the SE by PNR Railway, on the SW by Lardizabal, on the SE by M. dela Fuente, on the NW by a lien parallel/extending from San Jose II, on the NW by Loreto, on the NE by Tuazon, on the NW by M. dela Fuente, and on the NE by España
3. area bounded on the SE by Matimyas/Blumentritt, on the SE by Sobriedad Ext., on

the NW by Antipolo, and on the NE by S. Loyola, (except the area covered by Legarda Elem. School)
4. area bounded on the SE Manila-Quezon City boundary, on the SW/NW by Blumentritt, and on the NE by Matimyas
5. area bounded on the SE by Blumentritt, on the SW by Tuazon, on the NW by Antipolo, and on the NE by Sobriedad (except the area bounded by Most Holy Trinity Parish Church/Holy Trinity Academy)
6. area bounded on the SE by Manila-Quezon City boundary, on the S by Sociego, on the E by Santol, on the S by one (1) block south of Escoda, on the W by one (1) block west of Santol, on the S by one (10 block south of Tuazon, on the SE by Piña, on the S by Vigan, on the E by Santiago, on the NW by PNR Railway, and on the NE by G. Tuazon (except the area occupied by a portion of Burgos Elem. School)

District V

1. area occupied by an area in Baseco Compound (as indicated in the Zoning Map
2. area occupied by Engineering Island
3. area bounded on the SE by Estero de Pandacan, on the SW by Quirino Avenue, on the S by Plaza Dilao, on the NW by Pres. Quirino Avenue, on the NE by the property line of Grayline Phils. Inc. (except the area occupied by Plaza dela Virgen/M.A. Roxas High School)
4. area bounded on the SE by Estero de Pandacan, on the SW by Estero Tripa de Gallina/Pedro Gil, on the E by Onyx, on the SW by Estero Tripa de Gallina, on the NW/NE by PNR Railway (except the area occupied by Concordia College)
5. area bounded on the NE by Pedro Gil, on the SE by Pasig Line, on the SW buy F. Torres, and on the NW/W by Onyx

6. area bounded on the SE by one (1) block northwest of Tejeron, on the SW by F. Torres, on the SE by Pasig Line, on the SW by Estrada, on the NW by Onyx, and on the SW by A. Francisco
7. area bounded on the SE by Jimenez, on the SW by Franco, on the SE by Alabastro, on the NE by road parallel/extending to Jade, on the SE by Topacio, on the SW by Estrada, on the NW by PNR Railway, and on the NE by Estero Tripa de Gallina
8. area bounded on the SE by PNR Railway, on the SW by Estrada, on the SE by del Pilar, on the SW by Don Pedro, on the SE by A. Aquino, on the SW by P. Ocampo, Sr., and on the NW by Diamante
9. area bounded on the NE by San Andres, on the SW by Diamante, on the S by Zapanta, on the NW by Singalong, on the NE by Cong. A. Francisco, and on the NE by Linao.

District VI

1. area bounded on the SE/SW by Manila-Quezon City boundary/San Juan River, on the NW by PNR Railway, and on the N/NE by R. Magsaysay Blvd. (except the area occupied by C-3/MXD – area bounded by R. Magsaysay and Santol Ext./area bounded by R. Magsaysay Baldovino, Hintoloro, Road 2, Buenviaje, and V. Mapa)

2. area bounded on the SE by PNR Railway, on the SW by San Juan River, on the NE by Dalisay, on the NW by Lubiran, and on the NE by Cordeleria
3. area bounded on the SE by San Juan River, on the SW by Manila-Mandaluyong boundary/Panaderos, and on the NW/SW/NE by Pasig River
4. area bounded on the E/SW by Pres. Quirino Avenue, and on the NW/NE by Estero de Pandacan
5. area bounded on the SE/E by Estero de Pandacan, on the W by Pres. Quirino Avenue, and on the NE by Pasig River

6. area bounded on the SE by Pasig River, on the SW by PNR Railway, on the NW/SW by Estero de Pandacan,/PNR rail tracks, on the NW by Pres. Quirino Avenue, and on the NE by Estero de Pandacan
7. area bounded on the N by Estero de Pandacan, on the SW by PNR rail tracks, and on the NW by Estero de Pandacan
8. area bounded on the SW by Kahilum/Felix, on the NW by Pedro Gil, on the NW by Pedro Gil, on the NE by Estero Tripa de Gallina, on the NW by Estero de Pandacan, and on the NE By Pres. Quirino Avenue
9. area bounded on the SE by Estero de Pandacan, on the SW/SE by Pasig River, on the E by a line parallel/extending form Vista on the south side, on the SW by Pedro Gil, on the NW by M. L. Carreon, and on the NE by PNR Railway
10. area bounded on the SE/SW by Pasig River/Manila-Makati boundary on the NW by Tejeron, and on the NE by Pedro Gil/New Panaderos."

Section 12 of Ordinance No. 8119 states the allowable uses of an R-3/MXD zone:

"Sec. 12. Use Regulations in [R-3/MXD]. - An R-3/MXD shall be used primarily for high-rise housing/dwelling purposes and limited complementary/supplementary trade, services and business activities. Enumerated below are the allowable uses:

xxx xxx xxx"

[88] *Rollo*, pp. 742-744.

[89] Memorandum of oil companies, p. 28.

[90] Memorandum of respondent, p. 27.

[91] *Mecano v. Commission on Audit*, G.R. No. 103982, 11 December 1992, 216 SCRA 500, 505, citation omitted.

[92] *Delfino v. St. James Hospital, Inc.*, G.R. No. 166735, 5 September 2006, 501 SCRA 97, 112, citing *Mecano v. Commission on Audit*, id., p. 506.

[93] Id.

[94] *Tan v. Pereña*, G.R. No. 149743, 18 February 2005, 452 SCRA 53, 68, citations omitted.

[95] Id.

[96] *Supra note* 91.

[97] *See Villegas, etc., et al. v. Subido*, 148-B Phil. 668, 676 (1971), citations omitted.

[98] *Supra* note 91 at 507.

[99] *See* Section 9; *rollo*, p. 460.

[100] Section 23.

[101] Section 12.

[102] *Leynes v. Commission on Audit*, G.R. No. 143596, 11 December 2003, 418 SCRA 180, 196.

[103] *Supra* note 97.

[104] *Philippine National Oil Company v. Court of Appeals*, G.R. No. 109976, 26 April 2005, 457 SCRA 32, 80, citing *Ex Parte United States*, 226 U. S., 420; 57 L. ed., 281; *Ex Parte Crow Dog*, 109 U. S., 556; 27 L. ed., 1030; *Partee v. St. Louis & S. F. R. Co.*, 204 Fed. Rep., 970.

[105] Id., citing *Crane v. Reeder and Reeder*, 22 Mich., 322, 334; *University of Utah vs. Richards*, 77 Am. St. Rep., 928.

[106] Supra note 102, citing *De Villa v. Court of Appeals*, 195 SCRA 722 (1991).

[107] A special law is one which relates to particular persons or things of a class, or to a particular portion or section of the state only; *Leynes v. Commission on Audit, supra* note 102, footnote no. 21, citing *U.S. v. Serapio*, 23 Phil 584 [1912].

[108] A general law is one which affects all people of the state or all of a particular class of persons in the state or embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class; id., footnote no. 22, citing *U.S. v. Serapio*, id; *Valera v. Tuason*, 80 Phil 823 (1948) and *Villegas v. Subido*, *supra* note 97.

[109] G.R. No. 140847, 23 September 2005, 470 SCRA 609.

[110] Id., p. 623, citing R. AGPALO, *STATUTORY CONSTRUCTION* (2003), p. 411, in turn citing *Gaerlan v. Catubig*, G.R. No. 23964, 1 June 1966, 17 SCRA 376.

[111] Memorandum, p. 39, citing *Mama, Jr. v. Court of Appeals*, G.R. No. 86517, 30 April 1991, 196 SCRA 489, 496.

