



Republic of the Philippines  
**Supreme Court**

Manila

EN BANC

**REMMAN ENTERPRISES, INC.  
and CHAMBER OF REAL  
ESTATE AND BUILDERS'  
ASSOCIATION,**

Petitioners,

- versus -

**PROFESSIONAL REGULATORY  
BOARD OF REAL ESTATE  
SERVICE and PROFESSIONAL  
REGULATION COMMISSION,**

Respondents.

**G.R. No. 197676**

Present:

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

Promulgated:

FEBRUARY 04, 2014

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**DECISION**

**VILLARAMA, JR., J.:**

Assailed in this petition for review under Rule 45 is the Decision<sup>1</sup> dated July 12, 2011 of the Regional Trial Court (RTC) of Manila, Branch 42 denying the petition to declare as unconstitutional Sections 28(a), 29 and 32 of Republic Act (R.A.) No. 9646.

R.A. No. 9646, otherwise known as the “Real Estate Service Act of the Philippines” was signed into law on June 29, 2009 by President Gloria

<sup>1</sup> Rollo, pp. 28-36. Penned by Presiding Judge Dinnah C. Aguila-Topacio.

Macapagal-Arroyo. It aims to professionalize the real estate service sector under a regulatory scheme of licensing, registration and supervision of real estate service practitioners (real estate brokers, appraisers, assessors, consultants and salespersons) in the country. Prior to its enactment, real estate service practitioners were under the supervision of the Department of Trade and Industry (DTI) through the Bureau of Trade Regulation and Consumer Protection (BTRCP), in the exercise of its consumer regulation functions. Such authority is now transferred to the Professional Regulation Commission (PRC) through the Professional Regulatory Board of Real Estate Service (PRBRES) created under the new law.

The implementing rules and regulations (IRR) of R.A. No. 9646 were promulgated on July 21, 2010 by the PRC and PRBRES under Resolution No. 02, Series of 2010.

On December 7, 2010, herein petitioners Remman Enterprises, Inc. (REI) and the Chamber of Real Estate and Builders' Association (CREBA) instituted Civil Case No. 10-124776 in the Regional Trial Court of Manila, Branch 42. Petitioners sought to declare as void and unconstitutional the following provisions of R.A. No. 9646:

SEC. 28. *Exemptions from the Acts Constituting the Practice of Real Estate Service.* – The provisions of this Act and its rules and regulations shall not apply to the following:

(a) Any person, natural or juridical, who shall directly perform by himself/herself the acts mentioned in Section 3 hereof with reference to his/her or its own property, **except real estate developers**;

x x x x

SEC. 29. *Prohibition Against the Unauthorized Practice of Real Estate Service.* – No person shall practice or offer to practice real estate service in the Philippines or offer himself/herself as real estate service practitioner, or use the title, word, letter, figure or any sign tending to convey the impression that one is a real estate service practitioner, or advertise or indicate in any manner whatsoever that one is qualified to practice the profession, or be appointed as real property appraiser or assessor in any national government entity or local government unit, unless he/she has **satisfactorily passed the licensure examination** given by the Board, except as otherwise provided in this Act, **a holder of a valid certificate of registration**, and **professional identification card or a valid special/temporary permit** duly issued to him/her by the Board and the Commission, and in the case of real estate brokers and private appraisers, they have **paid the required bond** as hereto provided.

x x x x

SEC. 32. *Corporate Practice of the Real Estate Service.* – (a) No partnership or corporation shall engage in the business of real estate service unless it is duly registered with the Securities and Exchange Commission (SEC), and the **persons authorized to act for the partnership or corporation are all duly registered and licensed real estate brokers, appraisers or consultants**, as the case may be. The

partnership or corporation shall regularly submit a list of its real estate service practitioners to the Commission and to the SEC as part of its annual reportorial requirements. There shall at least be one (1) licensed real estate broker for every twenty (20) accredited salespersons.

(b) Divisions or departments of partnerships and corporations engaged in marketing or selling any real estate development project in the regular course of business must be headed by **full-time registered and licensed real estate brokers.**

(c) Branch offices of real estate brokers, appraisers or consultants must be manned by a duly licensed real estate broker, appraiser or consultant as the case may be.

In case of resignation or termination from employment of a real estate service practitioner, the same shall be reported by the employer to the Board within a period not to exceed fifteen (15) days from the date of effectivity of the resignation or termination.

Subject to the provisions of the Labor Code, a corporation or partnership may hire the services of registered and licensed real estate brokers, appraisers or consultants on commission basis to perform real estate services and the latter shall be deemed independent contractors and not employees of such corporations. (Emphasis and underscoring supplied.)

According to petitioners, the new law is constitutionally infirm because (1) it violates Article VI, Section 26 (1) of the 1987 Philippine Constitution which mandates that “[e]very bill passed by Congress shall embrace only one subject which shall be expressed in the title thereof”; (2) it is in direct conflict with Executive Order (E.O.) No. 648 which transferred the exclusive jurisdiction of the National Housing Authority (NHA) to regulate the real estate trade and business to the Human Settlements Commission, now the Housing and Land Use Regulatory Board (HLURB), which authority includes the issuance of license to sell of subdivision owners and developers pursuant to Presidential Decree (P.D.) No. 957; (3) it violates the due process clause as it impinges on the real estate developers’ most basic ownership rights, the right to use and dispose property, which is enshrined in Article 428 of the Civil Code; and (4) Section 28(a) of R.A. No. 9646 violates the equal protection clause as no substantial distinctions exist between real estate developers and the exempted group mentioned since both are property owners dealing with their own property.

Additionally, petitioners contended that the lofty goal of nurturing and developing a “corps of technically competent, reasonable and respected professional real estate service practitioners” is not served by curtailing the right of real estate developers to conduct their business of selling properties. On the contrary, these restrictions would have disastrous effects on the real estate industry as the additional cost of commissions would affect the pricing and affordability of real estate packages. When that happens, petitioners claimed that the millions of jobs and billions in revenues that the real estate industry generates for the government will be a thing of the past.

After a summary hearing, the trial court denied the prayer for issuance of a writ of preliminary injunction.

On July 12, 2011, the trial court rendered its Decision<sup>2</sup> denying the petition. The trial court held that the assailed provisions are relevant to the title of the law as they are intended to regulate the practice of real estate service in the country by ensuring that those who engage in it shall either be a licensed real estate broker, or under the latter's supervision. It likewise found no real discord between E.O. No. 648 and R.A. No. 9646 as the latter does not render nugatory the license to sell granted by the HLURB to real estate developers, which license would still subsist. The only difference is that by virtue of the new law, real estate developers will now be compelled to hire the services of one licensed real estate broker for every twenty salespersons to guide and supervise the coterie of salespersons under the employ of the real estate developers.

On the issue of due process, the trial court said that the questioned provisions do not preclude property owners from using, enjoying, or disposing of their own property because they can still develop and sell their properties except that they have to secure the services of a licensed real estate broker who shall oversee the actions of the unlicensed real estate practitioners under their employ. Since the subject provisions merely prescribe the requirements for the regulation of the practice of real estate services, these are consistent with a valid exercise of the State's police power. The trial court further ruled that Section 28(a) does not violate the equal protection clause because the exemption of real estate developers was anchored on reasonable classification aimed at protecting the buying public from the rampant misrepresentations often committed by unlicensed real estate practitioners, and to prevent unscrupulous and unethical real estate practices from flourishing considering the large number of consumers in the regular course of business compared to isolated sale transactions made by private individuals selling their own property.

Hence, this appeal on the following questions of law:

1. Whether there is a justiciable controversy for this Honorable Court to adjudicate;
2. Whether [R.A. No. 9646] is unconstitutional for violating the "one title-one subject" rule under Article VI, Section 26 (1) of the Philippine Constitution;
3. Whether [R.A. No. 9646] is in conflict with PD 957, as amended by EO 648, with respect to the exclusive jurisdiction of the HLURB to regulate real estate developers;
4. Whether Sections 28(a), 29, and 32 of [R.A. No. 9646], insofar as they affect the rights of real estate developers, are unconstitutional for violating substantive due process; and

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<sup>2</sup> Id.

5. Whether Section 28(a), which treats real estate developers differently from other natural or juridical persons who directly perform acts of real estate service with reference to their own property, is unconstitutional for violating the equal protection clause.<sup>3</sup>

### **The Court's Ruling**

The petition has no merit.

### ***Justiciable Controversy***

The Constitution<sup>4</sup> requires as a condition precedent for the exercise of judicial power the existence of an actual controversy between litigants. An actual case or controversy involves a conflict of legal rights, an assertion of opposite legal claims susceptible to judicial resolution.<sup>5</sup> The controversy must be justiciable – definite and concrete – touching on the legal relations of parties having adverse legal interests, which may be resolved by a court of law through the application of a law.<sup>6</sup> In other words, the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other; that is, it must concern a real and not a merely theoretical question or issue. There ought to be an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.<sup>7</sup> An actual case is ripe for adjudication when the act being challenged has a direct adverse effect on the individual challenging it.<sup>8</sup>

There is no question here that petitioners who are real estate developers are entities directly affected by the prohibition on performing acts constituting practice of real estate service without first complying with the registration and licensing requirements for brokers and agents under R.A. No. 9646. The possibility of criminal sanctions for disobeying the mandate of the new law is likewise real. Asserting that the prohibition violates their rights as property owners to dispose of their properties, petitioners challenged on constitutional grounds the implementation of R.A. No. 9646 which the respondents defended as a valid legislation pursuant to the State's police power. The Court thus finds a justiciable controversy that calls for immediate resolution.

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<sup>3</sup> Id. at 172-173.

<sup>4</sup> 1987 CONSTITUTION, Article VIII, Sec. 1., par. 2.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

<sup>5</sup> *Garcia v. Executive Secretary*, G.R. No. 157584, April 2, 2009, 583 SCRA 119, 129.

<sup>6</sup> *Information Technology Foundation of the Phils. v. COMELEC*, 499 Phil. 281, 304-305 (2005); *Cutaran v. DENR*, 403 Phil. 654, 662 (2001).

<sup>7</sup> Id. at 305.

<sup>8</sup> *Sec. Guingona, Jr. v. Court of Appeals*, 354 Phil. 415, 427 (1998).

### *No Violation of One-Title One-Subject Rule*

Section 26(1), Article VI of the Constitution states:

SEC. 26 (1). Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof.

In *Fariñas v. The Executive Secretary*,<sup>9</sup> the Court explained the provision as follows:

The proscription is aimed against the evils of the so-called omnibus bills and log-rolling legislation as well as surreptitious and/or unconsidered encroachments. The provision merely calls for all parts of an act relating to its subject finding expression in its title.

To determine whether there has been compliance with the constitutional requirement that the subject of an act shall be expressed in its title, the Court laid down the rule that –

Constitutional provisions relating to the subject matter and titles of statutes should not be so narrowly construed as to cripple or impede the power of legislation. **The requirement that the subject of an act shall be expressed in its title should receive a reasonable and not a technical construction. It is sufficient if the title be comprehensive enough reasonably to include the general object which a statute seeks to effect, without expressing each and every end and means necessary or convenient for the accomplishing of that object.** Mere details need not be set forth. The title need not be an abstract or index of the Act.<sup>10</sup> (Emphasis supplied.)

The Court has previously ruled that the one-subject requirement under the Constitution is satisfied if all the parts of the statute are related, and are germane to the subject matter expressed in the title, or as long as they are not inconsistent with or foreign to the general subject and title.<sup>11</sup> An act having a single general subject, indicated in the title, may contain any number of provisions, no matter how diverse they may be, so long as they are not inconsistent with or foreign to the general subject, and may be considered in furtherance of such subject by providing for the method and means of carrying out the general object.<sup>12</sup>

It is also well-settled that the “one title-one subject” rule does not require the Congress to employ in the title of the enactment language of such precision as to mirror, fully index or catalogue all the contents and the minute details therein. The rule is sufficiently complied with if the title is comprehensive enough as to include the general object which the statute

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<sup>9</sup> 463 Phil. 179 (2003).

<sup>10</sup> Id. at 198.

<sup>11</sup> *Cordero and Salazar v. Cabatuando and Sta. Romana*, 116 Phil. 736, 740 (1962); see also *Sumulong v. COMELEC*, 73 Phil. 288, 291 (1941).

<sup>12</sup> *Tio v. Videogram Regulatory Board*, 235 Phil. 198, 204 (1987).

seeks to effect.<sup>13</sup> Indeed, this Court has invariably adopted a liberal rather than technical construction of the rule “so as not to cripple or impede legislation.”<sup>14</sup>

R.A. No. 9646 is entitled “*An Act Regulating the Practice of Real Estate Service in the Philippines, Creating for the Purpose a Professional Regulatory Board of Real Estate Service, Appropriating Funds Therefor and For Other Purposes.*” Aside from provisions establishing a regulatory system for the professionalization of the real estate service sector, the new law extended its coverage to real estate developers with respect to their own properties. Henceforth, real estate developers are prohibited from performing acts or transactions constituting real estate service practice without first complying with registration and licensing requirements for their business, brokers or agents, appraisers, consultants and salespersons.

Petitioners point out that since partnerships or corporations engaged in marketing or selling any real estate development project in the regular course of business are now required to be headed by full-time, registered and licensed real estate brokers, this requirement constitutes limitations on the property rights and business prerogatives of real estate developers which are not all reflected in the title of R.A. No. 9646. Neither are real estate developers, who are already regulated under a different law, P.D. No. 957, included in the definition of real estate service practitioners.

We hold that R.A. No. 9646 does not violate the one-title, one-subject rule.

The primary objective of R.A. No. 9646 is expressed as follows:

SEC. 2. *Declaration of Policy.* – The State recognizes the vital role of real estate service practitioners in the social, political, economic development and progress of the country by promoting the real estate market, stimulating economic activity and enhancing government income from real property-based transactions. Hence, it shall develop and nurture through proper and effective regulation and supervision a corps of technically competent, responsible and respected professional real estate service practitioners whose standards of practice and service shall be globally competitive and will promote the growth of the real estate industry.

We find that the inclusion of real estate developers is germane to the law’s primary goal of developing “a corps of technically competent, responsible and respected professional real estate service practitioners whose standards of practice and service shall be globally competitive and will promote the growth of the real estate industry.” Since the marketing aspect of real estate development projects entails the performance of those acts and

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<sup>13</sup> *Cawaling, Jr. v. COMELEC*, 420 Phil. 524, 534 (2001), citing *Tatad v. The Secretary of the Department of Energy*, 346 Phil. 321, 405 (1997) and *Hon. Lim v. Hon. Pacquing*, 310 Phil. 722, 767 (1995).

<sup>14</sup> *Id.*, citing *Tobias v. Abalos*, G.R. No. 114783, December 8, 1994, 239 SCRA 106, 111 and *Sumulong v. COMELEC*, *supra* note 11.

transactions defined as real estate service practices under Section 3(g) of R.A. No. 9646, it is logically covered by the regulatory scheme to professionalize the entire real estate service sector.

***No Conflict Between R.A. No. 9646  
and P.D. No. 957, as amended by E.O. No. 648***

Petitioners argue that the assailed provisions still cannot be sustained because they conflict with P.D. No. 957 which decreed that the NHA shall have “exclusive jurisdiction to regulate the real estate trade and business.” Such jurisdiction includes the authority to issue a license to sell to real estate developers and to register real estate dealers, brokers or salesmen upon their fulfillment of certain requirements under the law. By imposing limitations on real estate developers’ property rights, petitioners contend that R.A. No. 9646 undermines the licenses to sell issued by the NHA (now the HLURB) to real estate developers allowing them to sell subdivision lots or condominium units directly to the public. Because the HLURB has been divested of its exclusive jurisdiction over real estate developers, the result is an implied repeal of P.D. No. 957 as amended by E.O. No. 648, which is not favored in law.

It is a well-settled rule of statutory construction that repeals by implication are not favored. In order to effect a repeal by implication, the later statute must be so irreconcilably inconsistent and repugnant with the existing law that they cannot be made to reconcile and stand together. The clearest case possible must be made before the inference of implied repeal may be drawn, for inconsistency is never presumed. There must be a showing of repugnance clear and convincing in character. The language used in the later statute must be such as to render it irreconcilable with what had been formerly enacted. An inconsistency that falls short of that standard does not suffice.<sup>15</sup> Moreover, the failure to add a specific repealing clause indicates that the intent was not to repeal any existing law, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws.<sup>16</sup>

There is nothing in R.A. No. 9646 that repeals any provision of P.D. No. 957, as amended by E.O. No. 648. P.D. No. 957, otherwise known as “*The Subdivision and Condominium Buyers’ Protective Decree*,”<sup>17</sup> vested the NHA with exclusive jurisdiction to regulate the real estate trade and business in accordance with its provisions. It empowered the NHA to register, approve and monitor real estate development projects and issue licenses to sell to real estate owners and developers. It further granted the NHA the authority to register and issue/revoke licenses of brokers, dealers and salesmen engaged in the selling of subdivision lots and condominium units.

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<sup>15</sup> *Agujetas v. Court of Appeals*, 329 Phil. 721, 745-746 (1996).

<sup>16</sup> *Secretary of Finance v. Hon. Ilarde*, 497 Phil. 544, 556 (2005).

<sup>17</sup> Issued on July 12, 1976.



E.O. No. 648, issued on February 7, 1981, reorganized the Human Settlements Regulatory Commission (HSRC) and transferred the regulatory functions of the NHA under P.D. 957 to the HSRC. Among these regulatory functions were the (1) regulation of the real estate trade and business; (2) registration of subdivision lots and condominium projects; (3) issuance of license to sell subdivision lots and condominium units in the registered units; (4) approval of performance bond and the suspension of license to sell; (5) registration of dealers, brokers and salesman engaged in the business of selling subdivision lots or condominium units; and (6) revocation of registration of dealers, brokers and salesmen.<sup>18</sup>

E.O. No. 90, issued on December 17, 1986, renamed the HSRC as the Housing and Land Use Regulatory Board (HLURB) and was designated as the regulatory body for housing and land development under the Housing and Urban Development Coordinating Council (HUDCC). To date, HLURB continues to carry out its mandate to register real estate brokers and salesmen dealing in condominium, memorial parks and subdivision projects pursuant to Section 11 of P.D. No. 957, which reads:

SECTION 11. *Registration of Dealers, Brokers and Salesmen.* – No real estate dealer, broker or salesman shall engage in the business of selling subdivision lots or condominium units unless he has registered himself with the Authority in accordance with the provisions of this section.

If the Authority shall find that the applicant is of good repute and has complied with the applicable rules of the Authority, including the payment of the prescribed fee, he shall register such applicant as a dealer, broker or salesman upon filing a bond, or other security in lieu thereof, in such sum as may be fixed by the Authority conditioned upon his faithful compliance with the provisions of this Decree: Provided, that the registration of a salesman shall cease upon the termination of his employment with a dealer or broker.

Every registration under this section shall expire on the thirty-first day of December of each year. Renewal of registration for the succeeding year shall be granted upon written application therefore made not less than thirty nor more than sixty days before the first day of the ensuing year and upon payment of the prescribed fee, without the necessity of filing further statements or information, unless specifically required by the Authority. All applications filed beyond said period shall be treated as original applications.

The names and addresses of all persons registered as dealers, brokers, or salesmen shall be recorded in a Register of Brokers, Dealers and Salesmen kept in the Authority which shall be open to public inspection.

On the other hand, Section 29 of R.A. No. 9646 requires as a condition precedent for all persons who will engage in acts constituting real estate service, including advertising in any manner one's qualifications as a

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<sup>18</sup> E.O. No. 648, Sec. 8.

real estate service practitioner, compliance with licensure examination and other registration requirements including the filing of a bond for real estate brokers and private appraisers. While Section 11 of P.D. No. 957 imposes registration requirements for dealers, brokers and salespersons engaged in the selling of subdivision lots and condominium units, Section 29 of R.A. No. 9646 regulates *all* real estate service practitioners whether private or government. While P.D. No. 957 seeks to supervise brokers and dealers who are engaged in the sale of subdivision lots and condominium units, R.A. No. 9646 aims to regulate the real estate service sector in general by professionalizing their ranks and raising the level of ethical standards for licensed real estate professionals.

There is no conflict of jurisdiction because the HLURB supervises only those real estate service practitioners engaged in the sale of subdivision lots and condominium projects, specifically for violations of the provisions of P.D. No. 957, and not the entire real estate service sector which is now under the regulatory powers of the PRBRES. HLURB's supervision of brokers and dealers to effectively implement the provisions of P.D. No. 957 does not foreclose regulation of the real estate service as a profession. Real estate developers already regulated by the HLURB are now further required to comply with the professional licensure requirements under R.A. No. 9646, as provided in Sections 28, 29 and 32. Plainly, there is no inconsistency or contradiction in the assailed provisions of R.A. No. 9646 and P.D. No. 957, as amended.

The rule is that every statute must be interpreted and brought into accord with other laws in a way that will form a uniform system of jurisprudence. The legislature is presumed to have known existing laws on the subject and not to have enacted conflicting laws.<sup>19</sup> Congress, therefore, could not be presumed to have intended Sections 28, 29 and 32 of R.A. No. 9646 to run counter to P.D. No. 957.

### ***No Violation of Due Process***

Petitioners contend that the assailed provisions of R.A. No. 9646 are unduly oppressive and infringe the constitutional rule against deprivation of property without due process of law. They stress that real estate developers are now burdened by law to employ licensed real estate brokers to sell, market and dispose of their properties. Despite having invested a lot of money, time and resources in their projects, petitioners aver that real estate developers will still have less control in managing their business and will be burdened with additional expenses.

The contention has no basis. There is no deprivation of property as no restriction on their use and enjoyment of property is caused by the

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<sup>19</sup> *Government Service Insurance System v. City Assessor of Iloilo City*, 526 Phil. 145, 152 (2006), citing *Hon. Hagad v. Hon. Gozadadole*, 321 Phil. 604, 614 (1995).

implementation of R.A. No. 9646. If petitioners as property owners feel burdened by the new requirement of engaging the services of only licensed real estate professionals in the sale and marketing of their properties, such is an unavoidable consequence of a reasonable regulatory measure.

Indeed, no right is absolute, and the proper regulation of a profession, calling, business or trade has always been upheld as a legitimate subject of a valid exercise of the police power of the State particularly when their conduct affects the execution of legitimate governmental functions, the preservation of the State, public health and welfare and public morals.<sup>20</sup> In any case, where the liberty curtailed affects at most the rights of property, the permissible scope of regulatory measures is certainly much wider. To pretend that licensing or accreditation requirements violate the due process clause is to ignore the settled practice, under the mantle of police power, of regulating entry to the practice of various trades or professions.<sup>21</sup>

Here, the legislature recognized the importance of professionalizing the ranks of real estate practitioners by increasing their competence and raising ethical standards as real property transactions are “susceptible to manipulation and corruption, especially if they are in the hands of unqualified persons working under an ineffective regulatory system.” The new regulatory regime aimed to fully tap the vast potential of the real estate sector for greater contribution to our gross domestic income, and real estate practitioners “serve a vital role in spearheading the continuous flow of capital, in boosting investor confidence, and in promoting overall national progress.”<sup>22</sup>

We thus find R.A. No. 9646 a valid exercise of the State’s police power. As we said in another case challenging the constitutionality of a law granting discounts to senior citizens:

The law is a legitimate exercise of police power which, similar to the power of eminent domain, has general welfare for its object. Police power is not capable of an exact definition, but has been purposely veiled in general terms to underscore its comprehensiveness to meet all exigencies and provide enough room for an efficient and flexible response to conditions and circumstances, thus assuring the greatest benefits. Accordingly, it has been described as “the most essential, insistent and the least limitable of powers, extending as it does to all the great public needs.” It is “[t]he power vested in the legislature by the constitution to make, ordain, and establish all manner of wholesome and reasonable laws, statutes, and ordinances, either with penalties or without, not repugnant to the constitution, as they shall judge to be for the good and welfare of the commonwealth, and of the subjects of the same.”

For this reason, when the conditions so demand as determined by the legislature, property rights must bow to the primacy of police power

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<sup>20</sup> *JMM Promotion and Management, Inc. v. Court of Appeals*, 329 Phil. 87, 100 (1996).

<sup>21</sup> *Id.*, citing *Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila*, 127 Phil. 306 (1967).

<sup>22</sup> Sponsorship Speech of Senator Panfilo Lacson on Senate Bill No. 2963, Journal of the Senate, Session No. 39, Wednesday, December 17, 2008, 14<sup>th</sup> Congress, 2<sup>nd</sup> Regular Session, pp. 1277-1278.

because **property rights, though sheltered by due process, must yield to general welfare.**

Police power as an attribute to promote the common good would be diluted considerably if on the mere plea of petitioners that they will suffer loss of earnings and capital, the questioned provision is invalidated. Moreover, in the absence of evidence demonstrating the alleged confiscatory effect of the provision in question, there is no basis for its nullification in view of the presumption of validity which every law has in its favor.<sup>23</sup> (Emphasis supplied.)

### *No Violation of Equal Protection Clause*

Section 28 of R.A. No. 9646 exempts from its coverage natural and juridical persons dealing with their own property, and other persons such as receivers, trustees or assignees in insolvency or bankruptcy proceedings. However, real estate developers are specifically mentioned as an exception from those enumerated therein. Petitioners argue that this provision violates the equal protection clause because it unjustifiably treats real estate developers differently from those exempted persons who also own properties and desire to sell them. They insist that no substantial distinctions exist between ordinary property owners and real estate developers as the latter, in fact, are more capable of entering into real estate transactions and do not need the services of licensed real estate brokers. They assail the RTC decision in citing the reported fraudulent practices as basis for the exclusion of real estate developers from the exempted group of persons under Section 28(a).

We sustain the trial court's ruling that R.A. No. 9646 does not violate the equal protection clause.

In *Ichong v. Hernandez*,<sup>24</sup> the concept of equal protection was explained as follows:

The equal protection of the law clause is against undue favor and individual or class privilege, as well as hostile discrimination or the oppression of inequality. It is not intended to prohibit legislation, which is limited either in the object to which it is directed or by territory within which it is to operate. It does not demand absolute equality among residents; it merely requires that all persons shall be treated alike, *under like circumstances and conditions* both as to privileges conferred and liabilities enforced. The equal protection clause is not infringed by legislation which applies only to those persons falling within such class, and reasonable grounds exists for making a distinction between those who fall within such class and those who do not. (2 Cooley, Constitutional Limitations, 824-825).<sup>25</sup>

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<sup>23</sup> *Carlos Superdrug Corp. v. Department of Social Welfare and Development*, 553 Phil. 120, 132-133 (2007).

<sup>24</sup> 101 Phil. 1155 (1957).

<sup>25</sup> *Id.* at 1164.

Although the equal protection clause of the Constitution does not forbid classification, it is imperative that the classification should be based on real and substantial differences having a reasonable relation to the subject of the particular legislation.<sup>26</sup> If classification is germane to the purpose of the law, concerns all members of the class, and applies equally to present and future conditions, the classification does not violate the equal protection guarantee.<sup>27</sup>

R.A. No. 9646 was intended to provide institutionalized government support for the development of “a corps of highly respected, technically competent, and disciplined real estate service practitioners, knowledgeable of internationally accepted standards and practice of the profession.”<sup>28</sup> Real estate developers at present constitute a sector that hires or employs the largest number of brokers, salespersons, appraisers and consultants due to the sheer number of products (lots, houses and condominium units) they advertise and sell nationwide. As early as in the ‘70s, there has been a proliferation of errant developers, operators or sellers who have reneged on their representation and obligations to comply with government regulations such as the provision and maintenance of subdivision roads, drainage, sewerage, water system and other basic requirements. To protect the interest of home and lot buyers from fraudulent acts and manipulations perpetrated by these unscrupulous subdivision and condominium sellers and operators, P.D. No. 957 was issued to strictly regulate housing and real estate development projects. Hence, in approving R.A. No. 9646, the legislature rightfully recognized the necessity of imposing the new licensure requirements to *all* real estate service practitioners, including and more importantly, those real estate service practitioners working for real estate developers. Unlike individuals or entities having isolated transactions over their own property, real estate developers sell lots, houses and condominium units in the ordinary course of business, a business which is highly regulated by the State to ensure the health and safety of home and lot buyers.

The foregoing shows that substantial distinctions do exist between ordinary property owners exempted under Section 28(a) and real estate developers like petitioners, and the classification enshrined in R.A. No. 9646 is reasonable and relevant to its legitimate purpose. The Court thus rules that R.A. No. 9646 is valid and constitutional.

Since every law is presumed valid, the presumption of constitutionality can be overcome only by the clearest showing that there was indeed an infraction of the Constitution, and only when such a conclusion is reached by the required majority may the Court pronounce, in the discharge of the duty it cannot escape, that the challenged act must be struck down.<sup>29</sup>

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<sup>26</sup> *Mayor Villegas v. Hiu Chiong Tsai Pao Ho*, 175 Phil. 443, 448 (1978).

<sup>27</sup> *JMM Promotion and Management, Inc. v. Court of Appeals*, supra note 20, at 102.

<sup>28</sup> See Explanatory Note of Senate Bill No. 1644.

<sup>29</sup> *Drilon v. Lim*, G.R. No. 112497, August 4, 1994, 235 SCRA 135, 140.

Indeed, "all presumptions are indulged in favor of constitutionality; one who attacks a statute, alleging unconstitutionality must prove its invalidity beyond a reasonable doubt; that a law may work hardship does not render it unconstitutional; that if any reasonable basis may be conceived which supports the statute, it will be upheld, and the challenger must negate all possible bases; that the courts are not concerned with the wisdom, justice, policy, or expediency of a statute; and that a liberal interpretation of the constitution in favor of the constitutionality of legislation should be adopted."<sup>30</sup>


**WHEREFORE**, the petition is **DENIED**. The Decision dated July 12, 2011 of the Regional Trial Court of Manila, Branch 42 in Civil Case No. 10-124776 is hereby **AFFIRMED and UPHELD**.


No pronouncement as to costs.

**SO ORDERED.**


  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

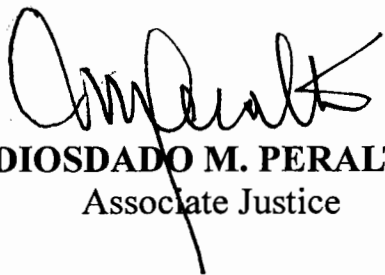
  
**ANTONIO T. CARPIO**  
Associate Justice

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

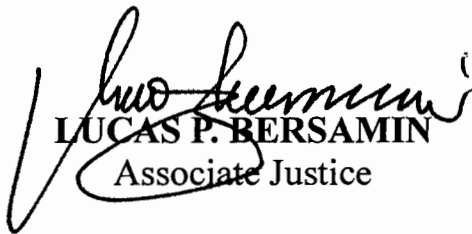
  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**ARTURO D. BRION**  
Associate Justice

<sup>30</sup> *Lawyers Against Monopoly and Poverty (LAMP) v. Secretary of Budget and Management*, G.R. No. 164987, April 24, 2012, 670 SCRA 373, 390-391, citing *Victoriano v. Elizalde Rope Workers' Union*, 158 Phil. 60, 74 (1974).




**DIOSDADO M. PERALTA**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice




**ROBERTO A. ABAD**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice



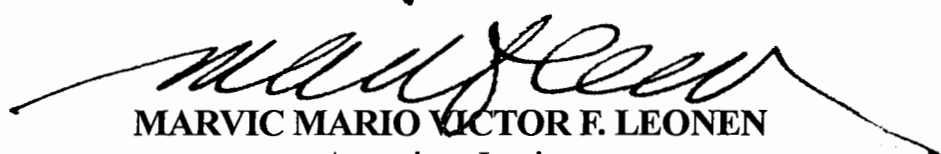
**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



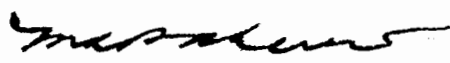
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

### CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution, it is hereby certified 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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

