



Primary Reference:
Lectures/Cases of **ATTY. BONG LOPEZ, LL.M**

Secondary References:
Constitutional Law by Bernas and De Leon

Concept and Origin of the Bill of Rights

Life – pursuit of happiness
Liberty – (freedom is broader)
Property – right to own and disown

Main Classification

1. Natural Right – inherent rights (ex. human rights)
2. Constitutional Right – to guarantee rights arbitrary intrusion by the government
3. Statutory Right – to enable the provisions of the constitution (ex. overtime pay)

Classification According to Purpose

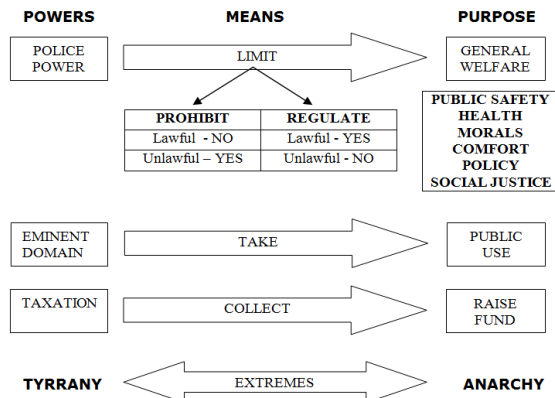
1. Civil Rights
2. Political Rights
3. Social Rights – associated with other rights
4. Economic Rights – to survive
5. Cultural Rights - customs

Doctrine of Preferred Freedom (Hierarchy of Rights)

PBM Employees Org. v. PBM Co., Inc., 51 SCRA 189 (1973)

In the hierarchy of civil liberties, the rights of free expression and of assembly occupy a preferred position as they are essential to the preservation and vitality of our civil and political institutions; The superiority of these freedoms over property rights is underscored by the fact that a mere reasonable or rational relation between the means employed by the law and its object or purpose — that the law is neither arbitrary nor discriminatory nor oppressive — would suffice to validate a law which restricts or impairs property rights.

The Fundamental Powers of the State
Similarities, Differences & Limitations
(inherent powers of the state)



POLICE POWER

Definition

- Power of promoting public welfare by restraining and regulating the use of liberty and property.
- Most essential, insistent and less limitable of powers, extending as it does to all the great public needs.

Scope/Characteristics

- It cannot be bargained away through the medium of treaty /contract
- Taxing power may be used to implement police power
- Eminent domain may also be used to implement or attain police power
- Non-impairment of contracts or vested rights will have to yield to superior and legitimate exercise of police power
- Exercise of profession may be regulated by the state to safeguard health, morals, peace, education, order, safety and several welfare of the people

Basis

Salus populi est suprema lex
(welfare of the people is the supreme law)

Sic utere tuo ut alienum non laedas

(so as to use your property so as not to impair/injure another)

Who exercises said power?

Legislative branch
Executive branch, upon valid delegation

Tests of Police Power

1. Reasonable Connection Test (for life, liberty and property)



2. Clear and Present Danger Test (apply if suppression of life and liberty)
Is there a clear and present danger of a substantive evil the state should protect?
Clear – degree of danger
Present – proximity of danger
3. Dangerous Tendency Doctrine (applied during the time of martial law)

Balacuit v. CFI, G.R. No. L-38429, June 30, 1988

[A]s to the question of the subject ordinance (selling admission tickets to children 7-12 years old to full payment but should charge only ½ the price) being a valid exercise of police power, the same must be resolved in the negative. While it is true that a business may be regulated, it is equally true that such regulation must be within the bounds of reason, that is, the regulatory ordinance must be reasonable, and its provisions cannot be oppressive amounting to an arbitrary interference with the business or calling subject of regulation.



Lozano v. Martinez, 146 SCRA 323 (1986)

The constitutionality of the law in question (B.P. Blg. 22, Bouncing Checks Law) was upheld by the Court, it being within the authority of the legislature to enact such a law in the exercise of the police power.

Del Rosario v. Bengzon, 180 SCRA 521 (1989)

The prohibition against the use by doctors of "no substitution" and/or words of similar import in their prescription (under Generics Act, R.A. No. 6675), is a valid regulation to prevent the circumvention of the law. It secures to the patient the right to choose between the brand name and its generic equivalent since his doctor is allowed to write both the generic and the brand name in his prescription form.

Tablarin v. Judge Gutierrez, 152 SCRA 730 (1987)

That the power to regulate and control the practice of medicine includes the power to regulate admission to the ranks of those authorized to practice medicine, is also well recognized. Thus, legislation and administrative regulations requiring those who wish to practice medicine first to take and pass medical board examinations have long ago been recognized as valid exercises of governmental power.

Zoning and Regulatory Ordinances

Ermita-Malate Hotel & Motel Operators v. City Mayor, 20 SCRA 849 (1967)

The mantle of protection associated with the due process guaranty does not cover petitioners. This particular manifestation of a police power measure being specifically aimed to safeguard public morals is immune from such imputation of nullity resting purely on conjecture and unsupported by anything of substance. There is no question but that the challenged ordinance (Ordinance No.4760) was precisely enacted to minimize certain practices hurtful to public morals.

De la Cruz v. Paras, 123 SCRA 569 (1983)

[The Court] holds that reliance on the police power is insufficient to justify the enactment of the assailed ordinance (Ordinance No.84 s.1975 Prohibition and Closure Ordinance covering nightclubs, cabarets, hostesses, dancers and operators). It must be declared null and void. A municipal corporation can not prohibit the exercise of a lawful trade.

Velasco v. Villegas, 120 SCRA 568 (1983)

[The Ordinance] is a police power measure. The objectives behind its enactment are: "(1) To be able to impose payment of the license fee for engaging in the business of massage clinic under Ordinance No. 3659 as amended by Ordinance 4767, an entirely different measure than the ordinance regulating the business of barbershops and, (2) in order to forestall possible immorality which might grow out of the construction of separate rooms for massage of customers."

Magtajas v. Pryce Properties, 234 SCRA 255 (1994)

Casino gambling is authorized by P.D. 1869. This decree has the status of a statute that cannot be amended or nullified by a mere ordinance. Hence, it was not competent for the Sangguniang Panlungsod of Cagayan de Oro City to enact Ordinance No. 3353 prohibiting the use of buildings for the operation of a casino and Ordinance No. 3375-93 prohibiting the operation of casinos. For all their praiseworthy motives, these ordinances are contrary to P.D. 1869 and the public policy announced therein and are therefore *ultra vires* and void.

Tano v. Socrates, G.R. 110249, August 27, 1997

The ordinances in question are police power measures, enacted by the Province of Palawan and the City of Puerto Princesa, pursuant to the Local Government Code of 1991 which makes it in fact their duty to enact measures to "protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing. . . ."

City of Manila v. Judge Laguio, G.R. No. 118127, April 12, 2005

The Ordinance does not constitute a proper exercise of police power as the compulsory closure of the motel business has no reasonable relation to the legitimate municipal interests sought to be protected. To successfully invoke the exercise of police power as the rationale for the enactment of the Ordinance, and to free it from the imputation of constitutional infirmity, not only must it appear that the interests of the public generally, as distinguished from those of a particular class, require an interference with private rights, but the means adopted must be reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.

Administrative Rules and Regulations

Bautista v. Junio, 127 SCRA 329 (1984)

The validity of an energy conservation measure, Letter of Instruction No. 869, issued on May 31, 1979 is upheld. In the interplay between such a fundamental right and police power, especially so where the assailed governmental action deals with the use of one's property, the latter is accorded much leeway. That is settled law. What is more, it is good law. Due process, therefore, cannot be validly invoked.

Taxicab Operators of Metro Manila v. BOT, 119 SCRA 597 (1982)

As enunciated in the preambular clauses of the challenged BOT Circular (M.C. 77-42, dated October 10, 1977), the overriding consideration is the safety and comfort of the riding public from the dangers posed by old and dilapidated taxis. The State, in the exercise, of its police power, can prescribe regulations to promote the health, morals, peace, good order, safety and general welfare of the people. It can prohibit all things hurtful to comfort, safety and welfare of society. ⁵ It may also regulate property rights.

Mirasol v. DPWH, G.R. No. 158793, June 8, 2006

[Petitioners] attack this exercise of police power as baseless and unwarranted. [They] belabor the fact that there are studies that provide proof that motorcycles are safe modes of transport. They also claim that AO 1 introduces an unreasonable classification by singling-out motorcycles from other motorized modes of transport, and argue that AO 1 violates their right to travel. SC upholds the validity of AO 1.

Anglo-Fil Trading v. Lazaro, 124 SCRA 494 (1983)

The Manila South Harbor is public property owned by the State. The operations of this premiere port of the country, including stevedoring work, are affected with public interest. Stevedoring services are subject to regulation and control for the public good and in the interest of general welfare.

PPA v. Cipres Stevedoring, G.R. No. 145742, July 14, 2005

[There is] no arbitrariness nor irregularity on the part of petitioner as far as PPA AO No. 03-2000 is concerned. It is



worthwhile to remind respondent that petitioner was created for the purpose of, among other things, promoting the growth of regional port bodies. In furtherance of this objective, petitioner is empowered, after consultation with relevant government agencies, to make port regulations particularly to make rules or regulation for the planning, development, construction, maintenance, control, supervision and management of any port or port district in the country.

Chavez v. Romulo, G.R. No. 157036. June 9, 2004

[T]here can be no question as to the reasonableness of a statutory regulation prohibiting the carrying of concealed weapons as a police measure well calculated to restrict the too frequent resort to such weapons in moments of anger and excitement. We do not doubt that the strict enforcement of such a regulation would tend to increase the security of life and limb, and to suppress crime and lawlessness, in any community wherein the practice of carrying concealed weapons prevails, and this without being unduly oppressive upon the individual owners of these weapons. It follows that its enactment by the legislature is a proper and legitimate exercise of the police power of the state.

EMINENT DOMAIN

Definition

It is the right, authority or power of the State as sovereign, or of those to whom the power has been lawfully delegated to take private property for public use upon observance of due process of law and paying for the owner a just compensation to be ascertained according to law.

Who exercises the power?

City of Manila v. Chinese Cemetery of Manila, 40 Phil 349 (1919)

The right of expropriation is not an inherent power in a municipal corporation, and before it can exercise the right some law must exist conferring the power upon it. When the courts come to determine the question, they must only find (a) that a law or authority exists for the exercise of the right of eminent domain, but (b) also that the right or authority is being exercised in accordance with the law.

Moday v. Court of Appeals, 268 SCRA 368 (1997)

Eminent domain, the power which the Municipality of Bunawan exercised in the instant case, is a fundamental State power that is inseparable from sovereignty. It is government's right to appropriate, in the nature of a compulsory sale to the State, private property for public use or purpose. Inherently possessed by the national legislature, the power of eminent domain may be validly delegated to local governments, other public entities and public utilities.

Constitutional Limitations - Art. III, Sec. 9

Private property shall not be taken for

public use without just compensation.

1. **Taking = expropriation**
2. **Property must be private**
If property is already public, no need to take but use
3. **Use must be public**
Public use need not be direct, as long as there is benefit derived
4. **Compensation must be just**
Just compensation = Fair Market Value (FMV) + Consequential Damages (CD) – Consequential Benefits (CB)
5. **“Shall not” means that the default stance of the state is “not to” (take)**

Distinguished from destruction due to necessity

Taking of property	Destruction of property
As power of the state	
Eminent domain	Police power
As to kind of property	
Private property	Private and public property
As to purpose	
To devote for some public use	To protect public from imminent danger
As to compensation	
There must be just compensation	No compensation <i>(damnum absque injuria)</i>

Objects of Expropriation

RP v. PLDT, 26 SCRA 620 (1969)

[T]he Republic may, in the exercise of the sovereign power of eminent domain, require the telephone company to permit interconnection of the government telephone system and that of the PLDT, as the needs of the government service may require, subject to the payment of just compensation to be determined by the court. Nominally, of course, the power of eminent domain results in the taking or appropriation of title to, and possession of, the expropriated property; but no cogent reason appears why the said power may not be availed of to impose only a burden upon the owner of condemned property, without loss of title and possession. It is unquestionable that real property may, through expropriation, be subjected to an easement of right of way.

Where Expropriation Suit is Filed

Barangay San Roque v. Heirs of Pastor, GR 138896 June 20, 2000

[A]n expropriation suit is incapable of pecuniary estimation. The test to determine whether it is so was laid down by the Court in this wise: A review of the jurisprudence of this Court indicates that in determining whether an action is one the subject matter of which is not capable of pecuniary estimation, this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and



whether jurisdiction is in the municipal courts or in the courts of first instance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, or where the money claim is purely incidental to, or a consequence of, the principal relief sought, like in suits to have the defendant perform his part of the contract (specific performance) and in actions for support, or for annulment of a judgment or to foreclose a mortgage, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are **cognizable exclusively by courts of first instance (now RTC)**. The rationale of the rule is plainly that the second class cases, besides the determination of damages, demand an inquiry into other factors which the law has deemed to be more within the competence of courts of first instance, which were the lowest courts of record at the time that the first organic laws of the Judiciary were enacted allocating jurisdiction. (emphasis supplied)

Taking

- Actual physical seizure not essential
- Taking must be direct
- Mere notice or intention to expropriate not sufficient

Requisites of Taking

Republic v. Castelvi, 58 SCRA 336 (1974)

Taking' under the power of eminent domain may be defined generally as entering upon private property for more than a momentary period, and, under the warrant or color of legal authority, devoting it to a public use, or otherwise informally appropriating or injuriously affecting it in such a way as substantially to oust the owner and deprive him of all beneficial enjoyment thereof.

City Govt. of Quezon City v. ERICTA, 122 SCRA 759 (1983)

There is no reasonable relation between the setting aside of at least six (6) percent of the total area of an private cemeteries for charity burial grounds of deceased paupers and the promotion of health, morals, good order, safety, or the general welfare of the people. The ordinance is actually a taking without compensation of a certain area from a private cemetery to benefit paupers who are charges of the municipal corporation. Instead of building or maintaining a public cemetery for this purpose, the city passes the burden to private cemeteries.

Deprivation of Use

People v. Fajardo, 104 Phil.443 (1958)

As the case now stands, every structure that may be erected on appellants' land, regardless of its own beauty, stands condemned under the ordinance in question, because it would interfere with the view of the public plaza from the highway. The appellants would, in effect, be constrained to let their land remain idle and unused for the obvious purpose for which it is best suited, being urban in character. To legally achieve that result, the municipality must give appellants just compensation and an opportunity to be heard.

Napocor v. Gutierrez, 193 SCRA 1 (1991)

[T]he easement of right-of-way is definitely a taking under the power of eminent domain. Considering the nature and

effect of the installation of the 230 KV Mexico-Limay transmission lines, the limitation imposed by NPC against the use of the land for an indefinite period deprives private respondents of its ordinary use.

Napocor v. San Pedro, G.R. 170945, September 26, 2006

Similarly, in this case, the commissioners' observation on the reported constant loud buzzing and exploding sounds emanating from the towers and transmission lines, especially on rainy days; the constant fear on the part of the landowners that the large transmission lines looming not far above their land and the huge tower in front of their lot will affect their safety and health; and the slim chance that no one would be interested to buy the remaining portions on each side of the residential lot affected by the project, to the damage of the landowners, both as to future actual use of the land and financial gains to be derived therefrom, makes the instant case fall within the ambit of expropriation.

U.S. v. Causby, 328 U.S. 256 (1946)

We agree that, in those circumstances (USAF planes taking off and landing near property), there would be a taking. Though it would be only an easement of flight which was taken, that easement, if permanent and not merely temporary, normally would be the equivalent of a fee interest. It would be a definite exercise of complete dominion and control over the surface of the land. The fact that the planes never touched the surface would be as irrelevant as the absence in this day of the feudal livery of seisin on the transfer of real estate. The owner's right to possess and exploit the land -- that is to say, his beneficial ownership of it -- would be destroyed.

PPI v. Comelec, 244 SCRA 272 (1995)

The taking of private property for public use is, of course, authorized by the Constitution, but not without payment of "just compensation" (Article III, Section 9). And apparently the necessity of paying compensation for "Comelec space" is precisely what is sought to be avoided by respondent Commission, whether Section 2 of Resolution No. 2772 is read as petitioner PPI reads it, as an assertion of authority to require newspaper publishers to "donate" free print space for Comelec purposes, or as an exhortation, or perhaps an appeal, to publishers to donate free print space, as Section 1 of Resolution No. 2772-A attempts to suggest. There is nothing at all to prevent newspaper and magazine publishers from voluntarily giving free print space to Comelec for the purposes contemplated in Resolution No. 2772. Section 2 of Resolution No. 2772 does not, however, provide a constitutional basis for compelling publishers, against their will, in the kind of factual context here present, to provide free print space for Comelec purposes. Section 2 does not constitute a valid exercise of the power of eminent domain.

Priority in Expropriation

Filstream International v. CA, 284 SCRA 716 (1998)

Private lands rank last in the order of priority for purposes of socialized housing. In the same vein, expropriation proceedings are to be resorted to only when the other modes of acquisition have been exhausted. Compliance with these conditions must be deemed mandatory because these are the only safeguards in securing the right of owners of private property to due process when their property is expropriated for public use.

The governing law that deals with the subject of expropriation for purposes of urban land reform



and housing is **Republic Act No. 7279 (Urban Development and Housing Act of 1992)** and Sections 9 and 10 of which specifically provide as follows:

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 for Priority Development, Zonal Improvement 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 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. Provided, finally, That abandoned property, as herein defined, shall be reverted and escheated to the State in a proceeding analogous to the procedure laid down in Rule 91 of the Rules of Court.*

For the purpose of socialized housing, government-owned and foreclosed properties shall be acquired by the local government units, or by the National Housing Authority primarily through negotiated purchase: *Provided, That* qualified beneficiaries who are actual occupants of the land shall be given the right of first refusal. (Emphasis supplied).

JIL v. Mun. of Pasig, G.R. 152230, August 9, 2005

The subject property is expropriated for the purpose of constructing a road. The respondent is not mandated to comply with the essential requisites for an easement of right-of-way under the New Civil Code. Case law has it that in the absence of legislative restriction, the grantee of the power of eminent domain may determine the location and route of the land to be taken unless such determination is capricious and wantonly injurious. Expropriation is justified so long as it is

for the public good and there is genuine necessity of public character. Government may not capriciously choose what private property should be taken.

The Court declared that the following **requisites for the valid exercise of the power of eminent domain by a local government unit** must be complied with:

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.
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.

Public use

Heirs of Juancho Ardon v. Reyes, 125 SCRA 220 (1983)

The petitioners' contention that the promotion of tourism is not "public use" because private concessioners would be allowed to maintain various facilities such as restaurants, hotels, stores, etc. inside the tourist complex is impressed with even less merit. Private bus firms, taxicab fleets, roadside restaurants, and other private businesses using public streets and highways do not diminish in the least bit the public character of expropriations for roads and streets. The lease of store spaces in underpasses of streets built on expropriated land does not make the taking for a private purpose. Airports and piers catering exclusively to private airlines and shipping companies are still for public use. The expropriation of private land for slum clearance and urban development is for a public purpose even if the developed area is later sold to private homeowners, commercial firms, entertainment and service companies, and other private concerns.

Sumulong v. Guerrero, 154 SCRA 461 (1987)

This Court holds that "socialized housing" defined in Pres. Decree No. 1224, as amended by Pres. Decree Nos. 1259 and 1313, constitutes "public use" for purposes of expropriation. However, as previously held by this Court, the provisions of such decrees on just compensation are unconstitutional; and in the instant case the Court finds that the Orders issued pursuant to the corollary provisions of those decrees authorizing immediate taking without notice and hearing are violative of due process.

Province of Camarines Sur v. CA, 222 SCRA 170 (1993)



To sustain the Court of Appeals would mean that the local government units can no longer expropriate agricultural lands needed for the construction of roads, bridges, schools, hospitals, etc. without first applying for conversion of the use of the lands with the Department of Agrarian Reform, because all of these projects would naturally involve a change in the land use. In effect, it would then be the Department of Agrarian Reform to scrutinize whether the expropriation is for a public purpose or public use.

Manosca v. Court of Appeals, 252 SCRA 412 (1996)

[T]his Court is asked to resolve whether or not the "public use" requirement of Eminent Domain is extant in the attempted expropriation by the Republic of a 492-square-meter parcel of land so declared by the National Historical Institute ("NHI") as a national historical landmark. x x x (the birthsite of Felix Y. Manalo, the founder of *Iglesia Ni Cristo*) x x x The validity of the exercise of the power of eminent domain for traditional purposes is beyond question; it is not at all to be said, however, that public use should thereby be restricted to such traditional uses. The idea that "public use" is strictly limited to clear cases of "use by the public" has long been discarded.

Estate of Jimenez v. PEZA, G.R. No. 137285, January 16, 2001

Petitioner contends that respondent is bound by the representations of its Chief Civil Engineer when the latter testified before the trial court that the lot was to be devoted for the construction of government offices. Anent this issue, suffice it to say that PEZA can vary the purpose for which a condemned lot will be devoted to provided that the same is for public use. Petitioner cannot impose or dictate on the respondent what facilities to establish for as long as the same are for public purpose.

Recovery of Expropriated Land

ATO v. Gopuco, G.R. No. 158563, June, 30 2005

When private land is expropriated for a particular public use, and that particular public use is abandoned, does its former owner acquire a cause of action for recovery of the property?

x x x

[Gopuco] argues that there is present, in cases of expropriation, an "implied contract" that the properties will be used only for the public purpose for which they were acquired. No such contract exists.

x x x

Eminent domain is generally described as "the highest and most exact idea of property remaining in the government" that may be acquired for some public purpose through a method in the nature of a forced purchase by the State. Also often referred to as expropriation and, with less frequency, as condemnation, it is, like police power and taxation, an inherent power of sovereignty and need not be clothed with any constitutional gear to exist; instead, provisions in our Constitution on the subject are meant more to regulate, rather than to grant, the exercise of the power. It is a right to take or **reassert** dominion over property within the state for public use or to meet a public exigency and is said to be an essential part of governance even in its most primitive form and thus inseparable from sovereignty. In fact, "all separate interests of individuals in property are held of the government under this tacit agreement or implied reservation. Notwithstanding the grant to individuals, the *eminent domain*, the highest and most exact idea of property, remains in the government, or in the aggregate body of people in their sovereign capacity; and they have the

right to **resume the possession** of the property whenever the public interest so requires it.

Republic v. Lim, G.R. 161656, June 29, 2005

In summation, while the prevailing doctrine is that "the non-payment of just compensation does not entitle the private landowner to recover possession of the expropriated lots, however, in cases where the government failed to pay just compensation **within five (5) years from the finality of the judgment in the expropriation proceedings**, the owners concerned shall have the right to recover possession of their property. This is in consonance with the principle that "the government cannot keep the property and dishonor the judgment." To be sure, the five-year period limitation will encourage the government to pay just compensation punctually. This is in keeping with justice and equity. After all, it is the duty of the government, whenever it takes property from private persons against their will, to facilitate the payment of just compensation. In *Coscolluela v. Court of Appeals*, we defined just compensation as not only the correct determination of the amount to be paid to the property owner but also the payment of the property within a **reasonable time**. Without prompt payment, compensation cannot be considered "just."

Genuine Necessity

Mun. of Meycayauan v. IAC, 157 SCRA 640 (1988)

[T]his Court held that the foundation of the right to exercise the power of eminent domain is genuine necessity and that necessity must be of a public character. Condemnation of private property is justified only if it is for the public good and there is a genuine necessity of a public character. Consequently, the courts have the power to inquire into the legality of the exercise of the right of eminent domain and to determine whether there is a genuine necessity therefor

De Knecht v. Bautista, 100 SCRA 660 (1980)

From all the foregoing, the facts of record and recommendations of the Human Settlements Commission, it is clear that the choice of Fernando Rein — Del Pan Streets as the line through which the Epifanio de los Santos Avenue should be extended to Roxas Boulevard is arbitrary and should not receive judicial approval. The respondent judge committed a grave abuse of discretion in allowing the Republic of the Philippines to take immediate possession of the properties sought to be expropriated.

Republic v. De Knecht, G.R. 87351, February 12, 1990

The issue posed in this case is whether an expropriation proceeding that was determined by a final judgment of this Court may be the subject of a subsequent legislation for expropriation.

x x x

The Court finds justification in proceeding with the said expropriation proceedings through the Fernando Rein-Del Pan streets from ESDA to Roxas Boulevard due to the aforesaid supervening events after the rendition of the decision of this Court in *De Knecht*. B.P. Blg. 340 therefore effectively superseded the aforesaid final and executory decision of this Court. And the trial court committed no grave abuse of discretion in dismissing the case pending before it on the ground of the enactment of B.P. Blg. 340. Moreover, the said decision, is no obstacle to the legislative arm of the Government in thereafter (over two years later in this case) making its own independent assessment of the circumstances then prevailing as to the propriety of undertaking the expropriation of the properties in question



and thereafter by enacting the corresponding legislation as it did in this case. The Court agrees in the wisdom and necessity of enacting B.P. Blg. 340. Thus the anterior decision of this Court must yield to this subsequent legislative fiat.

De la Paz Masikip v. Judge Legaspi, G.R. No. 136349, January 23, 2006

[R]espondent City of Pasig has failed to establish that there is a genuine necessity to expropriate petitioner's property. Our scrutiny of the records shows that the Certification issued by the Caniogan Barangay Council dated November 20, 1994, the basis for the passage of Ordinance No. 42 s. 1993 authorizing the expropriation, indicates that the intended beneficiary is the Melendres Compound Homeowners Association, a private, non-profit organization, not the residents of Caniogan. It can be gleaned that the members of the said Association are desirous of having their own private playground and recreational facility. Petitioner's lot is the nearest vacant space available. The purpose is, therefore, not clearly and categorically public. The necessity has not been shown, especially considering that there exists an alternative facility for sports development and community recreation in the area, which is the Rainforest Park, available to all residents of Pasig City, including those of Caniogan.

Just Compensation, defined

Eslaban v. De Onorio, G.R. No. 146062, June 28, 2001

With respect to the compensation which the owner of the condemned property is entitled to receive, it is likewise settled that it is the market value which should be paid or ***"that sum of money which a person, desirous but not compelled to buy, and an owner, willing but not compelled to sell, would agree on as a price to be given and received therefor."*** Further, just compensation means not only the correct amount to be paid to the owner of the land but also the payment of the land within a reasonable time from its taking. Without prompt payment, compensation cannot be considered "just" for then the property owner is made to suffer the consequence of being immediately deprived of his land while being made to wait for a decade or more before actually receiving the amount necessary to cope with his loss. (emphasis supplied)

Republic of the Philippines v. IAC, et al., G.R. No. 71176, May 21, 1990

The determination of just compensation for a condemned property is basically a judicial function. As the court is not bound by the commissioners' report, it may make such order or render such judgment as shall secure to the plaintiff the property essential to the exercise of its right of condemnation, and to the defendant just compensation for the property expropriated. For that matter, this Court may even substitute its own estimate of the value as gathered from the record. Hence, although the determination of just compensation appears to be a factual matter which is ordinarily outside the ambit of its jurisdiction, this Court may disturb the lower court's factual finding on appeal when there is clear error or grave abuse of discretion.

Determination of Just Compensation

EPZA v. Dulay, 149 SCRA 305 (1987)

It is violative of due process to deny to the owner the opportunity to prove that the valuation in the tax documents is unfair or wrong. And it is repulsive to basic concepts of

justice and fairness to allow the haphazard work of a minor bureaucrat or clerk to absolutely prevail over the judgment of a court promulgated only after expert commissioners have actually viewed the property, after evidence and arguments pro and con have been presented, and after all factors and considerations essential to a fair and just determination have been judiciously evaluated. x x x P.D. No. 1533, which eliminates the court's discretion to appoint commissioners pursuant to Rule 67 of the Rules of Court, is unconstitutional and void.

When Determined

Ansaldo v. Tantuico, G.R. 50147 August 3, 1990

In the context of the State's inherent power of eminent domain, there is a "taking" when the owner is actually deprived or dispossessed of his property; when there is a practical destruction or a material impairment of the value of his property or when he is deprived of the ordinary use thereof. There is a "taking" in this sense when the expropriator enters private property not only for a momentary period but for a more permanent duration, for the purpose of devoting the property to a public use in such a manner as to oust the owner and deprive him of all beneficial enjoyment thereof.¹³ For ownership, after all, "is nothing without the inherent rights of possession, control and enjoyment. Where the owner is deprived of the ordinary and beneficial use of his property or of its value by its being diverted to public use, there is taking within the Constitutional sense. Under these norms, there was undoubtedly a *taking* of the Ansaldo's property when the Government obtained possession thereof and converted it into a part of a thoroughfare for public use.

NAPOCOR v. Tiangco, G.R. No. 170846, February 6, 2007

As correctly observed by the CA, considering the nature and the effect of the installation power lines, the limitations on the use of the land for an indefinite period would deprive respondent of normal use of the property. For this reason, the latter is entitled to payment of a just compensation, which must be neither more nor less than the monetary equivalent of the land.

Manner of Payment

Association of Small Landowners v. DAR, 175 SCRA 343 (1989)

Accepting the theory that payment of the just compensation is not always required to be made fully in money, we find further that the proportion of cash payment to the other things of value constituting the total payment, as determined on the basis of the areas of the lands expropriated, is not unduly oppressive upon the landowner. It is noted that the smaller the land, the bigger the payment in money, primarily because the small landowner will be needing it more than the big landowners, who can afford a bigger balance in bonds and other things of value. No less importantly, the government financial instruments making up the balance of the payment are "negotiable at any time." The other modes, which are likewise available to the landowner at his option, are also not unreasonable because payment is made in shares of stock, LBP bonds, other properties or assets, tax credits, and other things of value equivalent to the amount of just compensation.

DAR v. CA, 249 SCRA 149 (1995)

We agree with the observations of respondent court. The ruling in the "Association" case merely recognized the



extraordinary nature of the expropriation to be undertaken under RA 6657 thereby allowing a deviation from the traditional mode of payment of compensation and recognized payment other than in cash. It did not, however, dispense with the settled rule that there must be full payment of just compensation before the title to the expropriated property is transferred.

Trial with Commissioners

Meralco v. Pineda, 206 SCRA 196 (1992)

[T]he appointment of at least three (3) competent persons as commissioners to ascertain just compensation for the property sought to be taken is a mandatory requirement in expropriation cases. While it is true that the findings of commissioners may be disregarded and the court may substitute its own estimate of the value, the latter may only do so for valid reasons, *i.e.*, where the Commissioners have applied illegal principles to the evidence submitted to them or where they have disregarded a clear preponderance of evidence, or where the amount allowed is either grossly inadequate or excessive

NPC v. Henson, G.R. No. 129998, December 29, 1998

In this case, the trial court and the Court of Appeals fixed the value of the land at P400.00 per square meter, which was the selling price of lots in the adjacent fully developed subdivision, the Santo Domingo Village Subdivision. The land in question, however, was an undeveloped, idle land, principally agricultural in character, though re-classified as residential. Unfortunately, the trial court, after creating a board of commissioners to help it determine the market value of the land did not conduct a hearing on the report of the commissioners. The trial court fixed the fair market value of subject land in an amount equal to the value of lots in the adjacent fully developed subdivision. This finds no support in the evidence. The valuation was even higher than the recommendation of anyone of the commissioners.

Legal Interest for Expropriation Cases

NPC v. Angas, 208 SCRA 542 (1992)

In this case, Central Bank Circular No. 416 and Art. 2209 of the Civil Code contemplate different situations and apply to different transactions. In transactions involving loan or forbearance of money, goods or credits, as well as judgments relating to such loan or forbearance of money, goods or credits, the Central Bank circular applies. It is only in such transactions or judgments where the Presidential Decree allowed the Monetary Board to dip its fingers into. On the other hand, in cases requiring the payment of indemnities as damages, in connection with any delay in the performance of an obligation other than those involving loan or forbearance of money, goods or credits, Art. 2209 of the Civil Code applies. For the Court, this is the most fair, reasonable, and logical interpretation of the two laws. We do not see any conflict between Central Bank Circular No. 416 and Art. 2209 of the Civil Code or any reason to hold that the former has repealed the latter by implication.

1987 Constitution, Art. XII, Sec. 18

The State may, in the interest of national welfare or defense, establish and operate vital industries and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

1987 Constitution, Art. XIII, Sec. 4

The State shall, by law, undertake an agrarian reform program founded on the right of farmers and regular farmworkers who are landless, to own directly or collectively the lands they till or, in the case of other farmworkers, to receive a just share of the fruits thereof. To this end, the State shall encourage and undertake the just distribution of all agricultural lands, subject to such priorities and reasonable retention limits as the Congress may prescribe, taking into account ecological, developmental, or equity considerations, and subject to the payment of just compensation. In determining retention limits, the State shall respect the right of small landowners. The State shall further provide incentives for voluntary land-sharing.

1987 Constitution, Art. XIII, Sec. 9

The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost, decent housing and basic services to under-privileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such program the State shall respect the rights of small property owners.

City of Baguio v. Nawasa, 106 Phil. 114 (1959)

It is clear that the State may, in the interest of National welfare, transfer to public ownership any private enterprise upon payment of just compensation. At the same time, one has to bear in mind that no person can be deprived of his property except for public use and upon payment of just compensation. There is an attempt to observe this requirement in Republic Act No. 1383 when in providing for the transfer of appellee's waterworks system to a national agency it was directed that the transfer be made upon payment of an equivalent value of the property.

Zamboanga del Norte v. City of Zamboanga, 22 SCRA 1334 (1968)

The controversy here is more along the domains of the Law of Municipal Corporations — *State vs. Province* — than along that of Civil Law. Moreover, this Court is not inclined to hold that municipal property held and devoted to public service is in the same category as ordinary private property. The consequences are dire. As ordinary private properties, they can be levied upon and attached. They can even be acquired thru adverse possession — all these to the detriment of the local community. Lastly, the classification of properties other than those for public use in the municipalities as patrimonial under Art. 424 of the Civil Code — is "... without prejudice to the provisions of special laws." For purpose of this article, the principles, obtaining under the Law of Municipal Corporations can be considered as "special laws". Hence, the classification of municipal property devoted for distinctly governmental purposes as public should prevail over the Civil Code classification in this particular case.

UPDATE CASE

Mactan-Cebu International Airport Authority v. Lozada, G.R. No.176625, February 25, 2010

[W]e now expressly hold that the taking of private property, consequent to the Government's exercise of its power of eminent domain, is always subject to the condition that the property be devoted to the specific public purpose for which it was taken. Corollarily, if this particular purpose or intent is



not initiated or not at all pursued, and is peremptorily abandoned, then the former owners, if they so desire, may seek the reversion of the property, subject to the return of the amount of just compensation received. In such a case, the exercise of the power of eminent domain has become improper for lack of the required factual justification.

TAXATION

Definition and Nature

- It is the power by which the State raises revenue to defray the necessary expenses of the Government.
- It is the power to demand from the members of society their proportionate share/contribution in the maintenance of the government.
- **Lifeblood of the government**

Limitations

1. Taxes must be uniform
2. It must be applied equally to all similarly situated
3. Progressive system of taxation (based capacity to pay taxes)
 - Due process of law
 - Equal protection clause
4. It must be used for public purpose

Purpose

CIR v. Alque, Inc., 158 SCRA 9 (1988)

It is said that taxes are what we pay for civilization society. Without taxes, the government would be paralyzed for lack of the motive power to activate and operate it. Hence, despite the natural reluctance to surrender part of one's hard earned income to the taxing authorities, every person who is able to must contribute his share in the running of the government. The government for its part, is expected to respond in the form of tangible and intangible benefits intended to improve the lives of the people and enhance their moral and material values. This symbiotic relationship is the rationale of taxation and should dispel the erroneous notion that it is an arbitrary method of exaction by those in the seat of power.

Commissioner of Customs v. Makasiar, 177 SCRA 27 (1989)

Jurisprudence is replete with cases which have held that regional trial courts are devoid of any competence to pass upon the validity or regularity of seizure and forfeiture proceedings conducted in the Bureau of Customs, and to enjoin, or otherwise interfere with, these proceedings. The Collector of Customs sitting in seizure and forfeiture proceedings has exclusive jurisdiction to hear and determine all questions touching on the seizure and forfeiture of dutiable goods.

Scope

(The power to tax is the power to destroy)

- Covers persons, property or occupation to be taxed within the taxing jurisdiction
- It is so pervasive it reaches even the citizens abroad and their income outside the Philippines;
- Covers all the income earned in the Philippines by a citizen or alien.

Who exercises the power?

1. The Legislature
2. Local government units (Sec. 5, Art. X);
3. President (limited extent-delegated tariff powers), under Sec. 28 (2), Art. VI of the Constitution or as an incident of emergency powers that Congress may grant to him under Sec. 23 (2), art. VI.

Purpose: unavoidable obligation of the government to protect the people and extend them benefits in the form of public projects and services.

Art. VI Sec. 28

(1)The rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation.

(2)The Congress may, by law, authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government.

(3)Charitable institutions, churches and personages or convents appurtenant thereto, mosques, non-profit cemeteries, and all lands, buildings, and improvements, actually, directly, and exclusively used for religious, charitable, or educational purposes shall be exempt from taxation.

(4)No law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of the Congress.

Art. XIV, Sec. 4 (3)

All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.

Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions, subject to the limitations provided by law, including restrictions on dividends and provisions for reinvestment.

Art. X, Sec. 5

Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.



Tax Exemptions

YMCA vs. CIR, 33 Phil. 217 (1916)
 Bishop of Nueva Segovia vs. Provincial Board, 51 Phil. 352 (1927)
 Lladoc vs. CIR, 14 SCRA 292 (1965)
 Province of Abra vs. Hernando, 107 SCRA 104 (1981)
 Abra Valley College vs. Aquino, 162 SCRA 106 (1988)
 American Bible Society vs. City of Manila, 101 Phil. 386 (1957)

Double Taxation

Punzalan vs. Municipal Board of Manila, 95 Phil. 46 (1954)

License Fees

Physical Therapy Org. vs. Municipal Board, G.R. 10448, August 30, 1957

DUE PROCESS

1987 Constitution, Art. III, Sec. I

No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

1987 Constitution, Art. III, Sec. 14 (1)

No person shall be held to answer for a criminal offense without due process of law.

Definition, Nature and Scope

- The Constitution did not contain any definition of due process
- "law which hears before it condemns" (Daniel Webster)
- It may be "**substantial**" or "**procedural**"
- It applies to all person regardless of race, age or creed
- Applicable to juridical persons with respect to their property
- Application is extended to aliens
- Includes application to means of livelihood (property right)

Eternal vigilance is the price of liberty.

–Thomas Jefferson

Purpose of the guaranty

Hurtado v. California, 110 U.S. 516 (1884)

A trial by jury in suits at common law pending in State courts is not, therefore, a privilege or immunity of national citizenship which the States are forbidden by the Fourteenth Amendment to abridge. A State cannot deprive a person of his property without due process of law; but this does not necessarily imply that all trials in the State courts affecting the property of persons must be by jury. This requirement of the Constitution is met if the trial is had according to the

settled course of judicial proceedings. Due process of law is process according to the law of the land. This process in the States is regulated by the law of State.

Meaning of Life, Liberty, and Property

Life – includes the right of an individual to his body in its completeness, free from dismemberment, and extends to the use of God given faculties which make life enjoyable.

Liberty – includes the right to exist and the right to be free from arbitrary personal restraint or servitude. It includes the right of the citizen to be free to use his faculties in all lawful ways.

Property – is anything that come under the right of ownership and be the subject of contract. It represents more than the things a person owns; it includes the right to secure, use and dispose of them.

Substantive Due Process

Villegas v. Hiu Chiong Tsai Pao Ho, 86 SCRA 275 (1978)

The ordinance in question violates the due process of law and equal protection rule of the Constitution. Requiring a person before he can be employed to get a permit from the City Mayor of Manila who may withhold or refuse it at will is tantamount to denying him the basic right of the people in the Philippines to engage in a means of livelihood. While it is true that the Philippines as a State is not obliged to admit aliens within its territory, once an alien is admitted, he cannot be deprived of life without due process of law. This guarantee includes the means of livelihood. The shelter of protection under the due process and equal protection clause is given to all persons, both aliens and citizens.

Rubi v. Provincial Board of Mindoro, 39 Phil. 660 (1919)

[A]ction pursuant to section 2145 of the Administrative Code does not deprive a person of his liberty without due process of law and does not deny to him the equal protection of the laws, and that confinement in reservations in accordance with said section does not constitute slavery and involuntary servitude. We are further of the opinion that section 2145 of the Administrative Code is a legitimate exertion of the police power, somewhat analogous to the Indian policy of the United States. Section 2145 of the Administrative Code of 1917 is constitutional.

Void for Vagueness/Overbreadth

Ople v. Torres, 292 SCRA 141. (1998)

Administrative Order No. 308 entitled "Adoption of a National Computerized Identification Reference System" declared null and void for being unconstitutional. The right to privacy is one of the most threatened rights of man living in a mass society. The threats emanate from various sources — governments, journalists, employers, social scientists, etc. In the case at bar, the threat comes from the executive branch of government which by issuing A.O. No. 308 pressures the people to surrender their privacy by giving information about themselves on the pretext that it will facilitate delivery of basic services. Given the record-keeping power of the computer, only the indifferent fail to perceive



the danger that A.O. No. 308 gives the government the power to compile a devastating dossier against unsuspecting citizens. It is timely to take note of the well-worded warning of Kalvin, Jr., "the disturbing result could be that everyone will live burdened by an unerasable record of his past and his limitations. In a way, the threat is that because of its record-keeping, the society will have lost its benign capacity to forget." Oblivious to this counsel, the dissents still say we should not be too quick in labelling the right to privacy as a fundamental right. We close with the statement that the right to privacy was not engraved in our Constitution for flattery.

Estrada v. Sandiganbayan, G.R. No. 148560, November 19, 2001

RA 7080 otherwise known as the Plunder Law, as amended by RA 7659, is CONSTITUTIONAL. The rationalization seems to us to be pure sophistry. A statute is not rendered uncertain and void merely because general terms are used therein, or because of the employment of terms without defining them; much less do we have to define every word we use. Besides, there is no positive constitutional or statutory command requiring the legislature to define each and every word in an enactment. Congress is not restricted in the form of expression of its will, and its inability to so define the words employed in a statute will not necessarily result in the vagueness or ambiguity of the law so long as the legislative will is clear, or at least, can be gathered from the whole act, which is distinctly expressed in the Plunder Law.

David v. Arroyo, G.R. No. 171390, May 3, 2006

Related to the "overbreadth" doctrine is the "void for vagueness doctrine" which holds that **"a law is facially invalid if men of common intelligence must necessarily guess at its meaning and differ as to its application."** It is subject to the same principles governing overbreadth doctrine. For one, it is also an analytical tool for testing "on their faces" **statutes in free speech cases.** And like overbreadth, it is said that a litigant may challenge a statute on its face only if it is **vague in all its possible applications. Again, petitioners did not even attempt to show that PP 1017 is vague in all its application.** They also failed to establish that men of common intelligence cannot understand the meaning and application of PP 1017.

Ong v. Sandiganbayan, G.R. No. 126858, September 16, 2005

The law is not vague as it defines with sufficient particularity unlawfully acquired property of a public officer or employee as that "which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property." It also provides a definition of what is legitimately acquired property. Based on these parameters, the public is given fair notice of what acts are proscribed. The law, therefore, does not offend the basic concept of fairness and the due process clause of the Constitution

Procedural Due Process (Judicial)

1. Impartial court or tribunal clothed with judicial power to hear and determine the matter before it;
2. Jurisdiction lawfully acquired over the person or property of the defendant which is the subject matter of the proceeding;
3. Defendant given an opportunity to be heard;

4. Judgment rendered upon lawful hearing.

Publication Requirement

Tañada v. Tuvera, 146 SCRA 446 (1986)

The publication of all presidential issuances "of a public nature" or "of general applicability" is mandated by law. Obviously, presidential decrees that provide for fines, forfeitures or penalties for their violation or otherwise impose a burden on the people, such as tax and revenue measures, fall within this category. Other presidential issuances which apply only to particular persons or class of persons such as administrative and executive orders need not be published on the assumption that they have been circularized to all concerned.

PITC v. Angeles, 263 SCRA 421 (1996)

The Administrative Order under consideration is one of those issuances which should be published for its effectivity, since its purpose is to enforce and implement an existing law pursuant to a valid delegation, *i.e.*, P.D. 1071, in relation to LOI 444 and EO 133.

Impartial Court or Tribunal

Tañada vs. PAEC, 141 SCRA 307 (1986)

Having thus prejudged the safety of the PNPP-1 respondent PAEC Commissioners would be acting with grave abuse of discretion amounting to lack of jurisdiction were they to sit in judgment upon the safety of the plant, absent the requisite objectivity that must characterize such an important inquiry. The Court therefore Resolved to RESTRAIN respondent PAEC Commissioners from further acting in PAEC Licensing Proceedings No. 1-77.

Anzaldo v. Clave, 119 SCRA 353 (1982)

Due process of law means fundamental fairness. It is not fair to Doctor Anzaldo that Presidential Executive Assistant Clave should decide whether his own recommendation as Chairman of the Civil Service Commission, as to who between Doctor Anzaldo and Doctor Venzon should be appointed Science Research Supervisor II, should be adopted by the President of the Philippines. Common sense and propriety dictate that the commissioner in the Civil Service Commission, who should be consulted by the Office of the President, should be a person *different* from the person in the Office of the President who would decide the appeal of the protestant in a contested appointment.

Tumey v. Ohio, 273 U.S. 510 (1997)

There are doubtless mayors who would not allow such a consideration as \$12 costs in each case to affect their judgment in it; but the requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice. Every procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict the defendant, or which might lead him not to hold the balance nice, clear, and true between the State and the accused denies the latter due process of law.

People v. Court of Appeals, 262 SCRA 452 (1996)

In the case at bar, Judge Pedro Espina, as correctly pointed out by the Solicitor General, can not be considered to adequately possess such cold neutrality of an impartial judge as to fairly assess both the evidence to be adduced by the prosecution and the defense in view of his previous decision



in Special Civil Action No. 92-11-219 wherein he enjoined the preliminary investigation at the Regional State Prosecutor's Office level against herein respondent Jane Go, the principal accused in the killing of her husband Dominador Go.

Tabuena v. Sandiganbayan, 268 SCRA 332 (1997)

The majority believes that the interference by the Sandiganbayan Justices was just too excessive that it cannot be justified under the norm applied to a jury trial, or even under the standard employed in a non-jury trial where the judge is admittedly given more leeway in propounding questions to clarify points and to elicit additional relevant evidence.

Prejudicial Publicity

Webb v. De Leon, 247 SCRA 652 (1995)

In the case at bar, we find nothing in the records that will prove that the tone and content, of the publicity that attended the investigation of petitioners fatally infected the fairness and impartiality of the DOJ Panel. Petitioners cannot just rely on the subliminal effects of publicity on the sense of fairness of the DOJ Panel, for these are basically unbeknown and beyond knowing. To be sure, the DOJ Panel is composed of an Assistant Chief State Prosecutor and Senior State Prosecutors. Their long experience in criminal investigation is a factor to consider in determining whether they can easily be blinded by the klieg lights of publicity. Indeed, their 26-page Resolution carries no indubitable indicia of bias for it does not appear that they considered any extra-record evidence except evidence properly adduced by the parties. The length of time the investigation was conducted despite its summary nature and the generosity with which they accommodated the discovery motions of petitioners speak well of their fairness.

People v. Sanchez, G.R. No. 121039, October 18, 2001

Pervasive publicity is not *per se* prejudicial to the right of an accused to fair trial. The mere fact that the trial of appellant was given a day-to-day, gavel-to-gavel coverage does not by itself prove that publicity so permeated the mind of the trial judge and impaired his impartiality... Our judges are learned in the law and trained to disregard off-court evidence and on-camera performances of parties to a litigation. Their mere exposure to publications and publicity stunts does not *per se* fatally infect their impartiality.

Notice and Hearing

Summary Dismissal Board v. Torcita, 330 SCRA 153 (2000)

Torcita was found guilty of an offense for which he was not properly charged. A decision is void for lack of due process if, as a result, a party is deprived of the opportunity of being heard. The cursory conclusion of the Dismissal Board that Torcita "committed breach of internal discipline by taking drinks while in the performance of same" should have been substantiated by factual findings referring to this particular offense. As it turned out, the dismissal Board believed his allegation that he was not drunk and found that he was in full command of his senses where he tried to apprehend the driver of the maroon Mazda pick-up. Although Torcita did not deny that he had taken a shot of alcoholic drink at the party which he attended before the incident, the records show that he was then off-duty and the party was at the Municipality of Victorias, which was outside of his area of police jurisdiction.

People v. Estrada G.R. No. 130487 June 19, 2000

By depriving appellant of a mental examination, the trial court effectively deprived appellant of a fair trial. The trial court's negligence was a violation of the basic requirements of due process; and for this reason, the proceedings before the said court must be nullified. In *People v. Serafica*, we ordered that the joint decision of the trial court be vacated and the cases remanded to the court a quo for proper proceeding. The accused, who was charged with two (2) counts of murder and one (1) count of frustrated murder, entered a plea of "guilty" to all three charges and was sentenced to death. We found that the accused's plea was not an unconditional admission of guilt because he was "not in full possession of his mental faculties when he killed the victim;" and thereby ordered that he be subjected to the necessary medical examination to determine his degree of insanity at the time of commission of the crime.

Lim v. Court of Appeals, G.R. 111397, August 12, 2002

Lim's zeal in his campaign against prostitution is commendable. The presumption is that he acted in good faith and was motivated by his concern for his constituents when he implemented his campaign against prostitution in the Ermita-Malate area. However, there is no excusing Lim for arbitrarily closing down, without due process of law, the business operations of Bistro. For this reason, the trial court properly restrained the acts of Lim.

Opportunity to be Heard

Marohombsar v. Judge Adiong, A.M. RTJ-02-1674, January 22, 2004

In applications for preliminary injunction, the dual requirement of prior notice and hearing before injunction may issue has been relaxed to the point that not all petitions for preliminary injunction need undergo a trial-type hearing, it being doctrinal that a formal or trial-type hearing is not, at all times and in all instances, essential to due process. The essence of due process is that a party is afforded a reasonable opportunity to be heard and to present any evidence he may have in support of his defense. In the present case, complainant was able to move for a reconsideration of the order in question, hence her right to due process was not in any way transgressed. We have ruled that a party cannot claim that he has been denied due process when he has availed of the opportunity to present his position.

Exceptions to Notice & Hearing requirements

Philcomsat v. Alcuaz, 180 SCRA 218 (1989)

The function involved in the rate fixing-power of NTC is adjudicatory and hence quasi-judicial, not quasi-legislative; thus, notice and hearing are necessary and the absence thereof results in a violation of due process. The challenged order, particularly on the issue of rates provided therein, being violative of the due process clause is void and should be nullified. Respondents should now proceed, as they should heretofore have done, with the hearing and determination of petitioner's pending application for a certificate of public convenience and necessity and in which proceeding the subject of rates involved in the present controversy.

Suntay v. People, 101 Phil. 833 (1957)



Hearing would have been proper and necessary if the reason for the withdrawal or cancellation of the passport were not clear but doubtful. But where the holder of a passport is facing a criminal charge in our courts and left the country to evade criminal prosecution, the Secretary for Foreign Affairs, in the exercise of his discretion to revoke a passport already issued, cannot be held to have acted whimsically or capriciously in withdrawing and cancelling such passport. Due process does not necessarily mean or require a hearing. When discretion is exercised by an officer vested with it upon an undisputed fact, such as the filing of a serious criminal charge against the passport holder, hearing maybe dispensed with by such officer as a prerequisite to the cancellation of his passport; lack of such hearing does not violate the due process of law clause of the Constitution; and the exercise of the discretion vested in him cannot be deemed whimsical and capricious of because of the absence of such hearing.

De Bisschop vs. Galang, 8 SCRA 244 (1963)

The administration of immigration laws is the primary and exclusive responsibility of the Executive branch of the government. Extension of stay of aliens is purely discretionary on the part of the immigration authorities. Since Commonwealth Act No. 613, otherwise known as the Philippine Immigration Act of 1940, is silent as to the procedure to be followed in these cases, we are inclined to uphold the argument that courts have no jurisdiction to review the purely administrative practice of immigration authorities of not granting formal hearings in certain cases as the circumstances may warrant, for reasons of practicability and expediency. This would not violate the due process clause if we take into account that, in this particular case, the letter of appellant-commissioner advising de Bisschop to depart in 5 days is a mere formality, a preliminary step, and, therefore, far from final, because, as alleged in paragraph 7 of appellant's answer to the complaint, the "requirement to leave before the start of the deportation proceedings is only an advice to the party that unless he departs voluntarily, the State will be compelled to take steps for his expulsion". It is already a settled rule in this jurisdiction that a day in court is not a matter of right in administrative proceedings.

Var Orient Shipping Co., Inc. vs. Achacoso, 161 SCRA 232 (1988)

Equally unmeritorious is the petitioners' allegation that they were denied due process because the decision was rendered without a formal hearing. The essence of due process is simply an opportunity to be heard, or, as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. (citations omitted)

Administrative Due Process

Ang Tibay vs. CIR, 69 Phil. 635 (1940)

[W]e have come to the conclusion that the interest of justice would be better served if the movant is given opportunity to present at the hearing the documents referred to in his motion and such other evidence as may be relevant to the main issue involved. The legislation which created the Court of Industrial Relations and under which it acts is new. The failure to grasp the fundamental issue involved is not entirely attributable to the parties adversely affected by the result. Accordingly, the motion for a new trial should be and the same is hereby granted, and the entire record of this case shall be remanded to the Court of Industrial Relations, with

instruction that it reopen the case, receive all such evidence as may be relevant and otherwise proceed in accordance with the requirements set forth [below]:

Requisites of Administrative Due Process

1. Right to a hearing, which includes the right to present one's case and submit evidence in support thereof;
2. The tribunal must consider the evidence presented;
3. The decision must have something to support itself;
4. The evidence must be "substantial"; and "substantial" evidence means such a reasonable mind would accept as adequate to support a finding or conclusion;
5. The decision must be based on the evidence presented at the hearing or at least contained in the record and disclosed to the parties affected;
6. The tribunal or body or any of its judges must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision;
7. The tribunal or body shall, in all controversial questions, render its decision in such a manner that the parties to the proceeding can know the various issues involved and the reason for the decision rendered.

Montemayor v. Araneta University Foundation, 77 SCRA 321 (1977)

The charge leveled against petitioner (*a university professor aptly referred to as a tiller in the vineyard of the mind*), that of making homosexual advances to certain individuals, if proved, did amount to a sufficient cause for removal. The crucial question therefore is whether it was shown that he was guilty of such immoral conduct. He is thus entitled to the protection of procedural due process. To paraphrase Webster, there must be a hearing before condemnation, with the investigation to proceed in an orderly manner, and judgment to be rendered only after such inquiry.

x x x

The legal aspect as to the procedural due process having been satisfied was then summarized by the Solicitor General thus: "All the foregoing clearly shows that petitioner was afforded his day in court. Finally, and more significant, is the fact that petitioner claims denial of due process in the proceeding had before the investigating committees and not in the proceedings before the NLRC wherein, as shown heretofore, he was given the fullest opportunity to present his case."

Meralco v. PSC, 11 SCRA 317 (1964)

We need not be reminded that it is the cardinal right of a party in trials and administrative proceedings to be heard, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof



and to have such evidence presented considered by the tribunal. "Even if the Commission is not bound by the rules of judicial proceedings, it must how its head to the constitutional mandate that no person shall be deprived of right without due process of law", which binds not only the government of the Republic, but also each and everyone of its branches, agencies, etc. "Due process of law guarantees *notice and opportunities to be heard* to persons who would be affected by the order or act contemplated" (citations omitted)

Ateneo v. CA, 145 SCRA 100 (1986)

It is unfortunate of the parents suffered some embarrassment because of the incident. However, their predicament arose from the misconduct of their own son who, in the exuberance of youth and unfortunate loss of self control, did something which he must have, later, regretted. There was no bad faith on the part of the university. In fact, the college authorities deferred any undue action until a definitive decision had been rendered. The whole procedure of the disciplinary process was set up to protect the privacy of the student involved. There is absolutely no indication of malice, fraud and improper or willful motives or conduct on the part of the Ateneo de Manila University in this case.

Alcuaz v. PSBA, 161 SCRA 7 (1988)

It is well settled that by reason of their special knowledge and expertise gained from the handling of specific matters falling under their respective jurisdictions, the Court ordinarily accords respect if not finality to factual findings of administrative tribunals, unless the factual findings are not supported by evidence; where the findings are vitiated by fraud, imposition or collusion; where the procedure which led to the factual findings is irregular; when palpable errors are committed; or when a grave abuse of discretion, arbitrariness, or capriciousness is manifest. *In the light of compassionate equity, students who were, in view of the absence of academic deficiencies, scheduled to graduate during the school year when this petition was filed, should be allowed to re-enroll and to graduate in due time.*

Non vs. Hon. Dames II, G.R. No. 89317, May 20, 1990

[I]t does not appear that the petitioners were afforded due process, in the manner expressed in *Guzman v. National University*, before they were refused re-enrollment. In fact, it would appear from the pleadings that the decision to refuse them re-enrollment because of failing grades was a mere afterthought. It is not denied that what incurred the ire of the school authorities was the student mass actions conducted in February 1988 and which were led and/or participated in by petitioners. Certainly, excluding students because of failing grades when the cause for the action taken against them undeniably related to possible breaches of discipline not only is a denial of due process but also constitutes a violation of the basic tenets of fair play.

EQUAL PROTECTION

Political, Economic and Social Equality

1987 Constitution, Art. XIII, Sec. 1 and 2 (social justice)

Section 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

Section 2. The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

Id., Sec. 3 (protection to labor)

The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns to investments, and to expansion and growth.

Art. XII, Sec. 10 (nationalization of business)

The Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least sixty per centum of whose capital is owned by such citizens, or such higher percentage as Congress may prescribe, certain areas of investments. The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.

In the grant of rights, privileges, and concessions covering the national economy and patrimony, the State shall give preference to qualified Filipinos.

The State shall regulate and exercise authority over foreign investments within its national jurisdiction and in accordance with its national goals and priorities.

Id., Sec. 2, par. 2 (reservation of marine resources)

The State shall protect the nations marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

Art. III, Sec. 11 (free access to the courts)

Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

Art. VIII, Sec. 5(5) (legal aid to poor)

Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the integrated bar, and legal assistance to the under-privileged. Such rules



shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

Art. IX-C, Sec. 10 (protection of candidates)

Bona fide candidates for any public office shall be free from any form of harassment and discrimination.

Art. II, Sec. 26 (public service)

The State shall guarantee equal access to opportunities for public service and prohibit political dynasties as may be defined by law.

Art. II, Sec. 14 (equality of women and men)

The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.

Sexual Discrimination

Phil. Association of Service Exporters vs. Drilon, 163 SCRA 386 (1988)

There is likewise no doubt that such a classification is germane to the purpose behind the measure. Unquestionably, it is the avowed objective of Department Order No. 1 to "enhance the protection for Filipino female overseas workers" this Court has no quarrel that in the midst of the terrible mistreatment Filipina workers have suffered abroad, a ban on deployment will be for their own good and welfare.

x x x

Had the ban been given universal applicability, then it would have been unreasonable and arbitrary. For obvious reasons, not all of them are similarly circumstanced. What the Constitution prohibits is the singling out of a select person or group of persons within an existing class, to the prejudice of such a person or group or resulting in an unfair advantage to another person or group of persons.

Administration of Justice

People vs. Hernandez, 99 Phil. 515 (1956)

[T]he culprit cannot, then, be considered as displaying a greater degree of malice than when the two offenses are independent of each other. On the contrary, since one offense is a necessary means for the commission of the other, the evil intent is one, which, at least, quantitatively, is lesser than when the two offenses are unrelated to each other, because, in such event, he is twice guilty of having harbored criminal designs and of carrying the same into execution.

x x x

[W]e cannot accept the explanation that crimes committed as a means necessary for the success of a rebellion had to be prosecuted separately under the provisions of Article 259 of the Penal Code of Spain, which is the counterpart of Article 244 of our old Penal Code. To begin with, these articles are part of a substantive law. They do not govern the manner or method of prosecution of the culprits.

People vs. Isinain, 85 Phil. 648 (1950)

In the matter of theft of coconuts, the purpose of the heavier penalty is to encourage and protect the development of the

coconut industry as one of the sources of our national economy. Unlike rice and sugar cane farms where the range of vision is unobstructed, coconut groves can not be efficiently watched because of the nature of the growth of coconut trees; and without a special measure to protect this kind of property, it will be, as it has been in the past the favorite resort of thieves. There is therefore, some reason for the special treatment accorded the industry; and as it can not be said that the classification is entirely without basis, the plea of unconstitutionality must be denied.

Chavez v. PCGG, G.R. 130716, December 9, 1998

Even granting that Congress enacts a law exempting the Marcoses from paying taxes on their properties, such law will definitely not pass the test of the equal protection clause under the Bill of Rights. Any special grant of tax exemption in favor only of the Marcos heirs will constitute class legislation. It will also violate the constitutional rule that "taxation shall be uniform and equitable."

Public Policy

UNIDO vs. COMELEC, 104 SCRA 17 (1981)

The long and short of the foregoing is that it is not true that in speaking as he did in the "Pulong-Pulong sa Pangulo" he spoke not only as President-Prime Minister but also as head of the KBL, the political party now in power. It was in the former capacity that he did so. x x x

[T]here are other political parties similarly situated as petitioner. To grant to petitioner what it wants, it must necessarily follow that such other parties should also be granted. As already indicated earlier, that would be too much to expect from the media that has also its own right to earn its wherewithal. x x x

[T]he prayer in the instant petition cannot be granted.

PJA vs. Prado, 227 SCRA 703 (1993)

In lumping the Judiciary with the other offices from which the franking privilege has been withdrawn, Section 35 has placed the courts of justice in a category to which it does not belong. If it recognizes the need of the President of the Philippines and the members of Congress for the franking privilege, there is no reason why it should not recognize a similar and in fact greater need on the part of the Judiciary for such privilege. While we may appreciate the withdrawal of the franking privilege from the Armed Forces of the Philippines Ladies Steering Committee, we fail to understand why the Supreme Court should be similarly treated as that Committee. And while we may concede the need of the National Census and Statistics Office for the franking privilege, we are intrigued that a similar if not greater need is not recognized in the courts of justice.

Olivarez v. Sandiganbayan, 248 SCRA 700 (1995)

Petitioner's suspected partiality may be gleaned from the fact that he issued a permit in favor of the unidentified Baclaran-based vendors' associations by the mere expedient of an executive order, whereas so many requirements were imposed on Baclaran Credit Cooperative, Inc. (BCCI) before it could be granted the same permit. Worse, petitioner failed to show, in apparent disregard of BCCI's right to equal protection, that BCCI and the unidentified Baclaran-based vendors' associations were not similarly situated as to give at least a semblance of legality to the apparent haste with which said executive order was issued. It would seem that if there was any interest served by such executive order, it was that of herein petitioner.



ISAE v. Quisumbing, G.R. No. 128845, June 1, 2000

In this case, we find the point-of-hire classification employed by respondent School to justify the distinction in the salary rates of foreign-hires and local hires to be an invalid classification. There is no reasonable distinction between the services rendered by foreign-hires and local-hires. The practice of the School of according higher salaries to foreign-hires contravenes public policy and, certainly, does not deserve the sympathy of this Court.

PHILRECA vs. DILG, G.R. No. 143076, June 10, 2003

The equal protection clause under the Constitution means that "no person or class of persons shall be deprived of the same protection of laws which is enjoyed by other persons or other classes in the same place and in like circumstances." Thus, the guaranty of the equal protection of the laws is not violated by a law based on reasonable classification. **Classification, to be reasonable, must (1) rest on substantial distinctions; (2) be germane to the purposes of the law; (3) not be limited to existing conditions only; and (4) apply equally to all members of the same class.** (emphasis supplied)

[T]here is reasonable classification under the Local Government Code to justify the different tax treatment between electric cooperatives covered by P.D. No. 269, as amended, and electric cooperatives under R.A. No. 6938.

Beltran v. Secretary of Health, G.R. No. 133640, November 25, 2005

Based on the foregoing, the Legislature never intended for the law to create a situation in which unjustifiable discrimination and inequality shall be allowed. To effectuate its policy, a classification was made between nonprofit blood banks/centers and commercial blood banks.

x x x

The promotion of public health is a fundamental obligation of the State. The health of the people is a primordial governmental concern. Basically, the National Blood Services Act was enacted in the exercise of the State's police power in order to promote and preserve public health and safety.

x x x

Based on the grounds raised by petitioners to challenge the constitutionality of the National Blood Services Act of 1994 and its Implementing Rules and Regulations, the Court finds that petitioners have failed to overcome the presumption of constitutionality of the law. As to whether the Act constitutes a wise legislation, considering the issues being raised by petitioners, is for Congress to determine.

THE NON-IMPAIRMENT CLAUSE

1987 Constitution, Art. III, Sec. 10

No law impairing the obligation of contracts shall be passed.

Purpose

The purpose of the non-impairment clause is to safeguard the integrity of valid contractual agreements against unwarranted interference by the State. As a rule, they should be respected by the legislature and not tampered with by subsequent laws that will change the intention of the parties or modify their rights and obligations. The will of the obligor and the obligee must be observed; the obligation of their contract must not be impaired.

When impairment occurs

...[a] law which changes the terms of a legal contract between parties either in the time or mode of performance, or imposes new conditions, or dispenses with those expressed, or authorizes for its satisfaction something different from that provided in its terms, is law which impairs the obligation of a contract and is therefore null and void... [Clemons v. Nolting, 42 Phil. 702, 717 (1922)]

When allowed

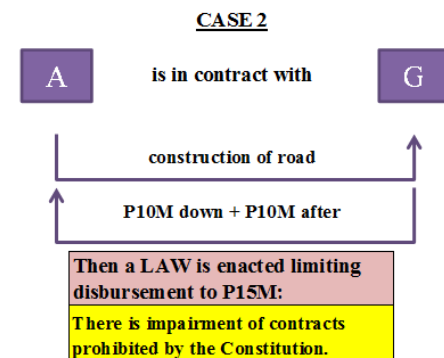
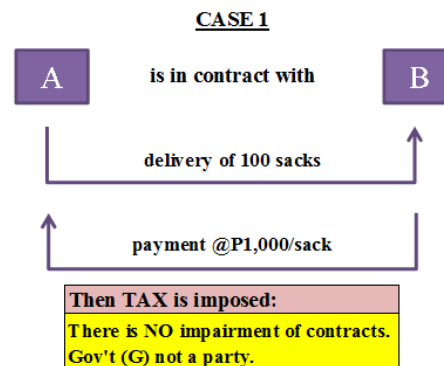
The freedom to contract is not absolute; all contracts and all rights are subject to the following limitations:

1. Police power – generally prevails over contracts
2. Eminent domain – may impair obligation of contracts

N.B.

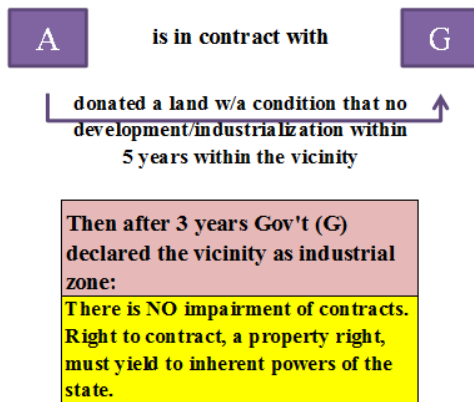
- ➔ **Taxation does not impair (obligation of) contracts**
- ➔ Non-impairment clause is the weakest right
- ➔ Only surplusage in the Constitution
- ➔ Intended on legislature and quasi-legislative bodies as guide

ILLUSTRATIONS:





CASE 3



Regulations which affect contracts may be subject to change from time to time or as the general well-being of the community may require or as experience may demonstrate the necessity. There are instances when contracts valid at the time of their perfection may later become invalid, or some of their provisions may be rendered inoperative or illegal, by virtue of supervening legislation.

Emergency Powers

Rutter vs. Esteban, 93 Phil. 68 (1953)

Consistent with what [the Supreme Court] believe to be as the only course dictated by justice, fairness and righteousness, [the Supreme Court] feel that the only way open under the present circumstances is to declare that the continued operation and enforcement of Republic Act No. 342 x x x is unreasonable and oppressive, and should not be prolonged a minute longer, and, therefore, the same should be declared null and void and without effect.

Zoning and Regulatory Ordinances

Villanueva vs. Castaneda, 154 SCRA 142 (1987)

A public plaza is beyond the commerce of man and so cannot be the subject of lease or any other contractual undertaking. This is elementary. Applying this well-settled doctrine, the Supreme Court ruled that the petitioners had no right in the first place to occupy the disputed premises and cannot insist in remaining there now on the strength of their alleged lease contracts. The problems caused by the usurpation of the place by the petitioners are covered by the police power as delegated to the municipality under the general welfare clause. In fact, every contract affecting the public interest suffers a congenital infirmity in that it contains an implied reservation of the police power as a postulate of the existing legal order. This power can be activated at any time to change the provisions of the contract, or even abrogate it entirely, for the promotion or protection of the general welfare. Such an act will not militate against the impairment clause, which is subject to and limited by the paramount police power.

Sangalang vs. IAC, 168 SCRA 634 (1988)

Petitioners cannot successfully rely on the alleged promise by Ayala Corporation, to build a "[f]ence along Jupiter [street] with gate for entrance and/or exit as evidence of Ayala's alleged continuing obligation to maintain a wall between the residential and commercial sections. Assuming there was a contract violated, it was still overtaken by the passage of zoning ordinances which represent a legitimate exercise of police power. The petitioners have not shown why Courts should hold otherwise other than for the supposed "non-impairment" guaranty of the Constitution, which is secondary to the more compelling interests of general welfare. The Ordinance has not been shown to be capricious or arbitrary or unreasonable to warrant the reversal of the judgments so appealed.

Ortigas & Co. v. CA, G.R. No. 126102, December 4, 2000

A law enacted in the exercise of police power to regulate or govern certain activities or transactions could be given retroactive effect and may reasonably impair vested rights or contracts. Police power legislation is applicable not only to future contracts, but equally to those already in existence. Non-impairment of contracts or vested rights clauses will have to yield to the superior and legitimate exercise by the State of police power to promote the health, morals, peace, education, good order, safety, and general welfare of the people. Moreover, statutes in exercise of valid police power must be read into every contract. Noteworthy, in *Sangalang vs. Intermediate Appellate Court*, the Supreme Court already upheld subject ordinance as a legitimate police power measure.

Administrative Regulations

Tiro vs. Hontanosas, 125 SCRA 697 (1983)

The salary check of a government officer or employee such as a teacher does not belong to him before it is physically delivered to him. Until that time the check belongs to the Government. Accordingly, before there is actual delivery of the check, the payee has no power over it; he cannot assign it without the consent of the Government. On this basis Circular No. 21 stands on firm legal footing.

Rental Laws

Caleon vs. Agus Development Corp., 207 SCRA 748 (1992)

B.P. Blg. 25 is derived from P.D. No. 20 which has been declared by the Supreme Court as police power legislation so that the applicability thereof to existing contracts cannot be denied. The constitutional guaranty of non-impairment of obligations of contract is limited by and subject to the exercise of police power of the state in the interest of public health, safety, morals and general welfare. In spite of the constitutional prohibition, the State continues to possess authority to safeguard the vital interests of its people. Legislation appropriate to safeguarding said interest may modify or abrogate contracts already in effect.

Tax Exemptions

MERALCO v. Province of Laguna, 306 SCRA 750 (1999)

The Local Government Code of 1991 has incorporated and adopted, by and large, the provisions of the now repealed Local Tax Code. The 1991 Code explicitly authorizes provincial governments, notwithstanding "any exemption granted by any law or other special law, . . . (to) impose a tax on businesses enjoying a franchise." A franchise partakes



the nature of a grant which is beyond the purview of the non-impairment clause of the Constitution. Article XII, Section 11, of the 1987 Constitution, like its precursor provisions in the 1935 and the 1973 Constitutions, is explicit that no franchise for the operation of a public utility shall be granted except under the condition that such privilege shall be subject to amendment, alteration or repeal by Congress as and when the common good so requires.

UPDATE CASE

PAGCOR v. BIR, G.R. No. 172087, March 15, 2011

In this case, PAGCOR was granted a franchise to operate and maintain gambling casinos, clubs and other recreation or amusement places, sports, gaming pools, *i.e.*, basketball, football, lotteries, etc., whether on land or sea, within the territorial jurisdiction of the Republic of the Philippines. Under Section 11, Article XII of the Constitution, PAGCOR's franchise is subject to amendment, alteration or repeal by Congress such as the amendment under Section 1 of R.A. No. 9377. Hence, the provision in Section 1 of R.A. No. 9337, amending Section 27 (c) of R.A. No. 8424 by withdrawing the exemption of PAGCOR from corporate income tax, which may affect any benefits to PAGCOR's transactions with private parties, is not violative of the non-impairment clause of the Constitution.

End of Topic for Midterm Purposes

Freedom of speech: at once the instrument and the guarantee and the bright consummate flower of liberty.

- Wendell Philipp