Republic of the Philippines
Supreme Court
Manila

EN BANC

SOCIAL JUSTICE SOCIETY (SJS) OFFICERS, NAMELY, SAMSON S. ALCANTARA, and VLADIMIR ALARIQUE T. CABIGAO,
Petitioners,

-versus-

ALFREDO S. LIM, in his capacity as mayor of the City of Manila,
Respondent.

x----------x

G.R. No. 187836

JOSE L. ATIENZA, JR., BIENVINIDO M. ABANTE, MA. LOURDES M. ISIP-GARCIA, RAFAEL P. BORROMEO JOCELYN DAWIS-ASUNCION, minors MARIAN REGINA B. TARAN, MACAILA RICCI B. TARAN, RICHARD KENNETH B. TARAN, represented and joined by their parents RICHARD AND MARITES TARAN, minors CZARINA ALYSANDRA C. RAMOS, CEZARAH ADRIANNA C. RAMOS, and CRISTEN AIDAN C. RAMOS represented and joined by their mother DONNA C. RAMOS, minors JAZMIN SYLLITA T. VILA AND ANTONIO T. CRUZ IV, represented and joined by their mother MAUREEN C. TOLENTINO,
Petitioners,

G.R. No. 187916

Present:

SERENO, *C.J.*,
CARPIO,*
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA,* *JJ.*

-versus-

MAYOR ALFREDO S. LIM, VICE MAYOR FRANCISCO DOMAGOSO, COUNCILORS ARLENE W. KOA, MOISES T. LIM, JESUS FAJARDO LOUISITO N. CHUA, VICTORIANO A. MELENDEZ, JOHN MARVIN C. NIETO, ROLANDO M. VALERIANO, RAYMUNDO R. YUPANGCO, EDWARD VP MACEDA, RODERICK D. VALBUENA, JOSEFINA M. SISCAR, SALVADOR PHILLIP H. LACUNA, LUCIANO M. VELOSO, CARLO V. LOPEZ, ERNESTO F. RIVERA,[1] DANILO VICTOR H. LACUNA, JR., ERNESTO G. ISIP, HONEY H. LACUNA-PANGAN, ERNESTO M. DIONISO, JR. and ERICK IAN O. NIEVA,

Respondents.

x----------x

CHEVRON PHILIPPINES INC., PETRON CORPORATION AND PILIPINAS SHELL PETROLEUM CORPORATION,

Intervenors.

Promulgated:

March 10, 2015

x----------x

RESOLUTION

PEREZ, *J.*:

---

* No part.

1 In a Resolution dated 21 July 2009, the Court granted the motion to drop respondent Ernesto Rivera as a party-respondent on the ground that he actually voted against the enactment of the assailed ordinance. *Rollo* in G.R. No. 187916, Vol. I, (no proper pagination, should be pp. 148-149).

In the Decision[2] promulgated on 25 November 2014, this Court declared Ordinance No. 8187 **UNCONSTITUTIONAL** and **INVALID** with respect to the continued stay of the Pandacan Oil Terminals. The following timelines were set for the relocation and transfer of the terminals:

> [T]he intervenors Chevron Philippines, Inc., Pilipinas Shell Petroleum Corporation, and Petron Corporation shall, within a non-extendible period of forty-five (45) days, submit to the Regional Trial Court, Branch 39, Manila an updated comprehensive plan and relocation schedule, which relocation shall be completed not later than six (6) months from the date the required documents are submitted. The presiding judge of Branch 39 shall monitor the strict enforcement of this Decision.[3]

Now before us are the following submissions of the intervenor oil companies, to wit: (1) Motion for Reconsideration[4] of the Decision dated 25 November 2014 filed by intervenor Pilipinas Shell Petroleum Corporation (Shell); (2) Motion for Clarification[5] filed by intervenor Chevron Philippines, Inc. (Chevron); and (3) Manifestation of Understanding of the Dispositive Portion of the Decision of 15 December 2014[6] (the correct date of promulgation is 25 November 2014) filed by intervenor Petron Corporation (Petron).

I

Shell seeks reconsideration of the Decision based on the following grounds:

1. Erroneous reliance on the factual pronouncements in G.R. No. 156052 entitled "Social Justice Society v. Atienza," which, it argues, were completely unsupported by competent evidence;

2. Adoption of "imagined fears, causes, surmises and conjectures interposed by the petitioners," which it also raises as totally unsupported by evidence because the petitions, which involve factual issues, were wrongfully filed with this Court;

---

2 *Rollo* in G.R. No. 187836, Vol. VI, pp. 3147-3210.
3 *Id.* at 3208-3209.
4 *Rollo* in G.R. No. 187916, Vol. XI, pp. 5789-5924.
5 *Rollo* in G.R. No. 187836, Vol. XVI, pp. 8929-8939.
6 *Id.* at 8921-8928.

3. Conclusion that there is no substantial difference between the conditions in 2001 and the present setup with respect to the oil depots operations; and

4. Failure to dismiss the petitions despite the enactment of Ordinance No. 8187, which, it maintains, has rendered the cases moot and academic.[7]

The Motion for Reconsideration must be denied.

It bears stressing that these cases were called in session several times to give the members of the Court time to study and present their respective positions. Before the Decision was finally promulgated, the Court had thoroughly deliberated on the arguments of the parties, including the basic issues herein raised – the rationale for upholding the position of the Court in G.R. No. 156052, on one hand, and the safety measures adopted by the intervenors, including the alleged "imagined fears, causes, surmises and conjectures interposed by the petitioners," on the other; the argument of whether or not the petition should have been filed with the trial court or at least referred to the Court of Appeals to receive evidence; and the issue on whether or not the enactment of Ordinance No. 8283 has rendered the instant petitions moot and academic. And for failure to reconcile diverse views on several issues, a Concurring and Dissenting Opinion was written.

The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the *ponencia* in accordance with the outline of the instant motion.

As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco*[8] on the effect and disposition of a motion for reconsideration:

> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the

---

7 *Rollo* in G.R. No. 187916, Vol. XI, pp. 5798-5801.; Motion for Reconsideration of the Decision of 25 November 2014.

8 324 Phil. 483 (1996).

> reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.[9]

II

Chevron, in its Motion for Clarification,[10] manifests that it has already ceased using the Pandacan terminals since June 2014. However, the Pandacan Depot Services, Inc. (PDSI), an incorporated joint venture of Chevron, Petron and Shell, and of which Chevron continues to be a shareholder, still maintains the operations through Petron and Shell. Thus:

> 2. At the outset, CHEVRON respectfully manifests that it has already completed the relocation of its depot and terminal operations from the Pandacan area, as it ceased using the Pandacan terminals for its fuel and lubricants operations last June 2014. CHEVRON currently has zero volume of lubricants and fuel products for commercial use stored at the Pandacan terminals and the supply requirements of its customers are being withdrawn from the other supply facilities available to CHEVRON.
>
> 3. While CHEVRON has ceased using the Pandacan terminals, it continues to be a shareholder as well as hold a governance role in Pandacan Depot Services Inc. ("PDSI"), the operator of the Pandacan terminals for fuels products operations. PDSI is an incorporated joint venture established pursuant to the joint venture agreements between CHEVRON, Petron and PSPC. Notwithstanding CHEVRON's ceasing to use the facility, Petron and PSPC continue to use the Pandacan terminals for their own commercial fuel and lubricant operation. This joint venture continues to exist until terminated and dissolved by the mutual agreement of CHEVRON, Petron, and PSP or as provided for in the agreements of the parties. [11]

---

9 *Id.* at 491-492.
10 *Rollo* in G.R. No. 187836, Vol. XVI, pp. 8929-8939.
11 *Id.* at 8930.

With the withdrawal of its products from the Pandacan terminals yet with the continued operation of the PDSI, Chevron now pleads that this Court review and clarify a portion of the Decision concerning what it understands as an unqualified statement that "all oil depots, in general, even those outside of Pandacan, have no place in any densely populated area."[12] The exact wordings in the Decision sought to be clarified read:

> Even assuming that the respondents and intervenors were correct, the very nature of the depots where millions of liters of highly flammable and highly volatile products [are stored], regardless of whether or not the composition may cause explosions, has no place in a densely populated area. Surely, any untoward incident in the oil depots, be it related to terrorism of whatever origin or otherwise, would definitely cause not only destruction to properties within and among the neighboring communities but certainly mass deaths and injuries.[13]

Stressing that a judgment should be confined to the *lis mota* of the case, Chevron posits that the paragraph sought to be clarified was a sweeping and categorical pronouncement sans factual basis or evidence against all oil depots inasmuch as the prevailing circumstances, types of products stored or the safety measures in place vary from one depot to another. If such is left as is, it claims that it would be tantamount to interference with the policy making of the political departments of the government.

We differ.

There are overwhelming reasons stated in the Decision to support the Court's pronouncement that the very nature of depots has no place in a densely populated area, among others, the very history of the Pandacan terminals where flames spread over the entire City of Manila when fuel storage dumps were set on fire in December 1941[14] and the other incident of explosion,[15] which were both considered in G.R. No. 156052.

---

12 *Id.* at 8930; Motion for Clarification filed on 5 January 2015.

13 *Rollo* in G.R. No. 187836, Vol. VI, p. 3202.

14 In the Resolution dated 13 February 2008 in G.R. No. 156052, the Court also revisited the history of the Pandacan terminals. It wrote:

> x x x. The U.S. Army burned unused petroleum, causing a frightening conflagration. Historian Nick Joaquin recounted the events as follows:
>
> > After the USAFFE evacuated the City late in December 1941, all army fuel storage dumps were set on fire. The flames spread, enveloping the City in smoke, setting even the rivers ablaze, endangering bridges and all riverside buildings. … For one week longer, the "open city" blazed—a cloud of smoke by day, a pillar of fire by night. (*Social Justice Society, et al. v. Hon. Atienza, Jr*., 568 Phil. 658, 674 [2008])

15 *Id.*

Indeed, the bases of the assailed paragraph were confined to the *lis mota* of these cases, and no other depots were considered. But would the situation be different if, given the same composition of flammable and volatile products, the depots are placed in another densely populated area?

The answer was well explained in the Decision. Thus:

> For, given that the threat sought to be prevented may strike at one point or another, no matter how remote it is as perceived by one or some, we cannot allow the right to life to be dependent on the unlikelihood of an event. Statistics and theories of probability have no place in situations where the very life of not just an individual but of residents of big neighborhoods is at stake.[16]

Moreover, the Decision should be taken as a whole and considered in its entirety. The Decision is clear – it is the City's Ordinance No. 8187 that has been declared unconstitutional and invalid insofar as the continued stay of the Pandacan Oil Terminals is concerned.

For the same reasons, the allegation of encroachment on the policy making power of the political departments of the government is bereft of merit.

The prayer that the submission of an updated comprehensive plan and relocation schedule, including the period for relocation, be deferred until after the Motion is resolved with finality is denied. The compliance period prescribed in the Decision shall remain.

III

In its Manifestation of Understanding of the Dispositive Portion of the Decision of 15 December 2014,[17] (the correct date of promulgation is 25 November 2014) Petron seeks to clarify whether the dispositive portion thereof on the submission of "updated comprehensive plan and relocation schedule" within forty-five (45) days is limited to the operation itself and does not include the removal of the facilities. It ratiocinates that it is the operation, and not the presence of the facilities, that runs contrary to Ordinance No. 8119 (Manila Comprehensive Land Use Plan and Zoning Ordinance of 2006).[18]

---

16 *Rollo* in G.R. No. 187836, Vol. VI, p. 3203.
17 *Rollo* in G.R. No. 187836, Vol. XVI, pp. 8921-8928.
18 *Id.* at 8922.

Petron should have cited Ordinance No. 8027, the ordinance ordered to be enforced in G.R. No. 156052, instead of Ordinance No. 8119.

To recall, the Court, in G.R. No. 156052, ruled that Ordinance No. 8027 was not impliedly repealed by Ordinance No. 8119. It explained:

> x x x The repealing clause of Ordinance No. 8119 cannot be taken to indicate the legislative intent to repeal all prior inconsistent laws on the subject matter, including Ordinance No. 8027, a special enactment, since the aforequoted minutes (an official record of the discussions in the *Sanggunian*) actually indicated the clear intent to preserve the provisions of Ordinance No. 8027.
>
> To summarize, the conflict between the two ordinances is more apparent than real. The two ordinances can be reconciled. Ordinance No. 8027 is applicable to the area particularly described therein whereas Ordinance No. 8119 is applicable to the entire City of Manila.[19]

At first blush, the clause "cease and desist" appears to specifically refer only to the operations, considering that Sec. 3 of Ordinance No. 8027 provides for a period of six (6) months from the date of its effectivity "within which to cease and desist from the operations of businesses."[20]

However, in the Decision dated 7 March 2007 in G.R. No. 156052, the Court granted the petition[21] which sought the enforcement of Ordinance No. 8027 and the **immediate removal of the terminals** of the oil companies. By so granting the petition, it necessarily follows that the relocation and transfer it ordered contemplates the complete removal of the facilities.

These cases being a mere sequel to the earlier petition, we so hold that the relocation and transfer contemplated therein include the removal of the facilities, especially so when the city plans on building commercial establishments to replace the Pandacan terminals and provide a source of employment for displaced employees. Accordingly, the comprehensive plan

---

19 *Social Justice Society v. Hon. Atienza, Jr.*, *supra* note 14 at 698.

20 *Rollo* in G.R. No. 187916, Vol. I, p. 76; Ordinance No. 8027.

21 *Social Justice Society v. Mayor Atienza, Jr.*, 526 Phil. 485, 490 (2007).

The Decision reads:

> Meanwhile, petitioners filed this original action for *mandamus* on December 4, 2002 praying that Mayor Atienza be compelled to enforce Ordinance No. 8027 and order the **immediate removal of the terminals** of the oil companies. (Emphasis supplied)

to be submitted within forty-five (45) days from receipt of the Decision shall also include the removal of the facilities.

On the matter of the enforcement of the assailed Decision in these cases, Petron further posits that its first theory, that is, that the removal of the facilities is excluded from the comprehensive plan to be submitted to the Regional Trial Court, would be in accord with its "Manifestation" dated 30 November 2010, which it emphasized, the Court noted in the Decision and quoted as follows:

> 2. Without prejudice to its position in the instant case as elucidated in its Memorandum, Petron files this Manifestation to inform this Honorable Court that in accordance with its agreement with and to honor its commitment to the City of Manila, Petron has **decided to cease operation** of its petroleum product storage facilities in Pandacan, Manila within five (5) years or not later than January 2016 for the following reasons, x x x.[22] (Emphasis in the Manifestation of Understanding x x x)

Let Petron be reminded that the Court did not, by noting its "Manifestation" dated 30 November 2010, consent to consider January 2016 as a separate deadline for compliance with our Decision, which, to repeat, includes the removal of facilities after cessation of operations. The timelines prescribed in the assailed Decision shall be observed to the letter.

WHEREFORE, the Court hereby resolves to:

1. **DENY** Shell's Motion for Reconsideration of the Decision dated 25 November 2014;

2. **DENY** the prayers in the Motion for Clarification of Chevron that: a) the wordings "the very nature of the depots where millions of liter[s] of highly flammable and highly volatile products x x x [have] no place in a densely populated area" be removed from the Decision dated 25 November 2014; and b) the submission of an updated comprehensive plan and relocation schedule, including the period for relocation, be deferred until after the Motion is resolved with finality;

3. **CLARIFY** that the relocation and transfer necessarily include the complete removal of the facilities from the Pandacan terminals and should

---

[22] *Rollo* in G.R. No. 187836, Vol. XVI, pp. 8922-8923; Manifestation of Understanding of the Dispositive Portion of the Decision of 15 December 2014.

be made part of the required comprehensive plan and relocation schedule; and

4. **REMIND** Petron that the Court did not, by noting its "Manifestation" dated 30 November 2010, consent to consider January 2016 as a separate deadline for compliance with our Decision, which, to repeat, includes the removal of facilities after cessation of operations. The timelines prescribed in the assailed Decision shall be observed to the letter.

In anticipation of further attempts to delay the enforcement of this Court's Decision dated 25 November 2014, the parties to these cases are hereby **REMINDED** of the pronouncements in *Ortigas and Co. Ltd. Partnership v. Judge Velasco*[23] on the import of the denial of a motion for reconsideration. Thus:

> The denial of a motion for reconsideration signifies that the grounds relied upon have been found, upon due deliberation, to be without merit, as not being of sufficient weight to warrant a modification of the judgment or final order. It means not only that the grounds relied upon are lacking in merit but also that any other, not so raised, is deemed waived and may no longer be set up in a subsequent motion or application to overturn the judgment; and this is true, whatever may be the title given to such motion or application, whether it be **"second motion for reconsideration" or "motion for clarification" or "plea for due process" or "prayer for a second look," or "motion to defer, or set aside, entry of judgment,"** or x x x, etc..[24] (Emphasis supplied)

This Resolution is final. Under pain of contempt, no further pleadings, motions or papers in the guise of the above-enumerated submissions shall, thus, be entertained in these cases.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

---

23 *Supra* note 7.
24 *Id.* at 492.

WE CONCUR:

I agree with J. Leonen

MARIA LOURDES P. A. SERENO
Chief Justice

(No part)
ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(No part)
ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

See separate concurring and dissenting opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V. F. LEONEN
Associate Justice

(No part)
FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice