

Resolution - July 17, 2007

Republic of the Philippines
Court of Appeals
Manila

FORMER FIFTEENTH DIVISION

DEVELOPMENT BANK OF THE PHILIPPINES, CA-GR SP No. 89051

Petitioner,

LUZONVILLE HOMEOWNERS ASSOCIATION,

Petitioner in Intervention,

Members:

SANTIAGO-LAGMAN, A.

Acting Chairman,

PIZARRO, N. B., and,

*ROSARIO, R. R., JJ:

-versus-

Hon. SAMUEL H. GAERLAN, as
Presiding Judge, Branch 92, Regional
Trial Court, Quezon City, and
PRIME NEIGHBORHOOD
ASSOCIATION,

Promulgated:

Respondents.

JUL 17 2007 *MAB*

RESOLUTION

PIZARRO, J.:

Before Us are the Petitioner's *Motion for Reconsideration*¹ of Our Decision, dated August 28, 2006 and *Motion for Consolidation*²; the Private Respondent's *Comments on/Opposition to Motion for Reconsideration*³ and, the Petitioner's *Reply*⁴ thereto.

A perusal of the motion for reconsideration reveals that the issues raised and argued by herein Petitioner were already passed upon and sufficiently threshed out in Our *Decision*. Said arguments raised are, in substance, mere reiterations of those previously raised by the Petitioners.

* New Member per Raffle, dated June 18, 2007.

¹ Rollo, pp. 208-222.

² *Id.*, pp. 242-244.

³ *Id.*, pp. 255-258.

⁴ Loose pleading and not included in the marked pages of the rollo; p. 2.

We, therefore, find no cogent reason to deviate from Our earlier dispositions.

On the other hand, We find no merit to the Petitioner's *Motion for Consolidation* considering that both cases were already decided and what remains to be resolved are the respective motions for reconsideration. Hence, the same is no longer proper at this stage.

WHEREFORE, premises considered, the instant *Motion for Reconsideration* and *Motion for Consolidation* are hereby DENIED.

SO ORDERED.

ORIGINAL SIGNED
NORMANDIE B. PIZARRO
Associate Justice

WE CONCUR:

ORIGINAL SIGNED
RICARDO R. ROSARIO
Associate Justice

ORIGINAL SIGNED
AURORA SANTIAGO LAGMAN
Associate Justice

CERTIFIED TRUE COPY

MAS
MIRIAM A. BAUTISTA
Division Clerk of Court
Court of Appeals

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

Received
8-28-07

DEVELOPMENT BANK OF THE
PHILIPPINES,

Petitioner,

-versus-

G. R. No. 178914

C.A.-GR SP No. 89051

(Case Ref.:LRC CASE NO. Q-17793 (04)

RTC- Quezon City, Branch 92)

PRIME NEIGHBORHOOD ASSOCIATION

Respondent.

X-----X

MOTION FOR CONSOLIDATION

PETITIONER DEVELOPMENT BANK OF THE PHILIPPINES (DBP), by
counsel, to this Honorable Court, most respectfully states:

1. On August 22, 2007, DBP filed the instant Petition for Review
dated August 21, 2007, where it is alleged *inter alia* that:

"1. It must be disclosed that there are other pending
cases pertaining to DBP's TCT Nos. 247959 and 247960,
(subject matter of the present petition) namely:

1.1 G.R No. 175728 [Second Division of the
Supreme Court] entitled DBP vs. PNA which is a
Petition for Review under Rule 45, filed by DBP
questioning the granting of Certiorari in CA GR SP No.-
85870.

1.1.1 This present case must be consolidated
with the with C.A. SP No. 85870 (now G.R. No. 175728),
because the issue involved in this case is which is the
implementation of the previously granted writ of

possession thru the issuance of a writ of demolition is closely intertwined with C.A- G. R. SP No. 85870 (now G.R. No. 175728), which is the propriety of the writ of possession, thus,

"The rationale for consolidation is to have all cases intimately related acted upon by one Court/Division to avoid the possibility of conflicting decisions in cases involving the same facts and common questions of law. The cases before the 10th Division and the 9th Division of the Court of Appeals are two (2) such intimately and substantially related cases. Consolidation being called for it cannot be justifiably argued, as private respondents do, that BENGUET is estopped from pleading for such consolidation. To deny the transfer could lead to further protracted litigations to the detriment of the efficient and effective determination of actions and proceedings." (Benguet vs C.A, 165 SCRA 265 [G.R. No. 80902. August 31, 1988.]


1.1.2 Considering that the issue in this case which is the propriety of a writ of demolition cannot be resolved without touching on the issue of the propriety of the issuance of the writ of possession, the two (2) cases should be immediately consolidated. The consolidation is aimed at avoiding inconsistent dispositions by the Courts on substantially the same issues.

2. It is respectfully reiterated that there should be consolidation of this case with G.R No. 175728, which is pending with the Second Division of this Honorable Supreme Court, to avoid the possibility of conflicting decisions in the said cases which involve the same facts and common questions of law.

WHEREFORE, premises considered, it is most respectfully prayed of the Honorable Supreme Court that this case be ordered consolidated with G.R No. 175728 pending with the Second Division of the Supreme Court.

Other reliefs just and equitable in the premises are similarly prayed for.

Makati City for the City of Manila, August 24, 2007.


BENILDA A. TEJADA
Chief Legal Counsel

IBP No. 698223/January 4, 2007/Pasig City
Roll No. 33089 /Negros Occidental Chapter
(PTR Exempt under R.A. 7160)

MARIANO S. GUERRERO, JR.

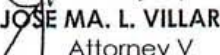
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JOSE MA. L. VILLAREAL
Attorney V

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Development Bank of the Philippines

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Makati City

Copy furnished:

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Clerk of Court

SUPREME COURT

Second Division - Re: G.R. No. 175728

Manila

COURT OF APPEALS

Ma. Orosa,
Manila

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RTC BR. 92
Quezon City

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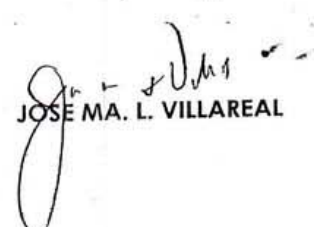
MR. OSCAR ESTOPIN

President
Prime Neighborhood Association
Purok 4 -A, 43 Luzon Avenue
Brgy. Culiati, Quezon City

EXPLANATION

(Pursuant to Section 11, Rule 13 of
the 1997 Rules of Civil Procedure

Copies of the foregoing Motion for Consolidation were served upon the parties herein by registered mail considering the distance of the said parties from the office of herein petitioner and further considering that there is only one available process server who has to attend to the filing and services of pleadings for the entire litigation group of the Legal Department of the DBP.



JOSE MA. L. VILLAREAL

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

Received
8-9-07

DEVELOPMENT BANK OF THE
PHILIPPINES,

Petitioner,

-versus-

G. R. No. _____
(Appeal by Certiorari from
CA-G.R. SP No. 89051)

PRIME NEIGHBORHOOD ASSOCIATION
Respondent.

X-----X

MOTION FOR EXTENSION OF TIME
TO FILE PETITION FOR REVIEW

PETITIONER DEVELOPMENT BANK OF THE PHILIPPINES (DBP), by counsel,
to this Honorable Court, most respectfully states:

1. On September 5, 2006, petitioner DBP received a copy of the
Decision of the Court of Appeals promulgated on August 28, 2006, the
dispositive portion of which provides:

"**WHEREFORE**, premises considered, Petition is hereby
DISMISSED. The questioned Orders of Br. 92, Regional Trial
Court, Quezon City dated November 30, 2004 and
January 17, 2005 respectively, in LRC Case No. Q-17793
are hereby **AFFIRMED in toto**."

SO ORDERED."

A photocopy of which is hereto attached as Annex "A". The
duplicate original will be submitted together with the filing of the Petition.

2. On September 19, 2006, petitioner filed a Motion for
Reconsideration dated September 12, 2006 with the Court of Appeals.

3. On July 24, 2007, petitioner received the Resolution of the Court of Appeals promulgated on July 17, 2007, the dispositive portion of which provides:

"WHEREFORE, premises considered, the instant Motion for Reconsideration and Motion for Consolidation are hereby **DENIED**.

SO ORDERED.

A photocopy of which is hereto attached as Annex "A". The duplicate original will be submitted together with the filing of the Petition.

4. Petitioner DBP intends to file a Petition for Review on Certiorari, on question of law, under Rule 45 of the 1997 Rules of Civil Procedure with this Honorable Court.

5. Under Rule 45, DBP has only fifteen (15) days from its receipt of the Resolution of the Court of Appeals, or until August 8, 2007, within which to file its Petition for Review on Certiorari assailing the said Decision/Resolution.

6. Due to pressure of work in other equally important cases, undersigned counsel will be unable to file the said petition on time. An additional period of fifteen (15) days from August 8, 2007, or until August 23, 2007, is thus needed to do so.

7. This motion is prompted solely by the foregoing reason and not intended for delay.

8 DBP, in accordance with the 1997 Rules of Civil Procedure, has paid the full and proper docket and other lawful fees for its Petition, and deposited the proper amount for costs.

WHEREFORE, premises considered, it is most respectfully prayed that Petitioner DBP be granted an extension of fifteen (15) days from August 8,

2007, or until August 23, 2007, within which to file its Petition for Review on Certiorari before this Honorable Court.

Other reliefs just and equitable are also prayed for:

Makati City for the City of Manila, August 7, 2007.

BENILDA A. TEJADA

Chief Legal Counsel

IBP No. 698223/January 4, 2007/Pasig City
Roll No. 33089 /Negros Occidental Chapter
(PTR Exempt under R.A. 7160)


MARIANO S. GUERRERO, JR.


Asst. Chief Legal Counsel

IBP No. 698214/January 4, 2007/Pasig City
Roll No. 27546/Zambasulta Chapter
(PTR Exempt under R.A. 7160)

RESTITUTO A. LUNA, JR.

Supervising Bank Attorney

IBP No. 698216/January 4, 2007/Pasig City
Roll No. 30909/Laguna Chapter
(PTR Exempt under R.A. 7160)


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Attorney V

IBP No. 698224/January 4, 2007/Pasig City
Roll No. 36524/Quezon Province Chapter
(PTR Exempt under R.A. 7160)

Development Bank of the Philippines

OFFICE OF THE LEGAL COUNSEL

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Cc:

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COURT OF APPEALS

Fifteenth Division
Ma. Orosa St., Manila

HON. SAMUEL H. GAERLAN

Presiding Judge RTC - Branch 92
Quezon City

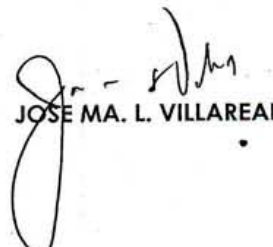
MR. OSCAR ESTOPIN

President
Prime Neighborhood Association
Purok 4 -A, 43 Luzon Avenue
Brgy. Culiat, Quezon City

EXPLANATION

(Pursuant to Section 11, Rule 13 of
the 1997 Rules of Civil Procedure

Copies of the foregoing Motion for Extension of Time to file Petition for Review on Certiorari were served upon the counsels and/or parties herein by registered mail considering the distance of their addresses from the office of herein petitioner and further considering that there is only one available process server who has to attend to the filing and services of pleadings for the entire litigation group of the Legal Department of the DBP.



JOSE MA. L. VILLAREAL

ANNEX "A" 2.06
19/6

Republic of the Philippines
COURT OF APPEALS
Manila

DEVELOPMENT BANK OF THE PHILIPPINES
RECEIVED
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DEVELOPMENT BANK OF THE
PHILIPPINES,

Petitioner,
LUZONVILLE HOMEOWNERS
ASSOCIATION,
Petitioner-in-Intervention,
-versus-

CA-G.R. SP NO. 89051

HON. SAMUEL H. GAERLAN as Pres.
Judge of the RTC of Quezon City, Br. 92,
ET. AL.,

Respondents.

x-----x

NOTICE OF JUDGMENT

Sir/Madam:

Please take notice that on August 28, 2006, a DECISION, a copy of which is hereto attached, was promulgated by the FIFTEENTH DIVISION of the Court of Appeals, in the above-entitled case, the original of which is now on file in this Office.

You are hereby required to inform this Court within FIVE (5) DAYS from receipt hereof of the date you receive this Notice.

Truly yours,

MARIA ISABEL M. PATTUGALAN-MADARANG
Division Clerk of Court

Copy furnished:

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Development Bank of the Phils. - reg. w/rc
(petitioner)
DBP Bldg., cor. Sen. Gil Puyat and Makati
Avenues, Makati City

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c/o Ms. Angelita de Guzman - reg. w/r
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