

Recent Legislation

Republic Act No. 580 -- The Home Financing Act

Coming within the purview of legislation in aid of housing is Republic Act No. 580 which took effect on September 15, 1950. Discernible in this new law is its radical departure from the philosophy of former laws touching upon the same subject. Heretofore housing laws in the Philippines have been embodied mainly in city planning, more specifically in zoning ordinances and regulations, and in laws authorizing the experimentation with model tenements.

Background of Philippine Legislation in Aid of Housing. Pioneer in city planning was the Spanish government, which soon after its occupation of the Philippines, directed its colonizers by Royal instructions, decrees or ordinances and later by the codified Laws of the Indies to locate suitable places for the founding of new towns. Administrative chiefs of the provinces, in representation of the Governor General fixed sites for the new towns, apportioning lots as sites for the public plaza, casa real, church and the school. And bordering the circle formed by these religious and public buildings were lots designated for the residents of the town¹ on which they were obliged to build their houses within the time allotted to them under pain of losing their rights thereto and paying to the government a certain amount of *maravedis*.²

Under the American regime, legislation in aid of housing took on an added impetus. In the meantime, city planning was so made with an eye to avoiding congestion and eradication of slum areas, which then as now afforded the ideal atmosphere for disease, vice, and crime. To this end, the government, relying on its sovereign authority of police power, empowered municipal corporations to enact ordinances relative to zoning. Such powers conferred by the Legislature are enumerated in Sections 2238, 2242 and 2243 of the Revised Administrative Code.³ On the whole these provisions on

¹ Ventura, Land Registration and Mortgages, p. 6; Catbalogan vs. Director of Lands, 17 Phil. 216.

² Law 8, Title 12, Book 4, Recopilacion de las Leyes de Indioa.

³ Sec. 2238 provides: "General power of the council to enact ordinances and make regulations as may be necessary to carry into effect and discharge the powers and duties conferred upon it by law and such as shall seem necessary and proper to provide for the health and safety, promote the prosperity, improve the morals, peace, good order, comfort and convenience of the municipality and the inhabitants thereof, and for the protection of property therein." Sec. 2242: "Certain legislative powers of mandatory character; (h) to declare and abate nuisances." Sec. 2243—"Certain legislative powers of discretionary character; (c) to establish fire limits in populous centers, prescribe the kinds of buildings that may be constructed or repaired within them, and issue permits for the erection or repair thereof . . ."

zoning are of the repressive type, that is, repressive of the dangers that arise wherever unsafe, unsanitary, congested and substandard dwellings are found, although other desirable advantages may result from zoning. In the words of the United States Supreme Court in the case of *State ex rel Carter vs. Harper*,⁴ "zoning regulations attract a desirable and assure a permanent citizenship, foster pride in and attachment to the city; promote happiness and contentment; stabilize the use and value of property and promote the peace, tranquility and good order of the city."

While these remedial legislation, zoning and city planning, were found to be of salutary effects to the improvement of the community, it was apparent that the social and economic conditions prevailing among the masses required a direct intervention of the government in aid of the construction of low-cost or low-rent housing. Thus another phase of housing legislation was introduced during the Commonwealth period. Model tenements, otherwise known as "barrio obreros" were established for laborers under the authority of municipal boards or councils. And on its part the National government succeeded in realizing a significant project with the construction of low-cost houses for the low bracket government employees. This was known as the People's Homesite which was first started before the war in Kamuning, Quezon City, and continued only recently in the adjacent district of Diliman. Charged with the administration of this project is a government entity known as the People's Homesite Corporation.

The parallelism with, if not the influence of, American laws on this aspect of Philippine housing legislation is indeed very striking. Hence we find the State of Massachusetts creating, as early as 1911,⁵ a Homestead Commission, which succeeded in 1917 in appropriating \$50,000.00 for the construction and sale of houses for the low income groups. The Federal Government itself next entered the field of public aid to housing, a step found necessary by the need of housing for war workers, when it authorized in 1920 the United States Housing Corporation to adopt a plan of government construction and operation of housing.⁶ California followed with the passage of the Veterans' Farm and Home Purchase Act of 1921,⁷ which provided for the purchase of homes by the state for veterans, to be sold to them on an installment plan.

Republic Act No. 580. With the passage of Republic Act No. 580, Philippine law on housing is brought at par with the recent trend of United States legislation on the subject, i.e. the subsidy in various forms of private building companies or corporations by the government. In the language of the statute, the government, thru the agency of a "Home Financing Commission" seeks to "stimulate home building and land ownership and to promote the development of land for that purpose, provide liberal financing through an insured mortgage system, and develop thrift through the accumulation of savings in insured institutions."

⁴ 182 Wis. 148.

⁵ Mass. Acts and Resolves, 1911, c. 607.

⁶ U. S. Dept. of Labor, 1 Report of the United States Housing Corporation 23 (1920).

⁷ Cal. Stats. 1921, 815.

Chapter I of the law treats with the creation of the Home Financing Commission, which is the instrumentality entrusted with the implementation and administration of the powers and duties embodied in the act. Among its powers, insofar as the subject of home financing is concerned is to operate a mortgage insurance program⁸ for the purpose of insuring mortgages and loans upon qualified mortgagees. The main feature of the law is set forth in Chapter II (Classification of Risks and Method of Insuring Lending Institutions). Section 9 of this chapter states among other things: "With a view to encouraging the financing of new construction for small business, agricultural and residential units in limited amount, the repair of existing residential, small business or agricultural buildings and the rehabilitation requirements and recovery for damages caused by the elements, the Commission is authorized to insure⁹ banks, insurance companies, building and loan associations and other qualified lending institutions against losses which they may sustain as a result of eligible property improvement loans.

Four classes may be insured at the discretion of the Commission:

1. Loans covering the cost of repair, alteration or improvement begun after the date of the approval of this Act of an existing structure, such loan not exceeding ₱6,000.00 and to mature in not to exceed five years on a monthly amortization basis.
2. Loans covering the cost of alteration, repair, improvements or conversion begun after approval of this Act of an existing structure used or to be used as a dwelling for two or more families, such loan not exceeding ₱20,000.00 maturing in not to exceed ten years on a monthly amortization basis.
3. Loans covering the construction of a new structure begun after the approval of this act to be used for small business or agricultural purpose not exceeding ₱6,000.00 on a monthly amortization basis; and
4. Loans covering the construction of a new structure begun after the approval of this Act to be used for combination of residential and small business or for a combination of residential and agricultural purposes, such loan not exceeding ₱10,000.00 maturing in not exceeding 10 years on a monthly amortization basis.¹⁰

Not only is such insurance of loans available to private banks, insurance companies and loan and building associations engaged in direct construction or repair but the Commission is similarly empowered to insure loans to finance the manufacture of housing or the materials to be used in the construction of houses, when such loans are eligible for insurance as provided in this Act.¹¹

⁸ Ch. I, Sec. 2 (a), Rep. Act 580.

⁹ Ch. I, Sec. 4 (a), Rep. Act 580.

¹⁰ Ch. II, Sec. 9 (b), Rep. Act 580.

¹¹ Ch. II, Sec. 9 (c), Rep. Act 580.

To be eligible for insurance to the full benefit of the law,¹² a mortgage must involve a principal obligation classified into various amounts and subject to certain conditions.¹³ Payment of the insurance and the terms thereof are prescribed in Sec. 17 of the Act. Those entities which undertake the risk of lending capital, and secured by a mortgage for the furtherance of the purposes set forth in the Act are accorded the benefit of exemption from taxation on their franchises, capital, reserves and surplus, and their loans and income shall be exempt from taxation now or hereafter imposed by the government.

Contemporary United States Legislation. The exigencies of the First World War brought about the creation of the United States Shipping Board Emergency Fleet Corporation, which operated thru loans to private companies.¹⁴ It was actually the State of New York, however, that first instituted public aid to housing as a permanent government program. In 1918, Governor Alfred E. Smith succeeded in creating a Reconstruction Commission for the study of post war problems, including housing. Moving in the same direction was the New York State Legislature which appointed a joint committee to investigate housing. This effort culminated in the recommendation of a permanent constructive housing program by means of a constitutional authorization of the use of state credit in aid of private low cost and low rent housing construction and the establishment of state and local execution of such plan. Up to 1926 temporary measures were adopted such as exemption from local taxation and for a limited period authorization to life insurance companies to build and lease apartments at limited length.¹⁵

The great depression in the early 1930s gave more impetus to legislations on housing. The Federal Home Loan Bank Act was passed in 1932¹⁶ in order to facilitate financing of home construction and the Emergency Relief and Construction Act of the same year was enacted authorizing the newly created Reconstruction Finance Corporation, among other things, to make loans, "to corporations formed wholly for the purpose of providing for families of low income or for reconstruction of slum areas."¹⁷

The Roosevelt Administration saw an intensification of government intervention in the field of housing in its various aspects. Thus the Homeowners' Loan Act of 1933 was enacted and the Homeowners' Loan Corporation organized to forestall foreclosures by refinancing home mortgages and providing loans for necessary repairs out of public funds.¹⁸ The Federal Housing Act¹⁹ was passed in 1934 for the purpose of assisting in the availability of private loans for home construction, modernization or repair at low cost, thru government insurance of such lenders. This act reflects an exact

¹² Sec. 13, Rep. Act 580.

¹³ Sec. 9 (b), Rep. Act 580.

¹⁴ Sec. 10, (b) 1, A, B, C, and (2), Rep. Act 580.

¹⁵ 40 Stat. c 19 (1918).

¹⁶ Reisenfeld and Eastlund, Public Aid to Housing and Land Redevelopment, *Minnesota Law Review*, Vol. 34, No. 7, June, 1950, pp. 616-617.

¹⁷ 47 Stat. c. 522 (1932).

¹⁸ 47 Stat. c. 520, Sec. 201 (a) (2) 1932, cited by Reisenfeld and Eastlund in *Minnesota Law Review*, *supra*.

¹⁹ 12 U. S. C. Sec. 1461 (1946).

replica in our Republic Act No. 580. Other projects resulted in the passage of various laws,²⁰ wherein the government, thru loans and public regulation continued the program of construction, reconstruction, alteration or repair of low housing units.

Constitutionality. As far as the slum clearance and low rent housing phase of the law is concerned, there appears to be no constitutional problem; they constitute public purpose and public use to warrant the exercise of the power of eminent domain and the use of the taxing power for its execution. Professors McDougal and Mueller have commented: When dealing with public undertakings, where all property is to be publicly owned and all possibilities of private profit are excluded, there would " * * * seem no rational basis for making a distinction between tests for eminent domain and taxing and spending."²¹

Notwithstanding his pronouncement, the provisions calling for tax exemption of such building and loan entities has given occasion for the greatest constitutional difficulties in the United States courts,²² altho court ingenuity has denominated local authority vested with housing administration the protective mantle of "municipal corporation,"²³ "mere municipal agency or instrumentality,"²⁴ or public charity.²⁵

Whatever the attitude of our courts will be, only time will tell. The law is the first of its kind in the country, but a reliance on United States legislation and jurisprudence augurs a continued life to this pioneer statute.

● AQUILINO BONTO, JR.

²⁰ 12 U. S. C. Sec. 1701 H (1945).

²¹ Emergency Relief Act of 1933 (48 Stat. c. 30, 1933); National Industrial Recovery Act of 1930 (48 Stat. c. 90. Sec. 208, 1933); U. S. Housing Act of 1937 (50 Stat. c. 896, 1937); 42 U. S. C. 1401, 1946); which put the low rent housing and slum clearance program on a more permanent and decentralized basis; The Housing Act of 1949 (42 U. S. C. Sec. 1441, Sup. 1950) characterized as a program of expansion and integration, emphasizing urban redevelopment and the proper correlation of the housing and redevelopment program. Of State legislations providing for tax-exemption of development corporations, there are the New York Urban Redevelopment Corporation Law (N. Y. Unconsolidated Laws, Tit. 11, c. 1) copied by Illinois, Michigan and other states.

²² Public Purpose in Public Housing: An Anachronism Reburied, 62 Yale Law Journal, 42 (1942), cited by Reisenfeld and Eastlund, *op. cited*.

²³ Reisenfeld and Eastlund, *op. cited*.

²⁴ Laret Investment Comp. vs. Dickman, 345 Mo. 499, 134 S. W. 2d 65 (1939); Wells Housing Authority vs. City of Wilmington, 213 N. C. 744; 197 S. E. 693 (1938).

²⁵ Knoxville Housing Authority vs. City of Knoxville, 174 Tenn. 76, 123 S. W. 2d 1085 (1939).