



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
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SECOND DIVISION

CITY OF MANILA,
Petitioner,

G.R. No. 221366

- versus -

Present:

**ALEJANDRO ROCES PRIETO,
BENITO ROCES PRIETO,
MERCEDES PRIETO DELGADO,
MONICA, LOPEZ PRIETO,
MARTIN LOPEZ PRIETO,
BEATRIZ PRIETO DE LEON,
RAFAEL ROCES PRIETO, BENITO
LEGARDA, INC., ALEGAR
CORPORATION, BENITO
LEGARDA, JR., PECHATEN
CORPORATION, ESTATE OF
ROSARIO M. LLORA, and all
persons claiming interests against
them,**

**CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
REYES, J. JR., and
LAZARO-JAVIER, JJ.**

Promulgated:

08 JUL 2019

Respondents.

[Handwritten Signature]

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DECISION

REYES, J. JR., J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Decision² dated June 30, 2015 and the Resolution³ dated November 9, 2015, of the Court of Appeals (CA) in CA-G.R. CV No. 101440, which reversed and set aside the Order⁴ dated June 23, 2011, of the Regional Trial Court (RTC) of Manila, Branch 52, in Civil Case No. 04-110823.

¹ *Rollo*, pp. 10-48.

² Penned by Associate Justice Magdangal M. De Leon, with Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela, concurring; id. at 61-85

³ Id. at 108-109.

⁴ Id. at 52-57.

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The Facts

On January 19, 2004, the City Council of Manila enacted Ordinance No. 8070 that authorized the City Mayor to acquire certain parcels of land belonging to respondents Alejandro Roces Prieto, Benito Roces Prieto, Mercedes Delgado Prieto, Monica Lopez Prieto, Martin Lopez Prieto, Beatriz Prieto De Leon, Rafael Roces Prieto, Benito Legarda, Inc., Alegar Corporation, Benito Legarda, Jr., Pechaten Corporation, and Rosario M. Llorca (collectively, respondents) to be used for the City of Manila's (petitioner) Land-For-The-Landless Program.⁵

Initially, petitioner attempted to acquire the subject lots by negotiated sale, offering the amount of ₱2,000.00 per square meter, which respondents refused to accept on the ground that their respective properties are worth more than that.⁶

Thus, petitioner filed a Complaint dated September 3, 2004, before the RTC, asserting its authority to expropriate the subject lots for its project.⁷

Invoking Section 2, Rule 67 of the Rules of Court, petitioner sought the issuance of a writ of possession for it to be able to immediately take possession of the subject properties. Petitioner manifested that it had already deposited the sum of ₱4,812,920.00 in the bank, representing more than one hundred percent (100%) of the assessed value of the properties as shown in the declarations of real property.⁸

On February 2, 2005, the RTC issued an Order denying the issuance of a writ of possession pending the deposit of the additional amount of ₱852,519.00. Instead of the general provisions on expropriation under Rule 67 of the Rules of Court, the RTC applied the provisions of the Local Government Code (LGC), mandating the deposit of 15% of the fair market value of the properties subject of expropriation, for petitioner's immediate possession thereof.⁹

Upon compliance, petitioner manifested that the additional amount of ₱852,519.00 has already been satisfied. Petitioner deposited the amount of ₱425,519.00, while the prospective beneficiaries of the project deposited ₱443,621.00 to complete the additional amount.¹⁰

On October 6, 2006, the RTC issued a Writ of Possession.¹¹

⁵ Id. at 14.

⁶ Id. at 14-16.

⁷ Id. at 16.

⁸ Id. at 66.

⁹ Id. at 69-70.

¹⁰ Id. at 70.

¹¹ Id. at 49-51.

The Ruling of the RTC

In granting petitioner's complaint for expropriation, the RTC concluded that all the requisites for the local government's exercise of the power of eminent domain have been met by the petitioner.¹²

The RTC found that there was an ordinance passed by the City Council of Manila to expropriate the subject lots for public purpose. The requirement that it should be for public use was, according to the RTC, satisfied by the fact that the properties were sought to be expropriated pursuant to the petitioner's "Land for the Landless and Onsite Development Programs."¹³

The RTC also noted that before the filing of the complaint in court, petitioner made "definite and formal offers" to respondents to purchase the subject lots, which the latter rejected.¹⁴

Further, despite "privately-owned lands" being last in the list of priorities in land acquisition under Section 9 of Republic Act (R.A.) No. 7279 or the Urban Development Housing Act of 1992, the RTC dispensed with said list, subscribing to petitioner's allegation that an on-site development is more practicable and advantageous to the beneficiaries.¹⁵

The RTC made the following disposition, thus:

WHEREFORE, in view of the foregoing, the court finds that the complaint in the instant case is a proper case of eminent domain.

Accordingly, an order of expropriation is hereby issued declaring that the [petitioner] has a lawful right to take the subject parcels of land, for the public use or purpose as described in the complaint upon payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint whichever came first.

Furnish the parties through their respective counsels with a copy each of the order.

SO ORDERED.¹⁶

Respondents' respective motions for reconsideration were denied by the RTC on January 22, 2013.¹⁷

Appeals were then filed with the CA.

¹² Id. at 55.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 56.

¹⁶ Id. at 57.

¹⁷ Id. at 74.

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The Ruling of the CA

In its assailed Decision, the CA emphasized the drastic effect of the exercise of the power of eminent domain to a landowner's right to private property. Hence, compliance with the rules and limitations provided under the Constitution and pertinent laws should be strictly observed. If not, according to the CA, it behooves petitioner to justify its non-compliance with the rules and limitations.¹⁸ This, according to the CA, petitioner failed to do.

The CA found the records lacking of any evidence to support petitioner's claim that an on-site development program is the most practicable and advantageous for the beneficiaries, to justify the non-applicability of the list of priorities in land acquisition under Section 9 of R.A. No. 7279. According to the CA, petitioner failed to take into consideration the legal definition of an on-site development under R.A. No. 7279, *i.e.*, "the process of upgrading and rehabilitation of blighted and slum urban areas, with a view of minimizing displacement of dwellers in said areas and with provisions for basic services as provided for in Section 21"¹⁹ of the same Act.²⁰ "Blighted lands" was further defined under Section 3(c) thereof as referring to the "areas where the structures are dilapidated, obsolete and unsanitary, tending to depreciate the value of the land and prevent normal development and use of the area." The CA ruled that bare and unsupported assertions that the lots sought to be expropriated are blighted lands to be the proper subject of an on-site development program, and that on-site development is the most practical, advantageous, and beneficial to the beneficiaries, should not suffice to justify the mandatory provisions of R.A. No. 7279.²¹

The CA further found petitioner to have failed to exhaust other modes of acquisition before it resorted to expropriation in violation of Section 10 of R.A. No. 7279. The appellate court pointed out petitioner's failure to

¹⁸ *Id.* at 84.

¹⁹ Sec. 21. Basic Services. — Socialized housing or resettlement areas shall be provided by the local government unit or the National Housing Authority in cooperation with the private developers and concerned agencies with the following basic services and facilities:

- (a) Potable water;
- (b) Power and electricity and an adequate power distribution system;
- (c) Sewerage facilities and an efficient and adequate solid waste disposal system; and
- (d) Access to primary roads and transportation facilities.

The provisions of other basic services and facilities such as health, education, communications, security, recreation, relief and welfare shall be planned and shall be given priority for implementation by the local government unit and concerned agencies in cooperation with the private sector and the beneficiaries themselves.

The local government unit, in coordination with the concerned national agencies, shall ensure that these basic services are provided at the most cost-efficient rates, and shall set as mechanism to coordinate operationally the thrusts, objectives and activities of other government agencies concerned with providing basic services to housing projects.

²⁰ Section 3(l) R.A. No. 7279.

²¹ *Rollo*, pp. 80-81.

renegotiate the offer to purchase the property before filing the expropriation case. Such failure, the CA ruled, warrants the dismissal of the complaint for expropriation.²²

Lastly, the CA found that the intended beneficiaries of petitioner's socialized housing program are not "underprivileged and homeless," in violation of Section 8²³ of R.A. No. 7279. The CA took into consideration the testimony of witness Emma Morales (Morales), President of the neighborhood association of the beneficiaries, stating that its members have money to buy the properties they are currently occupying. As can be gleaned from the transcript of stenographic notes during the hearing, Morales even admitted that there are professionals among them such as teachers, nurses, a doctor, and a dentist, who may hardly be considered as "underprivileged and homeless."²⁴

In all, the CA ruled that petitioner has failed to discharge its burden to prove that the requirements for the proper exercise of the local government's power of eminent domain were complied with or otherwise, are not applicable to its case. It disposed, thus:

WHEREFORE, the appeal is **GRANTED**. The assailed *Order* dated June 23, 2011 rendered by the Regional Trial Court of Manila in Civil Case No. 04-110823 is **REVERSED** and **SET ASIDE**.

SO ORDERED.²⁵

Petitioner's motion for reconsideration was denied by the CA in its assailed Resolution, which reads:

This Court, finding that the matters raised by [petitioner] in its July 22, 2015 *Motion for Reconsideration* have been sufficiently passed upon in the June 30, 2015 *Decision*, and further finding that there is no cogent reason to modify, much less, reverse the same, hereby **DENIES** the instant motion.

SO ORDERED.²⁶

²² Id. at 81.

²³ Sec. 8. Identification of Sites for Socialized Housing. — After the inventory the local government units, in coordination with the National Housing Authority, the Housing and Land Use Regulatory Board, the National Mapping Resource Information Authority, and the Land Management Bureau, shall identify lands for socialized housing and resettlement areas for the immediate and future needs of the underprivileged and homeless in the urban areas, taking into consideration and degree of availability of basic services and facilities, their accessibility and proximity of jobs sites and other economic opportunities, and the actual number of registered beneficiaries. Government-owned lands under paragraph (b) of the preceding section which have not been used for the purpose for which they have been reserved or set aside for the past ten (10) years from the effectivity of this Act and identified as suitable for socialized housing, shall immediately be transferred to the National Housing Authority subject to the approval of the President of the Philippines or by the local government unit concerned, as the case may be, for proper disposition in accordance with this Act.

²⁴ *Rollo*, pp. 83-84.

²⁵ Id. at 84.

²⁶ Id. at 108.

Hence, this petition.

The Issue

Petitioner's arguments are centered upon the assertion of its power to expropriate and its claim that it had complied with the provisions of the Constitution and pertinent laws in the exercise thereof. Hence, stripped to the essentials, the issue before us is: whether or not the CA erred in finding that petitioner failed to prove that it complied with pertinent laws in the exercise of its power of eminent domain.

The Court's Ruling

The petition is bereft of merit.

In resolving expropriation cases, this Court has always been reminded that the exercise of the power of eminent domain necessarily involves a derogation of fundamental right.²⁷ "The exercise of the power of eminent domain drastically affects a landowner's right to private property, which is as much a constitutionally-protected right necessary for the preservation and enhancement of personal dignity and intimately connected with the rights to life and liberty."²⁸ Therefore, the exercise of such power must undergo painstaking scrutiny.²⁹

Such scrutiny is especially necessary when eminent domain is exercised by a local government considering that it merely has a delegated power of eminent domain. A local government unit has no inherent power of eminent domain. Such power is essentially lodged in the legislature although it may be validly delegated to local government units, other public entities and public utilities. Thus, inasmuch as the principal's exercise of the power of eminent domain is subject to certain conditions, with more reason that the exercise of a delegated power is not absolute. In fact, strictly speaking, the power of eminent domain delegated to the local government unit is, in reality, not eminent but inferior since it must conform to the limits imposed by the principal.³⁰

Through the LGC, the national legislature delegated the power of eminent domain to the local government units. Section 19 thereof provides:

SEC. 19. *Eminent Domain*. - A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose[,] or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws: Provided, however, That the power of eminent domain may not be exercised unless a

²⁷ *Beluso v. The Municipality of Panay (Capiz)*, 529 Phil. 773, 781 (2006).

²⁸ *Lagcao v. Judge Labra*, 483 Phil. 303, 311 (2004).

²⁹ *Supra* note 27, at 782.

³⁰ *Id.* at 781.

valid and definite offer has been previously made to the owner, and such offer was not accepted: Provided, further, That the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated: Provided, finally, That, the amount to be paid for the expropriated property shall be determined by the proper court, based on the fair market value at the time of the taking of the property.

From the foregoing, several requisites must concur before a local government unit can exercise the power of eminent domain, to wit: (1) an ordinance is enacted by the local legislative council authorizing the local chief executive, in behalf of the local government unit, to exercise the power of eminent domain or pursue expropriation proceedings over a particular private property; (2) the power of eminent domain is exercised for public use, purpose or welfare, or for the benefit of the poor and the landless; (3) there is payment of just compensation, as required under Section 9, Article III of the Constitution, and other pertinent laws; and (4) a valid and definite offer has been previously made to the owner of the property sought to be expropriated, but said offer was not accepted.³¹

Further, the above-cited provision also states that the exercise of such delegated power should be pursuant to the Constitution and pertinent laws. R.A. No. 7279 is such pertinent law in this case as it governs the local expropriation of properties for purposes of urban land reform and housing. Thus, the rules and limitations set forth therein cannot be disregarded. Sections 9 and 10 of the said Act provide:

SEC 9. *Priorities in the Acquisition of Land.* – Lands for socialized housing shall be acquired in the following order:

- (a) Those owned by the Government or any of its subdivisions, instrumentalities, or agencies, including government-owned or controlled corporations and their subsidiaries;
- (b) Alienable lands of the public domain;
- (c) Unregistered or abandoned and idle lands;
- (d) Those within the declared Areas or Priority Development, Zonal Improvement Program sites, and Slum Improvement and Resettlement Program sites which have not yet been acquired;
- (e) Bagong Lipunan Improvement of Sites and Services or BLISS sites which have not yet been acquired; and
- (f) **Privately-owned lands.**

Where [on-site] development is found more practicable and advantageous to the beneficiaries, the priorities mentioned in this section

³¹ Id. at 782-783.

shall not apply. The local government units shall give budgetary priority to on-site development of government lands.

SEC. 10. *Modes of Land Acquisition*. – The modes of acquiring lands for purposes of this Act shall include, among others, community mortgage, land swapping, land assembly or consolidation, land banking, donation to the Government, joint-venture agreement, negotiated purchase, and expropriation: Provided, however, **That expropriation shall be resorted to only when other modes of acquisition have been exhausted**: Provided, further, That where expropriation is resorted to, parcels of land owned by small property owners shall be exempted for purposes of this Act: x x x. (Emphases supplied)

It could be readily seen from the RTC's Order that in granting petitioner's complaint for expropriation, it took a facile approach in its resolution of the expropriation suit. It sweepingly concluded that petitioner had met all the aforesaid requisites. It concluded that the expropriation was for a public purpose merely because it is pursuant to the city's land-for-the-landless and on-site development programs. The RTC also took hook, line, and sinker, petitioner's assertion that an on-site development is the most practicable and advantageous to the beneficiaries, allowing the resort to the acquisition of private lands despite the same being last in the list of priorities under Section 9 of R.A. No. 7279. As can be gleaned from its Order, the RTC subscribed to the assertion that an on-site development is more practicable and advantageous to the beneficiaries merely on the basis of its unsupported generalization that "it would be absurd for other priorities to be applied considering that the tenants have been there for more than fifty (50) years being assisted by the government in terms of social services and having their houses demolished and then relocate them somewhere is anathema to the essence and aim of [on-site] development."³²

It bears stressing that courts have a duty to judiciously scrutinize and determine whether the local government's exercise of the delegated power of eminent domain is in accordance with the delegating law.³³ As correctly ruled by the CA, bare allegations and unsupported generalizations do not suffice, considering the drastic effect of the exercise of such power to constitutionally-protected rights. In the case of *Estate or Heirs of the Late Ex-Justice Jose B.L. Reyes v. City of Manila*,³⁴ we emphatically ruled that the above-quoted provisions are **strict limitations** on the exercise of the power of eminent domain by local government units, especially with respect to: (1) the order of priority in acquiring land for socialized housing; and (2) the resort to expropriation proceedings as a means of acquiring it.³⁵ Compliance with these conditions is **mandatory** because these are the only safeguards of oftentimes helpless owners of private property against what may be a tyrannical violation of due process when their property is forcibly

³² *Rollo*, p. 56.

³³ *Beluso v. The Municipality of Panay (Capiz)*, supra note 27, at 782.

³⁴ 467 Phil. 165 (2004).

³⁵ *Id.* at 187, citing *Filstream v. Court of Appeals*, G.R. Nos. 125218 & 128097, January 23, 1998, 284 SCRA 716, 731.

taken from them allegedly for public use.

As correctly found by the CA, we find nothing in the records indicating that petitioner complied with Section 19 of the LGC and Sections 9 and 10 of R.A. No. 7279.

Petitioner persistently alleges that it conducted a study and observed the order of priority in land acquisition for expropriation under Section 9 of R.A. No. 7279 and found that on-site development is the most practicable and advantageous to the prospective beneficiaries. Aside from such bare allegations and unsupported generalizations of the Officer-in-Charge of its Urban Settlements Office, however, no evidence was presented to prove such claim. There was no showing that any attempt was made to first acquire the lands listed in Section 9(a) to (e) before proceeding to expropriate respondents' private lands. There was also no document or any evidence presented to prove a study allegedly conducted showing comparisons and considerations to support petitioner's conclusion that on-site development was its best choice.

What is more, there was no evidence presented showing that the subject properties were those contemplated under R.A. 7279 to be proper subjects of on-site development. The CA correctly pointed out that R.A. No. 7279 provides for a detailed description of specific areas which are the proper subjects of on-site development, *i.e.*, those "areas where the structures are dilapidated, obsolete, and unsanitary, tending to depreciate the value of the land and prevent normal development and use of the area" as defined under Section 3(1), in relation to Section 3(c) of R.A. No. 7279. It is, thus, incumbent upon petitioner to show that the areas they sought to expropriate for socialized housing and urban development are those contemplated under the law. Again, unsupported allegations and generalizations will not suffice.

The CA also correctly observed that there was likewise no evidence presented to show that the prospective beneficiaries of the expropriation are the "underprivileged and homeless" contemplated under Section 8 of R.A. No. 7279. Again, it could have been simple for petitioner to present surveys or studies conducted by competent authorities to prove that the prospective beneficiaries are the proper subjects of its socialized housing program. However, on the contrary, records show that the prospective beneficiaries are not such "underprivileged and homeless." As testified to by a witness, these prospective beneficiaries have the ability to buy the properties that petitioner is seeking to expropriate to give to them. In fact, said purported "underprivileged and homeless" beneficiaries were able to put up a substantial amount to complete the additional deposit ordered by the court for the petitioner to satisfy.

To be sure, this Court is not unaware of the contemporary concept of "public use" as explained in prevailing jurisprudence. It remains true, however, that condemnation of private lands in an irrational or piecemeal

fashion or the random expropriation of small lots to accommodate no more than a few tenants or squatters is certainly not the condemnation for public use contemplated by the Constitution. Such act would clearly deprive a citizen of his or her property for the convenience of a few without perceptible benefit to the public.³⁶

Finally, petitioner failed to establish that the other modes of acquisition under Section 10 of R.A. No. 7279 were first exhausted. Said provision prefers the acquisition of private property by negotiated sale over the filing of an expropriation suit. This rule is not without basis. The government should lead in avoiding litigations and overburdening the courts as litigations are costly and protracted.³⁷ Thus, this Court has held, time and again, that in cases of land acquisitions by the government, when the property owner rejects the offer but hints for a better price, the government should renegotiate by calling the property owner to a conference.³⁸ “The government must exhaust all reasonable efforts to obtain by agreement the land it desires. Its failure to comply will warrant the dismissal of the complaint.”³⁹ This finds further legal basis in Article 35 of the Rules and Regulations Implementing the Local Government Code, which reads:

ART. 35. *Offer to Buy and Contract of Sale.* (a) The offer to buy private property for public use or purpose shall be in writing. It shall specify the property sought to be acquired, the reasons for its acquisition, and the price offered.

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(c) If the owner or owners are willing to sell their property but at a price higher than that offered to them, the local chief executive shall call them to a conference for the purpose of reaching an agreement on the selling price. The chairman of the appropriation or finance committee of the *sanggunian*, or in his absence, any member of the *sanggunian* duly chosen as its representative, shall participate in the conference. When an agreement is reached by the parties, a contract of sale shall be drawn and executed.

Here, it is undisputed that after respondents rejected petitioner’s offer of ₱2,000.00 per square meter to purchase their lots for being too low compared to the fair market value of their properties, petitioner readily instituted the present expropriation suit without bothering to renegotiate its offer. Relevantly, thus, there is no valid and definite offer made by petitioner before it filed the expropriation complaint. The intent of the law is for the State or the local government to make a reasonable offer in good faith, not merely a *pro forma* offer to acquire the property.⁴⁰

³⁶ *Lagcao v. Judge Labra*, supra note 28, at 312.

³⁷ *City of Manila v. Alegar Corporation*, 689 Phil. 31, 40 (2012).

³⁸ *Jesus is Lord Christian School Foundation, Inc. v. Municipality (now City) of Pasig, Metro Manila*, 503 Phil. 845, 864 (2005).

³⁹ *City of Manila v. Alegar Corporation*, supra note 37, at 40.


⁴⁰ *Id.* at 41.

In all, while we recognize petitioner’s power to expropriate and the fact that housing is one of the most serious social problems that it needs to address, it is equally important to acknowledge that local government units do not have an unbridled authority to exercise such formidable power in seeking solutions to such problem. Again, such formidable power greatly affects a citizen’s fundamental right to property, hence, there is a need to strictly comply with the conditions and restrictions set forth in the Constitution and pertinent laws to assure that every right is protected and every mandate is properly discharged.

It is well to mention that this decision is not meant to disparage the local government units’ delegated power to expropriate. It merely calls for compliance with all the legal requirements, as well as the presentation of proof of such compliance.

WHEREFORE, premises considered, the petition is **DENIED**. Accordingly, the Decision dated June 30, 2015, and Resolution dated November 9, 2015, of the Court of Appeals in CA-G.R. CV No. 101440 are **AFFIRMED**.

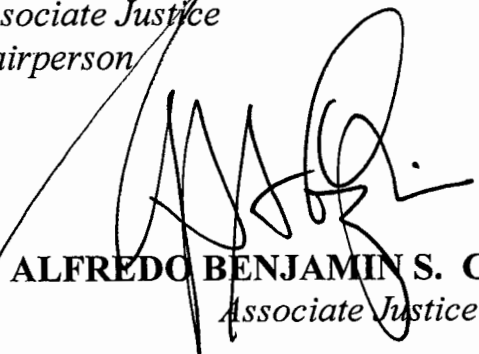
SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


AMY C. LAZARO-JAVIER
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.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII 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.



LUCAS P. BERSAMIN
Chief Justice