Republic of the Philippines
Supreme Court
Manila

EN BANC

QUEZON CITY GOVERNMENT represented by HONORABLE HERBERT M. BAUTISTA, in his capacity as CITY MAYOR OF QUEZON CITY, and TOMASITO L. CRUZ, in his capacity as the CITY PLANNING AND DEVELOPMENT OFFICER AND ZONING OFFICIAL OF QUEZON CITY, Petitioners, -versus- **MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chairman, LUCITO M. BERTOL,**[1] Respondent.	**G.R. No. 208788** Present: GESMUNDO, *C.J.*, LEONEN, CAGUIOA,* HERNANDO, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO, LOPEZ, J., DIMAAMPAO, MARQUEZ, KHO, JR., and SINGH, *JJ.*
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MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chairman, LEONARDO D. LIGERALDE,[2] Petitioner,	**G.R. No. 228284**

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* On official leave.

1 Per the Verification/Certification attached to the Petition (For Prohibition with Application for Preliminary Mandatory Injunction and for a Temporary Restraining Order) dated February 20, 2012, *rollo* (G.R. No. 208788), pp. 117–118.

2 Per the Verification and Affidavit of Non-Forum Shopping attached to the Petition for Review on *Certiorari* dated November 25, 2016, *rollo* (G.R. No. 228284), pp. 29–31.

-versus-

QUEZON CITY GOVERNMENT, represented by HON. HERBERT M. BAUTISTA, in his capacity as CITY MAYOR OF QUEZON CITY, GEN. ELMO SAN DIEGO, in his capacity as Head, Department of Public Order and Safety (DPOS), ROGER CUARESMA, and CAMERAN, M.J., and other members of the DPOS,

Respondents.

Promulgated:

July 23, 2024

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DECISION

HERNANDO, *J.*:

This resolves the consolidated Petitions for Review on *Certiorari* filed by the local government of Quezon City (the *City*) (G.R. No. 208788)[3] (First Case); and by the Manila Seedling Bank Foundation, Inc. (the *Foundation*) (G.R. No. 228284)[4] (Second Case).

The First Case challenges the Decision[5] and Resolution[6] of Branch 96, Regional Trial Court, Quezon City (RTC) in Special Civil Action (SCA) No. Q-12-70830, which granted the Foundation's petition for prohibition, and issued a permanent writ of injunction, commanding the City and its representatives to permanently desist from enforcing or implementing the questioned zoning ordinance at the property of the Foundation located at corner Quezon Avenue and E. De los Santos Avenue, Quezon City, and to issue the locational clearance and business permit in favor of the Foundation.

The Second Case seeks to reverse and set aside the Decision[7] and the

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3 *Rollo* (G.R. No. 208788), pp. 51–83.

4 *Rollo* (G.R. No. 228284), pp. 3–38.

5 *Rollo* (G.R. No. 208788), pp. 84–96. The June 18, 2013 Decision in Special Civil Action No. Q-12-70830 was penned by Presiding Judge Afable E. Cajigal of Branch 96, Regional Trial Court, Quezon City.

6 *Id.* at 97–100. The August 13, 2013 Resolution in Special Civil Action No. Q-12-70830 was penned by Presiding Judge Afable E. Cajigal of Branch 96, Regional Trial Court, Quezon City.

7 *Rollo* (G.R. No. 228284), pp. 40–57. The June 16, 2016 Decision in CA-G.R. SP No. 139984 was penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Pedro B. Corales of the Former Special Tenth Division, Court of Appeals, Manila.

Resolution[8] of the Court of Appeals (CA) in CA-G.R. SP No. 139984, which affirmed the Order[9] of the RTC of Quezon City, Branch 216, in SCA No. Q-12-71638. The RTC dismissed the Foundation's petition for prohibition which it filed against the City on the ground of the Foundation's lack of capacity to sue.

The Antecedents of the First Case

On October 24, 1968, Proclamation No. 481[10] was issued by then President Ferdinand E. Marcos, setting aside a 120-hectare portion of land in Quezon City owned by the National Housing Authority (NHA), as a reserved property for the site of the National Government Center (NGC).[11] Then, on September 19, 1977, Proclamation No. 1670[12] was issued which removed a seven-hectare portion from the coverage of the NGC, and gave the Foundation usufructuary rights over this segregated portion for use in its operation and projects, subject to private rights if any there be, and to future survey (subject property).

Since then, the Foundation enjoyed usufructuary rights over, and remained in possession of, the subject property. It established an Environmental Center which served as a plant nursery for the government's reforestation projects, and leased a portion of the subject property for garden centers, pet shops, and cut flower centers.[13] It also offered various services such as tree pruning, tree balling and relocation, disease treatment, tree farming, greenhouse construction and maintenance, and plant clinics; and provided seminars and workshops on reforestation, environmental preservation, waste disposal management, composting and others.[14]

In 2000, the Quezon City Council enacted Ordinance No. SP-918, series of 2000, otherwise known as the Quezon City Zoning Ordinance. This was amended in 2003 by Ordinance No. SP-1369, series of 2003, or the Amended Quezon City Zoning Ordinance (Zoning Ordinance).[15]

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8 *Id.* at 56–57. The November 17, 2016 Resolution was penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Pedro B. Corales of the Former Special Tenth Division, Court of Appeals, Manila.

9 *Id.* at 52–54. The December 22, 2014 Order in Special Civil Case No. Q-12-71638 was penned by Presiding Judge Alfonso C. Ruiz II of Branch 216, Regional Trial Court, Quezon City.

10 Proclamation No. 481 (1968), Excluding from the Operation of Proclamation No. 42, Dated July 5, 1954, which Established the Quezon Memorial Park, Situated at Diliman, Quezon City, Certain Parcels of the Land Embraced Therein and Reserving The Same For National Government Center Site Purposes.

11 *See National Housing Authority v. Court of Appeals*, 495 Phil. 693 (2005) [Per J. Carpio, First Division].

12 Proclamation No. 1670 (1977), Excluding from the Operation of Proclamation No. 481, dated October 24, 1968, which Established the National Government Center Site, Situated at Diliman, Quezon City, Certain Parcels of Land Embraced therein, and Reserving the Same for the Purposes of The Manila Seedling Bank Foundation.

13 *Rollo* (G.R. No. 208788), pp. 103–104.

14 *Id.* at 104.

15 *Id.*

As per Article IV, Section 2 of the said Ordinance, the subject property was classified into a Metropolitan Commercial Zone,[16] while the 100-square meter (sqm) area, which is a part of the seven-hectare land, and where the Foundation's administrative office is located, was classified as Institutional Zone.[17] In addition, Art. IX, Sec. 6 of the said Ordinance stated that "[a]ny person/firm applying for a business and licenses permit shall secure a locational clearance from the Zoning Official for conforming uses and a certificate of non-conformance for non-conforming uses prior to the issuance of a business and license permit."[18]

On March 20, 2008, pursuant to the Zoning Ordinance, the City Planning and Development Office (CPDO) issued in favor of the Foundation a Certificate of Non-Conformance No. 008-N090 for the latter's business permit application[19] which contained the following conditions:

> 01. That the certificate shall be granted on an annual basis effective year 2001 and shall be renewed every year until 2011[;]
>
> 02. That the pertinent provisions of the [Zoning Ordinance] to Non-Conforming Uses and Buildings (Sec. 1[,] Art. VIII, Mitigating Devices) cited below shall be complied with:
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> . . . .
>
> (i) The owner of a non-conforming use shall program the phase-out and relocation of the non-conforming use within ten (10) years from the effectivity of this ordinance.
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> . . . .
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> 03. That the proponent, if so required, shall submit an Environmental Clearance Certificate (ECC) from the Department of Environment and Natural Resources (DENR) and/or Clearance from the Laguna Lake Development Authority (LLDA)[;]
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> 04. That no advertising and business sign to be displayed or put for public view shall be extended beyond the property line of the proponent[;]
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> 05. That all conditions stipulated herein form part of this decision and are subject to monitoring and actual verification[; and]
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> 06. That any violation of these conditions will mean the suspension or cancellation/revocation of this Certificate and legally and criminally punishable under Art. X, Sec. 1 of the [Zoning Ordinance] and all other existing laws.[20]

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[16] *Id.* at 103.
[17] *Id.* at 104.
[18] *Id.*
[19] *Id.*
[20] *Id.* at 104–106.

The said Certificate of Non-Conformance had been annually renewed until December 2011. Correspondingly, the City issued the Foundation business permits for those years until 2011.[21]

However, when the Foundation applied for the renewal of its locational clearance with the CPDO on January 5, 2012, the said office denied and refused to renew the Foundation's locational clearance for non-conforming building or use; consequently, the Foundation failed to renew its business permit in 2012.[22]

On January 31, 2012, the Foundation sought reconsideration of the denial or refusal to renew its locational clearance.[23] However, the City did not respond which prompted the Foundation to file on February 23, 2012, a Petition (For Prohibition with Application for Preliminary Mandatory Injunction and Prohibitory Injunction and for a Temporary Restraining Order [TRO])[24] before Branch 96, RTC, Quezon City, which was docketed as SCA No. Q-12-70830 against the City, represented by then Mayor Herbert M. Bautista (Mayor Bautista) and Tomasito L. Cruz, then CPDO and Zoning Official.

On January 4, 2013, the trial court granted the Foundation's application for a TRO;[25] and on March 8, 2013, it also granted the preliminary prohibitory injunction and preliminary mandatory injunction.[26] On April 25, 2013, motions for reconsideration and to dismiss were filed by the City.[27] However, on June 3, 2013, the trial court denied the City's motions.[28] From such a denial, the City again moved for reconsideration on July 4, 2013, and also filed an Urgent Motion for Inhibition on July 8, 2013.[29]

Ruling of the Regional Trial Court

On June 18, 2013, the trial court rendered its Decision[30] in favor of the Foundation, the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing, this Court finds the petition meritorious hence, the same is hereby given due course. The writ of prohibition is hereby issued commanding the respondents to permanently desist from enforcing or implementing the Quezon City Zoning Ordinance, as Amended, at the property under petitioner's usufruct located at the corner of Quezon Avenue and E. de los Santos Avenue, Quezon City.
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> Further, the public respondents are hereby directed:

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21 *Id.* at 106.
22 *Id.*
23 *Id.*
24 *Id.* at 102–118.
25 *Id.* at 162–166.
26 *Id.* at 190–194.
27 *Id.* at 55.
28 *Id.*
29 *Id.*
30 *Id.* at 84–96.

1. to issue a Locational Clearance in favour of the petitioner; and

2. to issue a Business Permit in favour of the petitioner even without any Locational Clearance.

Moreover, the preliminary injunction issued by the court is hereby made permanent.

No pronouncement as to costs.

SO ORDERED.[31] (Emphasis in the original)

The trial court ruled that by virtue of Proclamation No. 1670, a contract between the Foundation and the national government was created. It found that the application of the Zoning Ordinance on the Foundation is not reasonably necessary to accomplish its purpose and is oppressive to private rights. It also ruled that the Foundation's business is not offensive to health and safety, morals, peace, good order, comfort, and convenience of the City and its inhabitants, and the protection of their property. Hence, to force the Foundation to change its use of the subject property to those consistent with the Zoning Ordinance clearly constitutes an arbitrary intrusion of private property and a violation of the due process clause.[32]

In addition, the trial court ruled that the Zoning Ordinance, by reclassifying the usufruct area into a use that is different from those to which it was devoted as per Proclamation No. 1670, is considered *ultra vires* as it is beyond the competence of the local legislative body to enact or amend a national law, i.e., Proclamation No. 1670.[33]

The City filed a Motion for Reconsideration with Reiteration of the Previous Motion for Inhibition.[34] However, the trial court issued a Resolution[35] dated July 24, 2013, denying the City's motion for inhibition, as well as the assailed Resolution[36] dated August 12, 2013, denying the City's motion for reconsideration on its Decision dated June 18, 2013.

Hence, a Petition for Review on *Certiorari*[37] under Rule 45 dated October 9, 2013 was directly filed by the City before this Court, arguing that the Foundation has no legal right to be protected by an injunction since the granting of a license or permit by a city government is a mere privilege.[38] Moreover, the City avers that the Foundation's petition has been rendered moot as there is

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31 *Id.* at 96.
32 *Id.* at 88–96.
33 *Id.* at 90–95.
34 *Id.* at 55.
35 *Id.*
36 *Id.* at 97–100. The August 13, 2013 Resolution in Special Civil Action No. Q-12-70830 was penned by Presiding Judge Afable E. Cajigal of Branch 96, Regional Trial Court, Quezon City.
37 *Id.* at 51–83.
38 *Id.* at 58–59.

nothing more to restrain, since the Zoning Ordinance had already been implemented and enforced, and the Foundation had enjoyed the renewal of its permits since 2011.[39]

The City likewise avers that the trial court erred in declaring the Zoning Ordinance as unconstitutional, contrary to statutes, discriminatory, unreasonable, and *ultra vires*. It argues that the Zoning Ordinance is presumed valid since the Foundation has not filed any direct action assailing its nullity or unconstitutionality; the Foundation's petition, in effect, is a collateral impeachment of the validity and constitutionality of the Zoning Ordinance which is not sanctioned by the rules.[40] Moreover, the City argues that private rights and contracts must yield to the Zoning Ordinance since it is a valid exercise of police power.[41]

The City also points out that the issuance of the TRO and injunction were made in haste while the trial was ongoing, such that it filed an Urgent Motion for Inhibition; but the trial judge refused to inhibit.[42]

In further support of its petition, the City argues that the Foundation's usufruct had been extinguished considering that the purposes for the usufruct no longer exist, and that the Foundation is bereft of corporate personality.[43] The City avers that at the time the Foundation filed its petition for prohibition on February 23, 2012, it no longer exists as a corporation since its Certificate of Registration had long been revoked by the Securities and Exchange Commission (SEC) on February 21, 2002.[44] Thus, without a corporate existence, the Foundation had no legal capacity to sue.[45]

The Antecedents of the Second Case

While the First Case was pending in the trial court, specifically on July 3, 2012, the Foundation received from the City's Treasurer a Final Notice to Exercise the Right of Redemption dated May 9, 2012.[46] The Foundation was notified that the subject property being then occupied by it was sold at a public auction and in order to redeem the same, the amount of PHP 40,980,986.24 was to be paid on or before July 7, 2012. The Foundation sent a reply[47] July 3, 2012, insisting that it had never been delinquent in paying its realty taxes; as usufructuary, it was not liable for realty taxes, and that by virtue of Proclamation No. 1670, it was not imposed any such burden or obligation to pay the same.

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39 *Id.* at 61–62.
40 *Id.* at 61–70.
41 *Id.* at 67–70.
42 *Id.* at 73–74.
43 *Id.* at 70.
44 *Id.* at 74–75.
45 *Id.* at 75.
46 *Rollo* (G.R. No. 228284), p. 79.
47 *Id.* at 80.

Thereafter, before the opening of the Foundation's office on July 10, 2012, the City, through Elmo San Diego, then head of the Department of Public Order and Safety (DPOS), Roger Cuaresma, Cameran M.J., and other members of the DPOS, entered the subject property and served a letter dated July 9, 2012,[48] signed by then Mayor Bautista, stating that due to its failure to redeem the subject property within one year from the date of auction, ownership thereof was transferred and vested on the City.

Immediately after having been served the said letter, the Foundation claims that the City, through the said representatives, aided by some 100 police officers, forcibly took over its premises, padlocked the vehicular and pedestrian gates, and deployed several officers and security guards and posted them around the area, which caused fear and confusion among the tenants and other persons in the premises.[49] Similar measures were also taken on the various business establishments inside the premises which caused several tenants to lose their businesses. Several tarpaulin signs which read, "This property is forfeited in favor of the Quezon City Government" were also hung in prominent places in the premises.[50]

That same day, the Foundation wrote to the City asserting that nothing in the law allows the latter to forcibly enter and take over its premises.[51] However, the City did not heed the same; thus, the Foundation filed a Petition (For Prohibition and Injunction with Damages and with Application for a Writ of Preliminary Prohibitory and Mandatory Injunction and a Temporary Restraining Order)[52] with the RTC of Quezon City, Branch 216 on July 12, 2012, which was docketed as SCA No. Q-12-71638.

The City filed its Answer[53] on August 22, 2012. Subsequently, on March 11, 2013, the trial court denied the Foundation's application for a writ of preliminary injunction since it failed to prove the irreparable injury that it would suffer if the said writ was not issued in its favor, and due to the fact that it was already dispossessed of the subject property.[54] An Urgent Motion for Reconsideration[55] was filed by the Foundation on April 5, 2013. The City then filed an Opposition to the Urgent Motion for Reconsideration with Motion to Dismiss[56] on May 30, 2013 (Motion to Dismiss), arguing that the Foundation had no legal capacity to sue since its Certificate of Registration had long been revoked by the SEC on February 21, 2001, for its failure to file requisite financial statements for the years 1996-2003.[57]

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48 *Id.* at 81.
49 *Id.* at 7.
50 *Id.* at 82–87.
51 *Id.* at 88–89.
52 *Id.* at 58–76.
53 *Id.* at 276.
54 *Id.* at 8.
55 *Id.* at 277.
56 *Id.*
57 *Id.* at 8.

The trial court denied the Foundation's Urgent Motion for Reconsideration as well as the City's Motion to Dismiss.[58] The trial court gave the Foundation an opportunity to present evidence to prove its corporate existence during trial. The City filed a Motion for Reconsideration[59] on February 28, 2014, praying that the petition be dismissed as only juridical entities authorized by law may be parties in a civil action.[60]

Meanwhile, the Foundation argued that the revocation of its Certificate of Registration by the SEC had not become final as it was given until December 15, 2015, within which to file a petition to set aside the order of revocation.[61] The Foundation also argued that its legal personality cannot be collaterally attacked; that the City is not the proper party to question the same; and that the City is already estopped from questioning its legal personality for having dealt with it as a corporation in several transactions for years.[62]

Ruling of the Regional Trial Court

The trial court issued an Order[63] dated December 22, 2014, which reconsidered its earlier Order denying the City's Motion to Dismiss, the dispositive portion of which reads:

> WHEREFORE, the Petition is hereby ordered dismissed.
>
> SO ORDERED.[64]

The trial court explained that it denied the City's Motion to Dismiss with the intention to receive evidence for the Foundation to prove its corporate existence; however, the Foundation confirmed that its Certificate of Registration had been revoked by the SEC on February 21, 2002.[65] It also ruled that while the Foundation had until December 15, 2015 to file a petition to set aside the revocation, the right to file does not mean that it had acquired back its corporate existence. Even assuming that the revocation is not final, what prevails is the fact that the certificate remains revoked, and until after the order of revocation is reconsidered, the Foundation cannot be considered a corporation.[66]

Aggrieved, the Foundation appealed to the CA on March 4, 2015.[67] After the parties submitted their respective memoranda, the Foundation filed an Urgent Motion/Manifestation dated November 23, 2015, annexing to it the SEC

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58 *Id.* at 8–9.
59 *Id.* at 277.
60 *Id.* at 9, 52–53.
61 *Id.* at 9, 53.
62 *Id.* at 53.
63 *Id.* at 52–54.
64 *Id.* at 54.
65 *Id.* at 53.
66 *Id.*
67 *Id.* at 46.

Order of October 14, 2015, setting aside the Order of Revocation dated December 28, 2001.[68]

Ruling of the Court of Appeals

The appellate court issued the assailed Decision[69] dated June 16, 2016, thus:

> **WHEREFORE**, based on the foregoing, the Appeal is **DENIED**. The Order dated [December 22,] 2014 of the Regional Trial Court, National Capital Judicial Region, Branch 216, Quezon City docketed as Special Civil Case No. Q-12-71638 is hereby **AFFIRMED**.
>
> **SO ORDERED**.[70] (Emphasis in the original)

Agreeing with the trial court, the CA pronounced that the lack or revocation of the certificate of registration or incorporation operates to divest a corporation of such personality to act and appropriate for itself the power and attributes of a corporation as provided by law.[71]

The CA found that the fact of revocation of the Certificate of Registration of the Foundation was published in a newspaper of general circulation; and the latter did not dispute the validity of such revocation nor did it submit counter-evidence to prove compliance of the same from the date of revocation until the present action.[72] Rather, the Foundation harped on the fact that the SEC, by virtue of a letter[73] dated January 3, 2014, had allowed it to file a petition to set aside the revocation until December 15, 2015.[74] The Foundation argued that such allowance by the SEC extended its corporate existence and that the earlier revocation had not been rendered final.[75] However, the CA found that nowhere in the SEC's letter was it stated that the revocation was not final pending the filing of any petition to set aside the same.[76] It also held that notwithstanding the fact that the order of revocation was set aside on October 14, 2015, it remains that the Foundation lacked the requisite legal personality at the time of the filing of its petition against the City.[77]

The Foundation moved for reconsideration, but the CA denied the same in its Resolution dated November 17, 2016.[78]

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68 *Id.* at 11.
69 *Id.* at 40–51.
70 *Id.* at 51.
71 *Id.* at 48.
72 *Id.*
73 *Id.* at 17–18.
74 *Id.* at 48.
75 *Id.*
76 *Id.*
77 *Id.*
78 *Id.* at 56–57.

Hence, the Foundation filed a Petition for Review on *Certiorari*[79] under Rule 45 dated November 25, 2016 arguing that: a) courts have no jurisdiction to rule on the Foundation's juridical personality as it is the SEC that has the exclusive original jurisdiction to pass upon the juridical personality of a corporation; b) the CA grievously erred in not holding that the existence of a corporation cannot be attacked collaterally, and in not finding that the City and its representatives are already estopped from putting in issue the Foundation's corporate personality; and c) that the CA was wrong to touch upon the merits of the petition considering that they are irrelevant to the resolution of the issue on the Foundation's corporate personality.[80]

The Foundation insists that it had corporate personality when it filed its petition against the City since the earlier order of revocation had not been final; in any case, it argues that the SEC's Order[81] dated October 14, 2015 which set aside the earlier revocation retroacts to the date of revocation, such that the Foundation is deemed to have never lost its corporate or legal personality to sue and maintain its case against the City.[82]

Issues

The following are the issues for Our resolution.

1) Whether the City's direct appeal to this Court *via* a petition for review on *certiorari* in the First Case can be entertained.

2) Whether the Foundation had the requisite legal capacity to institute a petition for prohibition against the City on February 23, 2012, and another same petition on July 12, 2012, considering that its Certificate of Registration had been revoked by the SEC on February 21, 2002; and whether the City is estopped from questioning the Foundation's capacity to sue.

3) Whether the Foundation, through a petition for prohibition, may assail the validity and constitutionality of the Zoning Ordinance.

4) Whether the City can assess realty taxes on the subject property, which is owned by the NHA, and foreclose and seize the same for non-payment thereof.

5) Whether the City can, in the guise of a Zoning Ordinance, reclassify or regulate the use of the subject property on which the Foundation exercises its usufructuary rights.

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[79] *Id.* at 3–38.
[80] *Id.* at 15–16.
[81] *Id.* at 18.
[82] *Id.*

Our Ruling

I. Procedural Issues

a. While direct resort to the Court is generally disallowed; there are exceptions

We first rule on the propriety of the City's direct resort to this Court *via* its Petition for Review on *Certiorari* in the First Case.

We note that the City directly comes to this Court *via* a Rule 45 petition.

> Under Rule 41 of the Rules, an appeal from the RTC's decision may be undertaken in three ways, depending on the nature of the attendant circumstances of the case, namely: (1) an ordinary appeal to the CA in cases decided by the RTC in the exercise of its original jurisdiction; (2) a petition for review to the CA in cases decided by the RTC in the exercise of its appellate jurisdiction; and (3) a petition for review on *certiorari* directly filed with the Court where only questions of law are raised or involved.[83]
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> . . . .
>
> A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, its resolution must not involve an examination of the probative value of the evidence presented by the litigants, but must rely solely on what the law provides on the given set of facts. If the facts are disputed, or if the issues require an examination of the evidence, the question posed is one of fact. The test, therefore, is not the appellation given to a question by the party raising it, but whether the appellate court can resolve the issue without examining or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.[84] (Citations omitted)

In the First Case, the City directly brought its Petition for Review on *Certiorari* before this Court raising mixed questions of fact and law. The City raised questions of fact when it put in issue the Foundation's lack of corporate personality due to the revocation of the latter's certificate of registration; as well as the trial judge's alleged hasty issuance of the TRO/injunction. Clearly, the resolution of these issues entails a review of the factual circumstances.

It has been consistently held that in "reviews on *certiorari*, the Court addresses only the questions of law. It is not [O]ur function to analyze or weigh the evidence (which task belongs to the trial court as the trier of facts and to the appellate court as the reviewer of facts). We are confined to the review of errors

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[83] *See Far Eastern Surety and Insurance Co., Inc. v. People*, 721 Phil. 760, 766 (2013) [Per J. Brion, Second Division].

[84] *Id.* at 767, *citing Heirs of Cabigas v. Limbaco*, 670 Phil. 274, 285 (2011) [Per J. Brion, Second Division].

of law that may have been committed in the judgment under review."[85]

This is also in observance of the rule on hierarchy of courts where the Court explained in *Bañez, Jr. v. Concepcion*:[86]

> The Court must enjoin the observance of the policy on the hierarchy of courts, and now affirms that the policy is not to be ignored without serious consequences. The strictness of the policy is designed to shield the Court from having to deal with causes that are also well within the competence of the lower courts, and thus leave time to the Court to deal with the more fundamental and more essential tasks that the Constitution has assigned to it. The Court may act on petitions for the extraordinary writs of (*certiorari*), prohibition and *mandamus* only when absolutely necessary or when serious and important reasons exist to justify an exception to the policy.[87]

> Nonetheless, the rule on hierarchy of courts admits exeptions, as emphasized in Ifurung v. Carpio Morales:[88]

> However, the doctrine of hierarchy of courts is not an iron-clad rule, as it in fact admits the jurisprudentially established exceptions thereto, viz.: (a) a direct resort to this Court is allowed when there are genuine issues of constitutionality that must be addressed at the most immediate time. A direct resort to this court includes availing of the remedies of [*certiorari*] and prohibition to assail the constitutionality of actions of both legislative and executive branches of the government; (b) when the issues involved are of transcendental importance; (c) cases of first impression warrant a direct resort to this court; (d) the constitutional issues raised are better decided by this Court; (e) the time element; (f) the filed petition reviews the act of a constitutional organ; (g) petitioners have no other plain, speedy, and adequate remedy in the ordinary course of law; and (h) the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.[89]

Thus, while the direct petition before this Court is generally disallowed if it involves mixed questions of fact and law, this Court may entertain the same when there are genuine issues of constitutionality that must be addressed, as in this case. The petition likewise involves questions on actions of a local government body which have allegedly impinged on private rights; the resolution of which is, as We deem it, relevant for the advancement of public policy and demanded by the broader interest of justice.

b. The Foundation lacked the capacity to sue at the time it filed its petitions for prohibition against the City in 2012;

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[85] *Id.*, *citing Dihiansan v. Court of Appeals*, 237 Phil. 695; 701 (1987) [Per C.J. Teehankee, First Division].
[86] 693 Phil. 399 (2012) [Per J. Bersamin, First Division].
[87] *Id.* at 412.
[88] 831 Phil. 135 (2018) [Per J. Martires, *En Banc*].
[89] *Id.* at 157–158, *citing The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 334 (2015) [Per J. Leonen, *En Banc*].

nevertheless, the City is already estopped from raising this defense

To recapitulate, the City raised the issue on the Foundation's lack of capacity to sue both in the First and Second Cases. The City avers that the Foundation's Certificate of Registration was revoked on February 21, 2002,[90] by the SEC for its failure to file financial statements from 1996 to 2003;[91] hence, at the time of the filing of the petitions for prohibition on February 23 and July 12, 2012, the Foundation had no legal capacity to sue as a corporation.

Moreover, the City explained that it only discovered, after it filed its Answer in the Second Case, that the Foundation does not exist as a corporation through the SEC's Letter dated February 21, 2013,[92] which it only received on February 28, 2013.[93] The said Letter confirms that the Foundation's Certificate of Registration was revoked on February 21, 2002, per the attached Certificate of Corporate Filing/Information issued on January 21, 2013.[94]

We are unconvinced.

The Corporation Code,[95] Sec. 122[96] in particular, provides that a corporation whose charter expires pursuant to its articles of incorporation, is annulled by forfeiture, *or whose corporate existence is terminated in any other manner*, shall nevertheless remain as a body corporate for three years after the effective date of dissolution, for the purpose of prosecuting and defending suits by or against it, and enabling it to settle and close its affairs, dispose of and convey its property, and distribute its assets, but not for the purpose of

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90 *Rollo* (G.R. No. 208788), Vol. 2, p. 517.

91 *Id.* at 518.

92 *Id.* at 102–unpaginated.

93 *Id.*

94 *Id.*

95 Batas Pambansa Blg. 68 (1980), The Corporation Code of the Philippines, as amended by Republic Act No. 11232 (2019).

96 Section 122. *Corporate liquidation.* – Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three (3) years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, to dispose of and convey its property and to distribute its assets, but not for the purpose of continuing the business for which it was established.

At any time during said three (3) years, said corporation is authorized and empowered to convey all of its property to trustees for the benefit of stockholders, members, creditors, and other persons in interest. From and after any such conveyance by the corporation of its property in trust for the benefit of its stockholders, members, creditors and others in interest, all interest which the corporation had in the property terminates, the legal interest vests in the trustees, and the beneficial interest in the stockholders, members, creditors or other persons in interest.

Upon the winding up of the corporate affairs, any asset distributable to any creditor or stockholder or member who is unknown or cannot be found shall be escheated to the city or municipality where such assets are located.

Except by decrease of capital stock and as otherwise allowed by this Code, no corporation shall distribute any of its assets or property except upon lawful dissolution and after payment of all its debts and liabilities. (Now Section 139 of Republic Act No. 11232 [2019], or the "Revised Corporation Code of the Philippines")

continuing the business for which it was established.

Moreover, the Rules of Court, Rule 3, Sec. 1, provides that only natural or juridical persons, or entities authorized by law may be parties in a civil action.[97] Hence, non-compliance with the said requirement will render a case dismissible on the ground of lack of legal capacity to sue which refers to "a plaintiff's general disability to sue, such as on account of minority, insanity, incompetence, *lack of juridical personality* or any other general disqualifications of a party."[98] In particular, an unregistered association, having no separate juridical personality, lacks the capacity to sue in its own name.[99]

There is no dispute that the Foundation's corporate registration was revoked on February 21, 2002. Thus, applying the Corporation Code, specifically Sec. 22 thereof, it had three years, or until February 21, 2005, to prosecute or defend any suit by or against it.

Notably, the subject petitions for prohibition against the City however, were filed only in 2012, or more or less 10 years from the time of such revocation. It is likewise not disputed that the petitions for prohibition were filed by the Foundation as a corporation, and not by its directors or trustees as individuals. In fact, it is even averred in the first paragraph of the petitions for prohibition that "[p]etitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office and business address at MSBF Building, Quezon Avenue cor. E. de los Santos Avenue, Diliman, Quezon City, Metro Manila, represented herein by its President and Chairman Lucito M. Bertol, duly authorized to institute this case on behalf of the Foundation by virtue of the Board Resolution embodied in the Secretary's Certificate[.]"[100]

The Foundation's knowledge of the revocation of its registration can also be presumed since the SEC's order of revocation was published in a newspaper of general circulation; there is also no showing whether such order of revocation was final. Meanwhile, the Foundation admitted that it filed the petition to set

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[97] RULES OF COURT, Rule 3, sec. 1. *Who may be parties; plaintiff and defendant.* — Only natural or juridical persons, or entities authorized by law may be parties in a civil action. The term "plaintiff" may refer to the claiming party, the counter-claimant, the cross-claimant, or the third (fourth, etc.) — party plaintiff. The term "defendant" may refer to the original defending party, the defendant in a counter-claim, the cross-defendant, or the third (fourth, etc.) — party defendant. (1a)

[98] *Alliance of Quezon City Homeowners' Association, Inc. v. The Quezon City Government*, 840 Phil. 277, 291 (2018) [Per J. Perlas-Bernabe, *En Banc*], *citing Alabang Development Corporation v. Alabang Hills Village Association*, 734 Phil. 664, 669 (2014) [Per J. Peralta, Presidential Electoral Tribunal], *citing further Columbia Pictures, Inc. v. Court of Appeals*, 329 Phil. 875, 901 (1996) [Per J. Regalado, *En Banc*]. (Emphasis supplied)

[99] *Id.*, *citing Association of Flood Victims v. Commission on Elections*, 740 Phil. 472, 480 (2014) [Per Acting C.J. Carpio, *En Banc*]. *See also Samahang Magsasaka ng 53 Hektarya v. Mosquera*, 547 Phil. 560, 570 (2007) [Per J. Velasco, Jr., Second Division] and *Dueñas v. Santos Subdivision Homeowners Association*, 474 Phil. 834, 846–847 (2004) [Per J. Quisumbing, Seccond Division].

[100] *Rollo* (G.R. No. 228284), pp. 58–59.

aside the order of revocation only on February 4, 2015,[101] or after it had already filed its petitions for prohibition against the City.

Nevertheless, We hold that while the Foundation lacked the legal capacity to sue at the time it filed the petitions for prohibition against the City in 2012 because of the revocation by the SEC of its registration in 2002, the City should be barred from raising this defense by virtue of the doctrine of estoppel.

The Corporation Code, in particular, Section 21,[102] provides:

> Section 21. *Corporation by estoppel.* – All persons who assume to act as a corporation knowing it to be without authority to do so shall be liable as general partners for all debts, liabilities and damages incurred or arising as a result thereof: *Provided, however*, That when any such ostensible corporation is sued on any transaction entered by it as a corporation or on any tort committed by it as such, it shall not be allowed to use as a defense its lack of corporate personality.
>
> **One who assumes an obligation to an ostensible corporation as such, cannot resist performance thereof on the ground that there was in fact no corporation.** (Emphasis supplied)

Verily, the presumption that the Foundation knew of the revocation having been published in a newspaper of general circulation should likewise apply to the City. After all, the Foundation has been doing its business within the City's jurisdiction. Applying the principle of presumption of regularity in the performance of duties, it is reasonable to expect the City to have performed due diligence in its dealings with corporations doing business within its territorial jurisdiction, and in its regulatory processes such as issuance of clearances and business permits. We can reasonably expect, therefore, that as a prerequisite in granting the locational clearances and business permits for those years, the City had perused through the Foundation's documents to determine not only whether it complied with the requirements, but also whether it is licensed or authorized to engage in business in the Philippines.

In fact, the City does not deny the issuance or renewal of the locational clearances and business permits to the Foundation from 2008 until 2011. Pursuant to the Zoning Ordinance, a Certificate of Non-Conformance was issued to the Foundation on March 20, 2008, and was renewed in March 2009, March 2010, and up to December 2011.[103] It is true that the Foundation instituted the actions in 2012; however, it is only thereafter that the City questioned the Foundation's legal existence despite the fact that it issued in favor of the Foundation business permits as early as 2008. It can also be observed that the ground for the non-renewal of the Foundation's locational clearance and business permit is not because it lacked corporate personality, but

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[101] *Rollo* (G.R. No. 228284), p. 18.
[102] Now Section 20 of Republic Act No. 11232 (2019).
[103] *Rollo* (G.R. No. 208788), p. 86.

because of its non-conformance with the Zoning Ordinance.

The fact that the City had issued locational clearances and business permits to the Foundation until 2011, had collected taxes and/or fees in line therewith, and had probably benefitted in one way or another from the Foundation's operations, shows that the City treated the Foundation as a duly registered and existing corporation, by all intents and purposes.

In *Magna Ready Mix Concrete Corp. v. Andersen Bjornstad Kane Jacobs, Inc.*,[104] We held that a party should be estopped from impugning the personality of a corporation after transacting with it, or deriving benefits therefrom, thus:

> To put it in another way, *a party is estopped to challenge the personality of a corporation after having acknowledged the same by entering into a contract with it. And the doctrine of estoppel to deny corporate existence applies to a foreign as well as to domestic corporations. One who has dealt with a corporation of foreign origin as a corporate entity is estopped to deny its corporate existence and capacity. The principle will be applied to prevent a person contracting with a foreign corporation from later taking advantage of its noncompliance with the statutes[,] chiefly in cases where such person has received the benefits of the contract.*
>
> The rule is deeply rooted in the time-honored axiom of *commodum ex injuria sua non habere debet* — no person ought to derive any advantage of his own wrong. This is as it should be for as mandated by law, "every person must in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith."[105] (Citations omitted, emphasis supplied)

As We have succinctly declared in *The Missionary Sisters of Our Lady of Fatima v. Alzona:*[106]

> The doctrine of corporation by estoppel is founded on principles of equity and is designed to prevent injustice and unfairness. It applies when a non-existent corporation enters into contracts or dealings with third persons. In which case, *the person who has contracted or otherwise dealt with the non-existent corporation is estopped to deny the latter's legal existence in any action leading out of or involving such contract or dealing.* While the doctrine is generally applied to protect the sanctity of dealings with the public, nothing prevents its application in the reverse, in fact the very wording of the law which sets forth the doctrine of corporation by estoppel permits such interpretation. *Such that a person who has assumed an obligation in favor of a non-existent corporation, having transacted with the latter as if it was duly incorporated, is prevented from denying the existence of the latter to avoid the enforcement of the contract.*[107]

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[104] 894 Phil. 286 (2021) [Per J. Hernando, Third Division].
[105] *Id.* at 299–300.
[106] 838 Phil. 283 (2018) [Per J. A. Reyes, Jr., Second Division].
[107] *Id.* at 295–296.

> The doctrine of corporation by estoppel rests on the idea that if the Court were to disregard the existence of an entity which entered into a transaction with a third party, unjust enrichment would result as some form of benefit have already accrued on the part of one of the parties. Thus, in that instance, the Court affords upon the unorganized entity corporate fiction and juridical personality for the sole purpose of upholding the contract or transaction.[108] (Citations omitted, emphasis supplied)

We are aware that as a rule, estoppel does not operate against the State or its agents, such as the City. However, there are instances where such a general rule may be brushed aside in the interest of fair play, and when exceptional circumstances warrant, such as this case. We said in *Estate of Yujuico v. Republic*:[109]

> Estoppels against the public are little favored. They should not be invoked except in rare and unusual circumstances, and may not be invoked where they would operate to defeat the effective operation of a policy adopted to protect the public. They must be applied with circumspection and *should be applied only in those special cases where the interests of justice clearly require it. Nevertheless, the government must not be allowed to deal dishonorably or capriciously with its citizens, and must not play an ignoble part or do a shabby thing; and subject to limitations [. . . ,] the doctrine of equitable estoppel may be invoked against public authorities* as well as against private individuals.[110] (Citation omitted, emphasis supplied)

Hence, it would be an injustice to allow the City to dispute the Foundation's legal personality and capacity to sue in the instant cases, when it is clear that it treated the latter as a duly incorporated entity, had transacted with it for several years by the issuance of locational clearances and business permits, and had, in one way or another, benefitted from the Foundation's operations within its territorial jurisdiction.

Notably, the SEC already issued an Order in 2015 setting aside the earlier revocation of the Foundation's registration; thus, it can be said that the SEC never treated the revocation as final and unalterable. Nonetheless, while it may be argued that the said Order cannot retroact to 2012, or the time when the Foundation filed its petitions for prohibition, this Court is allowed, under the doctrine of estoppel, to treat the Foundation as having a corporate personality to sustain its actions against the City which arose from its dealings and transactions with the latter.

