

SECOND DIVISION

[G.R. NO. 132388, April 10, 2006]

**RAFAEL M. FAJARDO AND ROGELIO P. NOGALES, PETITIONERS,
VS. MAYOR ALFREDO S. LIM AND RAMON V. MARZAN,
RESPONDENTS.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Challenged in this Petition for Review on Certiorari are the Decision^[1] dated June 27, 1995 and the Resolution^[2] dated October 16, 1995 of the Court of Appeals (First Division) in CA-G.R. SP No. 34931.

The established facts of the present controversy are as follows:

Like many a burgeoning metropolis, Manila has a squatter problem of major proportions. During the incumbency of Mayor Gemiliano Lopez of Manila, the city government undertook a "Land for the Landless Program" in order to address the problem. The city government decided to purchase properties which were squatter-infested for the purpose of selling them to the occupants at cost. Among the properties which the city government opted to buy were the lots in Tondo, Manila, owned by petitioners, collectively known as the "Fajardo Estate."

On October 25, 1990, the City Appraisal Committee, composed of the City Assessor, as chairman, and the City Auditor and the City Engineer, as members, approved Appraisal Resolution No. 1-5-1990 fixing the market value of the "Fajardo Estate" at P1,600.00 per square meter.

On December 16, 1991, the city government purchased six of the lots of the "Fajardo Estate" consisting of 8,772.40 square meters at P1,600.00 per square meter or for a total selling price of P13,955,840.00. The corresponding land titles were issued in the name of the City of Manila and were duly registered by the Registry of Deeds, same city.

On April 22, 1992, the City of Manila also purchased the two remaining lots of the "Fajardo Estate" consisting of 11,666 square meters also for P1,600 per square meter or a total of P18,666,880.00. Again, the Registry of Deeds issued the corresponding titles in the name of the City of Manila.

Mayor Gemiliano Lopez then signed the disbursement voucher and PNB Check No. 906350 dated August 10, 1992 payable to petitioners which was approved on pre-audit by the City Auditor. The City Cashier, the City Disbursing Officer, and the City Treasurer certified as to the availability of funds.

On July 1, 1992, newly elected Mayor Alfredo Lim, respondent, assumed office in

the City Hall of Manila. He then appointed Ramon V. Marzan, also a respondent, as the new City Administrator. As such, he was required to countersign the check payment under Sections 344 and 345 of the Local Government Code of 1991. But Colonel Zosimo Balagtas, Mayor Lim's financial and budget consultant, advised Marzan not to sign the check as there seemed to be something suspicious about the transaction, given the large amount involved.

Mayor Lim instructed Marzan to withhold the check until the questionable purchase of the "Fajardo Estate" had been cleared. Marzan then informed petitioners that per order of the Mayor, their check could not be released.

On August 13, 1992, Marzan received a letter from petitioners demanding the release of PNB Check No. 906350. Marzan then sought the City Legal Officer's opinion on the matter. In response, the City Legal Officer opined that there is no legal obstacle to release the check.

Still, Mayor Lim reiterated his instruction to Marzan not to release the check, explaining that he directed his aide, Genato "Boy" Herrera, to investigate the matter. Herrera, however, merely made some mathematical computations showing the difference between the acquisition cost and the selling price of the lots.

On October 20, 1992, petitioners filed with the Regional Trial Court (RTC), Branch 36, Manila, a Petition for Mandamus With Damages against Mayor Lim and Marzan. The case was docketed as Civil Case No. 92-63155.

On April 11, 1994, the RTC rendered its Decision in favor of petitioners. The dispositive portion reads:

WHEREFORE, the Petition is GRANTED and judgment is rendered as follows:

1. Respondent Marzan is ordered to countersign immediately PNB Check No. 906350 and, thereafter, to deliver the same check to Fajardo and Nogales; and if the same is not feasible, then should coordinate with the City Treasurer for the issuance of another check for the same amount as replacement of the old check;
2. Respondent Marzan is likewise ordered to pay in his personal capacity Nogales and Fajardo, the following sums:
 - (a) P800,000.00 as and for damages suffered because of lost income and investment opportunities for the non-issuance of the P18,666,880.00 check, with the legal interest from the filing of the petition until the same is fully paid;
 - (b) P200,000.00 as moral damages;
 - (c) P100,000.00 as exemplary damages;
 - (d) P50,000.00 as and for attorney's fees; and
 - (e) The costs of suit.

Respondent Lim is absolved of any civil liability for the non-issuance of the questioned check.

SO ORDERED. ^[3]