



REPUBLIKA NG PILIPINAS
PAMAHALAANG LUNGSOD NG MUNTINLUPA
KALAKHANG MAYNILA

Sangguniang Panglungsod

RESOLUTION NO. 04-015

A RESOLUTION EXPRESSING THE STRONG SENTIMENTS OF THE CITY GOVERNMENT OF MUNTINLUPA OVER THE DECISION OF THE SUPREME COURT IN MERALCO VS. CITY TREASURER NELIA A. BARLIS, ET. AL. (G.R. NO. 114231).

- Sponsored by:
- Hon. Atty. Raul R. Corro
 - Hon. Engr. Mamerto T. Sevilla, Jr.
 - Hon. Melchor R. Teves
 - Hon. Artemio A. Simundac
 - Hon. Allan Rey A. Camilon
 - Hon. Ma. Luisa Babaran-Echavez, M.D.
 - Hon. Allen F. Ampaya
 - Hon. Atty. Icasiano M. Dela Rea
 - Hon. Elmer S. Espeleta
 - Hon. Francis Ian T. Bagatsing
 - Hon. Joselito B. Arevalo
 - Hon. Mario E. Bulay, Jr.

WHEREAS, the Supreme Court, in a decision dated *18 May, 2001*, upheld the validity of the "*warrant of garnishment*" issued by the Treasurer of Muntinlupa City against the deposits of *MERALCO* with the Philippine Commercial and Industrial Bank (PCIB), Metropolitan Bank and Trust Company (METROBANK) and the Bank of the Philippine Islands (BPI) to the extent of its unpaid real property taxes;

WHEREAS, *MERALCO* moved for the reconsideration of the said decision which the Second Division of the Supreme Court "*denied with finality*" in a "*Resolution*" dated *01 February 2002*;

WHEREAS, *MERALCO* filed just the same a second motion for reconsideration of the said *Decision* which the Second Division again "*DENIED*" in a *Resolution* dated *15 April 2002* "*pursuant to Section 2, Rule 52 in relation to Section 4, Rule 56 of the Rules of Procedure*" which prohibited the filing of second such motions;

WHEREAS, the said Resolution of the Second Division further ruled that, "*No further pleadings or motions shall be entertained in this case. Let entry of final judgment be made in due course*";

WHEREAS, the Court registered on *May 27, 2002* in its *Book of Entry of Judgments* that the Decision of *May 18, 2001* had already become *final and executory* as of *March 6, 2002*;

WHEREAS, *MERALCO* again ignored the aforesaid "*entry of judgments*" when it filed on *05 June 2002* a *third motion for reconsideration* of the Decision of *18 May 2001* and, on *28 June 2002*, an "*urgent motion for the recall of the entry of judgment*";

[Handwritten signatures and notes on the right margin, including 'M. Bulay, Jr.', 'M. Sevilla, Jr.', and 'M. Corro']

[Handwritten signatures and notes on the left margin, including 'M. Barlis', 'M. Arevalo', and 'M. Bagatsing']



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WHEREAS, after the finality and entry of the said Decision of the Second Division, the same was partially executed when, upon its presentation to it by the City, the BPI promptly released to it all of *MERALCO's* garnished deposits with it amounting to *Eight Hundred Thousand Eight Hundred Nine and Forty Five Centavos (P800, 809.45)*;

WHEREAS, Respondent next presented exactly the same Decision to the Equitable Bank but the later refused to honor it on the ground that the 18 May decision of the Second Division was not yet binding on it because *MERALCO's* third motion for its reconsideration against it was still unresolved by the Court;

WHEREAS, in official letters to the Head of the Second Division and the Office of the Chief Justice, the City brought to their attention Meralco's and Equitable's above defiance of the *18 May 2001* Decision of the Second Division even as the same was already final and executory and indeed was entered in the Court's Book of Entry of Judgment to be such. Neither Justices took any action on the said representations other than the endorsement by the Office of the Chief Justice to the Second Division of the City's letter to it;

WHEREAS, the City was surprised to receive on *10 October 2003* a Resolution of the Second Division **GRANTING** Meralco's alleged "*Motion for Partial Reconsideration of the Resolution of this Court dated February 1, 2002*" and directing "*this case [to] be referred to the Court En Banc for further consideration on the matter*". Thereafter, specifically on *25 November 2003*, the City received the En Banc's Resolution dated *21 October 2003* "**ACCEPTING**" the said endorsement;

WHEREAS, on the dates of the promulgations of their aforementioned Resolutions, Meralco had not filed and thus had no pending "*Motion for Partial Reconsideration*" with the Second Division. To be sure, what in fact stood still unresolved by the *En Banc* then were Respondent's "*Motion to Decline Case Referral*" dated *07 November 2003* and "*Supplement to the Motion to Decline*";

WHEREAS, in complete denial of the City's Constitutional right to a day in court, the Court En Banc promulgated a Resolution on *29 June 2004* granting Meralco's third motion for reconsideration by, as prayed for by Meralco, **SETTING ASIDE**, the *May 18, 2001* Decision of the Second Division and remanding the whole case back to the Trial Court for further proceedings. To be specific, the said Resolution was handed down without affording the City any opportunity to comment on and/or oppose Meralco's said *Third Motion for Reconsideration*;



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WHEREAS, the aforementioned Resolution of 29 June 2004 legitimized and directed Meralco's protest against the City's demand for its payment of delinquent Real Property Taxes (RPT) to be tried in court *without first paying the same under protest* as law, settled jurisprudence and public interest oblige;

WHEREAS, the 29 June 2004 Resolution raises a number of fundamental Constitutional, legal and public interest issues potentially destructive of our people's faith in the Supreme Court and the Rule of law in our country:

1. Is a definitive judgment or resolution of the Supreme Court handed down in disregard and/or violation of its Constitutional duty to do so "*within twenty four (24) months from the date of submission*" thereof for such decision valid and/or lawful?;
2. Is the Court En Banc's Resolution of 29 June 2004 valid and/or lawful given its denial of the City's Constitutional right to a day in court or due process in the issuance thereof?;
3. The "*Court En Banc is not an appellate court to which decisions or resolutions of a Division may be appealed*" under the Supreme Court's own Circular No. 2-89 providing for the "**GUIDELINES AND RULES IN THE REFERRAL TO THE COURT EN BANC OF CASES ASSIGNED TO A DIVISION**". Under the same Circular, such referrals are legitimate only where and when they are made "*before a judgment or resolution*" of the Division referring it "*becomes final and executory*". Moreover, under Rule 42 in relation in Rule 46 of the 1997 Rules of Civil Procedure which likewise was enacted by the said Court itself, second motions for reconsideration are prohibited pleadings. And yet, the Court's Resolution of 29 June 2004 resolved a Third Motion for Reconsideration. Is the Supreme Court exempt from complying with its own enactments of the rules governing the conduct of its proceedings?;
4. Is the Supreme Court empowered to direct the trial of a tax protest without requiring the protesting taxpayer to pay first under protest the government's, national or local, demand for the payment of the tax(es) involve and/or subject of the said protest?;
5. Does a definite decision or resolution of the Supreme Court rendered beyond the period fixed by the Constitution and in violation of the said Courts own rules and administrative guidelines grant the prevailing party (ies) in it unwarranted favor, benefit and advantage and, under the same circumstances, deny the losing party (ies) in the said judgment equal protection of the law? and lastly,;



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6. Are the acts and events leading to the issuance by the Supreme Court En Banc of its 29 June 2004 Resolution harmful or even destructive of the people's faith in the integrity of the said tribunal given how, as above-recited, it (a) *held itself exempt from abiding by the constitutional term fixed for handling down its judgments and rulings*, (b) *denigrated respect for its own rules against second motions for reconsideration and restriction against its En Banc unit acting as an appellate tribunal over decisions and resolutions of its Divisions and profoundest of all concerns*, (c) *in a case whose counsel is a law firm of one of its recently retired Members?*;

WHEREAS, despite the resolution of the Supreme Court granting Meralco its third motion for reconsideration, the City Government, through its lawyers, still filed a Motion for Reconsideration to strike out the said Resolution so that the interest of the City may still be protected;

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, by the Sangguniang Panglungsod of Muntinlupa to pass a resolution expressing the strong sentiments of the City Government of Muntinlupa over the decision of the Supreme Court in *Meralco vs. City Treasurer Nelis A. Barlis, et. al. (G.R No. 114231)*.

RESOLVED FURTHER, that a copy of this Resolution be furnished the Supreme Court and the appropriate committees of both houses of the Philippine Congress so that they might inquire into and enact the remedial legislations, if any are indicated, that will best serve public interest and the general welfare.

APPROVED, by the *Fourth (4th) Sangguniang Panglungsod of Muntinlupa* this 26th day of *August, 2004*, on its 8th Regular Session.

CONCURRED:

ATTY. RAUL R. CORRO
Councillor

ALLAN REY A. CAMILON
Councillor

MA. LUISA BABARAN-ECHAVEZ, M.D.
Councillor

ELMER S. ESPELETA
Councillor

FRANCIS IAN T. BAGATSING
Councillor

MAMERTO T. SEVILLA, JR.
Councillor

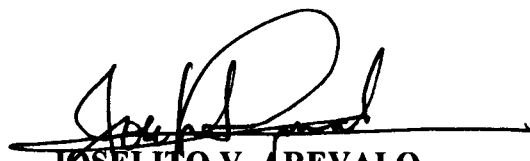


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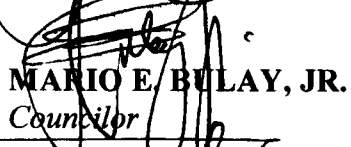
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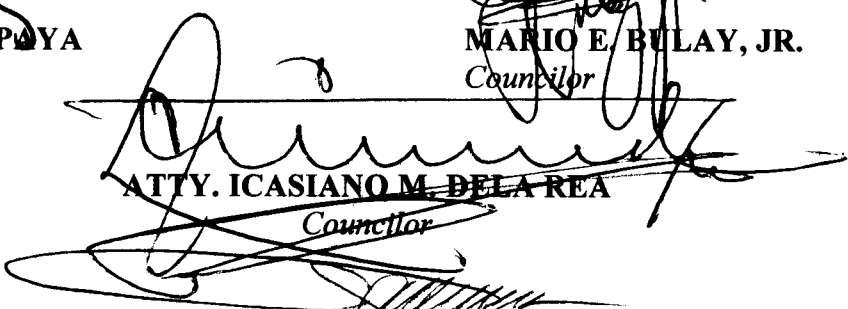
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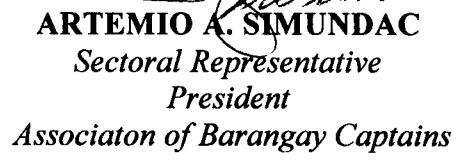

MELCHOR R. TEVES
Councilor


JOSELITO V. AREVALO
Councilor


ALLEN R. AMPOZA
Councilor


MARIO E. BILAY, JR.
Councilor


ATTY. ICASIANO M. DELA REA
Councilor


ARTEMIO A. SIMUNDAC
Sectoral Representative
President
Associaton of Barangay Captains



ABSTAIN:

RENE CARL S. CAYETANO
Councilor

ABSENT:

BAL NIEFES
Councilor

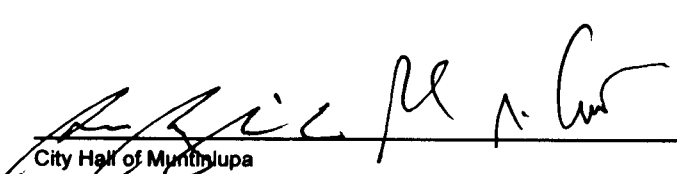

MARISSA COLE-RONGAVILLA
Councilor

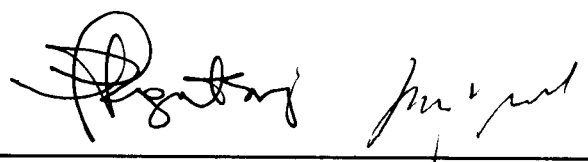
KEVIN B. DELGADO
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CHRISTIAN GLENN D. LORICA
Sectoral Representative
President
Federation of Sangguniang Kabataan





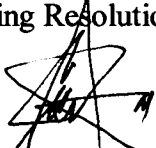


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I HEREBY CERTIFY, as to the correctness of the foregoing Resolution.


CECILIA C. LAZARTE
Secretary
Sangguniang Panlungsod

ATTESTED:


ALDRIN L. SAN PEDRO
City Vice Mayor/Presiding Officer

APPROVED:


ATTY. JAIME R. FRESNEDI
City Mayor

Date: _____

PBS, JR.