[112] *Suanes v. Chief Accountant of the Senate*, 81 Phil. 877, 879 (1948), citing 55 C. J., S; sec. 130, p. 215; *see* also 34 Am. Jur., pp. 910-911; 95 A. L. R. 273, 277-278.

[113] Rule 65, Section 3 of the Rules of Court.

[114] Section 5 (1), Article VIII.

[115] *City of Manila v. Laguio, Jr., supra* note 70 at 326, citing *Tatel v. Municipality of Virac,* G.R. No. 40243, 11 March 1992, 207 SCRA 157, 161; *Solicitor General v. Metropolitan Manila Authority*, G.R. No. 102782, 11 December 1991, 204 SCRA 837, 845; *Magtajas v. Pryce Properties Corp., Inc.*, G.R. No. 111097, 20 July 1994, 234 SCRA 255, 268-267.

[116] *Metropolitan Manila Development Authority v. Viron Transportation Co., Inc.*, G.R. No. 170656, 15 August 2007, citing *Binay v. Domingo*, G.R. No. 92389, September 11, 1991, 201 SCRA 508, 514; *Presidential Commission on Good Government v. Peña*, G.R. No. L-77663, April 12, 1988, 159 SCRA 556, 574; *Rubi v. Provincial Board of Mindoro*, 39 Phil. 660, 708.

[117] Id.

[118] Id., citing *Pangasinan Transportation Co., Inc. v. The Public Service Commission*, 70 Phil. 221, 229 (1940) and *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*, G.R. No. L-76633, October 18, 1988, 166 SCRA 533, 544.

[119] *Roble Arrastre, Inc. v. Villaflor*, G.R. No. 128509, 22 August 2006, 499 SCRA 434, 448.

[120] Article III, Section 18 (kk).

[121] Section 458 (a) (2) (viii).

[122] *Lucena Grand Central Terminal, Inc. v. Jac Liner, Inc.*, G.R. No. 148339, 23 February 2005, 452 SCRA 174, 185, citing *Department of Education, Culture and Sports v. San Diego*, G.R. No. 89572, 21 December 1989, 180 SCRA 533, 537.

[123] Section 1 thereof.

[124] *Rollo*, pp. 982-985.

[125] Id., p. 1004.

[126] Id., p. 1006.

[127] *Fabie v. City of Manila*, 21 Phil. 486, 492 (1912).

[128] *Didipio Earth-Savers' Multi-purpose Association, Incorporated (DESAMA) v. Gozun*, G.R. No. 157882, 30 March 2006, 485 SCRA 586, 604.

[129] *Patalinghug v. Court of Appeals*, G.R. No. 104786, 27 January 1994, 229 SCRA 554, 559, citing *Sangalang v. Intermediate Court*, G.R. Nos. 71169, 76394, 74376 and 82281, December 22, 1988, 168 SCRA 634; *Ortigas & Co. Ltd. Partnership v. Feati Bank and Trust Co.*, No. L-24670, December 14, 1989, 94 SCRA 533.

[130] *Balacuit v. Court of First Instance of Agusan del Norte and Butuan City, Branch II*, G.R. No. L-38429, 30 June 1988 163 SCRA 182, 191.

[131] *Sta. Rosa Realty Development Corporation v. Court of Appeals*, G.R. No. 112526, 12 October 2001, 367 SCRA 175, 193, citing PD 449, Section 4 (b).

[132] *Tan Chat v. Municipality of Iloilo*, 60 Phil. 465, 473 (1934).

[133] *Supra* note 72.

[134] *Rollo*, pp. 1010-1011.

[135] *People v. Cruz*, 54 Phil. 24, 28 (1929).

[136] *Rollo*, p. 300.

[137] *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. No. 78742, 14 July 1989, 343 SCRA 175, 370.

[138] Chief Justice Reynato S. Puno, "The Right to Property: Its Philosophical and Legal Bases," The Court Systems Journal, vol. 10, no. 4, December 2005, p. 6.

[139] *Telecommunications and Broadcast Attorneys of the Philippines, Inc. v. Comelec*, 352 Phil. 153 (1998), Dissenting Opinion of J. Romero, citing Cooley, Thomas II *Constitutional Limitations*, 8th Ed., p. 1224 (1927). This is further reinforced by Section 6, Article XII of the Constitution: "The use of property bears a social function xxxx"

[140] *Didipio Earth-Savers' Multi-Purpose Association v. Gozun, supra* note 128 at 605.

[141] *Rollo*, p. 305.

[142] Article III, Section 1 states:

Section 1. 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.

[143] *Government Service Insurance System v. Montesclaros*, G.R. No. 146494, 14 July 2004, 434 SCRA 441, 452.

[144] Id., citations omitted.

[145] Entitled "An Act Creating the Department of Energy, Rationalizing the Organization and Functions of Government Agencies Related to Energy, and for Other Purposes" approved on December 9, 1992.

[146] Entitled "An Act Deregulating the Downstream Oil Industry, and for Other Purposes" approved on February 10, 1998.

[147] Section 1.

[148] *Rollo*, p. 1443.

[149] Id., p. 1444.

[150] Id., p. 1470.

[151] Id., p. 1480.

[152] Id., p. 730.

[153] Id., p. 1023.

[154] *Supra* note 115.

[155] Id., pp. 272-273, citation omitted.

[156] G.R. No. 149743, 18 February 2005, 452 SCRA 53.

[157] G.R. No. 138810, 29 September 2004, 439 SCRA 326.

[158] 416 Phil. 438 (2001).

[159] *Supra* note 115.

[160] *Leynes v. Commission on Audit, supra* note 102 at 199, citing Section 25, Article II and Section 2, Article X of the Constitution.

[161] *Province of Batangas v. Romulo*, G.R. No. 152774, 27 May 2004, 429 SCRA 736, 772, citing *San Juan v. Civil Service Commission,* G.R. No. 92299, 19 April 1991, 196 SCRA 69.

[162] *National Liga ng mga Barangay v. Paredes*, G.R. Nos. 130775 and 131939, 27 September 2004, 439 SCRA 130.

[163] *Mondano v. Silvosa*, 97 Phil. 143, 147-148 (1955).

[164] *Taule v. Santos*, G.R. No. 90336, 12 August 1991, 200 SCRA 512, 522, citing *Hebron v. Reyes*, 104 Phil. 175 (1958).

[165] *Municipality of Malolos v. Libangang Malolos, Inc.*, G.R. No. L-78592, 11 August 1988, 164 SCRA 290, 298 citing *Hee Acusar v. IAC*, G.R. Nos. L-72969-70, 17 December 1986, 146 SCRA 294, 300.

[166] *Pimentel, Jr. v. Aguirre*, G.R. No. 132988, 19 July 2000, 336 SCRA 201, 215, citing Sec. 1, Art. VII, 1987 Constitution and Joaquin G. Bernas, SJ, *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 1996 ed., p. 739.

[167] *See Dadole v. Commission on Audit,* G.R. No. 125350, 3 December 2002, 393 SCRA 262, 271.

[168] Entitled "An Act Creating the [MMDA], Defining its Powers and Functions,

Providing Funds therefor and for Other Purposes."

[169] Entitled "Providing for the Preparation and Implementation of the Comprehensive Land Use Plans of Local Government Units Pursuant to the Local Government Code of 1991 and Other Pertinent Laws" issued on March 25, 1993.

[170] *Figuerres v. Court of Appeals*, 364 Phil. 683, 692-693 (1999); *Reyes v. Court of Appeals*, 378 Phil. 232, 239 (1999).

[171] *Secretary of Justice v. Hon. Lantion*, 379 Phil. 165, 201 (2000).

[172] *Vda. de Genuino v. Court of Agrarian Relations*, No. L-25035, 26 February 1968, 22 SCRA 792, 797.

[173] Report of Committee on Housing, Resettlement and Urban Development of the City of Manila's *Sangguniang Panlungsod* recommending the approval of Ordinance No. 8027; rollo, pp. 985, 989.

[174] Even if this MOU was modified by the June 26, 2002 MOA; id., pp. 601-602.

[175] Id., p. 1109. *See* also footnote 35.