The City should be held in estoppel in the interest of justice. To rule otherwise would set a dangerous example to other local government units (LGUs) dealing with corporations within their respective territorial jurisdictions. It is thus apt to remind the LGUs to act with due diligence and

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[108] *Id.* at 296.
[109] 563 Phil. 92 (2007) [Per J. Velasco, Jr., Second Division], *citing Manila Lodge No. 761 v. Court of Appeals*, 165 Phil. 161, 188 (1976) [Per J. Castro, First Division].
[110] *Id.* at 111.

fairness in their dealings and transactions with businesses establishments within their districts. We deem it not fair, to say the least, for the LGUs to issue in favor of these entities the necessary business permits, collect from them taxes and fees, and allow them to operate, only to impugn their personality or capacity later in a suit brought by them arising from their dealings with the said LGUs.

c. The Foundation's petition assailing the validity and constitutionality of the Zoning Ordinance may be treated as a petition for certiorari and prohibition

The specific provisions of the Zoning Ordinance being questioned by the Foundation are as follows:

> **Sec. 1, [Art.] III** – which contains a definition of terms being applied to [the Foundation].
>
> **Sec. 2, [Art.] IV** – which classifies the 7-hectare area under [the Foundation's] usufruct into a metropolitan commercial zone except areas identified as institutional areas.
>
> **[Art.] VIII** – which among other things gives the owner of a non-conforming use a 10-year phase out and relocation period and requires a locational clearance for the continued use of its premises during the phase out and relocation period.
>
> **Sec. 2, [Art.] X** – which provides that the land use decisions of the national agencies concerned shall be consistent with the Comprehensive Land Use Plan of the locality.
>
> . . . .
>
> [Sec.] 1, Art. III of the 2000 Zoning Ordinance as amended provided that, "Commercial, Metropolitan (C-3): a subdivision of an area characterized by heavy commercial developments and multi-level commercial structures, including trade, service and entertainment on a metropolitan (regional) scale of operations as well as miscellaneous support services; with permitted light industrial activities.
>
> In correlation, [Sec.] 1(i), Art. VI of the 2000 Zoning Ordinance as amended requires, "the owner of a non-conforming use shall program the phase-out and relocation of the non-conforming use within ten (10) years from the effectivity of this ordinance."[111]

To recall, due to the Foundation's continued non-conforming use of or building on the subject property, the City denied the renewal of the Foundation's Certificate of Non-Conformance which is a prerequisite for the renewal of its business permit in 2012.

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[111] *Rollo* (G.R. No. 208788), pp. 88–89.

Meanwhile, on August 19, 2020, the City filed a Manifestation[112] before this Court that in March 2012, it approved Ordinance No. SP-2117, series of 2011,[113] otherwise known as the Quezon City Central Business District Ordinance, which classified the subject property as a *Mixed Commercial / Retail Zone* as part of the Triangle Exchange of the Quezon City Central Business District. The said Ordinance was enacted pursuant to Executive Order Nos. 620 and 620-A, series of 2007,[114] which created the Urban Triangle Development Commission to manage the development and speed up the transformation of a mixed-use area, or the Quezon City Central Business District.[115]

Preliminarily, We note that the records are bereft of any evidence of the full text or any part of the assailed Zoning Ordinance. An ordinance or a part of it is not included in the enumeration of matters covered by mandatory judicial notice under the 1997 Rules of Court, specifically under Rule 129, Sec. 1. Even with the enactment of Republic Act No. 409,[116] in which Sec. 50 thereof states that "[a]ll courts sitting in the city shall take judicial notice of the ordinances passed by the [*Sangguniang Panglungsod*]," this does not mean that this Court, which has a seat in Quezon City, should procure a copy of the ordinance on its own, which is the duty of the party.

Neither is the court *a quo* required to take judicial notice of municipal or city ordinances that are not before it, and to which it does not have access. The intent of Republic Act No. 409 is to remove any discretion a court might have in determining whether to take notice of an ordinance, and *not to direct the court to act on its own in obtaining evidence for the record.* It is the obligation of the party to supply the court with the full text or any part of the ordinance if they so desire for the court to take cognizance thereof. Thus, we held in *Social Justice Society v. Atienza, Jr.*:[117]

> 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 [Rule 129, Sec. 1], of the Rules of Court.
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> Although, Section 50 of [Republic Act No.] 409 provides that:

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[112] *Id.* at 442–446.

[113] An Ordinance Classifying the 250.6 Hectare Area Comprising of the North Triangle, East Triangle and Veterans Memorial Hospital Compound as the Quezon City Central Business District (QC-CBD) and Adopting the QC-BCD Master Plan and Related Implementing Rules and Regulations Thereof.

[114] Executive Order No. 620 (2007), Rationalizing and Speeding Up The Development Of The East And North Triangles, And The Veterans Memorial Area of Quezon City, As a Well-Planned, Integrated And Environmentally Balanced Mixed-Use Development Model. Executive Order No. 620-A (2007), Expanding The Composition Of The Urban Triangle Development Commission And Clarifying Its Structure And Functions, Thereby Amending Executive Order No. 620, Series of 2007.

[115] *Rollo* (G.R. No. 208788), pp. 442–443.

[116] Revised Charter of the City of Manila, and For Other Purposes (1949).

[117] 568 Phil. 658 (2008) [Per J. Corona, First Division].

> 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. 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.

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.[118] (Citations omitted, emphasis supplied)

Considering the lack of the full text or specific provisions of the assailed Zoning Ordinance, We will rely on the admissions of the parties as embodied in their pleadings, and as found by the RTC in its Decision dated June 18, 2013. Nonetheless, We take judicial notice of Executive Order Nos. 620 and 620-A, which were issued by then President Gloria Macapagal-Arroyo in 2007, being an official act of the executive department as per the 1997 Rules of Court, Rule 129, Section 1.

Meanwhile, although the instant action mainly anchors on "prohibition", there is no denying that the Foundation assails the validity or constitutionality of the specific provisions of the Zoning Ordinance in its pleadings. In fact, the City countered the same by arguing that the petition cannot be granted as it is considered a collateral attack of the ordinance. It is worth noting that the Foundation aptly raised in its petition filed before the RTC the issue of constitutionality or validity of the specific provisions of the Zoning Ordinance.

Hence, despite not specifically designating its petition as "*certiorari* and prohibition," We shall treat the instant case as one of *certiorari* and prohibition as pleaded under the expanded jurisdiction of the court which has a broader scope and reach as it can also "set right, undo[,] and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions."[119] It is, therefore, well within

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[118] *Id.* at 685–686.

[119] *Ifurung v. Carpio-Morales*, 831 Phil. 135, 152 (2018) [Per J. Martires, *En Banc*].

the power of the Court to set right or restrain the alleged invalid or unconstitutional act of the City, if any, under the expanded jurisdiction of *certiorari* and prohibition.

Based on the foregoing, We hold that the Foundation properly filed before the RTC the action under its expanded jurisdiction of *certiorari* and prohibition. Where an action of the legislative branch, in this case, the City Council of Quezon City's enactment of the Zoning Ordinance, is seriously alleged to have infringed the Constitution, it becomes not only the right, but in fact the duty of the judiciary, to settle the dispute.[120]

Nonetheless, the power of judicial review is limited by four exacting requisites, namely: (a) there must be an actual case or controversy; (b) the petitioners must possess *locus standi*; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the *lis mota* of the case.[121]

Indisputably, the Foundation presented an actual case or controversy when it assailed the validity or constitutionality of the specific provisions of the Zoning Ordinance which allegedly infringed on its usufructuary rights over the subject property granted by Proclamation No. 1670. In fact, the parties admitted that the Foundation was denied the locational clearance for non-conforming use or building of the subject property and consequently, its business permit to operate in 2012. The Foundation presented a *prima facie* case of grave abuse of discretion on the part of the City when it was denied a business permit to operate in 2012, due to the denial of its application for a locational clearance.

In other words, the Foundation contends that without the business permit, it cannot exercise its usufructuary rights over the subject property granted by Proclamation No. 1670. The Foundation, therefore, argues that the Zoning Ordinance is unconstitutional since it is an invalid exercise of police power as it infringes on property rights without due process of law and the non-impairment clause, which are safeguarded by no less than the Constitution.

Although an ordinance is presumed valid, the Foundation has made out a case of alleged unconstitutionality of the specific provisions of the Zoning Ordinance as they infringe on its usufructuary rights. The *lis mota*, which is defined as the "the cause of the suit or action"[122] is therefore sufficiently established in its petition. The case cannot be resolved unless a disposition of the constitutional question is decided.

Also, the Foundation raised the question of constitutionality of the Zoning Ordinance at the earliest opportunity when it filed its petition before the RTC.

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[120] *Id., citing Tañada v. Angara*, 338 Phil. 546, 574 (1997) [Per J. Panganiban, First Division].
[121] *Id., citing Saguisag v. Ochoa*, 777 Phil. 280, 349 (2016) [Per C.J. Sereno, *En Banc*].
[122] *Kalipunan ng Damayang Mahihirap, Inc. v. Robredo*, 739 Phil. 283, 295 (2014) [Per J. Brion, *En Banc*].

The Foundation immediately assailed the provisions of the Zoning Ordinance when it was denied the required locational clearance for non-conforming use or building needed for its business permit application in 2012.

Meanwhile, *locus standi* or legal standing is defined as follows:

> A personal and substantial interest in the case such that the party has sustained or will sustain a direct injury as a result of the governmental act that is being challenged. The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.[123]

Hence, "a party challenging the constitutionality of a law, act, or statute must show 'not only that the law is invalid, but also that he [or she] has sustained or is in immediate, or imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he [or she] suffers thereby in some indefinite way.'"[124] Also, "[i]t must be shown that he [or she] has been, or is about to be denied some right or privilege to which he [or she] is lawfully entitled, or that he [or she] is about to be subjected to some burdens or penalties by reason of the statute complained of."[125]

Both parties admitted that the Foundation has usufructuary rights over the subject property as per Proclamation No. 1670. The Court likewise affirmed in *National Housing Authority v. Court of Appeals*[126] the Foundation's usufruct over the subject property, viz.:

> The law clearly limits any usufruct constituted in favor of a corporation or association to 50 years. A usufruct is meant only as a lifetime grant. Unlike a natural person, a corporation or association's lifetime may be extended indefinitely. The usufruct would then be perpetual. This is especially invidious in cases where the usufruct given to a corporation or association covers public land. Proclamation No. 1670 was issued [September 19,] 1977, or 28 years ago. *Hence, under Article 605, the usufruct in favor of [the Foundation] has 22 years left.*[127] (Emphasis supplied)

National Housing Authority was promulgated in 2005. Notwithstanding the fact that the Foundation's registration was revoked in 2002, the Court held that the Foundation still possesses usufructuary rights over the subject property until *2027*. With this pronouncement, it is thus clear that the Foundation is clothed with a legal standing to bring the instant action since it was denied of

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[123] *Ifurung v. Carpio-Morales*, 831 Phil. 135, 153–154 (2018) [Per J. Martires, *En Banc*].
[124] *Ferrer, Jr. v. Bautista*, 762 Phil. 232, 249 (2015) [Per J. Peralta, *En Banc*].
[125] *Id.*
[126] *Id.*
[127] *Id.* at 705.

its usufructuary rights over the subject property, and will continue to be deprived, by the implementation of the Zoning Ordinance.

II. Substantive Issues

a. The City cannot foreclose and seize the subject property for non-payment of real property taxes as it is owned by NHA, a tax-exempt institution

At this point, We find it prudent to determine first whether the subject property, may be validly seized, or forfeited in favor of the City through a foreclosure sale.

To recall, the Foundation filed its petition for prohibition with application for injunction in the Second Case to question the City's foreclosure of the subject property based on the Foundation's alleged non-payment of real property taxes. Both the RTC and the CA, however, dismissed the petition on the ground of the Foundation's lack of capacity to sue.

It has been established in *National Housing Authority*[128] that the seven-hectare property in the instant case is part of the 120-hectare land owned by NHA, a government-owned and controlled corporation (GOCC).

Presidential Decree No. 757[129] categorically identified NHA as a GOCC which was created to develop and implement the government's housing and resettlement program.[130] Since the programs and projects of NHA are for marginal and low-income groups, then President Marcos through Presidential Decree No. 1922,[131] deemed it necessary to reduce costs so that NHA's projects are made more affordable to its beneficiaries; thus, NHA was made exempt from the payment of all taxes, whether local or national, including realty taxes, thus:

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[128] *Id.*

[129] Creating the National Housing Authority and Dissolving the Existing Housing Agencies, Defining its Powers and Functions, Providing Funds Therefor, and For Other Purposes (1975).

[130] Section 2. *Creation of the National Housing Authority.* – There is hereby created a government corporation to be known as the National Housing Authority, hereinafter referred to as the "Authority", to develop and implement the housing program above-mentioned. The Authority shall have its principal office in the Greater Manila area but may have such branch offices, agencies, or subsidiaries in other areas as it may deem proper and necessary. The Authority shall be under the Office of the President and shall exist for fifty (50) years but may be extended.
Section 3. *Progress and Objectives.* – The Authority shall have the following purposes and objectives:
(a) To provide and maintain adequate housing for the greatest possible number of people;
(b) To undertake housing, development, resettlement or other activities as would enhance the provision of housing to every Filipino;
(c) To harness and promote private participation in housing ventures in terms of capital expenditures, land, expertise, financing and other facilities for the sustained growth of the housing industry.

[131] Exempting the National Housing Authority from the Payment of All Taxes, Duties, Fees and Other Charges (1984).

> Section 1. The provision of law to the contrary *notwithstanding the National Housing Authority is hereby exempted from the payment of any and all fees and taxes of any kind; whether local or general, such as* income and realty taxes, special assessments, customs duties, exchange tax, building fees, and other taxes, fees and charges. (Emphasis supplied)

This was affirmed by Republic Act No. 7279[132] which maintained the tax-exempt status of NHA from the payment of local or national taxes, including realty taxes, viz.:

> Section 19. *Incentives for the National Housing Authority. – The National Housing Authority*, being the primary government agency in charge of providing housing for the underprivileged and homeless, *shall be exempted from the payment of all fees and charges of any kind, whether local or national, such as* income and *real estate taxes*. All documents or contracts executed by and in favor of the National Housing Authority shall also be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of titles. (Emphasis supplied)

Notably, while Republic Act No. 7160[133] or the Local Government Code (LGC), Section 234[134] thereof, withdrew the exemption of GOCCs from paying real property taxes, NHA remains tax-exempt since Republic Act No. 7279 became effective one year after the LGC. Its tax-exempt status from paying real property taxes is also confirmed by BIR Revenue Regulation No. 9-93, issued on March 4, 1993.[135]

In fact, the Court had made a categorical declaration regarding NHA's exemption from the payment of realty taxes in *National Housing Authority v. Iloilo City*:[136]

> In this case, *NHA is indisputably a tax-exempt entity whose exemption covers real property taxes and so its property should not even be subjected to any delinquency sale*. Perforce, the bond mandated in Section 267, whose purpose it is to ensure the collection of the tax delinquency should not be required of NHA before it can bring suit assailing the validity of the auction sale.
>
> Note should be taken that NHA had consistently insisted on the nullity of the proceedings undertaken by respondent Iloilo City which eventually led to the public auction sale of its property. *Since, as had been resolved, NHA is liable neither for real property taxes nor for the bond requirement in Section 267, it necessarily follows that any public auction sale involving property owned by*

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[132] Urban Development and Housing Act of 1992.

[133] AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991 (1991).

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

. . . .

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by, all persons, whether natural or juridical, including all government-owned or -controlled corporations are hereby withdrawn upon the effectivity of this Code.

[135] Signed by the Former Secretary of Finance Ramon R. Del Rosario, Jr.

[136] 584 Phil. 604 (2008) [Per J. Tinga, Second Division].

> *NHA would be null and void* and any suit filed by the latter questioning such sale should not be dismissed for failure to pay the bond.
>
> *NHA cannot be declared delinquent in the payment of real property tax obligations which, by reason of its tax-exempt status, cannot even accrue in the first place.*[137]

Given these pronouncements, since NHA is exempt from the payment of real property taxes, it cannot be assessed such and thus, cannot be considered delinquent by the City.

Nonetheless, the exemption of NHA from the payment of real property taxes does not extend to the beneficial users of its properties, such as the Foundation in this case. In fact, the Foundation's liability to pay real property taxes has been affirmed in Our Resolution[138] dated August 23, 2010 in *Manila Seedling Bank Foundation, Inc. v. City Treasurer Victor B. Endriga, Quezon City, et al.*, docketed as G.R. No. 191335. In said case, We affirmed the City Treasurer's right to proceed against the Foundation for the latter's real property tax liabilities which accrued from the effectivity of the LGC in 1992 *provided* such is not yet barred by the prescriptive period for assessment and collection. The said Resolution dated August 23, 2010, became final and executory on February 21, 2011.[139]

It remains, however, that since the seven-hectare property subject of the instant case is owned by NHA, the same cannot be sold in a public auction, or even forfeited in favor of the City for any delinquency in paying taxes by the Foundation.

The Court pronounced in *Light Rail Transit Authority v. Quezon City*[140] that while the tax exemption does not extend to taxable private entities which enjoy beneficial use of the property, the local government may not foreclose the same for any non-payment of real property taxes.[141] The Court, citing *Government Service Insurance System v. City Treasurer of the City of Manila*,[142] explained that *the local government may satisfy its tax claim by assessing the taxable beneficial user but may not foreclose the property upon which such beneficial use is exercised.*

GSIS as an instrumentality of the national government is itself not liable to pay real estate taxes assessed by the City of Manila against its Katigbak and Concepcion-Arroceros properties. The liability devolves on the taxable beneficial user of these properties, but not upon GSIS and any of its properties

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[137] *Id.* at 611.
[138] RTC records, SCA Case No. Q-12-71638, vol. 1, p. 316.
[139] *Id.*
[140] 864 Phil. 963 (2019) [Per J. Lazaro-Javier, Second Division].
[141] *Id.* at 983.
[142] 623 Phil. 964, 982 (2009) [Per J. Velasco, Jr., Third Division].

though the subject of transactions. *Consequently, the Katigbak property cannot be subject to a public auction sale, notwithstanding the realty tax delinquency assessed on this property. This means that the City of Manila may satisfy its tax claim by assessing the taxable beneficial user of the Katigbak property and, in case of nonpayment, by execution, but through means other than the sale at public auction of the leased property of GSIS.*[143]

Given this, the Foundation is not exempt from paying real property taxes arising from its beneficial use of the subject property. Be that as it may, even when the Foundation may have been delinquent in its payment of real property taxes, *the City does not have any authority to sell through public auction or foreclose any of NHA's properties, including the subject property.* As held in *Light Rail Transit Authority, the City can proceed against the Foundation through any means other than foreclosing the subject property, which is owned by NHA, a tax-exempt institution.* Thus, the sale and the subsequent forfeiture of the subject property by the City are not sanctioned by any law or jurisprudence, and are therefore, illegal.

Notwithstanding the above pronouncements, however, to grant the Foundation's petition for prohibition with an application for injunction in the Second Case would be a futile exercise, since the acts sought to be restrained and the damage sought to be prevented had already been accomplished.

Case law instructs that injunction would not lie where the acts sought to be enjoined had already become *fait accompli* (meaning, an accomplished or consummated act).[144] As the Court elucidated in *Co, Sr. v. The Philippine Canine Club, Inc.*:[145]

> It is a well-established rule that consummated acts can no longer be restrained by injunction. *When the acts sought to be prevented by injunction or prohibition have already been performed or completed prior to the filing of the injunction suit, nothing more can be enjoined or restrained; a writ of injunction then becomes moot and academic, and the court, by mere issuance of the writ, can no longer stop or undo the act. To do so would violate the sole purpose of a prohibitive injunction, that is, to preserve the status quo.*
>
> Moreover, the issuance of a preliminary injunction is not intended to correct a wrong done in the past, or to redress an injury already sustained, or to punish wrongful acts already committed, but to preserve and protect the rights of the litigant during the pendency of the case.
>
> In *Philippine National Bank v. Court of Appeals*, the Court ruled that injunctive reliefs are preservative remedies for the protection of substantive rights and interests. When the act sought to be enjoined has become *fait accompli,* the prayer for provisional remedy should be denied.

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[143] *Id.* at 985.
[144] *Spouses Marquez v. Spouses Alindog*, 725 Phil. 237, 251 (2014). [Per J. Perlas-Bernabe, Second Division].
[145] 759 Phil. 134 (2015) [Per J. Brion, Second Division].

> The Court also ruled in *Go v. Looyuko* that *when events sought to be prevented by injunction or prohibition have already happened, nothing more could be enjoined or prohibited. It is a universal principle of law that an injunction will not issue to restrain the performance of an act already done. A writ of injunction becomes moot and academic after the act sought to be enjoined has already been consummated.*[146] (Citations omitted, emphasis supplied)

The acts sought to be enjoined, i.e., the foreclosure and forfeiture of the subject property by the City, had already been accomplished. There is thus nothing more for the courts to restrain or prevent by a writ of prohibition or injunction.

As per the records, the Foundation had already transferred its administrative office to No. 18 Sampaguita St., DRJ Village, Sauyo 6, Quezon City, as per Permit to Operate or Mayor's Permit No. 00-029331 granted by the City on February 17, 2020, which expired on December 31, 2020.[147] The permit noted the Foundation's transfer of its administrative office from Quezon Avenue corner E. Delos Santos Avenue, UP Campus 4.

Moreover, We also note that the subject property and its adjoining areas have already been developed and built with improvements by the City. Thus, the damage having already been accomplished, any writ of prohibition or injunction in the Foundation's favor would be a useless and futile exercise, not to mention, prejudicial to several other properties or businesses already built and operating in the area.

Thus, while both the RTC and the CA erred in dismissing the Foundation's petition for prohibition in the Second Case on the ground of the Foundation's lack of capacity to sue, the suit is still dismissible on the ground of mootness considering that the act that is being sought to be enjoined had already become *fait accompli*, i.e., the City had already seized possession of the subject property.

This does not mean, however, that the Foundation, and even more so NHA, is precluded from instituting the proper action to declare null and void the foreclosure made by the City, recover possession of their property, and/or seek damages which they may have suffered because of the City's unlawful seizure and deprivation thereof.

c. The provisions of the Zoning Ordinance which changed the nature or the use of the subject property upon which the Foundation exercises its usufructuary rights, are ultra vires, hence, null and void

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[146] *Id.* at 143.
[147] *Rollo* (G.R. No. 208788), p. 439.

To recapitulate, in the First Case, the Foundation filed a petition for prohibition with an application for injunction to assail the provisions of the Zoning Ordinance reclassifying and changing the nature of the use of the subject property, and allegedly depriving it of its usufructuary rights under Proclamation No. 1670. The RTC found for the Foundation and enjoined the City and its officers, agents, or representatives, from further implementing the Zoning Ordinance; it also commanded them to issue the locational clearance and business permit in favor of the Foundation.

We agree with the RTC that the Zoning Ordinance, by reclassifying the usufruct area into a use that is different from what was originally intended, and ultimately depriving the Foundation of its usufructuary rights, is considered *ultra vires* as it is beyond the competence of the local legislative body to amend a national law, i.e., Proclamation No. 1670.

In *City of Manila v. Laguio, Jr.*,[148] the Court held that for an ordinance to be valid, it must not only be within the corporate powers of the LGU to enact and must 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.[149]

Meanwhile, *Legaspi v. City of Cebu*[150] explains the two tests in determining the validity of an ordinance, i.e., the Formal Test and the Substantive Test. The Formal Test requires the determination of whether the ordinance was enacted within the corporate powers of the LGU, and whether the same was passed pursuant to the procedure laid down by law. Meanwhile, the Substantive Test primarily assesses the reasonableness and fairness of the ordinance, and significantly, its compliance with the Constitution and existing statutes.[151]

The Court also held that while ordinances, just like other laws and statutes, enjoy the presumption of validity, they may be struck down and set aside when their invalidity or unreasonableness is evident on the face or has been established in evidence.[152]

First and foremost is the requirement that an ordinance should not contravene the Constitution or any statute. The Court has declared in *City of*

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[148] 495 Phil. 289 (2005) [Per J. Tinga, *En Banc*].
[149] *Id.* at 307–308.
[150] 723 Phil. 90, 103 (2013) [Per J. Bersamin, *En Banc*].
[151] *See Manila Electric Company v. City of Muntinlupa*, 896 Phil. 137, 145 (2021) [Per J. Hernando, *En Banc*].
[152] *Id.* at 145–146, *citing City of Cagayan De Oro v. Cagayan Electric Power and Light Co., Inc.*, 842 Phil. 439, 455 (2018) [Per J.A. Reyes, Jr., Second Division] and *Balacuit v. Court of First Instance of Agusan del Norte and Butuan City, Branch II*, 246 Phil. 189, 205 (1988) [Per J. Gancayco, *En Banc*].

Batangas v. JG Summit Petrochemical Corporation,[153] that local ordinances that contravene State-enacted legislation is null and void since LGUs merely derive their power from the State legislature, as such, they cannot regulate activities already allowed by statute.[154] Municipal ordinances are considered inferior in status and subordinate to the laws of the state; thus, LGUs have no power to regulate conduct already regulated by the state legislature.[155]

Here, Proclamation No. 1670 granted the Foundation the authority to exercise its usufructuary rights over the subject property, which was confirmed by the Court to be valid until 2027. However, the Zoning Ordinance, in the guise of "regulating" the use of the subject property, effectively deprived the Foundation of its usufructuary rights guaranteed by Proclamation No. 1670. Essentially, the Zoning Ordinance restricted the Foundation from using the subject property by reclassifying and changing its nature. This is evident by the City's refusal to renew the Foundation's Certificate of Non-Conformance, and accordingly, its business permit. The intention to render obsolete the Foundation's rights over the subject property is also made manifest by the relocation and phase out feature in the Zoning Ordinance for non-conforming properties. Indeed, the Zoning Ordinance is in conflict with Proclamation No. 1670 since it limited and altogether restricted the Foundation's usufructuary rights guaranteed thereunder.

Moreover, in *Villacorta v. Bernardo*,[156] the Court declared that an ordinance violates the authority of legislature when it contravenes the national law by adding to its requirements. Thus, it struck down a Dagupan City ordinance requiring all proposed subdivision plans to be passed upon by the City Engineer and imposing a service fee of [PHP] 0.30 per square meter on every resultant lot, and was declared invalid and *ultra vires*, as it effectively amends a general law. The Court explained that "[t]o sustain [Ordinance No. 22, 'An Ordinance Regulating Subdivision Plans over Parcels of Land in Dagupan City,'] would be to open the floodgates to other ordinances amending and so violating national laws in the guise of implementing them."[157]

Notably, the Foundation has been enjoying the subject property as a usufructuary since 1977, without any imposition or requirement, until the passage of the subject Zoning Ordinance. The Zoning Ordinance mandates the properties covered to conform to the new zoning classification imposed; otherwise, they are required to secure a certificate of non-conformance as a prerequisite for the issuance of their business permits. These non-conforming properties will then ultimately be subject to phase out and relocation after 10 years from the passage of the Zoning Ordinance. It is clear, therefore, that the Zoning Ordinance essentially imposes several requirements for the Foundation

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[153] G.R. Nos. 190266-67, March 15, 2023 [Per SAJ. Leonen, Second Division].
[154] *Id.* at 1. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
[155] *Id.* at 16. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
[156] 227 Phil. 437 (1986) [Per J. Cruz, First Division].
[157] *Id.* at 439.

to exercise its usufructuary rights and operate its business on the subject property. This obviously contravenes Proclamation No. 1670, which guarantees the subject property in favor of the Foundation.

The application of the provisions of the Zoning Ordinance to the Foundation was also unduly oppressive as it arbitrarily deprived the Foundation of its vested rights over the subject property.

We have upheld the vested rights of property owners and users over the strict implementation of zoning ordinances. When the LGU itself has recognized the property owner or user's vested rights through a provision in the zoning ordinance, the vested right must be upheld.

In *Buklod Nang Magbubukid sa Lupaing Ramos, Inc. v. E. M. Ramos and Sons, Inc.*,[158] We ruled that vested rights should be protected especially when the same is recognized by the zoning ordinance itself:

> The Court answers in the negative. While the subject property may be physically located within an agricultural zone under the 1981 Comprehensive Zoning Ordinance of Dasmariñas, said property retained its residential classification.
>
> According to Section 17, the Repealing Clause, of the 1981 Comprehensive Zoning Ordinance of Dasmariñas: "All other ordinances, rules or regulations in conflict with the provision of this Ordinance are hereby repealed: Provided, that rights that have vested before the effectivity of this Ordinance shall not be impaired."
>
> In *Ayog v. Cusi, Jr.*, the Court expounded on vested right and its protection:
>
> > That vested right has to be respected. It could not be abrogated by the new Constitution. [Article XIII, Section 2] of the 1935 Constitution allows private corporations to purchase public agricultural lands not exceeding one thousand and twenty-four hectares. Petitioners' prohibition action is barred by the doctrine of vested rights in constitutional law.
> >
> > > "*A right is vested when the right to enjoyment has become the property of some particular person or persons as a present interest*" (16 C.J.S. 1173). It is "*the privilege to enjoy property legally vested, to enforce contracts, and enjoy the rights of property conferred by the existing law*" (12 C.J.S. 955, Note 46, No. 6) or "*some right or interest in property which has become fixed and established and is no longer open to doubt or controversy*" (*Downs vs. Blount,* 170 Fed. 15, 20, cited in *Balboa vs. Farrales*, 51 Phil. 498, 502).

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[158] 661 Phil. 34 (2011) [Per J. Leonaro-De Castro, First Division].

> The due process clause prohibits the annihilation of vested rights. "*A state may not impair vested rights by legislative enactment, by the enactment or by the subsequent repeal of a municipal ordinance, or by a change in the constitution of the State, except in a legitimate exercise of the police power*" (16 C.J.S. 1177-78).
>
> It has been observed that, generally, the term "vested right" expresses the concept of present fixed interest, which in right reason and natural justice should be protected against arbitrary State action, or an innately just and imperative right which an enlightened free society, sensitive to inherent and irrefragable individual rights, cannot deny (16 C.J.S. 1174, Note 71, No. 5, citing *Pennsylvania Greyhound Lines, Inc. v. Rosenthal,* 192 Atl. 2nd 587).

It is true that protection of vested rights is not absolute and must yield to the exercise of police power:

> A law enacted in the exercise of police power to regulate or govern certain activities or transactions could be given retroactive effect and may reasonably impair vested rights or contracts. Police power legislation is applicable not only to future contracts, but equally to those already in existence. Non-impairment of contracts or vested rights clauses will have to yield to the superior and legitimate exercise by the State of police power to promote the health, morals, peace, education, good order, safety, and general welfare of the people." [. . .]

Nonetheless, the *Sangguniang Bayan* of Dasmariñas in this case, in its exercise of police power through the enactment of the 1981 Comprehensive Zoning Ordinance, itself abided by the general rule and *included in the very same ordinance an express commitment to honor rights that had already vested under previous ordinances, rules, and regulations*. EMRASON acquired the vested right to use and develop the subject property as a residential subdivision on July 9, 1972 with the approval of Resolution No. 29-A by the Municipality of Dasmariñas. *Such right cannot be impaired by the subsequent enactment of the 1981 Comprehensive Zoning Ordinance of Dasmariñas, in which the subject property was included in an agricultural zone*. Hence, the Municipal Mayor of Dasmariñas had been continuously and consistently recognizing the subject property as a residential subdivision.[159] (Citations omitted, emphasis supplied)

Thus, the Court concluded that vested rights should be respected, even in the exercise of police power, as when the local legislation itself recognizes vested rights granted prior to its enactment. Notably, Section 14 of the assailed Zoning Ordinance protects vested rights, viz.:

> SECTION 14. 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 before the effectivity of this Ordinance shall not be impaired.*[160] (Emphasis supplied)

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[159] *Id.* at 81–83.

[160] Quezon City Ordinance No. SP-1369 (November 4, 2023).

Therefore, having enjoyed the subject property since 1977 as a usufructuary, the Foundation's vested right cannot be impaired.

In *Ortigas & Co., Limited Partnership v. Feati Bank and Trust Co.*,[161] We upheld the assailed Resolution therein, which reclassified the residential into commercial or light industrial area, over the rights of the lot owners. We noted that the assailed Resolution did not contain any *proviso* respecting private rights or agreements. On the contrary, in the instant case, the Zoning Ordinance expressly acknowledged that it cannot impair rights that have been vested before its effectivity.

Hence, the Foundation's vested right is expressly recognized by the Zoning Ordinance itself such that the City may not disturb it even in the guise of a valid exercise of its police power.

This notwithstanding, We hold that the Zoning Ordinance cannot be upheld as a valid exercise of police power.

In *City of Batangas v. Philippine Shell Petroleum Corporation,*[162] the Court invalidated the ordinance passed by the City of Batangas which sought to regulate the use of water in contravention of the Water Code of the Philippines, as it was not a valid exercise of police power, viz.:

> Police power is the power to prescribe regulations to promote the health, morals, peace, education, good order, safety, and general welfare of the people. As an inherent attribute of sovereignty, police power primarily rests with the State. In furtherance of the State's policy to foster genuine and meaningful local autonomy, the national legislature delegated the exercise of police power to local government units (LGUs) as agents of the State. Such delegation can be found in Section 16 of the LGC, which embodies the general welfare clause.
>
> Since LGUs exercise delegated police power as agents of the State, it is incumbent upon them to act in conformity to the will of their principal, the State. Necessarily, therefore, ordinances enacted pursuant to the general welfare clause may not subvert the State's will by contradicting national statutes.[163]

Moreover, in *Equitable PCI Bank, Inc. v. South Rich Acres, Inc.*,[164] the Court explained that police power is "the inherent power of the State to regulate or to restrain the use of liberty and property for public welfare." Thus, "[u]nder the police power of the State, 'property rights of individuals may be subjected to restraints and burdens in order to fulfill the objectives of the government.'"[165] However, "[p]olice power does not involve the taking or confiscation of property, with the exception of a few cases where there is a

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[161] 183 Phil. 176, 193 (1979) [Per J. Santos, *En Banc*].
[162] 810 Phil. 566 (2017) [Per J. Caguioa, First Division].
[163] *Id.* at 583–584.
[164] 902 Phil. 12 (2021) [Per J. Inting, *En Banc*].
[165] *Id.* at 22.

necessity to confiscate private property in order to destroy it for the purpose of protecting peace and order and of promoting the general welfare; for instance, the confiscation of an illegally possessed article, such as opium and firearms."[166]

There is no dispute that the City, through its *Sangguniang Panlungsod*, like other local legislative bodies, has been empowered to enact ordinances and approve resolutions under the general welfare clause of Batas Pambansa Blg. 337, the Local Government Code of 1983. That it continues to possess such power is clear under the new law, Republic Act No. 7160 (the Local Government Code of 1991). Section 16 thereof provides:

> SECTION 16. *General Welfare.* — 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.

In addition, Section 458 of the same Code specifically mandates:

> SECTION 458. *Powers, Duties, Functions and Compensation.* — (a) The [S]angguniang [P]anlungsod, as the legislative body 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 and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code[.]

The general welfare clause is the delegation in statutory form of the police power of the State to LGUs.[167] Through this, LGUs may prescribe regulations to protect the lives, health, and property of their constituents and maintain peace and order within their respective territorial jurisdictions. Accordingly, We have upheld enactments providing, for instance, the regulation of gambling,[168] the occupation of rig drivers,[169] the installation and operation of pinball machines,[170] the maintenance and operation of cockpits,[171] the exhumation and

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[166] *Id.*

[167] *See United States v. Salaveria*, 39 Phil. 102, 109 (1918) [Per J. Malcolm, *En Banc*].

[168] *Id.* at 111.

[169] *People v. Felisarta*, 115 Phil. 383, 386 (1962) [Per J. Makalintal, *En Banc*].

[170] *See Miranda v. City of Manila*, 112 Phil. 1105, 1105 (1961) [Per J. Bautista Angelo, *En Banc*].

[171] *See Chief of the Philippine Constabulary v. Sabungan Bagong Silang, Inc.*, 123 Phil. 151, 155–156 (1966) [Per J. Concepcion, *En Banc*]; and *Chief of Philippine Constabulary v. Judge of Court of First Instance of Rizal*, 123 Phil. 422, 429–430 (1966) [Per J. Concepcion, *En Banc*].

transfer of corpses from public burial grounds,[172] and the operation of hotels, motels, and lodging houses[173] as valid exercises by local legislatures of the police power under the general welfare clause.

Of the three fundamental powers of the State, the exercise of police power has been characterized as the most essential, insistent, and the least limitable of powers, extending as it does to all the great public needs. It may be exercised as long as the activity or the property sought to be regulated has some relevance to public welfare.[174] Vast as the power is, however, it must be exercised within the limits set by the Constitution, which requires the concurrence of a lawful subject and a lawful method.[175]

Thus, our courts have laid down the test to determine the validity of a police measure as follows: (1) the interests of the public generally, as distinguished from those of a particular class, requires its exercise; and (2) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.[176]

In the instant case, however, We agree with the RTC's observation that the City failed to show that the subject property was being used by the Foundation in a way that endangers the lives, health, and welfare of the public, or to prove that the Foundation's environmental, horticultural, and related activities, and the exercise of its administrative functions on the subject property, are offensive to the health and safety, morals, peace, good order, comfort, and convenience of the City and its inhabitants. The records are likewise bereft of evidence from the City showing that the enactment and implementation of the Zoning Ordinance are absolutely and reasonably necessary, as an exercise of police power, to protect the lives, health, and property of their constituents and maintain peace and order.

Notably, We also note that the City failed to justify that the non-issuance of the locational clearance and business permit to the Foundation is a reasonable method to promote the purposes of the Zoning Ordinance. Moreover, the City did not provide any justification, much less, any acceptable terms for the phase-out and relocation feature of the Zoning Ordinance. The said provision essentially forces the Foundation to conform to the zoning classification, and compels it to relocate if non-conforming, which clearly deprives it of its rights without due process of law.

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[172] *See Viray v. City of Caloocan*, 127 Phil. 189, 195 (1967) [Per J. J.B.L., Reyes, *En Banc*].

[173] *See Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila*, 127 Phil. 306, 325 (1967) [Per J. Fernando, *En Banc*].

[174] *See Planters Products, Inc. v. Fertiphil Corp.*, 572 Phil. 270, 283 (2008) [Per J. Reyes, R.T., Third Division].

[175] *Id.*

[176] *See White Light Corp. v. City of Manila*, 596 Phil. 444, 467 (2009) [Per J. Tinga, *En Banc*].

Thus, not only did the City fail to prove that the reclassification of the subject property under the Zoning Ordinance is necessary to promote public welfare, it also failed to show that the means employed are not unduly oppressive to the Foundation. Hence, while We recognize the City's police power under the general welfare clause, We cannot sustain its exercise insofar as it impinged on the usufructuary rights that are vested to the Foundation.

As the Court held, "the policy of ensuring the autonomy of local governments [was not intended] to create an *imperium in imperio* and install intra-sovereign political subdivision independent of [the] sovereign state."[177] As agents of the state, local governments should bear in mind that the police power devolved to them by law must be, at all times, exercised in a manner consistent with the will of their principal.[178]

All told, the provisions of the Zoning Ordinance which infringed the Foundation's usufructuary rights under Proclamation No. 1670 are unconstitutional for being ultra vires, as they are contrary to a national law, unduly oppressive to the Foundation's vested rights, and an invalid exercise of police power. The City cannot, in the guise of such Zoning Ordinance, change the nature of the subject property, impose conditions which clearly restrict the usufruct, and ultimately prohibit the operations of the Foundation and its use of the premises for the purposes intended. To stress, an ordinance which is incompatible with any existing law or statute is *ultra vires*, hence, null and void.[179] A void ordinance cannot legally exist, it cannot have a binding force and effect.[180]

Notably, the Zoning Ordinance covers several other properties, *barangays,* avenues, and zones within Quezon City, not only the subject property upon which the Foundation is granted beneficial use. Since these several other properties affected by the Zoning Ordinance did not come before this Court for relief, as they might not have the same vested rights as the Foundation, *We deem it proper, therefore, to nullify only those provisions of the Zoning Ordinance which directly affect the Foundation, leaving the rest of the Zoning Ordinance valid. In other words, only those provisions which are in clear contravention of Proclamation No. 1670 are declared null and void.*

Notwithstanding the abovementioned pronouncements, and as We have previously noted, the Foundation had already been deprived of possession of the subject property due to the foreclosure and seizure by the City for alleged non-payment of real property taxes, and is already doing its business elsewhere.

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[177] *Batangas CATV, Inc. v. Court of Appeals*, 482 Phil. 544, 571 (2004) [Per J, Sandoval-Gutierrez, *En Banc*].
[178] *City of Batangas v. Philippine Shell Petroleum Corp.,* 810 Phil. 566, 569 (2017) [Per J. Caguioa, First Division].
[179] *See Manila Electric Company v. City of Muntinlupa*, 896 Phil. 137, 150 (2021) [Per J. Hernando, *En Banc*].
[180] *Id.* at 149.

Therefore, while We have nullified the provisions of the Zoning Ordinance that affect the Foundation, it would be futile to affirm the RTC's further directives to the City i.e., to issue a locational clearance and business permit since the Foundation has already transferred its operations to a different location.

It would also be impractical and prejudicial, as discussed above, to order the City to restore the Foundation to its possession of the subject property due to the present developments in the area, and due to the foreclosure sale which is presumed valid until nullified in a proper proceeding. To repeat, however, the Foundation, or NHA, is not precluded from bringing the proper action to nullify the foreclosure sale made by the City, recover possession of the subject property, and/or to seek damages when appropriate.

Thus, to summarize:

In the First Case, We hold that the City is estopped from questioning the Foundation's capacity to sue since it has dealt with the latter in its prior dealings, and issued locational clearances and business permits in favor of the Foundation until 2011. The City should not be permitted to assail the Foundation's capacity to sue as a corporation when it treated the latter as a duly existing entity and benefitted from its dealings with it for several years. Meanwhile, the Foundation's petition, which is treated as a petition for *certiorari* and prohibition, is granted, and the provisions of the Zoning Ordinance insofar as it contravene the usufructuary rights of the Foundation under Proclamation No. 1670 are declared unconstitutional, and thus, null and void.

This notwithstanding, the City or its officers may no longer be enjoined by an injunction to issue the locational clearance and business permit in favor of the Foundation since this has been rendered moot by the fact that the Foundation is not in possession of the subject property, and is already doing its business elsewhere.

In the Second Case, for the same reason, the City is estopped from impugning the Foundation's capacity to sue. Thus, the RTC and the CA erred in dismissing the Foundation's petition for prohibition based on that ground. Nevertheless, the Foundation's petition for prohibition and application for injunction cannot prosper as it has been rendered moot by the fact that the Foundation had already been dispossessed of the subject property; thus, there is nothing more for the courts to restrain or prevent.

ACCORDINGLY,

In **G.R. No. 208788:**

The Petition for Review on *Certiorari* dated October 9, 2013, filed by the Quezon City Government is **DENIED.** The Decision dated June 18, 2013, and the Resolution dated August 13, 2013, of the Regional Trial Court of Quezon City, Branch 96 in Special Civil Action No. Q-12-70830 are **AFFIRMED WITH MODIFICATIONS:**

The Petition (For Prohibition with Application for Preliminary Mandatory Injunction and Prohibitory Injunction and for a Temporary Restraining Order) dated February 20, 2012, filed by Manila Seedling Bank Foundation, Inc. against the Quezon City Government, shall be treated as a Petition for Prohibition and *Certiorari*, and is **GRANTED**. Accordingly, **the provisions of Ordinance No. SP-918, series of 2000, otherwise known as the Quezon City Zoning Ordinance, and Ordinance No. SP-1369, series of 2003 or the Amended Quezon City Zoning Ordinance, insofar as they infringe on the Manila Seedling Bank Foundation, Inc.'s usufructuary rights under Proclamation No. 1670**, are declared **NULL** and **VOID**. The rest of the ordinance will remain valid and subsisting.

The injunction issued by the Regional Trial Court commanding the Quezon City Government and its officers, agents, or representatives, to issue the locational clearance and business permit is **DISSOLVED** on the ground of mootness.

In **G.R. No. 228284:**

The Petition for Review on *Certiorari* dated November 25, 2016, and the Petition (For Prohibition and Injunction with Damages and with Application for a Writ of Preliminary Prohibitory and Mandatory Injunction and a Temporary Restraining Order) in SCA No. Q-12-71638, both filed by Manila Seedling Bank Foundation, Inc. against the Quezon City Government are **DISMISSED** on the ground of mootness.

The Manila Seedling Bank Foundation, Inc. is **NOT PRECLUDED** from instituting the proper action to declare null and void the foreclosure made by the Quezon City Government, recover possession of their property, and/or seek damages which they may have suffered because of the Quezon City Government's unlawful seizure and deprivation thereof.

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

see concurring opinion

ALEXANDER G. GESMUNDO
Chief Justice

see concurring opinion

MARVIC M. V. F. LEONEN
Associate Justice

On official leave
but left his vote
see Concurring and
Dissenting Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.

ALEXANDER G. GESMUNDO
Chief Justice

EN BANC

G.R. No. 208788 – QUEZON CITY GOVERNMENT, represented by HONORABLE HERBERT M. BAUTISTA, in his capacity as CITY MAYOR OF QUEZON CITY, and TOMASITO L. CRUZ, in his capacity as the CITY PLANNING AND DEVELOPMENT OFFICER AND ZONING OFFICIAL OF QUEZON CITY, Petitioners, **v. MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chairman, LUCITO M. BERTOL**, Respondent.

G.R. No. 228284 – MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chairman, LEONARDO D. LIGERALDE, Petitioner, **v. QUEZON CITY GOVERNMENT, represented by HON. HERBERT M. BAUTISTA, in his capacity as CITY MAYOR OF QUEZON CITY, GEN. ELMO SAN DIEGO, in his capacity as Head, Department of Public Order and Safety (DPOS), ROGER CUARESMA, and CAMERAN, M.J., and other members of the DPOS**, Respondents.

Promulgated:

July 23, 2024

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CONCURRING OPINION

GESMUNDO, *C.J.*:

I concur in the *ponencia*. I write nonetheless to delve deeper on the interplay between ***a presidential proclamation and a local zoning ordinance***. Notably, this case involves, on the one hand, Presidential Proclamation No. 1670, s. 1977 (Proclamation No. 1670) that granted usufructuary rights to Manila Seedling Bank Foundation, Inc. (MSBFI) and, on the other, Zoning Ordinance No. SP-918, s. of 2000, amended in 2013 (Zoning Ordinance), which reclassified the property previously occupied by MSBFI as falling within a metropolitan commercial and institutional zone.

The *ponencia* declares *ultra vires* certain provisions of the Zoning Ordinance insofar as they infringe on the usufructuary rights of MSBFI granted under Proclamation No. 1670. Pertinently, it holds:

> We agree with the RTC that the Zoning Ordinance, by reclassifying the usufruct area into a use that is different from what was originally intended, and ultimately depriving the [MSBFI] of its

> usufructuary rights, is considered *ultra vires* as it is beyond the competence of the local legislative body to amend a national law, i.e., Proclamation No. 1670.
>
> . . . .
>
> Here, Proclamation No. 1670 granted the [MSBFI] the authority to exercise its usufructuary rights over the subject property, which was confirmed by the Court to be valid until 2027. However, the Zoning Ordinance, in the guise of "regulating" the use of the subject property, effectively deprived the [MSBFI] of its usufructuary rights guaranteed by Proclamation No. 1670. Essentially, the Zoning Ordinance restricted the [MSBFI] from using the subject property by reclassifying and changing its nature. This is evident [from] the City's refusal to renew the [MSBFI's] Certificate of Non-Conformance, and accordingly, its business permit. The intention to render obsolete the [MSBFI's] rights over the subject property is also made manifest by the relocation and phase out feature in the Zoning Ordinance for non-conforming properties. Indeed, *the Zoning Ordinance is in conflict with Proclamation No. 1670 since it limited and altogether restricted the [MSBFI's] usufructuary rights* guaranteed thereunder.[1] (Emphasis supplied)

I agree that portions of the Zoning Ordinance should be rendered *ultra vires* insofar as they directly contravene MSBFI's usufructuary rights. To underscore, Proclamation No. 1670 ***prevails*** over the local zoning ordinance as regards how the property should be used. It bears stressing that Proclamation No. 1670 reserved the subject property for a specific public purpose—to counter environmental degradation and deforestation through the establishment of a tree seedling facility. This specific public purpose has not been withheld, modified, or amended by law or proclamation. Thus, while the Zoning Ordinance was validly enacted, it is my view that the implementation of the reclassification against MSBFI's use of the subject property contravenes the presidential proclamation. Given this context, it thus seems proper *to not implement* the Zoning Ordinance on the subject property until the expiration of the usufruct in 2027. I expound below.

President's power to reserve public land vis-à-vis the local government's power to enact the Zoning Ordinance

To contextualize, the present case does not simply involve private property rights. For one, the subject property in the present case is a seven-hectare *government land* owned by the National Housing Authority.[2] For

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1 *Ponencia*, pp. 29–30.

2 *See National Housing Authority v. Court of Appeals*, 495 Phil. 693 (2005) [Per J. Carpio, First Division].

another, the contending factors are a local ordinance and a presidential proclamation – both were issued in the exercise of police power and provide contradicting declarations on how the subject public land should be used. The presidential proclamation mandates the use of the subject property in MSBFI's operation to counter environmental degradation, while the local ordinance's strict implementation requires using the property for industrial and commercial purposes.

This case requires the Court to examine the correct delineation between the power of local government units to regulate the use of lands within their respective territories, and the power of the President to reserve a portion of such land for a specific public use or purpose. Alternatively stated, the question before the Court is ***whether a local government unit may, through a zoning ordinance, validly withdraw, change, or alter the use or purpose for which a State property has been reserved, expressly or impliedly, by a presidential proclamation***. I humbly answer in the negative.

An examination of the sources and interrelation of the President's power to reserve lands of the public domain and the local government's power to pass zoning ordinances is an essential starting point of analysis. Thereafter, the Court can proceed to ascertain how these two governmental powers should be harmonized.

President's power to reserve lands via a proclamation for specific public purposes until declared otherwise

The President has the statutorily-delegated[3] power to reserve public land for a public purpose. Section 64(d) of the Administrative Code of 1917, which was applicable at the time when Proclamation No. 1670 was issued, states:

> Section 64. *Particular powers and duties of (Governor-General) President of the Philippines.* – In addition to his general supervisory authority, the (Governor-General) President of the Philippines shall have such specific powers and duties as are expressly conferred or imposed on him by law and also, in particular, the powers and duties set forth in this chapter.
>
> Among such special powers and duties shall be:

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[3] The statutorily-delegate power is emphasized to distinguish it from the President's inherent rule-making power in the performance of its constitutional duty to see that the laws are faithfully executed. (*See* CORTES, IRENE RIAN, THE PHILIPPINE PRESIDENCY: A STUDY OF EXECUTIVE POWER 82 [1966]).

. . . .

(d) *To reserve* from settlement or public sale and *for specific public uses any of the public domain* of the (Philippine Islands) Philippines the use of which is not otherwise directed by law, the same thereafter *remaining subject to the specific public uses indicated in the executive order by which such reservation is made, until otherwise provided by law or executive order.*[4] (Emphasis supplied)

Three points must be highlighted from this provision: (1) an executive order appears to be the *prescribed form* to reserve a public land; (2) the reservation of public land must be for a *specific public use*; and (3) the property shall remain subject to the specific public use "*until otherwise provided* by law or executive order."

On the first point, although Section 64 of the Administrative Code of 1917 specifies an executive order as the form in which the presidential issuance reserving a property should be made, Section 63 of same law states that a proclamation has the same force as an executive order. Hence, it the use of an executive proclamation for such purpose is permissible. Notably, Section 63 of the same law states:

Section 63. *Executive orders and executive proclamations.* – Administrative acts and commands of the (Governor-General) President of the Philippines touching the organization or mode of operation of the Government or rearranging or readjusting any of the districts, divisions, parts, or ports of the (Philippine Islands) Philippines and all acts and commands governing the general performance of duties by public employees or disposing of issues of general concern shall be made effective in executive orders.

Executive orders fixing the dates when specific laws, resolutions, or orders are to have or cease effect and any information concerning matters of public moment determined by law, resolution, or executive orders, may be promulgated in an *executive proclamation, with all the force of an executive order.*[5] (Emphasis supplied)

In fact, the counterpart provision in the Administrative Code of 1987 on the President's power to reserve land for public use, no longer specifies the form to be used in the presidential pronouncement, to wit:

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4 ADM. CODE (1917), Title II, Chapter 4, Article II, sec. 64(d).
5 ADM. CODE (1917), Title II, Chapter 4, Article I, sec. 63.

> Section 14. *Power to Reserve Lands of the Public and Private Domain of the Government.* – (1) The President shall have the power to *reserve for* settlement or *public use, and for specific public purposes*, any of the lands of the public domain, the use of which is not otherwise directed by law. The reserved land shall thereafter *remain subject to the specific public purpose indicated until otherwise provided by law or proclamation.*[6] (Emphasis supplied)

In her book entitled *The Philippine Presidency: A Study of Executive Power*, Justice Irene Cortes remarked on the non-binding nature of a statute's prescribed form for presidential issuances thus:

> What binding effect would a statutory provision regulating the form and procedure for presidential acts have? It would seem that insofar as the rules and regulations issued by the president in the performance of functions vested in him by the constitution are concerned, the legislature cannot in any way interfere by prescribing the form and procedure he should take. But if the legislature delegates rule-making functions to the president the conditions under which the rules should issue, such as public hearings to be conducted and publications to be made, may be prescribed in the statute. Still ***as far as the courts are concerned[,] the substance rather than the form prevails*** in cases where the sufficiency of the president's manner of rule-making is made an issue.[7] (Emphasis supplied)

Hence, the President has the power to reserve a property for public use whether such declaration is in the form of an executive order or a proclamation. The form or instrument by which the President reserves public land has no bearing on the validity or legal effect of the presidential action,[8] notwithstanding the fact that the Administrative Code of 1917 specifies the use of an executive order in the reservation of public land.

Pertinently, the land subject of this case had been reserved for specific public purposes in at least three ***presidential proclamations***. The subject property appears to have been part of the land previously reserved by President Ramon Magsaysay in Proclamation No. 42, s. 1954[9] to become the Quezon Memorial Park.[10] A portion of that land was later reserved by

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6 *See* ADM. CODE (1987), Book III, Title I, Chapter 4, sec. 14(1). Notably, the Administrative Code of 1987 also acknowledges the equal force of an executive order and proclamation as follows:

> Section 4. *Proclamations.* – Acts of the President fixing a date or *declaring a status or condition of public moment or interest*, upon the existence of which the operation of a specific law or regulation is made to depend, shall be promulgated in *proclamations which shall have the force of an executive order*. (Emphasis supplied). (*See* ADM. CODE (1987), Book III, Title I, Chapter 2, Article II, sec. 4).

7 *See* CORTES, IRENE RIAN, THE PHILIPPINE PRESIDENCY: A STUDY OF EXECUTIVE POWER 84 (1966).

8 *Id.* at 83.

9 Proclamation No. 42 (1954). Revoking Proclamations Nos. 422 and 431, Both Series of 1953, and Reserving the Parcels of Land Embraced Therein Situated in Quezon City for National Park Purposes to be Known as Quezon Memorial Park.

10 Pursuant to Republic Act No. 826 (1952), *An Act Creating the Commission on Parks and Wildlife, defining its Powers, Functions, and Duties.*

President Ferdinand Marcos, Sr. in Proclamation No. 481, s. 1968[11] to become the National Government Center Site (NGC Site). Nine years later, Proclamation No. 1670[12] was issued excluding the seven-hectare portion of that land from the NGC Site and reserving it, instead, for the MSBFI's "use in its operation and projects." This most recent proclamation reads, thus:

> EXCLUDING FROM THE OPERATION OF PROCLAMATION NO. 481, DATED OCTOBER 24, 1968, WHICH ESTABLISHED THE NATIONAL GOVERNMENT CENTER SITE, SITUATED AT DILIMAN, QUEZON CITY, CERTAIN PARCELS OF LAND EMBRACED THEREIN, AND RESERVING THE SAME FOR THE PURPOSES OF THE MANILA SEEDLING BANK FOUNDATION
>
> Pursuant to the powers vested in me by the Constitution and the laws of the Philippines, I, FERDINAND E. MARCOS, President of the Philippines, *do hereby exclude from the operation of Proclamation No. 481*, dated October 24, 1968, which established the National Government Center Site, certain parcels of land embraced therein and *reserving the same for the Manila Seedling Bank Foundation, Inc., for use in its operation and projects*, subject to private rights if any there be, and to future survey, under the administration of the Foundation.
>
> This parcel of land, which shall *embrace 7 hectares*, shall be determined by the future survey based on the technical descriptions found in Proclamation No. 481, and most particularly on the original survey of the area, dated July 1910 to June 1911, and on the subdivision survey, dated April 19–25, 1968.[13] (Emphasis supplied)

Based on the foregoing, the use of presidential proclamations as the form to reserve public lands is allowed.

On the second point, the reservation of a public land must be for a ***specific public purpose***. In the present case, the subject property has been specifically reserved for the tree seedling facility in order to counter environmental degradation and deforestation.

Presidential Decree No. 1197, s. of 1977,[14] specifically recognizes MSBFI as "a non-profit, non-stock organization, [which] was organized

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11 Proclamation No. 481 (1968), Excluding from the Operation of Proclamation No. 42, Dated July 5, 1954, Which Established the Quezon Memorial Park, Situated at Diliman, Quezon City, Certain Parcels of the Land Embraced Therein and Reserving the Same for National Government Center Site Purposes.

12 Proclamation No. 1670 (1977), Excluding from the Operation of Proclamation No. 481, Dated October 24, 1968, Which Established the National Government Center Site, Situated at Diliman, Quezon City, Certain Parcels of Land Embraced Therein, and Reserving the Same for the Purposes of the Manila Seedling Bank Foundation.

13 Proclamation No. 1670 (1977).

14 Presidential Decree No. 1197 (1977), Exempting the Manila Seedling Bank Foundation, Inc. From Payment of Taxes and Customs Duties and Other Imposts.

primarily to engage in the *production of tree seedlings to supply the needs of the various government offices and agencies in all kinds of activities relating to tree planting*[.]"[15] Consistent with this purpose, MSBFI, since its creation in 1977, established an Environmental Center which serves as a plant nursery for the government's reforestation projects, and leases a portion of the subject property for garden centers, pet shops, and cut flower centers. It also offers various services such as tree pruning, tree balling and relocation, disease treatment, tree farming, greenhouse construction and maintenance, and plant clinics. In addition, it provides seminars and workshops on reforestation, environmental preservation, waste disposal management, composting and others.

From the foregoing, it can be clearly inferred that the subject property was not simply entrusted by the national government to MSBFI for the latter's discretionary use. It was reserved specifically for the production of seedlings, among others, towards the end of protecting and preserving the environment.

While the precise reason for reserving the land does not explicitly appear on the face of Proclamation No. 1670, such purpose was announced and is readily discernable from the speech of President Ferdinand Marcos, Sr. during the inauguration of MSBFI. Relevantly, he signed Proclamation No. 1670 while he was delivering his speech during such inauguration. Essentially, the purpose was to enable the MSBFI to counter environmental degradation and deforestation through the tree seedling facility. He said thus:

> [I]f the environment and the land have been degraded by man and the machine, now we turn around and convert the land and the machine into the means by which to *restore and recover the environment and the land.*
>
> . . . .
>
> [T]he encroachment — gradual but relentless — of the wasters of our forests, the degradation, the erosion, the denudation is now very obvious and palpable even to the most complacent among our people.
>
> . . . .
>
> The causes are many. Some point to the kaingeros, some to the loggers. Whichever it is, it is now necessary that we confront the causes and overcome whatever causes the wasting of our land.
>
> . . . .

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15 Presidential Decree No. 1197 (1977), Whereas clause.

> [T]he physical environment of that past is fast receding. And unless we do something about it, we will never be able to transmit even the shadow of that past to our children and their children.
>
> Thus, I welcome this opportunity to participate in this gallant and noble effort at the *restoration of our environment*. For this is principally a restoration work.
>
> . . . .
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> The other matter is this particular facility. This does not belong to the Manila Seedling Bank Foundation, Inc. yet. *Can you give me that decree which transfers it to the Foundation? Let me sign it in your presence.* I hereby transfer this land of about seven hectares, subject to survey and boundary segregation, and exclude it from the operation of Proclamation No. 418, dated October 24, 1968, which established the national government center site. You see, this is a part of the national government center site in Diliman, Quezon City. Where is the mayor of Quezon City? We will have to take this away from your jurisdiction now, and hereby *reserve the same for the purposes set in the charter of the Foundation. In your presence, I sign this decree.*
>
> . . . .
>
> We speak of saving the country as if it were a war. And I want to inform you that it is a war. It is a war against the *environmental degradation that threatens to engulf the Philippines* if we were to allow the loss of 100,000 hectares every year. We will lose our forests in no time at all. When we lose our forests, we lose our agricultural land. When we lose our agricultural land, we lose our source of living. We will have to import everything that we eat. And we will end up with the deserts which many of the countries have as a result of past prodigality. Before we reach such a state, we now must go into this program.[16] (Emphasis supplied)

MSBFI was incorporated earlier that month or on September 5, 1977, based on the records of the Securities and Exchange Commission.[17] On September 7 of that year, Proclamation No. 1197, s. 1977[18] was issued exempting MSBFI from the payment of all taxes, customs duties, and other imposts. Relevantly, that issuance described MSBFI as "a non-profit, non-stock organization," which "was ***organized primarily to engage in the production of tree seedlings to supply the needs of the various government offices and agencies*** in all kinds of activities relating to tree planting."

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16 Ferdinand Emmanuel Edralin Marcos, Sr., 10th President of the Republic of the Philippines, speech delivered at the inauguration of the Manila Seedling Bank Foundation, Inc. September 19, 1977, available at <https://www.officialgazette.gov.ph/1977/09/19/remarks-of-president-marcos-at-the-inauguration-of-the-manila-seedling-bank-foundation-inc/>.

17 Internal Note: see search results in https://secexpress.ph for Manila Seedling Bank Foundation Inc. with SEC Registration Number: 0000075473.

18 Exempting the Manila Seedling Bank Foundation, Inc. From Payment of Taxes and Customs Duties and Other Imposts, signed on September 7, 1977, available at <https://www.officialgazette.gov.ph/1977/09/07/presidential-decree-no-1197-s-1977/>.

Within that same month, or on September 19, 1977, MSBFI was inaugurated and Proclamation No. 1670 was signed. It is therefore apparent that the subject property was reserved by President Marcos, Sr. for a specific public purpose.

The third point answers this question: until when must such specific public purpose be followed? The Administrative Code of 1917 expressly states that the land shall remain subject to the specific purpose for which it was reserved "***until otherwise provided by law or executive order.***"[19] In other words, the only means by which such specific public purpose is withdrawn, changed, or modified is through the passage of a statute, or the issuance of a subsequent executive order or presidential proclamation.

In the present case, the purpose for which the subject property has been reserved by Proclamation No. 1670 has not been changed or withdrawn by law, executive order, or by a subsequent presidential proclamation. Records show that the Quezon City (QC) Government failed to refer to any law, executive order, or presidential proclamation changing or withdrawing the specific public purpose for which the subject property has been reserved.

While the President can reserve public land for a specific public use, local governments, through their zoning ordinances, can also regulate the *use* of land within their respective territorial jurisdictions.

Zoning power of the local government

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.[20] Zoning classification is an exercise of police power by a local government.[21] Section 20 of the Local Government Code (LGC) states that the power to enact zoning ordinance for comprehensive land use must be "in conformity with existing laws." Section 447 thereof echoes that such zoning

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19 ADM. CODE (1917), Title II, Chapter 4, Article II, sec. 64(d). It states that:

(d) To reserve from settlement or public sale and for specific public uses any of the public domain of the (Philippine Islands) Philippines the use of which is not otherwise directed by law, the same thereafter *remaining subject to the specific public uses* indicated in the executive order by which such reservation is made, *until otherwise provided by law or executive order*. (Emphasis supplied)

20 *Buklod Nang Magbubukid Sa Lupaing Ramos, Inc. v. E. M. Ramos and Sons, Inc.*, 661 Phil. 34, 67 (2011) [Per J. Leonardo-De Castro, First Division]; *Social Justice Society v. Atienza, Jr.*, 568 Phil. 658, 704 (2008) [Per J. Corona, First Division]. *See also Sta. Rosa Realty Development Corporation v. Court of Appeals*, 419 Phil. 457, 476 (2001) [Per J. Pardo, First Division], *citing* Presidential Decree No. 449, sec. 4(b) or the Cockfighting Law of 1974.

21 *See Social Justice Society v. Atienza, Jr., id.*

ordinances are "subject to existing laws, rules and regulations." The relevant provisions of Sections 20 and 447 of the LGC, respectively, state:

> Section 20. Reclassification of Lands.
>
> . . . .
>
> (c) The local government units shall, *in conformity with existing laws*, continue to prepare their respective *comprehensive land use plans enacted through zoning ordinances* which shall be *the primary and dominant bases for the future use of land resources*: Provided, That the requirements for food production, human settlements, and industrial expansion shall be taken into consideration in the preparation of such plans.
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> . . . .
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> Section 447. *Powers, Duties, Functions and Compensation.* — (a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:
>
> . . . .
>
> (2) Generate and maximize the use of resources and revenues for the development plans, program objectives and priorities of the municipality as provided for under Section 18 of this Code with particular attention to agro-industrial development and countryside growth and progress, and relative thereto, shall:
>
> . . . .
>
> (ix) *Enact integrated zoning ordinances* in consonance with the approved comprehensive land use plan, *subject to existing laws, rules and regulations*; establish fire limits or zones, particularly in populous centers; and regulate the construction, repair or modification of buildings within said fire limits or zones in accordance with the provisions of the Fire Code[.][22] (Emphasis supplied)

Clearly, the local government's zoning power must conform to, and not be inconsistent with, the restrictions imposed by the national government.

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22 LOCAL GOVERNMENT CODE (1991), secs. 20 and 447, Republic Act No. 7160.

To my mind, the restrictions on the local governments' zoning power include the President's express reservation of a public land for a specific use. The presidential proclamation to this effect falls within the category of "existing laws, rules and regulations" that limits the local governments' power to regulate the use of land.

Besides, the national interest contemplated to be served by the President's reservation of a public land should not be curtailed by zoning ordinances which promote primarily local interests. Otherwise, overarching policies of the national government would not be implemented without the concurrence of local governments. In the present case, for example, if the QC Government were to be allowed to commercialize the subject property, which has been specifically reserved to aid the national government's efforts to fight environmental degradation – then local interests would consequently obstruct the efforts to address a pressing national interest which affects communities beyond the locality.

For these reasons, I am of the view that local government units, through the passage of zoning ordinances, cannot conveniently alter the specific public purpose for which a land has been reserved by the President.

During the deliberations on this case, it was posited that the Zoning Ordinance simply limited or restricted MSBFI's use of the subject property. That being so, MSBFI need only to conduct its operations on the subject property, in accordance with the restrictions provided by or appurtenant to the classifications of the subject property as institutional and metropolitan commercial zones. Hence, the local regulation was argued to have validly imposed a restriction on MSBFI's usufructuary right.

I humbly disagree.

As discussed above, MSBFI's projects and operations are circumscribed by the purpose of its creation as stated in Presidential Decree No. 1197, to wit: "to engage in the *production of seedlings to supply the needs of the various government offices and agencies in all kinds of activities relating to tree planting*[.]"[23] Since its creation in 1977, MSBFI operated its facilities within the subject property to fulfill this objective. Clearly, MSBFI's use of the subject property has been consistent with its primary purpose, and ultimately with the purpose for having usufructuary rights under Proclamation No. 1670.

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[23] Presidential Decree No. 1197 (1977), Whereas clause.

Since the subject property has been used for the above-mentioned purpose even prior the enactment of the Zoning Ordinance, the reclassification of the area where the subject property is located into institutional and metropolitan commercial zones, coupled with the QC Government's refusal to issue a certificate of non-conformance permit effectively prevented MSBFI from using the subject property pursuant to its contemplated use under Proclamation No. 1670. Due to this, the MSBFI could not fully perform its operation as a tree seedling facility or plant nursery because it is inconsistent with the metropolitan commercial and institutional classification zone imposed by the Zoning Ordinance.

Lest it be misunderstood, the QC Government is not prohibited from issuing the Zoning Ordinance. Section 20 of the LGC states that the zoning ordinances containing the comprehensive land use plans shall be "the primary and dominant bases for the *future use* of land resources." Hence, the local government may classify the land as an industrial zone as a forward-looking measure. What is objectionable in the present case is the strict implementation of the Zoning Ordinance on the subject property during the subsistence of the reservation of the land for a public purpose. Notably, the usufruct granted in MSBFI's favor started in 1977 and will end in 2027.[24] Instead of issuing a certificate of non-conformance, the QC Government opted not to allow MSBFI to legally operate even though its operation was pursuant to the presidential proclamation.

All told, the *ponencia* correctly affirms the trial court's ruling to declare *ultra vires* some provisions of the Zoning Ordinance insofar as they infringe on the usufructuary rights of MSBFI under Proclamation No. 1670.

ACCORDINGLY, I vote to **DENY** the Petition in G.R. No. 208788 and to **DISMISS** the Petition in G.R. No. 228284.

ALEXANDER G. GESMUNDO
Chief Justice

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[24] *See National Housing Authority v. Court of Appeals*, 495 Phil. 693, 704–705 (2005) [Per J. Carpio, First Division]; *see also National Housing Authority v. Manila Seedling Bank Foundation, Inc.*, 787 Phil. 531, 533–534 (2016) [Per C.J. Sereno, First Division].

EN BANC

G.R. No. 208788 – QUEZON CITY GOVERNMENT, represented by HONORABLE HERBERT M. BAUTISTA, in his capacity as City Mayor of Quezon City, and TOMASITO L. CRUZ, in his capacity as the City Planning and Development Officer and Zoning Official of Quezon City, Petitioners, **v. MANILA SEEDLING BANK FOUNDATION, INC., represented by its president and chair, LUCITO M. BERTOL,** Respondent;

G.R. No. 228284 – MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chair, LEONARDO D. LIGERALDE, Petitioner, **v. QUEZON CITY GOVERNMENT, represented HONORABLE HERBERT M. BAUTISTA, in his capacity as City Mayor of Quezon City, GEN. ELMO SAN DIEGO, in his capacity as Head, Department of Public Order and Safety (DPOS), ROGER CUARESMA, and CAMERAN, M.J., and other members of the DPOS,** Respondents.

Promulgated:

July 23, 2024

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CONCURRING OPINION

LEONEN, *J.*:

A property owner or user's vested rights must be respected when the local government unit itself has recognized those rights through a provision in the zoning ordinance.[1]

Before this Court are consolidated Petitions for Review assailing the rulings of the Quezon City Regional Trial Court, which issued a writ of prohibition against the enforcement or implementation of the Quezon City Zoning Ordinance, as amended (Zoning Ordinance), against Manila Seedling Bank Foundation, Inc.'s (the Foundation) property located at the corner of Quezon Avenue and Epifanio de los Santos Avenue, Quezon City.

"Zoning ordinances are integral to urban planning. Their primary purpose is to regulate land use to ensure the general welfare of the community."[2] The Quezon City government has the power to enact zoning ordinances in Quezon City. This Court has affirmed the local government's power to enact zoning ordinances under the Local Government Code and

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1 *Buklod nang Magbubukid sa Lupaing Ramos, Inc. v. E.M. Ramos and Sons, Inc.*, 661 Phil. 34, 83 (2011) [Per J. Leonardo-De Castro, First Division].

2 *Cordillera Global Network v. Paje*, 851 Phil. 845, 885 (2019) [Per J. Leonen, *En Banc*].

Executive Order No. 72.[3] Generally, zoning ordinances may limit or restrict what property owners are permitted to build or operate on land they own.[4] Restrictions may be placed on expansions or extensions of current land use if these do not conform to the ordinances.[5] The right against non-impairment of contracts may give way to a valid exercise of police power.[6]

Nonetheless, I agree with the *ponencia* that the Zoning Ordinance imposes requirements on the Foundation that impair its usufructuary rights. The application of the Zoning Ordinance in this case was unduly oppressive and arbitrarily deprived the Foundation of its rights over its property.[7]

The vested rights of a property owner or user must be upheld when the local government unit itself has recognized those rights through a provision in the zoning ordinance.[8] Here, as pointed out in the *ponencia*, Section 14 of the Zoning Ordinance carves out an exception to its general applicability in favor of vested rights.[9] Further, no contract is alleged to have been impaired here, as in *United BF Homeowners Association, Inc. v. The (Municipal) City Mayor of Parañaque City, Metro Manila*[10] and *Ortigas & Co., Ltd. Partnership v. Feati Bank and Trust Co.*[11] Instead, the source of the Foundation's rights is a presidential decree, which this Court has affirmed in *National Housing Authority v. Court of Appeals*.[12]

The Zoning Ordinance itself has bound the Quezon City government and its officials to respect vested rights. Thus, the Zoning Ordinance must prospectively apply[13] as to the Foundation; otherwise, it would be unduly deprived of its usufructuary rights over the property.

Further, I concur in the finding that the exercise of police power here is arbitrary and excessive to the aims the Zoning Ordinance seeks to achieve.

The intent of zoning ordinances is to promote general welfare. It must be shown that "the methods or means used to protect public health, morals, safety or welfare must have a reasonable relation to the end in view."[14] Yet

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3 *Tan Chat v. The Municipality of Iloilo*, 60 Phil. 465 (1934) [Per J. Imperial, *En Banc*]; *United BF Homeowners' Associations, Inc. v. The (Municipal) City Mayor of Parañaque City, Metro Manila*, 543 Phil. 684 (2007) [Per J. Carpio, Second Division].

4 *Patalinghug v. Court of Appeals*, 299 Phil. 588, 595 (1994) [Per J. Romero, Third Division].

5 *See Spouses Delfino v. St. James Hospital, Inc.*, 563 Phil. 797 (2007) [Per J. Chico-Nazario, Special Third Division].

6 *United BF Homeowners' Associations, Inc. v. The (Municipal) City Mayor of Parañaque City, Metro Manila*, 543 Phil. 684, 698 (2007) [Per J. Carpio, Second Division].

7 *Ponencia*, p. 31.

8 *Buklod nang Magbubukid sa Lupaing Ramos, Inc. v. E.M. Ramos and Sons, Inc.*, 661 Phil. 34, 83 (2011) [Per J. Leonardo-De Castro, First Division].

9 *Ponencia*, p. 32.

10 543 Phil. 684 (2007) [Per J. Carpio, Second Division].

11 183 Phil. 176 (1979) [Per J. Santos, *En Banc*].

12 495 Phil. 693 (2005) [Per J. Carpio, First Division].

13 *See Co v. Intermediate Appellate Court*, 245 Phil. 347 (1988) [Per J. Cruz, First Division].

14 *Social Justice Society v. Atienza*, 568 Phil. 658, 704 (2008) [Per J. Corona, First Division].

there is no showing here that the Foundation's exercise of its usufructuary rights is a threat to the public safety, health, or welfare of the surrounding area, as was the case in *Social Justice Society v. Atienza*,[15] or that its use of the property is inconsistent with the prevailing conditions of the area, as in *Ortigas & Co*. Here, the Foundation was seeking locational clearance for its administrative office in an institutional zone.[16] Depriving it of this use has no relation to the protection of the general welfare, absent any finding that the maintenance of the administrative office would threaten public safety, health, or welfare in the rezoned area.

As noted in *Tan Chat v. The Municipality of Iloilo*:[17]

> There is no question that in the exercise of its police power the municipality of Iloilo may enact ordinances establishing residential, commercial and industrial zones etc., for the beautification of the municipality, the protection of the health of its inhabitants, the value of real property and the safety of the buildings from fire. But such ordinances cannot be given retroactive effect by ordering the destruction of buildings already erected which do not measure up to the standard therein prescribed unless they constitute a danger to public health and morals and to the safety of the inhabitants and their property. The right of ownership and the use and enjoyment of property is a natural and constitutional right, of which nobody shall be deprived without due process of law and adequate compensation, even through the exercise of the eminent domain of the State. In accordance with these principles a municipality can only deprive a person of the use and enjoyment thereof constitute a menace to public health, morals and comfort, in which case summary and drastic measures may be taken; or when a city is divided into zones for the welfare of the community. It is only in the second case, to wit, when a real "nuisance" or public inconvenience exists, that a summary exercise of the police power of a municipality is authorized and this is so because the right of ownership and the right to use and enjoy property implies a social obligation on the part of the owner to exercise such right without causing injury to others, and looking to the attainment of the common good. In the first case a complaint for expropriation is necessary *and in the third case there must be a zoning ordinance or law with prospective operation regulating the erection of buildings and the repair of those already erected in the residential zone, as well as the conduct of commerce and industry in the commercial and industrial zones, but not the destruction of buildings already erected, the removal of the business or industries already established, unless they be a menace to public health and morals and to safety of persons and property.*[18] (Emphasis supplied)

Finally, I agree with the *ponencia*'s conclusion that, even with the nullification of certain provisions of the Zoning Ordinance, there would no longer be any use to affirm the trial court's other directives to the Quezon City government. As such, the Foundation may, at its option, seek other remedies

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15 568 Phil. 658 (2008) [Per J. Corona, First Division].

16 *Ponencia*, p. 4.

17 60 Phil. 465 (1934) [Per J. Imperial, *En Banc*].

18 J. Villa-Real, Dissenting Opinion in *Tan Chat v. The Municipality of Iloilo*, 60 Phil. 465, 483–484 (1934) [Per J. Imperial, *En Banc*].

such as the nullification of the foreclosure sale, recovery of possession, or action for damages.[19]

ACCORDINGLY, I vote to **DENY** the Petition for Review on *Certiorari* in G.R. No. 208788, and to **AFFIRM WITH MODIFICATIONS** the June 18, 2013 Decision and August 13, 2013 Resolution of the Quezon City Regional Trial Court in Special Civil Action No. Q-12-70830. In G.R. No. 228284, I also vote to **DISMISS** the Petition for Review on *Certiorari* and Petition for Prohibition and Injunction with Damages and with Application for a Writ of Preliminary Prohibitory and Mandatory Injunction and a Temporary Restraining Order in Special Civil Action No. Q-12-71638.

MARVIC M.V.F. LEONEN
Senior Associate Justice

[19] *Ponencia*, pp. 36–37.

EN BANC

G.R. No 208788 – QUEZON CITY GOVERNMENT represented by HONORABLE HERBERT M. BASUTISTA, in his capacity as CITY MAYOR OF QUEZON CITY, and TOMASITO L. CRUZ, in his capacity as the CITY PLANNING AND DEVELOPMENT OFFICER AND ZONING OFFICIAL OF QUEZON CITY, Petitioners, **v. MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chairman LUCITO M. BERTOL,** Respondent.

G.R. No. 228284 – MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chairman LEODARDO D. LIGERALDE, Petitioner, **v. QUEZON CITY GOVERNMENT represented by HON. HERBERT BAUSTISTA, in his capacity as CITY MAYOR OF QUEZON CITY, GEN. ELMO SAN DIEGO, in his capacity as Head, Department of Public Order and Safety (DPOS), ROGER CUARESMA, and CAMERAN, M.J., and other members of the DPOS,** Respondents.

Promulgated:

July 23, 2024

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CONCURRING and DISSENTING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia* in ruling in favor of Manila Seedling Bank Foundation Inc. (Manila Seedling). I write this Opinion to highlight Manila Seedling's rights over the seven-hectare land reserved under Presidential Proclamation No. 1670[1] (subject property), which the local government of Quezon City should have respected in the enactment and implementation of its zoning ordinances and in effecting its duty to collect local taxes.

Brief Review of the Facts

On September 19, 1977, Presidential Proclamation No. 1670 was issued reserving for Manila Seedling a seven-hectare land, presently owned by the National Housing Authority (NHA), and located at Diliman, Quezon City, for use in its operation and projects. The subject property was excluded from the

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[1] Excluding from the Operation of Proclamation No. 481, dated October 24, 1968, which Established the National Government Center Site, Situated at Diliman, Quezon City, Certain Parcels of Land Embraced Therein, and Reserving the Same for the Purposes of the Manila Seedling Bank Foundation, September 19, 1977.

operation of Proclamation No. 481[2] dated October 24, 1968, which established the National Government Center Site.[3]

In 2000, the City Council of Quezon City enacted Ordinance No. SP-918, series of 2000 or the Quezon City Zoning Ordinance. It was amended in 2003 by Ordinance No. SP-1369, series of 2003 (Zoning Ordinance).[4] The Zoning Ordinance classified Manila Seedling's seven-hectare property as institutional and commercial zones. Further, the Zoning Ordinance required persons applying for a business permit to secure a locational clearance from the Zoning Official for conforming uses and a certificate of non-conformance for non-conforming uses prior to the issuance of a business or license permit.[5]

Manila Seedling had been issued a Certificate of Non-Conformance for its business permit until December 2011. However, on January 5, 2012, the Quezon City Government refused to renew Manila Seedling's locational clearance. In turn, Manila Seedling failed to renew its business permit in 2012.[6]

On February 23, 2012, Manila Seedling filed a Petition (For Prohibition with Application for Preliminary Mandatory Injunction and Prohibitory Injunction and for a Temporary Restraining Order [TRO]) before the Regional Trial Court (RTC), Quezon City, Branch 96, against the Quezon City Government.[7]

The RTC, in its Decision[8] dated June 18, 2013, granted Manila Seedling's petition and directed the Quezon City Government to permanently desist from enforcing or implementing the Zoning Ordinance to the property under Manila Seedling's usufruct and to issue a locational clearance and business permit in favor of Manila Seedling.[9]

The Quezon City Government filed the instant petition, docketed as G.R. No. 208788, claiming that Manila Seedling has no legal capacity to sue, considering that its Certificate of Registration with the Securities and Exchange Commission (SEC) had long been revoked since 2002.[10]

Meanwhile, on July 3, 2012, Manila Seedling received a notice from the City Treasurer informing it that the subject property had been sold at public auction for delinquent real property taxes, and that for it to redeem the same, the amount of PHP 40,980,986.24 had to be paid on or before July 7,

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2 Excluding from the Operation of Proclamation No. 42, dated July 5, 1954, which Established the Quezon Memorial Park, Situated at Diliman, Quezon City, Certain Parcels of the Land Embraced Therein and Reserving the Same for National Government Center Site Purposes.

3 *Ponencia,* p. 3.

4 *Id.*

5 *Id.* at 4.

6 *Id.* at 5.

7 *Id.*

8 Branch 96, RTC of Quezon City in Special Civil Action No. Q-12-70830, penned by Presiding Judge Afable E. Cajigal, *rollo* (G.R. No. 208788), pp. 11–23.

9 *Id.* at 23.

10 *Ponencia*, p. 7.

2012. Manila Seedling sent a reply, primarily asserting that, as a usufructuary, it is exempt from paying real property taxes on the subject property.[11]

On July 10, 2012, Manila Seedling was served a letter signed by then Mayor Herbert M. Bautista, informing it that due to its failure to redeem the property, ownership thereof was transferred to the Quezon City Government. Immediately upon receipt of the letter, several police officers forcibly took possession and control of the premises.[12]

The Quezon City Government did not respond to Manila Seedling's letter which asserted that nothing in the law allows the former to forcibly enter and take over the premises.[13] This prompted Manila Seedling to file a Petition (for Prohibition and Injunction with Damages and with Application for a Writ of Preliminary Prohibitory and Mandatory Injunction and a Temporary Restraining Order) with the RTC of Quezon City, Branch 216 on July 12, 2012.[14]

The RTC[15] dismissed the above petition of Manila Seedling based on lack of personality to sue, on the reasoning that Manila Seedling's registration had been revoked since 2002. The Court of Appeals[16] affirmed the RTC Order dated December 22, 2014 and denied Manila Seedling's Motion for Reconsideration.[17] Thus, Manila Seedling filed the instant petition, docketed as G.R. No. 228284, where Manila Seedling claims that it had corporate personality at the time of filing its petition with the RTC because the earlier order of revocation was not final; and was, in fact, set aside by the SEC, which retroacts to the date of such revocation, as if Manila Seedling never lost its corporate personality.[18]

In G.R. No. 208788, the *ponencia* grants Manila Seedling's petition and declares null and void the relevant portions of the Zoning Ordinance insofar as it infringes upon Manila Seedling's usufructuary rights. However, in G.R. No. 228284, while the *ponencia* finds illegal the Quezon City Government's taking of the subject property, it dismisses Manila Seedling's petition on the ground of mootness.[19]

For the reasons explained below, I do not fully subscribe to this ruling. In view of the usufruct granted to Manila Seedling under Proclamation No. 1670, Manila Seedling has the right to be restored in the possession and use

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11 *Id.*
12 *Id.* at 8.
13 *Id.*
14 *Id.*
15 *See* Order dated December 22, 2014 of Branch 216, RTC of Quezon City in Special Civil Case No. Q-12-71638, penned by Presiding Judge Alfonso C Ruiz II, *rollo* (G.R. No. 228284), pp. 177–179.
16 *See* Decision dated June 16, 2016 and Resolution dated November 17, 2016 in CA-G.R. SP No. 139984, both penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Pedro B. Corales, *id.* at 40–51, 56–57, respectively.
17 *Ponencia*, p. 10.
18 *Id.* at 11.
19 *Id.* at 38.

of the subject property or indemnified for damages suffered as a result of the dispossession.

Manila Seedling has legal capacity to sue.

Preliminarily, I join the *ponencia*'s ruling that the Quezon City Government is estopped from raising as an issue Manila Seedling's corporate personality.

It is a settled rule in our jurisdiction that, by virtue of the doctrine of estoppel, a party cannot challenge a corporation's personality or legal capacity to sue when the former has already acknowledged the same by entering into a contract with it and deriving benefits therefrom.[20]

In this case, the Quezon City Government had long recognized, treated, dealt, and transacted with Manila Seedling as a corporate entity. This is evident from the bills and receipts for business license fees, business clearances and permits, as well as notices in relation to real property taxes, all issued by the Quezon City Government in the name of Manila Seedling as a corporate entity, **and all issued after the SEC's revocation of its registration**. Thus, the Quezon City Government's prior recognition of Manila Seedling's corporate personality or legal capacity to sue must estop it from now challenging the same.

The rationale for the doctrine of estoppel is explained by jurisprudence in this wise:

> The doctrine of corporation by estoppel is founded on principles of equity and is designed to prevent injustice and unfairness. It applies when a non-existent corporation enters into contracts or dealings with third persons. In which case, the person who has contracted or otherwise dealt with the non-existent corporation is estopped to deny the latter's legal existence in any action leading out of or involving such contract or dealing. While the doctrine is generally applied to protect the sanctity of dealings with the public, nothing prevents its application in the reverse, in fact the very wording of the law which sets forth the doctrine of corporation by estoppel permits such interpretation. Such that a person who has assumed an obligation in favor of a non-existent corporation, having transacted with the latter as if it was duly incorporated, is prevented from denying the existence of the latter to avoid the enforcement of the contract.[21] (Citations omitted)

The Quezon City Government claims that estoppel cannot apply because it only discovered or confirmed the revocation of Manila Seedling's registration in 2013, upon receipt of the SEC Letter stating that Manila

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[20] *Magna Ready Mix Concrete Corp. v. Andersen Bjornstad Kane Jacobs, Inc.*, G.R. No. 196158, January 20, 2021, 969 SCRA 545, 562–563 [Per J. Hernando, Third Division]; *See also Merrill Lynch Futures, Inc. v. Court of Appeals*, 286 Phil. 988, 1004 (1992) [Per C.J. Narvasa, Second Division].

[21] *The Missionary Sisters of Our Lady of Fatima v. Alzona*, 838 Phil. 283, 295–296 (2018) [Per J. A. Reyes, Jr., Second Division].

Seedling's registration was revoked in 2002. However, as recognized by the CA itself in the assailed Decision, the revocation of Manila Seedling's registration was published in a newspaper of general circulation. This publication served as notice to the public of Manila Seedling's corporate status. With this "notice to the public," the Quezon City Government may not hide behind the SEC Letter to excuse its previous recognition and dealings with Manila Seedling as a corporation, and now be allowed to assail the latter's juridical personality and capacity to act as a corporation.

However, contrary to the *ponencia*,[22] I agree with Manila Seedling's averment that the reinstatement of its registration retroacts to the date of the revocation of said registration. In other words, the SEC Order that was issued in 2015 setting aside the revocation has effectively cured the defect in Manila Seedling's legal personality at the time of the filing of its petitions with the RTC.

Consideration must be given to the established fact that, pending the final resolution of these cases, the SEC granted Manila Seedling an extension to file a petition to lift or set aside the Order of Revocation. Specifically, in a letter dated January 3, 2014, the SEC granted Manila Seedling two years, reckoned from December 31, 2013, to file a petition to set aside the revocation, *viz.*:

> Gentlemen:
>
> This refers to your letter dated November 6, 2013, requesting clarification on the revoked status for non-compliance with reportorial requirements.
>
> Verification of the records on file with this Commission shows that the certificate of registration of MANILA SEEDLING BANK FOUNDATION, INC., registered on September 6, 1977 under SEC Reg. No. 75473, was revoked by the Commission by virtue of SEC Order dated December 29, 2001, published in Manila Standard on January 21, 2002, for non-compliance with reportorial requirements. SEC Order dated December 29, 2001 was published in a newspaper of general circulation, which is sufficient notice to the corporation.
>
> On the other hand, please be informed that the Commission En Banc, in its meeting of November 21, 2013, resolved to grant all covered corporations a period of two (2) years from December 31, 2013 until [December] 31, 2015 within which to file their petitions with the Commission to set aside the order of their revocation. Upon publication of the circular providing for the procedure regarding the same, you may file the petition to reinstate the registration status of your corporation.
>
> Please coordinate directly with Compliance Monitoring Division of the Department located at the Ground Floor, SEC Bldg., EDSA Greenhills, Mandaluyong City.[23]

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22 *See ponencia*, p. 18.

23 *Rollo* (G.R. No. 228284), p. 286, Manila Seedling's Memorandum dated August 28, 2017.

In compliance with the SEC directive, Manila Seedling filed its petition on February 4, 2015. On October 14, 2015, the SEC issued an Order granting Manila Seedling's petition and setting aside the Order of Revocation, *viz.*:

> **WHEREFORE,** finding the submitted documents sufficient to establish petitioner's intent to continue as a juridical entity, the Commission's Order dated 28 December 2001, revoking the [Certificate] of Incorporation of **MANILA SEEDLING BANK [FOUNDATION], INC.,** is hereby **SET ASIDE.**
>
> Further, the approval of the petition to set aside order of revocation shall be subject to the findings of the Commission on Audit (COA) against the petitioner.
>
> Finally, petitioner is warned that if it commits a similar [violation] on reportorial requirements, the Commission shall be [constrained] to impose a heavier penalty.
>
> **SO ORDERED.**[24] (Emphasis in the original)

From the tenor of the foregoing SEC Order, the lifting/setting aside of the earlier Order of Revocation reinstated Manila Seedling's registration. Such reinstatement retroacts to the date of the revocation because it did not result in the creation of a new corporation but in the continuation of Manila Seedling's juridical personality. In other words, the reinstatement of Manila Seedling's registration cured or rectified the "defect" in its registration at the time of filing the petitions with the trial court, or as if no revocation took place at all.

In SEC Opinion NO. 06-06,[25] an inquiry was brought before the SEC as to the effects of lifting the order of revocation. In the said Opinion, the SEC General Counsel said:

> If the revocation was issued due to non-compliance by the corporation of the reportorial requirements of the Commission, the revoked corporation has three (3) years within which to file a petition to lift the order of revocation with the Commission. However, the filing of the petition should not be beyond three years from the date of revocation. This three-year period is based on the three-year winding up period for dissolved corporations under Section 122 of the Corporation Code. *Generally, the effect of the reinstatement of the corporation is that it relates back to the date of dissolution [or revocation] as if the dissolution [or revocation] had never occurred.*[26] (Emphasis supplied, citations omitted)

This was reiterated by the SEC General Counsel in a subsequent opinion on the same issue,[27] *viz.*:

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24 *Id.*

25 Sale of Shares of Stock of a revoked Corporation, January 31, 2006.

26 *Id.* at 2–3.

27 Effects of Lifting the Order of Revocation, SEC OGC Opinion No. 13-08, August 22, 2013.

Section 122 of the Corporation Code provides:

> *"Sec. 122. Corporate liquidation.— Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner,* shall nevertheless be continued as a body corporate for three (3) years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, to dispose of and convey its property and to distribute its assets, *but not for the purpose of continuing the business for which it was established.*["] . . .

The Commission, however, in SEC Opinion No. 06-06, citing Fletcher Cyclopedia Corporation, opined on the effects of setting aside the Order of Revocation, to wit:

> *"Generally, the effect of the reinstatement of the corporation is that it relates back to the date of dissolution [or revocation] as if the dissolution [or revocation] had never occurred."*

Moreover, Fletcher in his book asserts that "the reinstatement has the effect of ratifying and confirming all acts and proceedings of the corporation's officers, directors, and stockholders which would have been legal and valid but for the dissolution."

Finally, in a similar case in which a petitioner asked the Commission to lift the order of revocation, the Commission reiterated Fletcher and cited SEC Opinion No. 06-06 on the effect of the reinstatement of the corporation.[28] (Emphasis supplied, citations omitted)

Therefore, with the reinstatement of Manila Seedling's registration during the pendency of the consolidated cases, Manila Seedling is deemed to have had juridical personality and legal capacity to sue at the time of the filing of its petitions with the trial court.

With the issue on Manila Seedling's personality settled, I join the *ponencia* in granting Manila Seedling's petition in G.R. No. 208788. The Zoning Ordinance is invalid for being contrary to Proclamation No. 1670, and thus cannot be made to apply to the subject property until the termination of the usufruct granted to Manila Seedling. By classifying the subject property as commercial and institutional zones, the Zoning Ordinance impaired Manila Seedling's use of the property for its purpose and projects, as mandated under Proclamation No. 1670.

Likewise, in G.R. No 228284, I concur that the Quezon City Government's taking, and subsequent possession of the subject property, is illegal as the public auction sale thereof is void. Even assuming that the public

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28 *Id.* at 2.

auction sale is valid, and the ownership of the subject property is transferred to the Quezon City Government, Manila Seedling, as a usufructuary, should remain in possession of the subject property until the termination of the usufruct. Consequently, Manila Seedling should be restored in possession of the subject property, and if restoration is impracticable, the case should be remanded to the trial court to determine Manila Seedling's entitlement to damages, if any.

I expound.

The Quezon City government erred in applying the Zoning Ordinance to the subject property in view of Proclamation No. 1670.

I agree with the *ponencia* in upholding the ruling of the RTC that the Zoning Ordinance cannot be applied to the subject property in view of the usufruct granted to Manila Seedling under Proclamation No. 1670.

The Court has held that zoning classification is an exercise by the local government of police power, and not the power of eminent domain.[29] 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.[30] As an exercise of police power, the same is, therefore, considered plenary and flows from the recognition that the welfare of the people is the supreme law.[31] A zoning ordinance, however, must conform to the tests of a valid ordinance, as well, in that it must be within the corporate powers of the local government unit to enact and must be passed according to the procedure prescribed by law. Furthermore, it must also conform to the following substantive requirements: (1) it must not contravene the Constitution or any statute; (2) it must not be unfair or oppressive; (3) it must not be partial or discriminatory; (4) it must not prohibit but may regulate trade; (5) it must be general and consistent with public policy; and (6) it must not be unreasonable.[32]

Here, the Zoning Ordinance clearly contravenes Proclamation No. 1670 which grants Manila Seedling's usufructuary rights. To my mind, this is violative of the foregoing requirement that an ordinance must not contravene any statute.

Manila Seedling is an environmental organization founded in 1977. It was organized primarily to produce tree seedlings, vegetable seeds, and forest

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29 *Marcelo v. Samahang Magsasaka ng Barangay San Mariano*, 863 Phil. 49, 73 (2019) [Per J. Reyes, Jr., Second Division].

30 *Id.*

31 *See Social Justice Society (SJS) v. Hon. Atienza, Jr.*, 568 Phil. 658, 700 (2008) [Per J. Corona, First Division].

32 *Id.*

and fruit bearing trees for reforestation and agro-forestry development. In recognition of the importance of Manila Seedling's activities in the furtherance of the government's reforestation program,[33] Proclamation No. 1670 dated September 19, 1977 was issued by then President Ferdinand E. Marcos (President Marcos), granting Manila Seedling the usufruct over an area of seven hectares of the land located in the National Government Center Site in Diliman, Quezon City.

Proclamation No. 1670 reads:

> Pursuant to the powers vested in me by the Constitution and the laws of the Philippines, I, FERDINAND E. MARCOS, President of the Philippines, do hereby exclude from the operation of Proclamation No. 481, dated October 24, 1968, which established the National Government Center Site, certain parcels of land embraced therein and reserving the same for the Manila Seedling Bank Foundation, Inc., *for use in its operation and projects*, subject to private rights if any there be, and to future survey, under the administration of the Foundation.
>
> *This parcel of land, which shall embrace 7 hectares*, shall be determined by the future survey based on the technical descriptions found in Proclamation No. 481, and most particularly on the original survey of the area, dated July 1910 to June 1911, and on the subdivision survey, dated April 19-25, 1968.
>
> IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.
>
> Done in the City of Manila, this 19th day of September, in the year of Our Lord, nineteen hundred and seventy-seven. (Emphasis supplied)

Pursuant to Proclamation No. 1670, a contract between the National Government and Manila Seedling was created.[34]

It is well-settled that "during the past dictatorship, every presidential issuance, by whatever name it was called, had the force and effect of law because it came from President Marcos."[35] Thus, in cases involving the binding effect of presidential issuances issued during the Martial Law regime, the Court recognized that these carry the same force and effect as any statute, by virtue of the transitory provision in Section 3(2), Article XVII of the 1973

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33 *See* Remarks of His Excellency Ferdinand E. Marcos President of the Philippines At the inauguration of the Manila Seedling Bank Foundation Inc., *available at* https://www.officialgazette.gov.ph/1977/09/19/remarks-of-president-marcos-at-the-inauguration-of-the-manila-seedling-bank-foundation-inc/.

34 *Rollo* (G.R No. 208788), p. 16, RTC Decision dated June 18, 2013.

35 *Ass'n. of Small Landowners in the Phils., Inc. v. Hon. Secretary of Agrarian Reform*, 256 Phil. 777, 802 (1989) [Per J. Cruz, *En Banc*].

Constitution[36] *vis-à-vis* Section 3, Article XVIII of the 1987 Constitution.[37] This includes proclamations, such as in the present case, reserving a certain portion of public land for a specific purpose.[38]

Hence, when Proclamation No. 1670 reserved certain portions of government land for Manila Seedling "for use in its operation and projects," that reservation must be respected. The Zoning Ordinance of Quezon City cannot effectively amend or repeal Proclamation No. 1670—a statute—by reclassifying the purpose of the subject property.

Since September 1977, Manila Seedling has been in possession of the subject property where the Environmental Center was built. The Environmental Center has been used by Manila Seedling as a plant nursery and venue for garden centers, pet shops, and cut flower center. Manila Seedling also uses the subject property in offering services such as tree pruning, tree balling and relocation, disease treatment, tree farming, greenhouse construction and maintenance, and plant clinics; and seminars and workshops on reforestation, environmental preservation, waste disposal management, composting, and others. These uses are far from those which are undertaken within a "metropolitan commercial zone," as reclassified in the Zoning Ordinance.

I further note that the case *rollo* does not include a copy of the Zoning Ordinance. However, in G.R. No. 208788, the trial court, in its Decision dated June 18, 2013, cited portions thereof.

According to the trial court, Section 1, Article III of the 2000 Ordinance classified as a metropolitan commercial zone that area bounded by North Avenue, Agham Road, Quezon Blvd. and EDSA (except for areas identified as institutional zones), which includes the entire seven-hectare property under Manila Seedling's usufruct.[39] The trial court further noted that Section 1 of the 2000 Zoning Ordinance provided that a metropolitan commercial zone district is "*characterized by heavy commercial developments and multi-level commercial structures, including trade, service and entertainment on a metropolitan (regional) scale of operations as well as miscellaneous support services; with permitted light industrial activities.*"[40] Additionally, Section 1(i), Art. VI of the 2000 Zoning Ordinance requires that the owner of a non-conforming use to program the phase-out and relocation

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36 SEC. 3. . . .
(2) All proclamations, orders, decrees, instructions, and acts promulgated, issued, or done by the incumbent President shall be part of the law of the land, and shall remain valid, legal, binding, and effective even after the lifting of martial law or the ratification of this Constitution, unless modified, revoked, or superseded by subsequent proclamations, orders, decrees, instructions, or other acts of the incumbent President, or unless expressly and explicitly modified or repealed by the regular National Assembly.

37 SEC. 3. All existing laws, decrees, executive orders, proclamations, letters of instructions, and other executive issuances not inconsistent with this Constitution shall remain operative until amended, repealed, or revoked.

38 *See Land Bank of the Philippines v. Estate of J. Amado Araneta*, 681 Phil. 315 (2012) [Per J. Velasco, Jr., Third Division].

39 *See rollo* (G.R. No. 208788), pp. 12, 16, RTC Decision dated June 18, 2013.

40 *Id.* at 16. (Emphasis supplied)

of the non-conforming use within 10 years from the effectivity of the ordinance (sometime in 2010).

I submit that the above reclassification of zones affected Manila Seedling <u>in a manner that exceeds mere regulation</u>.

To be sure, 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.[41]

Thus, in *Social Justice Society (SJS) v. Hon. Atienza, Jr.*,[42] (*Social Justice Society*) the Court upheld the validity of a zoning ordinance which reclassified the area where the oil depots were situated in Manila from industrial to commercial, on a clear finding that said ordinance was enacted "for the purpose of promoting sound urban planning, ensuring health, public safety and general welfare" of the residents of Manila. The Court held that the *Sanggunian* there was impelled to take measures to protect the residents of Manila from catastrophic devastation in case of a terrorist attack on the Pandacan Terminals.[43]

Furthermore, the Court in *Social Justice Society* found that the zoning 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.

In contrast, in this instant case, there is no clear concurrence of a lawful subject and a lawful method in the enactment of the Zoning Ordinance. For one, it bears emphasis, as the trial court significantly observed in its assailed decision, that "there [are] no issue[s] of health and safety, morals, peace, good order, comfort, and convenience of the city and its inhabitants, and the protection of their property [that are] involved or invoked by the [local government.]"[44] The trial court aptly observed:

> In the same breath[,] it cannot escape one's notice that what the respondent city government seeks to achieve with the reclassification of the 7-hectare area under the petitioner's usufruct is to clear it for development into a metropolitan commercial zone, requiring those which cannot comply to relocate themselves. Such goal is sought to be achieved *by legislating the petitioner out of the usufruct area which it has a right to use up to 2027[,] by simply changing the use to which it can be devoted. This is clear enough[,] inasmuch as the petitioner is the only long-lasting entity in the area whose activities — being largely horticultural and environmental —are not consistent with a metropolitan commercial zone*

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41 *Social Justice Society (SJS) v. Hon. Atienza, Jr.*, *supra* note 31, at 702.
42 *Id.*
43 *Id.*
44 *See rollo* (G.R. No. 208788), p. 22, RTC Decision dated June 18, 2013.

> *under the zoning ordinance.* Therefore[,] the application to the petitioner of this police power measure[,] which has nothing to do with any peril or danger to health and safety, morals, peace, good order, comfort, and convenience of the city and its inhabitants, and the protection of their property[,] should indeed be struck down as an arbitrary intrusion into private rights and a violation of the due process clause.[45] (Emphasis supplied)

I am aware of the well-settled principle that 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,[46] such that police power is superior to the non-impairment clause.[47] However, this principle is premised on the concurrence of a lawful subject and a lawful method. Equally important, the issue here cannot be reduced to a simple claim that mere contractual obligations are being nullified by the Zoning Ordinance.[48] The fact that a usufruct was entered into **by the national government** with Manila Seedling significantly changes the nature of the contract.

To reiterate, Proclamation No. 1670 granted Manila Seedling the usufruct of the subject property, which is owned by the NHA, exclusively for use in its operations and projects, namely, producing tree seedlings, vegetable seeds, forest and fruit bearing trees for reforestation, as well as services such as tree pruning, tree balling and relocation, disease treatment, tree farming, greenhouse construction and maintenance, and plant clinics. This right, as recognized by the Court in the case of *National Housing Authority v. Court of Appeals*,[49] extends until 2027:

> In the present case, Proclamation No. 1670 is the title constituting the usufruct. Proclamation No. 1670 categorically states that the seven-hectare area shall be determined "by future survey under the administration of the Foundation subject to private rights if there be any."
> . . .
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> . . . .
>
> The law clearly limits any usufruct constituted in favor of a corporation or association to 50 years. A usufruct is meant only as a lifetime grant. Unlike a natural person, a corporation or association's lifetime may be extended indefinitely. The usufruct would then be perpetual. This is especially invidious in cases where the usufruct given to a corporation or association covers public land. Proclamation No. 1670 was issued 19 September 1977, or 28 years ago. Hence, under Article 605, the usufruct in favor of MSBF has 22 years left.[50]

By reclassifying the seven-hectare property into the metropolitan commercial zone, the Zoning Ordinance effectively rendered nugatory Manila

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45 *Id.* at 21.
46 *Social Justice Society (SJS) v. Hon. Atienza, Jr., supra* note 31, at 703.
47 *See JMM Promotion and Management, Inc. v. CA*, 329 Phil. 87 (1996) [Per J. Kapunan, First Division].
48 *Ortigas & Co., Ltd. Partnership v. Feati Bank and Trust Co.*, 183 Phil. 176 (1979) [Per J. Santos, *En Banc*].
49 495 Phil. 693 (2005) [Per J. Carpio, First Division].
50 *Id.* at 702–705.

Seedling's usufruct over the subject property. With the issuance of the Zoning Ordinance, the Quezon City Government essentially forced Manila Seedling to change the use of the subject property to activities incompatible with the mandate of Proclamation No. 1670. This effectively terminated Manila Seedling's usufruct prematurely by more than a decade.

To my mind, the actions of the Quezon City Government amounts to a taking and not a mere regulation. Indeed, the general rule is that in the exercise of police power, the limitation or restriction imposed on property interests to promote public welfare involves no compensable taking.[51] Thus, in *Social Justice Society*, the Court dismissed the claims of the affected oil companies that the therein zoning ordinance, which reclassified the area where their terminals were located from industrial to commercial, absolutely prohibited them from conducting their business operations in the City of Manila. In shutting down these claims, the Court held that the zoning ordinance remains a regulation with no compensable taking because the properties of the oil companies and other businesses situated in the affected area remained theirs. Only their use was restricted, although they can be applied to other profitable uses permitted in the commercial zone.

Here, while it may be argued that the subject property remains to be NHA's, I submit once again that the peculiar circumstance of the usufruct with Manila Seedling lends a nuance in this case that cannot be brushed aside. As the beneficial owner of the subject property pursuant to said usufruct, Manila Seedling is left with no reasonable economically viable use of the subject property. The reclassification introduced by the Zoning Ordinance interferes with Manila Seedling's reasonable expectations for use of the subject property in accordance with Proclamation No. 1670. In other words, this is not a case where Manila Seedling can simply relocate and seek the exercise of its business elsewhere, as it relies on the gratuity of the national government through the usufruct.

Moreover, it should be noted that the Zoning Ordinance itself recognized the primacy of vested rights. Section 14 of the Zoning Ordinance states:

> SECTION 14. 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 before the effectivity of this Ordinance shall not be impaired.* (Emphasis supplied)

In sum, an ordinance cannot contravene a statute. It was an error on the part of the Quezon City Government to apply the Zoning Ordinance to the subject property during the pendency of Manila Seedling's usufruct and deny Manila Seedling the issuance of locational clearance and business permit. Since 1977, Manila Seedling enjoyed and continues to enjoy a vested right to use the property according to its operations and projects, with such right remaining in effect until 2027. Thus, by the very language of the Zoning

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[51] *See Social Justice Society (SJS) v. Hon. Atienza, Jr., supra* note 31, at 706.

Ordinance, the Quezon City Government cannot impair the usufruct vested upon Manila Seedling by prohibiting its business operations.

The public auction sale of the subject property is void. Even assuming the public auction sale is valid, Manila Seedling retains possession of the subject property.

In G.R. No. 228284, Manila Seedling, in its petition filed with the RTC, sought to declare void the Quezon City Government's forcible taking of the subject property on account of Manila Seedling's failure to redeem the same after being sold in a public auction to satisfy Manila Seedling's unpaid real property taxes.

There is clear merit in Manila Seedling's prayer to order the Quezon City Government to depart, leave and/or otherwise vacate the premises, and to cease and desist from further keeping the premises padlocked and other business therein.[52] It is my considered view that the Quezon City Government's taking and subsequent possession of the subject property is illegal because the public auction sale thereof to satisfy PHP 40,980,986.24 unpaid real property taxes is void.

First, it is undisputed that the seven-hectare property under Manila Seedling's usufruct is owned by NHA. As such, it cannot be sold to pay for Manila Seedling's real property tax liabilities.

Section 234(a) of the Local Government Code provides that real property owned by the Republic of the Philippines are exempt from payment of real property taxes, **except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person**. Thus, properties owned by NHA, including the subject property, are generally exempt from real property taxes.

NHA's exemption from paying real property taxes on its properties was affirmed by the Court in *National Housing Authority v. Iloilo City.*[53] In fact, the Court even said that due to this exemption, properties of NHA cannot be subjected to any delinquency sale:

> *In this case, NHA is indisputably a tax-exempt entity whose exemption covers real property taxes and so its property should not even be subjected to any delinquency sale.* Perforce, the bond mandated in Section 267, whose purpose it is to ensure the collection of the tax delinquency should not be required of NHA before it can bring suit assailing the validity of the auction sale.
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> Note should be taken that NHA had consistently insisted on the nullity of the proceedings undertaken by respondent Iloilo City which

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52 *Rollo* (G.R. No. 228284), pp. 72–74, Manila Seedling's Petition dated July 9, 2012.

53 584 Phil. 604 (2008) [Per J. Tinga, Second Division].

> eventually led to the public auction sale of its property. *Since, as had been resolved, NHA is liable neither for real property taxes* nor for the bond requirement in Section 267, *it necessarily follows that any public auction sale involving property owned by NHA would be null and void* and any suit filed by the latter questioning such sale should not be dismissed for failure to pay the bond.
>
> *NHA cannot be declared delinquent in the payment of real property tax obligations which, by reason of its tax-exempt status, cannot even accrue in the first place.*[54] (Emphasis supplied)

However, as Section 234 provides, this exemption ceases when the beneficial use of the government property has been granted, for consideration or otherwise, to a taxable person. Beneficial use means that the person or entity has the actual use and possession of the property. In such a case, the government property is no longer exempt from real property tax and the liability to pay for the same devolves on the taxable person or entity which has the beneficial use of the property—and **not** the Republic of the Philippines, government instrumentality or political subdivision, who owns the property.

In this case, the beneficial use of the subject property owned by NHA is with Manila Seedling. As the beneficial user, it is liable for the real property taxes accruing thereon. In fact, in the August 23, 2010 case of *Manila Seedling Bank Foundation, Inc. v. City Treasurer Victor B. Endriga, Quezon City, et al.,* docketed as G.R. No. 191335, the Court affirmed the trial court's ruling that the declared the City Treasurer's right to proceed against Manila Seedling for the latter's real property tax liabilities that accrued from the effectivity of the LGC in 1992, provided such is not yet barred by prescriptive period for assessment and collection.[55] The said August 23, 2010 Resolution became final and executory on February 21, 2011.[56]

The next question now is, in case of delinquency on the part of the beneficial user, can the local government proceed against the government property for unpaid real property taxes?

The answer is no. The Court *en banc's* pronouncement in *Philippine Heart Center v. The Local Government of Quezon City*,[57] (*Philippine Heart Center*) is controlling.

> As for respondents' levy and subsequent sale of the PHC's properties, these acts have no basis in law. Section 256 of RA 7160 provides:
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> **Section 256**. *Remedies for the Collection of Real Property Tax.* — For the collection of the basic real property tax and any other tax levied under this Title, the local government unit concerned **may avail of the remedies**

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54 *Id.* at 611.
55 *Ponencia*, p. 26.
56 *Id.*
57 872 Phil. 930 (2020) [Per J. Lazaro-Javier, First Division].

> **by administrative action thru levy on real property or by judicial action**. (emphasis added)
>
> The provision must be read in connection with Section 133(o) of RA 7160 exempting the Republic from local taxes, and Section 234 of the same law allowing the imposition of tax on real property owned by the Republic when the beneficial use thereof has been granted to a "taxable person."
>
> Notably, it is the "taxable person" with beneficial use who shall be responsible for payment of real property taxes due on government properties. Any remedy for the collection of taxes should then be directed against the "taxable person," the same being an action *in personam*.
>
> In another vein, the Republic and its instrumentalities including the PHC retain their exempt status despite leasing out their properties to private individuals. The fact that PHC was short of alienating its properties to private parties in relation to the establishment, operation, maintenance and viability of a fully functional specialized hospital, does not divest them of their exemption from levy; the properties only lost the exemption from being taxed, but they did not lose their exemption from the means to collect such taxes.
>
> *Otherwise stated, local government units are precluded from availing of the remedy of levy against properties owned by government instrumentalities, whether or not vested with corporate powers, such as the PHC. Indeed, it would be the height of absurdity to levy the PHC's properties to answer for taxes the PHC does not owe. This leaves the Quezon City Government with only one recourse — judicial action for collection of real property taxes against private individuals with beneficial use of the PHC's properties.*[58] (Emphasis supplied, citation omitted)

The foregoing pronouncement should be applied to this case. The real property taxes accruing on the subject property are Manila Seedling's tax liability and not NHA's. While the Quezon City Government has the right to assess and collect real property taxes from Manila Seedling as the beneficial user, it cannot levy on NHA's property and sell it in a delinquency sale to satisfy Manila Seedling's unpaid real property taxes. As emphasized in *Philippine Heart Center*, the Quezon City Government should have instead filed a collection suit against Manila Seedling for the unpaid real property taxes on the subject property. Consequently, the public auction of the subject property is void.

Second, the seven-hectare property under Manila Seedling's usufruct is a property of public dominion intended for public service. As such, it is exempt from levy, encumbrance, or any disposition in a public or private sale.

Article 420 of the Civil Code provides:

> **ART. 420.** The following things are property of public dominion:

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[58] *Id.* at 962–963.

> (1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;
>
> (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth. (339a)

The subject property is part of the 120-hectare NHA property reserved for the establishment of the National Government Center Site, under Proclamation No. 481. As discussed, by virtue of Proclamation No. 1670, President Ferdinand Marcos granted Manila Seedling the right to use part of this 120-hectare property for production of tree seedlings, vegetable seeds, and forest and fruit bearing trees for reforestation and agro-forestry development, until 2027.

On November 11, 1987, President Corazon C. Aquino issued Memorandum Order No. 127,[59] which revoked the reserved status of approximately 50 hectares which remained out of the 120 hectares of the NHA property reserved as site of the National Government Center. Memorandum Order No. 127, also authorized the NHA to commercialize the area and to sell it to the public.[60] Effectively, Memorandum Order No. 127 converted 50 hectares of the NHA property to patrimonial property of the State. While it was formerly intended for public use and public service as the site for the National Government Center, the President subsequently categorized the same for commercial use and authorized NHA to sell it to private persons.

However, in *National Housing Authority v. Court of Appeals*,[61] the Court recognized that the subject property is not covered by Memorandum Order No. 127, *to wit:*

> MO 127 released approximately 50 hectares of the NHA property as reserved site for the National Government Center. However, MO 127 does not affect MSBF's seven-hectare area since under Proclamation No. 1670, MSBF's seven-hectare area was already "exclude[d] from the operation of Proclamation No. 481, dated October 24, 1968, which established the National Government Center Site."[62]

To my mind, since the subject property was not part of NHA's property authorized by the President to be commercialized and sold to the public, it was not converted to patrimonial property of the State. In other words, it remains to be a property of public dominion intended for public service.

It is a settled rule that property of public dominion is outside the commerce of man. It cannot be subject of an auction sale, levy, encumbrance,

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59 Releasing as Reserved Site for the National Government Center the Remaining Fifty (50) Hectares of the National Housing Authority (NHA) Property Covered By Proclamation No. 481, and for Other Purposes.

60 *See National Housing Authority v. Manila Seedling Bank Foundation, Inc.*, 787 Phil. 531, 534 (2016) [Per C.J. Sereno, First Division].

61 *Supra* note 49.

62 *Id.* at 705.

or disposition through public or private sale. Any encumbrance, levy on execution or auction sale of any property of public dominion is void for being contrary to public policy.[63] Essential public services will stop if properties of public dominion are subject to encumbrances, foreclosures, and auction sale.[64] This is what happened to the present case. The public service for which the subject property was intended—production of tree seedlings, vegetable seeds, and forest and fruit bearing trees for reforestation and agro-forestry development—was disrupted and eventually terminated when the Quezon City Government sold the subject property in public auction.

Accordingly, notwithstanding Manila Seedling's real property tax delinquencies, the subject property, being a property of public dominion, cannot be sold at public auction.[65] The Quezon City Government must satisfy the tax delinquency through means other than a public auction sale of the subject property.[66] Again, to stress, the public auction sale of the subject property, not being sanctioned by law, is void. The subsequent taking and possession of the subject property by the Quezon City Government is therefore illegal.

Even assuming that the public auction sale is valid, and ownership of the subject property is transferred to Quezon City Government, Manila Seedling's usufruct should, again, be respected.

Usufruct, under Article 562 of the Civil Code, is defined as "a right to enjoy the property of another with the obligation of preserving its form and substance, unless the title constituting it or the law otherwise provides." It is a real right that attaches to the property itself. When a usufruct is constituted, the owner thereof parts with his or her right to possess and enjoy the property, including the fruits thereof, in favor of the usufructuary, while only retaining the power to alienate the same. The Civil Code similarly circumscribes the acts that the naked owner of a property subject of another's usufructuary, which provides that the owner may alienate the same to another but refrain from performing any acts which would redound to the prejudice of the usufructuary, as proscribed by Article 581, to wit:

> **ART. 581.** The owner of property the usufruct of which is held by another, may alienate it, but he cannot alter its form or substance or do anything thereon which may be prejudicial to the usufructuary. (489)

For another, the Civil Code also upholds the preservation of the usufruct on a property until the same is validly terminated, the grounds for which are also exclusively outlined under Article 603, *viz.*:

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63 *Manila International Airport Authority v. Court of Appeals*, 528 Phil. 181, 219 (2006) [Per J. Carpio, *En Banc*].

64 *Id.*

65 *See Privatization and Management Office v. CTA*, 849 Phil. 652 (2019) [Per J. Reyes, Jr., Second Division]; *see also Philippine Fisheries Development Authority v. Court of Appeals*, 555 Phil. 661 (2007) [Per J. Ynares- Santiago, Third Division].

66 *Id.*

> **ART. 603.** Usufruct is extinguished:
>
> (1) By the death of the usufructuary, unless a contrary intention clearly appears;
>
> (2) By the expiration of the period for which it was constituted, or by the fulfillment of any resolutory condition provided in the title creating the usufruct;
>
> (3) By merger of the usufruct and ownership in the same person;
>
> (4) By renunciation of the usufructuary;
>
> (5) By the total loss of the thing in usufruct;
>
> (6) By the termination of the right of the person constituting the usufruct;
>
> (7) By prescription. (513a)

Clearly omitted from the foregoing enumeration is the sale of the property in usufruct by the naked owner to another. Stated differently, the owner's alienation of the property in usufruct does not interrupt or disturb, in any manner, the usufructuary rights on it. As the case of *Spouses Rosario v. Government Service Insurance System*[67] affirms:

> Meanwhile, usufructuaries are also protected from a writ of possession because during the subsistence of the usufruct, the owner parts with his right to possess and enjoy the property in favor of the usufructuary, while only retaining the *jus disponendi* or the power to alienate the same. Under Article 603 of the Civil Code, sale of the property is not one of the causes of termination of the usufruct.[68] (Citations omitted)

In other words, apart from any of the grounds enumerated under Article 603 of the Civil Code, a usufruct subsists and must be respected, since it is a real right that attaches to the property itself. Any change of ownership should similarly recognize and respect the existing usufructuary rights on the property.

Applying these principles to the present case, regardless of the validity of the public auction sale and the transfer of ownership over the subject property, Manila Seedling's right to use the subject property remains in effect. The Quezon City Government should not have taken possession of the subject property to the prejudice of Manila Seedling's rights as a usufructuary.

Hence, the Quezon City Government should be directed to restore possession of the subject property to Manila Seedling. The period of dispossession should be added to the remaining period of the usufruct. This

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67 G.R. No. 200991, March 18, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67794> [Per J. Zalameda, First Division].

68 *Id.*

additional period begins to run only from the time Manila Seedling is restored to possession of the subject property.

However, as noted in the *ponencia*, restoring possession of the subject property to Manila Seedling is no longer practicable with the ongoing developments in the area. In this regard, with the finding that the Quezon City Government's taking of the property is illegal, and considering that this case has dragged on for years, judicial efficiency and equity demand that instead of simply dismissing the case, the Court should have remanded the same to the relevant trial court to determine Manila Seedling's entitlement to compensatory damages, if any.

In light of the foregoing, I vote to grant Manila Seedling's petition in G.R. No. 228284 and deny the petition filed by the Quezon City Government in G.R. No. 208788. The Zoning Ordinance is void, insofar as it violates Proclamation No. 1670 and impairs Manila Seedling's usufructuary rights. I also vote that, in view of the impracticality of restoring Manila Seedling to its possession, this case should be remanded to the RTC, Quezon City, Branch 216 for the determination of Manila Seedling's entitlement to compensatory damages.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice