

## EN BANC

[ G.R. No. 187836, November 25, 2014 ]

**SOCIAL JUSTICE SOCIETY (SJS) OFFICERS, NAMELY, SAMSON S. ALCANTARA, AND VLADIMIR ALARIQUE T. CABIGAO, PETITIONERS, VS. ALFREDO S. LIM, IN HIS CAPACITY AS MAYOR OF THE CITY OF MANILA, RESPONDENT.**

[G.R. No. 187916]

**JOSE L. ATIENZA, JR., BIENVINIDO M. ABANTE, MA. LOURDES M. ISIP-GARCIA, RAFAEL P. BORRROMEO 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, VS. 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,<sup>[1]</sup> DANILO VICTOR H. LACUNA, JR., ERNESTO G. ISIP, HONEY H. LACUNA-PANGAN, ERNESTO M. DIONISO, JR. AND ERICK IAN O. NIEVA, RESPONDENTS.**

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

## D E C I S I O N

**PEREZ, J.:**

Challenged in these consolidated petitions<sup>[2]</sup> is the validity of Ordinance No. 8187<sup>[3]</sup> entitled "AN ORDINANCE AMENDING ORDINANCE NO. 8119, OTHERWISE KNOWN AS 'THE MANILA COMPREHENSIVE LAND USE PLAN AND ZONING ORDINANCE OF 2006,' BY CREATING A MEDIUM INDUSTRIAL ZONE (1-2) AND HEAVY INDUSTRIAL ZONE (1-3), AND PROVIDING FOR ITS ENFORCEMENT" enacted by the *Sangguniang Panlungsod* of Manila (*Sangguniang Panlungsod*) on 14 May 2009.

The creation of a medium industrial zone (1-2) and heavy industrial zone (1-3) effectively lifted the prohibition against owners and operators of businesses,

including herein intervenors Chevron Philippines, Inc. (Chevron), Pilipinas Shell Petroleum Corporation (Shell), and Petron Corporation (Petron), collectively referred to as the oil companies, from operating in the designated commercial zone – an industrial zone prior to the enactment of Ordinance No. 8027<sup>[4]</sup> entitled “AN ORDINANCE RECLASSIFYING THE LAND USE OF THAT PORTION OF LAND BOUNDED BY THE PASIG RIVER IN THE NORTH, PNR RAILROAD TRACK IN THE EAST, BEATA ST. IN THE SOUTH, PALUMPONG ST. IN THE SOUTHWEST AND ESTERO DE PANDACAN IN THE WEST, PNR RAILROAD IN THE NORTHWEST AREA, ESTERO DE PANDACAN IN THE NORTHEAST, PASIG RIVER IN THE SOUTHEAST AND DR. M. L. CARREON IN THE SOUTHWEST, THE AREA OF PUNTA, STA. ANA BOUNDED BY THE PASIG RIVER, MARCELINO OBRERO ST., MAYO 28 ST. AND THE F. MANALO STREET FROM INDUSTRIAL II TO COMMERCIAL I,” and Ordinance No. 8119<sup>[5]</sup> entitled “AN ORDINANCE ADOPTING THE MANILA COMPREHENSIVE LAND USE PLAN AND ZONING REGULATIONS OF 2006 AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THERETO.”

### **The Parties**

Petitioners allege the parties’ respective capacity to sue and be sued, *viz*:

<b>Petitioners</b>	<b>Residence in Manila</b>	<b>Suing capacity aside from being residents of Manila/other personal circumstances</b>
<b><i>G.R. No. 187836</i></b>		
SJS Officer Samson S. Alcantara (Alcantara)	Not mentioned in the petition; holding office in Ermita, Manila	Manila taxpayer; One of the petitioners in <i>SJS v. Atienza</i> (G.R. No. 156052);* President of ABAKADA GURO PARTY LIST with members who are residents of the City of Manila
SJS Officer Vladimir Alarique T. Cabigao (Cabigao)	Pandacan	One of the petitioners in <i>SJS v. Atienza</i> (G.R. No. 156052)

\* The allegation is inaccurate. SJS Officer Alcantara is actually one of the counsels for petitioner SJS in G.R. No. 156052. The petitioners in that case are the SJS itself, Cabigao and Bonifacio S. Tumbokon (Tumbokon).

### ***G.R. No. 187916***

Former Mayor Jose L. Atienza, Jr. (Mayor Atienza)	San Andres	Former Mayor of Manila; Secretary of Department of Environment and Natural Resources (DENR)
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Bienvinido M. Abante	Sta. Ana	Citizen and taxpayer; member of the House of Representatives
Ma. Lourdes M. Isip-Garcia	San Miguel	Incumbent City Councilor of the City of Manila
Rafael P. Borromeo	Paco	Incumbent City Councilor of the City of Manila
Jocelyn Dawis-Asuncion	Sta. Mesa	Incumbent City Councilor of the City of Manila
Minors Marian Regina B. Taran, Macalia Ricci B. Taran, Richard Kenneth B. Taran, represented and joined by their parents Richard and Marites Taran	Paco	Citizens, real estate owners and taxpayers
Minors Czarina Alysandra C. Ramos, Cezarah Adrianna C. Ramos, and Cristen Aidan C. Ramos represented and joined by their mother Donna c. Ramos	Tondo	Citizens, real estate owners and taxpayers
Minors Jasmin Syllita T. Vila and Antonio T. Cruz IV, represented and joined by their mother Maureen C. Tolentino	Sta. Ana	Citizens, real estate owners and taxpayers

<b>Respondents</b>	<b>Sued in their capacity as</b>
<b><i>G.R. Nos. 187836 and 187916</i></b>	
Former Mayor Alfredo S. Lim (Mayor Lim)	Incumbent Mayor of Manila at the time of the filing of the present petitions

<b>Respondents</b>	<b>Sued in their capacity as</b>
<b><i>G.R. No. 187916</i></b>	
Vice-Mayor Francisco Domagoso (Vice-Mayor Domagoso)	Vice-Mayor and Presiding Officer of the City Council of Manila
Arlene Woo Koa	Principal author of City Ordinance No. 8187
Moises T. Lim, Jesus Fajardo, Louisito N. Chua, Victoriano A. Melendez, John Marvin Nieto,	Personal and official capacities as councilors who voted and

Rolando M. Valeriano, Raymondo R. Yupangco, Edward VP Maceda, Roderick D. Valbuena, Josefina M. Siscar, Phillip H. Lacuna, Luciano M. Veloso, Carlo V. Lopez, Ernesto F. Rivera, <sup>[6]</sup> Danilo Victor H. Lacuna, Jr., Ernesto G. Isip, Honey H. Lacuna-Pangan, Ernesto M. Dionisio, Jr., Erick Ian O. Nieva	approved City Ordinance No. 8187
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The following intervenors, all of which are corporations organized under Philippine laws, intervened:<sup>[7]</sup>

<b>Intervenors</b>	<b>Nature of Business</b>
Chevron Philippines, Inc. (CHEVRON)	importing, distributing and marketing of petroleum products in the Philippines since 1922
Pilipinas Shell Petroleum Corporation (SHELL)	manufacturing, refining, importing, distributing and marketing of petroleum products in the Philippines
Petron Corporation (PETRON)	manufacturing, refining, importing, distributing and marketing of petroleum products in the Philippines

They claim that their rights with respect to the oil depots in Pandacan would be directly affected by the outcome of these cases.

### **The Antecedents**

These petitions are a sequel to the case of *Social Justice Society v. Mayor Atienza, Jr.*<sup>[8]</sup> (hereinafter referred to as G.R. No. 156052), where the Court found: (1) that the ordinance subject thereof – Ordinance No. 8027 – was enacted “to safeguard the rights to life, security and safety of the inhabitants of Manila;”<sup>[9]</sup> (2) that it had passed the tests of a valid ordinance; and (3) that it is not superseded by Ordinance No. 8119.<sup>[10]</sup> Declaring that it is constitutional and valid,<sup>[11]</sup> the Court accordingly ordered its immediate enforcement with a specific directive on the relocation and transfer of the Pandacan oil terminals.<sup>[12]</sup>

Highlighting that the Court has so ruled that the Pandacan oil depots should leave, herein petitioners now seek the nullification of Ordinance No. 8187, which contains provisions contrary to those embodied in Ordinance No. 8027. Allegations of violation of the right to health and the right to a healthful and balanced environment are also included.

For a better perspective of the facts of these cases, we again trace the history of the Pandacan oil terminals, as well as the intervening events prior to the reclassification of the land use from Industrial II to Commercial I under Ordinance No. 8027 until the creation of Medium Industrial Zone and Heavy Industrial Zone pursuant to Ordinance No. 8187.

## ***History of the Pandacan Oil Terminals***

We quote the following from the Resolution of the Court in G.R. No. 156052:

Pandacan (one of the districts of the City of Manila) is situated along the banks of the Pasig [R]iver. At the turn of the twentieth century, Pandacan was unofficially designated as the industrial center of Manila. The area, then largely uninhabited, was ideal for various emerging industries as the nearby river facilitated the transportation of goods and products. In the 1920s, it was classified as an industrial zone. Among its early industrial settlers were the oil companies. x x x

On December 8, 1941, the Second World War reached the shores of the Philippine Islands. x x x [I]n their zealous attempt to fend off the Japanese Imperial Army, the United States Army took control of the Pandacan Terminals and hastily made plans to destroy the storage facilities to deprive the advancing Japanese Army of a valuable logistics weapon. 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.

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

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

The 36-hectare Pandacan Terminals house the oil companies' distribution terminals and depot facilities. The refineries of Chevron and Shell in Tabangao and Bauan, both in Batangas, respectively, are connected to the Pandacan Terminals through a 114-kilometer underground pipeline