



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

CESAR A. ALTAREJOS, G.R. No. 247009

CONRADO M. BALAGTAS,

RICKY BOY DC. PIÑEDA,

GAUDIOSO G. JOSOL, ALONZO

DC. CAABAS, WARLITA REMO

CABRITO, ERWIN T.

COMENDADOR, RHACEL R.

FAUSTINO, HERNANE N.

GUERRERO, RENIE L.

SALANGA, BENJAMIN R.

SANTOS, MELCHOR L. JUNIO,

SR., EDGARDO P. SALES,

CARMELITA A. OANES,

REBECCA M. VILLERO,

LEONARDO T. AZURIN, IAN

CRIS Q. DACOCO, JORGE V.

SALANGA, BENEDICTO R.

SALPAYNE, ALFREDO M.

BACHILLER, ARLINDO R.

LUGMAO, ARTHUR E. LLAVAN,

JR., JOSE MARIE N. GERANCE,

CONRADO B. CARUSOS,

ANDREW A. CARUSOS,

RIZALDY M. DELA CRUZ,

VILMOR E. SALARDA, NOEL A.

CARUSOS, JOY A. AGUILAR,

REYNALDO C. AGUILAR, and

ARNEL O. NICART,*

Petitioners,

Present:

LEONEN, J., *Chairperson,*

LAZARO-JAVIER,

LOPEZ, M.,

LOPEZ, J., and

KHO, JR., *JJ.*

-versus-

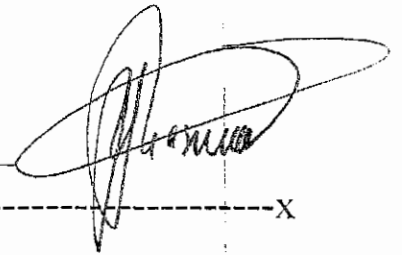
HON. HERBERT BAUTISTA, in
 his capacity as City Mayor of

*Names of some petitioners are differently spelled in other parts of the *rallo*. "Carusos" is sometimes spelled as "Carosos"; "Hernane" sometimes as "Hernani"; and "Arnel" sometimes as "Arnil."

Quezon City; TADEO M. PALMA, in his capacity as Secretary to the Mayor of Quezon City; and MARLOWE Y. JACUTIN, in his capacity as Officer-in-Charge of Task Force COPRISS of Quezon City,

Respondents.

Promulgated:
FEB 26 2024



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DECISION

LEONEN, J.:

Republic Act No. 7279 empowers local chief executives to issue demolition and eviction orders without court intervention, as well as summary eviction, but only on limited grounds. They do not possess unbridled discretion to exercise these powers when the facts of the case fall outside the scope of the law.

This Court resolves a Petition for Review on *Certiorari*¹ assailing the Decision² and Resolution³ of the Court of Appeals, which affirmed the Decision⁴ and Order⁵ of the Regional Trial Court holding that the Quezon City mayor has the legal authority to summarily evict the occupants of a property located at 39-C North Diversion Road, Camachile, Balintawak, Quezon City and have their erring structures demolished.⁶

The occupants, Cesar A. Altarejos et al. (Altarejos et al.), now petitioners before this Court, had been the actual possessors of the property for around 20 to 30 years.⁷

On October 1, 2013, spouses Edilberto and Dolores Palispis (Spouses Palispis) wrote a letter addressed to Tadeo M. Palma (Palma), the Quezon City mayor's secretary, coursed through Marlowe Y. Jacutin (Jacutin), head of the City Government's Task Force for the Control, Prevention, and Removal of

¹ *Rollo*, pp. 3–50.

² *Id.* at 341–354. The September 7, 2018 Decision was penned by Associate Justice Gabriel T. Robeniol and was concurred in by Associate Justices Ricardo R. Rosario (now a member of this Court) and Ramon Paul L. Hernando (now a member of this Court) of the Twelfth Division, Court of Appeals, Manila.

³ *Id.* at 372–375. The April 25, 2019 Resolution was penned by Associate Justice Gabriel T. Robeniol and concurred in by Associate Justices Ramon M. Bato, Jr. and Ricardo R. Rosario (now a member of this Court) of the Special Former Twelfth Division, Court of Appeals, Manila.

⁴ *Id.* at 210–217. The November 18, 2016 Decision was penned by Judge Bernelito R. Fernandez of Branch 97, Regional Trial Court, Quezon City.

⁵ *Id.* at 283–284. The November 6, 2017 Order was penned by Acting Presiding Judge Marilou D. Runes-Tamang of Branch 97, Regional Trial Court, Quezon City.

⁶ *Id.* at 347–351.

⁷ *Id.* at 481.

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Illegal Structures and Squatting (Task Force), requesting “the immediate removal of illegal structures and the[] squatters”⁸ within the property registered in their names.

Altarejos et al. opposed the request. They stated that Spouses Palispis had previously filed an ejectment case over the property but was eventually dismissed with finality, making any attempt to oust them of their possession without court intervention illegal.⁹ In any case, the occupants claimed that the Task Force had no authority to order the demolition of any structure because this authority lies with the building official under the National Building Code of the Philippines.¹⁰

Meanwhile, the Task Force inspected the site and found several structures “for residential and others for commercial use”¹¹ within the property. It held a series of dialogues on three separate dates—October 4, 21, and 29, 2013—with the occupants and the registered owners for an amicable settlement, to no avail.¹²

On November 5, 2013, Jacutin wrote Palma, requesting that the structures be removed in line with Section 3(m) and Section 27 of Republic Act No. 7279.¹³ Jacutin emphasized that Spouses Palispis had presented proof of ownership over the property, while the occupants, who had been leasing the space to others, were professional squatters.¹⁴

In the interim, the Office of the Secretary to the Mayor held more meetings with the occupants, together with the Presidential Commission for the Urban Poor and the Commission on Human Rights. Spouses Palispis committed to extend financial assistance of PHP 30,000.00 to each structure owner. For failure to settle, the occupants continued to stay in the property.¹⁵

On March 17, 2014, Palma issued a Memorandum¹⁶ ordering Jacutin to demolish the structures. It reads:

This refers to the request of Sps. Edilberto and Dolores Palispis dated October 1, 2013, for the demolition of various structures within the lots registered under their names, located at North Diversion Road, Barangay Unang Sigaw, [sic] Quezon City.

⁸ *Id.* at 154.

⁹ *Id.* at 156–157.

¹⁰ *Id.* at 157–161.

¹¹ *Id.* at 555.

¹² *Id.*

¹³ *Id.* at 168.

¹⁴ *Id.*

¹⁵ *Id.* at 343.

¹⁶ *Id.* at 170–171.

In the actual site inspection conducted by the Task Force COPRISS, it revealed that indeed there are various structures within the lots of Sps. Palispis being used for commercial and residential purposes.

....

The record will show that the illegal structure-owners did not submit a [sic] conclusive proof of ownership over the lots they presently occupy specifically the duly recognized Certificate of Title under the existing Torrens System of Registration.

....

In the course of the meetings, proofs of ownership and supporting documents of registered-owner [Sps.] Palispis were furnished the occupants through counsel, such [sic] the copy of the Torrens Titles, Tax Declarations, Tax Map, Lot Plan, the Verification Survey Plan submitted by the Department of Building Official, and the masterlist of occupants and structural survey map submitted by the Housing, Community Development and Resettlement Department (HCDRD). They were likewise furnished copies of the Inspection Report of the Quezon City Fire District dated January 17, 2013, finding the structures therein constitutive of a fire hazards [sic], and the Transmittal of the Department of Building Official dated November 25, 2013, declaring all the structures illegal.

From the result of the census tagging conducted by the Census Team on January 15, 2014, it disclosed [n]ine (9) structure out of [f]orty (40) are being used for commercial/business purposes at the prejudice of the registered-owner.

During the meetings, the registered-owner Sps. Palispis has [sic] committed to extend financial assistance for humanitarian consideration to those structure-owners who are qualified to receive under R.A. 7279 an amount equivalent to sixty (60) days multiplied by the prevailing daily minimum wage. They likewise committed to contribute for trucking assistance, making the financial assistance in the total amount of Thirty Thousand (P30,000.00) Pesos each qualified structure-owner, and has committed a minimal assistance to those sharers or renters included in the Census made on January 15, 2014.

In DILG Opinion No. 16, S.2006, dated March 13, 2006, DILG concludes that the Honorable City Mayor, even without court order, may order the demolition of structures when the same are: (1) constructed without the necessary mayor's permit; (2) the structures were constructed in violation of any law or ordinance.

In view of the foregoing, you are hereby ordered to demolish subject structures based on Quezon City Ordinance No. SP-1800, Series of 2007, in relation to Sec. 455 (b) 3 (vi) of R.A. 7160 otherwise known as the Local Government Code of 1991, and based on Sec. 28, Par. (a) of R.A. 7279.

The structures being used for commercial/business purpose are likewise order[ed] for demolition based on Sec. 27 of R.[A. 7279 in [sic] pursuant to Article 1 Sec. (m) of [the] same law.¹⁷

¹⁷ *Id.*

On April 11, 2014, Jacutin issued the corresponding Notice of Demolition¹⁸ for violations of Section 28(a) of Republic Act No. 7279, Section 455(b)(3)(vi) of the Local Government Code, and Quezon City Ordinance No. SP-1800, series of 2007.¹⁹

This prompted Altarejos et al. to file a Petition for Prohibition before the Regional Trial Court of Quezon City. They alleged that the Memorandum was issued in derogation of the power of the courts and separation of powers.²⁰

On November 18, 2016, the Regional Trial Court issued a Decision²¹ denying the Petition, ruling that the occupants failed to exhaust their administrative remedies. It also found that the Office of the City Mayor acted within its authority under the Local Government Code and Executive Order 708, series of 2008, in ordering the demolition.²²

Altarejos et al. moved for reconsideration, but this was denied by the Regional Trial Court in its November 6, 2017 Order.²³ Aggrieved, they appealed before the Court of Appeals.²⁴

In a September 7, 2018 Decision,²⁵ the Court of Appeals denied the appeal. It held that the Office of the City Mayor had the legal authority to summarily evict the occupants and demolish their structures. It explained that these structures were deemed dangerous under the Local Government Code and Quezon City Ordinance No. SP-1800, which determination was a valid exercise of police power.²⁶ It ruled that the dismissal of the ejectment case did not preclude the Office of the City Mayor, which was not a party in it, from finding that the occupants were illegally occupying the property and that their structures were illegally constructed.²⁷

Altarejos et al. moved for reconsideration, but it was denied by the Court of Appeals in its April 25, 2019 Resolution.²⁸ Hence, Altarejos et al. filed a Petition for Review on *Certiorari*²⁹ before this Court against the Quezon City officials.

¹⁸ *Id.* at 169.

¹⁹ *Id.*

²⁰ *Id.* at 344.

²¹ *Id.* at 210–217.

²² *Id.* at 216–217.

²³ *Id.* at 285–286.

²⁴ *Id.* at 341–354.

²⁵ *Id.* at 283–284.

²⁶ *Id.* at 347–350, 353.

²⁷ *Id.* at 351–352.

²⁸ *Id.* at 372–375.

²⁹ *Id.* at 3–50.

On August 7, 2019, this Court required then Quezon City Mayor Herbert Bautista (Bautista), Palma, and Jacutin to comment on the Petition.³⁰ Respondents filed their Comment³¹ to which petitioners filed their Reply.³²

On March 1, 2023, the Court resolved to give due course to the petition and required the parties to submit their Memoranda within 30 days from receipt.³³ Both petitioners³⁴ and respondents³⁵ filed their respective Memoranda.

Petitioners argue that respondents have no legal authority to summarily evict them and to demolish their structures within the property. They contend that Spouses Palispis's request for demolition is, in effect, an ejectment case on which respondents have no authority to rule.³⁶

According to petitioners, if Spouses Palispis are the true owners of the property, their recourse is to file a case for *accion publiciana* or *accion reivindicatoria*. They say that in seeking the intervention of respondents, Spouses Palispis sidestepped the need for a court order to evict petitioners; respondents, in issuing the demolition order, usurped the power of the courts. Petitioners add that the city mayor cannot exercise purely judicial functions and adjudicate issues of ownership and possession of property as this would violate the principle of separation of powers.³⁷

Moreover, petitioners claim that under the National Building Code, it is the building official who has the authority to order the demolition, not the mayor's secretary. On that score, they say that the building official of Quezon City did not declare that their structures were nuisance, dangerous, and illegally constructed. Nevertheless, even if they violated the National Building Code for lack of permit, they say that the law only provides for an administrative fine or filing of a criminal case, not summary demolition.³⁸

Even if they violated the ordinance, they argue that the Local Government Code provides recourse through judicial proceedings. Respondents allegedly cannot seek refuge under the general welfare clause, which authorizes the abatement of nuisance without judicial proceedings, because this only applies to those deemed as nuisance per se.³⁹

³⁰ *Id.* at 378.

³¹ *Id.* at 434-441.

³² *Id.* at 417-433.

³³ *Id.* at 469-470.

³⁴ *Id.* at 475-511.

³⁵ *Id.* at 574-590.

³⁶ *Id.* at 485.

³⁷ *Id.*

³⁸ *Id.* at 486-487.

³⁹ *Id.* at 487-488.

Petitioners say that none of the grounds under Republic Act No. 7279 exist for eviction to be allowed.⁴⁰ Further, under its Implementing Rules and Regulations, only new squatter families whose structures were built after the effectivity of the law and squatter families identified by the local government unit as professional squatters or members of squatting syndicates shall be subject to summary eviction.⁴¹

Thus, citing *Alangdeo v. City Mayor of Baguio*,⁴² petitioners emphasize that absent compliance with the laws allowing for summary eviction, respondents cannot oust them through a summary demolition order, but must follow the proper processes under the law.⁴³ Petitioners say that respondents erred in relying on DILG Opinion No. 16, series of 2006, and Quezon City Ordinance No. SP-1800, which cannot prevail over an act of Congress or the Constitution.⁴⁴

Petitioners also argue that there is a violation of due process since the Task Force is not a court with jurisdiction and judicial power to adjudge the matter. As such, they were allegedly not given the opportunity to be heard and there was no hearing to ascertain their respective positions.⁴⁵

In any case, even if the structures were illegally constructed, petitioners submit that they can simply be directed to comply with the law.⁴⁶

Respondents maintain that they have the legal authority to summarily evict petitioners and demolish their structures. They cite the Quezon City Fire District's January 17, 2013 Inspection Report finding the structures as fire hazards, and the November 25, 2013 Transmittal Letter from the Department of the Building Official declaring the structures as illegal.⁴⁷ These findings allegedly make the structures dangerous, which the city mayor, under Quezon City Ordinance No. SP-1800 and Section 455(b)(3)(vi) of the Local Government Code, has the authority to demolish.⁴⁸

Further, respondents contend that their authority is even bolstered by the DILG Opinion No. 16, which provides that a city mayor can order demolition without any court order when structures are constructed: (1) without the necessary mayor's permit; or (2) in violation of any law or ordinance.⁴⁹ Besides, they point out that Executive Order No. 708, series of 2008, which amended Executive Order No. 152, series of 2002, devolved the

⁴⁰ *Id.* at 488.

⁴¹ *Id.* at 499.

⁴² 762 Phil. 539 (2015) [Per J. Perlas-Bernabe, First Division].

⁴³ *Rollo*, p. 494.

⁴⁴ *Id.* at 497.

⁴⁵ *Id.* at 504–505.

⁴⁶ *Id.* at 506–507.

⁴⁷ *Id.* at 559.

⁴⁸ *Id.* at 560.

⁴⁹ *Id.* at 561.

power to demolish to the local government units instead of the Presidential Commission for the Urban Poor.⁵⁰

On petitioners' claim of violation of separation of powers, respondents contend that the argument is misplaced. Echoing the Court of Appeals, respondents insist that a judicial action for ejectment is distinct from the administrative action against illegal structures and individuals illegally occupying land that does not belong to them.⁵¹

As to the case of *Alangdeo*, respondents claim that it is not on all fours with that case. Unlike in *Alangdeo*, respondents point out that Spouses Palispis have title to the property, and the building official has declared that the improvements made by petitioners are illegal structures.

This notwithstanding, respondents insist that the demolition order was issued pursuant to their police power enabling them "to prohibit all things hurtful to the comfort, safety[,] and welfare of society."⁵²

The issues for this Court's resolution are:

First, whether the Petition for Prohibition filed is the proper remedy;

Second, whether city mayors have the legal authority to order demolitions and evictions without court intervention and summarily; and

Finally, whether respondents, in issuing the demolition order, acted with grave abuse of discretion.

We grant the Petition.

I

Under Rule 65, Section 2 of the Rules of Court, a writ of prohibition is issued to command a person to desist from further proceeding in an action or matter.⁵³ For it to be issued, the following requisites must concur: (a) it must be directed against a tribunal, corporation, board, or person exercising functions, judicial or ministerial; (b) the tribunal, corporation, board, or person has acted without or in excess of jurisdiction, or with grave abuse of discretion; and (c) there is no appeal or any other plain, speedy, and adequate

⁵⁰ *Id.* at 562.

⁵¹ *Id.* at 563.

⁵² *Id.* at 568. (Citation omitted)

⁵³ RULES OF COURT, Rule 65, sec. 2.

remedy in the ordinary course of law.⁵⁴

In *City Engineer of Baguio v. Baniqued*,⁵⁵ this Court clarified that although mayors mainly discharge executive roles, they nevertheless perform quasi-judicial functions, particularly when issuing demolition notices or orders.⁵⁶ In *Aquino v. Municipality of Malay, Aklan*,⁵⁷ this Court said:

[I]t is the nature of the act to be performed, rather than of the office, board, or body which performs it, that determines whether or not a particular act is a discharge of judicial or quasi-judicial functions. . . .

It is not essential that the challenged proceedings should be strictly and technically judicial, in the sense in which that word is used when applied to courts of justice, but it is sufficient if they are quasi-judicial. To contrast, a party is said to be exercising a judicial function where he has the power to determine what the law is and what legal rights of the parties are, and then undertakes to determine these questions and adjudicate upon the rights of the parties, whereas quasi-judicial function is “a term which applies to the actions, discretion, etc., of public administrative officers or bodies . . . required to investigate facts or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for their official action and to exercise discretion of a judicial nature.”⁵⁸ (Citations omitted)

Assessing the legality of a structure and deciding whether it warrants demolition entails specific factual inquiries, which require conducting hearings to reach a verdict.⁵⁹ In pursuit of these functions, city mayors are bound to exercise quasi-judicial powers.⁶⁰ It follows that a petition for prohibition is a proper remedy to command city mayors to desist from implementing their demolition or eviction orders and from further proceeding on the matter when these are issued with grave abuse of discretion.

In this case, the Regional Trial Court, in denying the Petition for Prohibition, simply went to conclude:

At first glance, it must be noted that based on the allegations in the Petition, the petitioners failed to comply with one of the requisites for the issuance of a writ of prohibition – there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law. Nowhere in the Petition was it alleged that petitioners sought administrative relief before the office of the public respondents. Clearly, petitioners did not seek administrative recourse before filing this action.⁶¹

⁵⁴ *Montes v. Court of Appeals*, 523 Phil. 98, 107 (2006) [Per J. Tinga, Third Division].

⁵⁵ 592 Phil. 348 (2008) [Per J. R.T. Reyes, Third Division].

⁵⁶ *Id.* at 362.

⁵⁷ 744 Phil. 497 (2014) [Per J. Velasco, Jr., Third Division].

⁵⁸ *Id.* at 511–512.

⁵⁹ *City Engineer of Baguio v. Baniqued*, 592 Phil. 348, 362 (2008) [Per J. R.T. Reyes, Third Division].

⁶⁰ *Aquino v. Municipality of Malay, Aklan*, 744 Phil. 497, 511–512 (2014) [Per J. Velasco, Jr., Third Division].

⁶¹ *Rollo*, p. 216.

We find this hasty conclusion without any basis.

Petitioners, as seen in their letter sent to respondent Jacutin, have been actively seeking administrative relief as early as October 21, 2013.⁶² Respondents themselves even admit that petitioners attended several meetings and dialogues before the office of respondent Palma.⁶³ Only when all of these remedies failed did petitioners seek an adequate remedy by filing their Petition for Prohibition.

Besides, the doctrine of exhaustion of administrative remedies was never meant to be an ironclad rule.⁶⁴ Jurisprudence has provided for several exceptions:

(1) when the question raised is purely legal; (2) when the administrative body is in estoppel; (3) when the act complained of is patently illegal; (4) *when there is urgent need for judicial intervention*; (5) when the claim involved is small; (6) *when irreparable damage will be suffered*; (7) when there is no other plain, speedy, and adequate remedy; (8) when strong public interest is involved; (9) when the subject of the proceeding is private land; (10) in *quo warranto* proceedings; and (11) where the facts show that there was violation of due process.⁶⁵ (Emphasis supplied, citation omitted)

Here, judicial intervention was urgently needed. The filing of any other administrative relief before the Quezon City offices would have been futile. The issuance of the Memorandum and the Notice of Demolition solidified respondents' resolve that the structures were illegal fire hazards. In turn, petitioners would have suffered irreparable damage had the demolition pushed through. As there is no other plain, speedy, and adequate remedy in the ordinary course of law, filing a Petition for Prohibition was only proper.

II

Petitioners claim that the Memorandum and the Notice of Demolition violated the principle of separation of powers because city mayors cannot adjudicate issues of ownership in the guise of demolition orders. Against this, respondents maintain that it is ejectment that requires judicial imprimatur—different from the power to demolish and evict, which may be done without court order and summarily.

Respondents are correct.

⁶² *Id.* at 156–161.

⁶³ *Id.* at 555.

⁶⁴ *Triste v. Leyte State College Board of Trustees*, 270 Phil. 425, 436 (1990) [Per C.J. Fernan, Third Division].

⁶⁵ *City Engineer of Baguio v. Baniqued*, 592 Phil. 348, 358 (2008) [Per J. R.T. Reyes, Third Division].

First, the power of demolition is distinct from the remedy of ejectment.

The judicial action for ejectment concerns nothing but the issue on who has the better right of possession over the property. Article 536 of the Civil Code provides:

ARTICLE 536. In no case may possession be acquired through force or intimidation as long as there is a possessor who objects thereto. He who believes that he has an action or a right to deprive another of the holding of a thing, must invoke the aid of the competent court, if the holder should refuse to deliver the thing.

In *Eversley Childs Sanitarium v. Spouses Barbarona*:⁶⁶

By its very nature, an ejectment case only resolves the issue of who has the better right of possession over the property. The right of possession in this instance refers to actual possession, not legal possession. While a party may later be proven to have the legal right of possession by virtue of ownership, he or she must still institute an ejectment case to be able to dispossess an actual occupant of the property who refuses to vacate. In *Mediran v. Villanueva*:

Juridically speaking, possession is distinct from ownership, and from this distinction are derived legal consequences of much importance. In giving recognition to the action of forcible entry and detainer the purpose of the law is to protect the person who in fact has actual possession; and in case of controverted right, it requires the parties to preserve the status quo until one or the other of them sees fit to invoke the decision of a court of competent jurisdiction upon the question of ownership. It is obviously just that the person who has first acquired possession should remain in possession pending this decision; and the parties cannot be permitted meanwhile to engage in a petty warfare over the possession of the property which is the subject of dispute. To permit this would be highly dangerous to individual security and disturbing to social order. Therefore, where a person supposes himself to be the owner of a piece of property and desires to vindicate his ownership against the party actually in possession, it is incumbent upon him to institute an action to this end in a court of competent jurisdiction; and he [cannot] be permitted, by invading the property and excluding the actual possessor, to place upon the latter the burden of instituting an action to try the property right.⁶⁷
(Citations omitted)

On the other hand, Section 455(b)(3)(vi) of the Local Government Code

⁶⁶ 829 Phil. 111 (2018) [Per J. Leonen, Third Division].

⁶⁷ *Id.* at 129–130.

authorizes city mayors to issue demolition orders:

SECTION 455. The Chief Executive: Powers, Duties, Functions and Compensation. —

....

- (vi) Require owners of illegally constructed houses, buildings or other structures to obtain the necessary permit, subject to such fines and penalties as may be imposed by law or ordinance, or to make necessary changes in the construction of the same when said construction violates any law or ordinance, *or to order the demolition or removal of said house, building or structure within the period prescribed by law or ordinance.* (Emphasis supplied)

Republic Act No. 7279, or the Urban Development and Housing Act of 1992, is a key social legislation that aims to uplift the conditions of the underprivileged and homeless citizens in urban and resettlement areas by making available to them decent housing at affordable cost, basic services, and employment opportunities.⁶⁸

Corollary to this, Republic Act No. 7279, in relation to Executive Order No. 708, series of 2008, empowers local government units to conduct demolition and eviction activities, particularly:

SECTION 27. Action Against Professional Squatters and Squatting Syndicates. — The local government units, in cooperation with the Philippine National Police, the Presidential Commission for the Urban Poor (PCUP), and the PCUP-accredited urban poor organization in the area, shall adopt measures to identify and effectively curtail the nefarious and illegal activities of professional squatters and squatting syndicates, as herein defined.

Any person or group identified as such shall be *summarily evicted* and their dwellings or structures *demolished*, and shall be disqualified to avail of the benefits of the Program. A public official who tolerates or abets the commission of the abovementioned acts shall be dealt with in accordance with existing laws.

....

SECTION 28. Eviction and Demolition. — Eviction or demolition as a practice shall be discouraged. *Eviction or demolition*, however, may be *allowed* under the following situations:

- (a) When persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds;

⁶⁸ Republic Act No. 7279 (1992), sec. 2(a).

- (b) When government infrastructure projects with available funding are about to be implemented; or
- (c) When there is a court order for eviction and demolition.
(Emphasis supplied)

Given that ejection and demolition are based on different provisions of law, city mayors are not precluded from ordering demolition or eviction despite the filing, pendency, or even finality of an ejection case concerning the same property, provided that it is done within the period prescribed by the law or ordinance that allowed it.


City mayors have the legal authority to order demolitions and evictions *without court intervention* under Section 28(a) and (b) of Republic Act No. 7279, and *summarily* under Section 27 of the same law. Thus, the claim of petitioners that respondents usurped the power of the courts in issuing the Memorandum ordering the demolition does not hold water.

III

DILG Opinion No. 16, series of 2016, lays down the specific instances when a city mayor may order demolition without any court order under Section 455(b)(3)(vi) of the Local Government Code, and under Sections 27 and 28 of Republic Act No. 7279:

Accordingly, even without a court order, the mayor may order the demolition of structures when the same are: 1) constructed without the necessary mayor's permit; 2) the structures were constructed in violation of any law or ordinance. Additionally, even without a court order, the city mayor may also order the summary eviction and demolition of structures occupied by professional squatters and squatting syndicates as defined under Sec. 27 of RA 7279 after they shall have been identified as such; 3) when the structures occupied by persons are situated in danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shoreline, waterways and other public places such as sidewalks, roads, parks and playgrounds; or 4) when the government infrastructure projects with available funding are about to be implemented. Outside of the above instances, the mayor cannot order the demolition of structures without order from the court.

Section 27 of Republic Act No. 7279 allows for *summary* eviction of: (1) new squatter families whose structures were built after the effectivity of Republic Act No. 7279; and (2) squatter families identified by the local government unit in cooperation with the Presidential Commission of the Urban Poor, Philippine National Police, and accredited Urban Poor Organization as professional squatters or members of squatting syndicates as defined in the law.



The Implementing Rules and Regulations governing summary eviction provides for procedures and guidelines for its implementation:

Section 2 of the Summary Eviction IRR provides that only new squatter 34 families whose structures were built after the effectivity of RA 7279, otherwise known as the “Urban Development and Housing Act of 1992,” and squatter families identified by the local government unit (LGU) as professional squatters or members of squatting syndicates shall be subject of summary eviction:

SECTION 2. Coverage. — The following shall be subject for summary eviction:

1.0 *New* squatter families whose structures were built after the effectivity of RA 7279; and

2.0 Squatter families identified by the LGU in cooperation with the Presidential Commission of the Urban Poor (PCUP), Philippine National Police (PNP) and accredited Urban Poor [O]rganization (UPO) as *professional squatters* or members of *squatting syndicates* as defined in the Act.

Under the Summary Eviction IRR, the term “summary eviction” has been defined as “the immediate dismantling of new illegal structures by the local government units or government agency authorized to [demolish] in coordination with the affected urban poor organizations without providing the structure owner(s) any benefits of the Urban Development and Housing Program.”

Meanwhile, the terms “new squatter,” “professional squatters,” and “squatting syndicates” have been respectively defined as follows:

“New squatter” refers to individual groups who occupy land without the express consent of the landowner after March 28, 1992. Their structures shall be dismantled and appropriate charges shall be filed against them by the proper authorities if they refuse to vacate the premises.

“Professional squatters” refers to individuals or groups who occupy lands without the express consent of the landowner and who have sufficient income for legitimate housing. The term shall also apply to persons who have previously been awarded homelots or housing units by the Government but who sold, leased or transferred the same to settle illegally in the same place or in another urban area, and non-bona fide occupants and intruders of lands reserved for socialized housing. The term shall not apply to individuals or groups who simply rent land and housing from professional squatters or squatting syndicates.

“Squatting syndicates” refers to group of persons engaged in the business of squatter housing for profit or gain.⁶⁹

⁶⁹ *Alungdeo v. City Mayor of Baguio*, 762 Phil. 539, 550–552 (2015) [Per J. Perlas-Bernabe, First Division].

This, however, should be differentiated from Section 28 of the law, which provides for the following grounds: (1) when persons or entities occupy danger areas such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds; and (2) when government infrastructure projects with available funding are about to be implemented. The same provision provides for due process requirements for its facilitation.

Thus, in *Kalipunan ng Damayang Mahihirap, Inc. v. Robredo*:⁷⁰

We note that Section 10, Article 13 of the 1987 Constitution provides that urban or rural poor dwellers shall not be evicted nor their dwelling demolished, except in accordance with law and in a just and humane manner. Paragraph 1, Section 28 of RA 7279 allows summary evictions and demolition in cases where persons or entities occupy danger areas and when persons or entities occupy areas where government infrastructure projects with available funding are about to be implemented.

In the execution of eviction or demolition orders involving underprivileged and homeless citizens, the following shall be mandatory:

(1) Notice upon the effected persons or entities at least thirty (30) days prior to the date of eviction or demolition;

(2) Adequate consultations on the matter of settlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated;

(3) Presence of local government officials or their representatives during eviction or demolition;

(4) Proper identification of all persons taking part in the demolition;

(5) Execution of eviction or demolition only during regular office hours from Mondays to Fridays and during good weather, unless the affected families consent otherwise;

(6) No use of heavy equipment for demolition except for structures that are permanent and of concrete materials;

(7) Proper uniforms for members of the Philippine National Police who shall occupy the first line of law enforcement and observe proper disturbance control procedures; and

⁷⁰ 739 Phil. 283 (2014) [Per J. Brion, *En Banc*].

(8) Adequate relocation, whether temporary or permanent: Provided, however, That in cases of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, relocation shall be undertaken by the local government unit concerned and the National Housing Authority with the assistance of other government agencies within forty-five (45) days from service of notice of final judgment by the court, after which period the said order shall be executed: Provided, further, That should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing minimum daily wage multiplied by sixty (60) days shall be extended to the affected families by the local government unit concerned.

This Department of the Interior and Local Government and the Housing and Urban Development Coordinating Council shall jointly promulgate the necessary rules and regulations to carry out the above provision.⁷¹

While demolition and eviction without judicial intervention, as well as summary eviction, are sanctioned by law and jurisprudence, the grounds for when city mayors may exercise these powers are limited. City mayors do not possess unbridled power, more so discretion, to exercise such powers when the facts of the case fall outside the scope of the law.

The facts of this case does not fall under the scope of the law.

To recall, the March 14, 2014 Memorandum ordering the demolition of petitioners' structures mentioned violations of Quezon City Ordinance No. SP-1800, in relation to Section 455(b)(3)(vi) of the Local Government Code, and Sections 27 and 28(a) of Republic Act No. 7279.⁷² Meanwhile, the Notice of Demolition cited violations of Section 28(a) of Republic Act No. 7279, Section 455(b)(3)(vi) of the Local Government Code, and Quezon City Ordinance No. SP-1800.⁷³

Respondents cannot summarily evict petitioners by virtue of Section 27 of Republic Act No. 7279 for utter lack of legal basis.

Petitioners cannot be considered as new squatter families whose structures were built after Republic Act No. 7279 had taken effect. As early as 2006, when Spouses Palispis filed the first ejectment case, petitioners had been occupying the structures for more than 20 years.⁷⁴ Since Republic Act No. 7279 was passed into law in 1992, the structures were clearly built before its effectivity. Second, petitioners were never identified as "professional

⁷¹ *Id.* at 297–298.

⁷² *Rollo*, p. 171.

⁷³ *Id.* at 169.

⁷⁴ *Id.* at 210.

squatters” or as members of any “squatting syndicates.” Respondents simply used the data finding nine of 40 structures being used for *commercial* purposes to justify including them in the order of demolition;⁷⁵ yet, simply using these structures for commercial purposes does not equate to the individuals being engaged in the illegal business of squatter housing for profit or gain.

The alleged violation of Section 28(a) of Republic Act No. 7279 is also unfounded. The structures are not shown to be in *danger areas* such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, or waterways, or public areas, such as a sidewalk, road, park, or playground.⁷⁶ At most, respondents relied on the Inspection Report, which revealed that the structures were fire hazards.⁷⁷ However, the classification of a structure as a fire hazard pertains to the condition or defect that renders any building dangerous or ruinous.⁷⁸ It does not consider the area in which the structure is located. Hence, the demolition order finds no basis.

As to the alleged violation of Quezon City Ordinance No. SP-1800, respondents posit that the structures are dangerous, which the city mayor, under Section 455(b)(3)(vi) of the Local Government Code, has the authority to demolish.⁷⁹ This argument, yet again, fails to persuade.

Quezon City Ordinance No. SP-1800⁸⁰ was enacted to regulate the construction, repair, modification, and demolition of buildings and structures including illegally constructed, abandoned, dangerous, or unfinished buildings and structures in the city. Particularly:

SECTION 8. Declaration of Building or Structure as Dangerous or Ruinous or Illegal. — If, after inspection, the *Building Official* finds that the building or structure, whether completed or still being constructed, is being or was constructed without a valid Building Permit, or is so structurally unsafe or dangerous that it endangers lives and limbs, or the health or safety of the public or may destroy or damage properties, or may pollute or degrade the environment, and the Owner or Contractor thereof, after notice from the City Mayor or the Building Official, fails or refuses to secure a Building Permit, or to rectify such defects that cause the building, or the structure to be unsafe or dangerous, or pollute or degrade the environment, and to put safety and/or other appropriate measures to remove said risk or danger, or stop the pollution or degradation of the environment, the Building Official shall *declare* the building or structure as illegally constructed, dangerous or ruinous.

⁷⁵ *Id.* at 171.

⁷⁶ Republic Act No. 7279 (1992), sec. 28(a).

⁷⁷ *Rollo*, pp. 171, 559.

⁷⁸ Implementing Rules and Regulations of the National Building Code (2005), sec. 215.

⁷⁹ *Rollo*, p. 560.

⁸⁰ Quezon City Ordinance No. SP-1800 (September 24, 2007), An Ordinance Regulating the Construction, Repair, Modification, and Demolition of Buildings and Structures Including Illegally Constructed, Abandoned, Dangerous, or Unfinished Building and Structures in Quezon City, and Imposing Regulation Fees and Penalties for Violation Hereof.

SECTION 9. Order to Vacate, Repair or Demolish. — The *Building Official* shall serve a written *Order* to the Owner, Contractor, or person having controlling interest in the building or structure, informing him of his findings and directing him/it to vacate the premises, if occupied, or cause the premises to be vacated, and to repair, demolish and remove, as the case may be, the *dangerous or ruinous* building within a reasonable time indicated in the Order by the Building Official. If the Owner, Contractor or the person claiming or having controlling legal interest therein does not appeal the Order of the Building Official and fails or refuse[s] to comply therewith within the time given, the *Building Official* shall administratively *eject* the occupants of the building or structure, if any, or cause any occupants thereof to vacate the same and a) undertake the repair thereof, if technically and financially feasible; or b) *demolish* the subject building or structure and remove the same. In either case, the Building Official shall charge to, and collect from, the Owner, Contractor, or person claiming or having controlling legal interest therein, all the expenses for causing the occupants thereof to vacate the building or structure, its repair, or its demolition and all the works attendant thereto. The Owner, Contractor, or person claiming or having controlling legal interest in the building or structure shall be jointly and severally (solidary) liable for the aforesaid costs and expenses.

In case of illegally constructed building or structure, the *City Mayor*, upon the finding by the *Building Official* or the *Quezon City Engineering Department* that the Building or structure is illegally constructed, shall order the Owner, Contractor or the person claiming or having controlling legal interest therein to secure the appropriate Building Permit within thirty (30) days from receipt of the said Order. If the Owner, Contractor, or the person claiming or having controlling legal interest in the building or structure fails or refuses to secure the appropriate Building Permit within the said period, the City Mayor shall order the eviction of the occupants thereof, if any, and the demolition or removal of the said house, building, or structure. (Emphasis supplied)

Based on this, it is the building official, *not* the city mayor, who has the authority to: (1) *declare* that a building or structure is dangerous, ruinous, or illegal; and (2) *order* the demolition of dangerous or ruinous buildings.

This is consistent with the mandate of the National Building Code. As explained in *Alangdeo v. Yaranon*.⁸¹

Section 215 of the NBCP, and its corresponding IRR provision (both of which are respectively quoted hereunder) states that before a structure may be abated or demolished, there must first be a finding or declaration by the Building Official that the building/structure is a nuisance, ruinous or dangerous:

Section 215. Abatement of Dangerous Buildings. —

When any building or structure is found or declared to be dangerous or ruinous, the Building Official shall order its repair, vacation or demolition depending upon the degree of

⁸¹ 762 Phil. 539 (2015) [Per J. Perlas-Bernabe, First Division].

danger to life, health, or safety. This is without prejudice to further action that may be taken under the provisions of Articles 482 and 694 to 707 of the Civil Code of the Philippines.

PROCEDURE FOR ABATEMENT/DEMOLITION OF DANGEROUS/RUINOUS BUILDINGS/STRUCTURES

5. Procedure for Demolition of Buildings

The following steps shall be observed in the abatement/demolition of buildings under this Rule:

5.1 There must be a *finding or declaration by the Building Official that the building/structure is a nuisance, ruinous or dangerous.*

5.2 Written notice or advice shall be served upon the owner and occupant/s of such finding or declaration, giving him at least fifteen (15) days within which to vacate or cause to be vacated, repaired, renovated, demolished and removed as the case may be, the nuisance, ruinous or dangerous building/structure or any part or portion thereof.

5.3 Within the fifteen-day (15) period, the owner may, if he so desires, appeal to the Secretary the finding or declaration of the Building Official and ask that a re-inspection or re-investigation of the building/structure be made.

To this, it bears noting that it is the *Building Official, and not the City Mayor, who has the authority to order the demolition* of the structures under the NBCP. As held in *Gancayco v. City Government of Quezon City*:

[T]he Building Code clearly provides the process by which a building may be demolished. The authority to order the demolition of any structure lies with the Building Official.⁸²
(Emphasis supplied)

In this case, it is undisputed that the building official has never: (1) *declared* that the structures were dangerous or ruinous; and (2) *ordered* that these be demolished. No written notice or advice was served on petitioners declaring their structures to be nuisance, ruinous, or dangerous. Thus, respondents' own declaration that the structures were dangerous, without accounting for the procedure under Section 8 of Quezon City Ordinance No. SP-1800 and the National Building Code, is utterly unfounded.

At most, the records show that the building official declared the structures as *illegal*.⁸³

⁸² *Id.* at 553–556.

⁸³ *Rollo*, p. 171.

Quezon City Ordinance No. SP-1800 defines an illegally constructed building or structure as that which is “constructed without the necessary and valid [b]uilding [p]ermit obtained from the [b]uilding [o]fficial of Quezon City or is otherwise constructed, existing or is maintained in violation of any specific requirement or prohibition applicable to such building or structure as provided in the National Building Code or in any law or ordinance of Quezon City.”⁸⁴

In *Alangdeo*, this Court clarified that the lack of building permit would *not* result in a summary demolition:

While respondents make much ado of petitioners’ lack of building permits, it should be underscored that under Presidential Decree No. 1096, otherwise known as the “National Building Code of the Philippines” (NBCP), the mere fact that a structure is constructed without a building permit, as well as non-compliance with work stoppage order, without more, will not call for a summary demolition, but subjects the violator to an administrative fine under Section 212, Chapter II of the NBCP, or a criminal case under Section 213 of the same law.

Indeed, while Section 301, Chapter III of the NBCP states that “[n]o person, firm or corporation, including any agency or instrumentality of the government shall erect, construct, alter, repair, move, convert or demolish any building or structure or cause the same to be done without first obtaining a building permit therefor from the Building Official assigned in the place where the subject building is located or the building work is to be done,” the remedy of summary abatement against the bare absence of a building permit was not provided for.⁸⁵ (Citations omitted)

This conclusion is consistent with Section 455(b)(3)(vi) of the Local Government Code, which provides that city mayors shall only require owners of illegally constructed houses, buildings, or other structures *to obtain* the permit without necessarily resorting to demolition. Thus, declaring a building *illegal* will not immediately result in its demolition.

Section 9 of Quezon City Ordinance No. SP-1800 states that the city mayor shall first order the owner, contractor, or the person claiming or having controlling legal interest therein to secure the appropriate building permit within 30 days from receipt of the said order. Only when such person *fails or refuses to secure* the building permit within the period can the city mayor order the eviction of the occupants and the demolition of the structures.

Here, the records again do not show that respondents first required petitioners to secure the appropriate building permit before ordering the demolition, which runs counter to Section 9 of the ordinance. Thus, respondents cannot order the demolition of the structures.

⁸⁴ Quezon City Ordinance No. SP-1800 (2007), sec. 2(h).

⁸⁵ *Alungdeo v. City of Baguio*, 762 Phil. 539, 552–553 (2015) [Per J. Perlas-Bernabe, First Division].

In their last-ditch effort to defend the legality of the issuance of the Memorandum ordering the demolition and the subsequent Notice of Demolition, respondents posit that it is incumbent upon them to demolish dangerous structures by virtue of the city's police power.⁸⁶

In *Fernando v. St. Scholastica's College*,⁸⁷ this Court emphasized that police power is delegated to the legislative bodies of the local government units through Section 16 of the Local Government Code:

Police power is the plenary power vested in the legislature to make statutes and ordinances to promote the health, morals, peace, education, good order or safety and general welfare of the people. The State, through the legislature, has delegated the exercise of police power to local government units, as agencies of the State. This delegation of police power is embodied in Section 16 of the Local Government Code of 1991 (R.A. No. 7160), known as the General Welfare Clause, which has two branches. The first, known as the general legislative power, authorizes the municipal council to enact ordinances and make regulations not repugnant to law, as may be necessary to carry into effect and discharge the powers and duties conferred upon the municipal council by law. The second, known as the police power proper, authorizes the municipality to enact ordinances as may be necessary and proper for the health and safety, prosperity, morals, peace, good order, comfort, and convenience of the municipality and its inhabitants, and for the protection of their property.⁸⁸ (Citations omitted)

While Quezon City Ordinance No. SP-1800 was enacted in line with the city council's delegated police power under Section 16, respondents, not being members of the city council, cannot rely on this provision to validate the demolition order. As members of the executive department of Quezon City, they are tasked with executing and implementing the ordinance, a duty they miserably failed to fulfill here.

As early as 1941, in *Alafriz v. Nable*,⁸⁹ this Court has defined grave abuse of discretion:

"Grave abuse of discretion" implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.⁹⁰ (Emphasis supplied, citations omitted)

⁸⁶ *Rollo*, p. 568.

⁸⁷ 706 Phil. 138 (2013) [Per J. Mendoza, *En Banc*].

⁸⁸ *Id.* at 156.

⁸⁹ 72 Phil. 278 (1941) [Per J. Moran, First Division].

⁹⁰ *Id.* at 280.

This Court has consistently ruled that any judgement, order, or resolution issued without jurisdiction is void:


Jurisdiction is the basic foundation of judicial proceedings. It is simply defined as the power and authority — conferred by the Constitution or statute — of a court to hear and decide a case. Without jurisdiction, a judgment rendered by a court is null and void and may be attacked anytime. Indeed, a void judgment is no judgment at all — it can neither be the source of any right nor the creator of any obligation; all acts performed pursuant to it and all claims emanating from it have no legal effect.⁹¹ (Citations omitted)

Here, the city mayor transgressed the bounds prescribed by the law and the ordinance. The structures do *not* fall within the scope of the law that allows for summary demolition and demolition without court intervention under Republic Act No. 7279 and Quezon City Ordinance No. SP-1800.

Therefore, the March 17, 2014 Memorandum ordering the demolition of petitioners' structures is issued *in excess* of the city mayor's statutory authority, amounting to grave abuse of discretion; thus, it is void.

ACCORDINGLY, the Petition is **GRANTED**. The September 7, 2018 Decision and April 25, 2019 Resolution of the Court of Appeals in CA-G.R. SP No. 154278 are **REVERSED** and **SET ASIDE**. The March 17, 2014 Memorandum ordering the demolition of petitioners' structures is declared **VOID** for being issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

SO ORDERED.



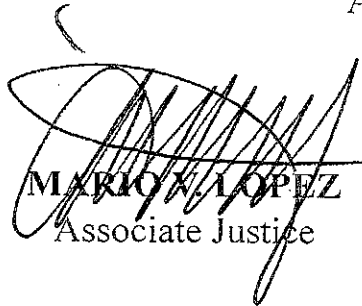
MARVIC M.V.F. LEONEN
Senior Associate Justice

⁹¹ *Denila v. Republic*, 877 Phil. 380, 443–444 (2020) [Per J. Gesmundo, Third Division].

WE CONCUR:



AMY C. LAZARO-JAVIER
Associate Justice



MARION LOPEZ
Associate Justice




JHOSEP Y. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARYIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice