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FIRST DIVISION

[G.R. No. 135337. October 19, 2000]

THE CITY OF OLONGAPO, *petitioner, vs.* **THE STALLHOLDERS OF THE EAST BAJAC-BAJAC PUBLIC MARKET OF OLONGAPO CITY, CONSTANCIA P. MACOMB, FEDERICO ROBLES, ROSARIO L. SANTOS, LYDIA A. TUAZON, ANTONIO AQUINO, CARMELITA AQUINO, MARIA PAYUMO, SOLEDAD SADDAD, EVELINA TORRES, EVELINA BALQUIN, ADORACION SAZON, MAGDALENA MARCUSDA, MARIO FANEDO, MILA FIGUEROA, NEIL M. INFANTE, ROWENA INFANTE, JUANITO FIGUEROA, JOSEPHINE C. SY, EMELITA EDROSOLO, SUSAN TUAZON, PACITA DE LEON, JEAN BALQUIN, VIRGINIA DACIO, ROSALINA NUCUM, TESS DE LA PEÑA, REDONDO RAMIREZ, GERONIMA VITUG, AMELIA TINIO, AMOR AQUINO, ERNESTO DUNGCA, LETICIA MOJICA, ARMANDO SANTOS, ELENITA ORTEZ, VIRGILIO SANTOS, EDNA GARCIA, MARILOU SALIENTE, RODOLFO ALVERO, JAMES ALVERO, GLORIA ALVERO, ROSEMARIE SUANEZ, FELIZA IBAÑEZ, FELICISIMA OBLIGAR, ARSENIO SO, AGNES AUSTRIA, VIOLETA MANUEL, MIGUELA OBLIGAR, MERLINDA RAMOS, PATRICIA ESGUERRA, CECELLEE NAGAN, CONCHITA PEGONDOLA, CARMEN CRISTOBAL, HEILA S. CUSTODIO, PURITA E. MAGA, LOURDES MICLAT, REYNALDO MENDOZA, DELIA O. ERMITANO, YOLANDA DE JESUS, JULIETA CAPATI, MARIA DE LA PAZ, LEONORA JOSE, LILIA CABANGLAN, JOSELITO JOSE, FE LIWANAG, CORAZON SANTOS, REMEDIOS RICAFORT, REBECCA BILOG, HONORIO EMETERIO, FELICIDAD CASANDIG, MONICA DELFINO, ROSETICA DE LA SANTOS, CORAZON SALUTE, FLORIDA HALAS, RADING DE LA ROSA, NENE REYES, AMELIA NAGUIT, TERESITA NAGUIT, JULIANA CASADORES, PRICELLA GARCIA, CELIA BAYTAS, TESS MERLAN, MERCEDEZ VALENCIA, DALISAY CUSTODIO, ROMANA CUSTODIO, CRESENCIA SANTOS, AMELIA CALING, FEDERICO ROBLES, FLORA MESINA, FAUSTO CHAVEZ, AMADA BAUTISTA, CARMELITA VIRAY, JAIME G. ESPINOZA,**

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GREGORIA OLALIA, LIGAYA RAZON, ROSITA ROSARIO, LOLITA MALIT, MILAGROS A. AGUILAR, JUDITH AGUILAR, RODIGONDA REYES, TERESITA AGUILAR, LILIAN AGUILAR, LIZA R. CABASAL, DAISY GONZALES, CLAUDITH MARNIOL, ERLINDA LIMSON, ASUNCION CANOVAS, LOLITA PINEDA, MARIETA COGULE, LILIA V. SANTOS, NENITA V. GONZALES, GLORIA P. LAYUG, CORAZON KABITING, CORAZON LIMBITCO, MELY GONZALES, LANIE GONZALES, EDWIN GUTIERREZ, EVANGELINA AGUILAR, NATALIA DIWA, LANNIE MORADOS, ROSITA GONUGDA, CHARLINE GUEVARRA, EMILIANO BONIFACIO, JESUS BONIFACIO, ROSALINA PADILLA, RICO VITUG, MARCEDES MENDOZA, CELY BARAMEDA, JANET DALIDA, MELITA ESPEJO, NENITA MENDOZA, SALIDA MENDOZA, SANTIAGO DANGCULOS, PUPERTA BALUYOT, ELENA MENDOZA, ESTER E. SINGCA, FELICITA NAVARRO, FELIZA CALMA, SANG QUIAO, MILENDA ROTA, MARILOU ESPIRITU, RONALD CUARESMA, TERESITA GARCIA, IMELDA GARCIA, GODOLFREDO GARCIA, DING RACION, ADELAIDA MANIAGO, RUTH AIDA CRUZ, TESSIE TOLENTINO, FELY PENA, LUC AVALLAR, ELIZABETH BENEDICTO, MILA C. BUENCONSEJO, CHERRY VELASCO, ERNESTO TOLENTINO, MARY GONZALES, ERLINDA CASINE, REMEDIOS ANDRION, DENNISON JAMES, ESTER LAZARO, BEVERLY GANADIN, CELEDONIA LUGTU, SIMFROSA ARANETA, CELERINA SERRANO, APOLONIA MONTALBO, ROSALINDA ATIENZA, PETRONA ALIPIO, ANITA BIGOSA, LEOCARDIA OLIZARIO, ALBERTA CARDOSA, MARLYN LAXA, JACINTA DIMAANO, ESTELITA DOMINGO, CELERINA APILADO, CONSUELO VALERIO, ROSALINA NEVADO, EVA ACUZAR, DIOSDADO JORDAN, NATIVIDAD SALINAS, WILMA DOMINGO, CELY OLIGARIO, ROSAVINA JUNSAY, ADELINA ENCIO, GLORIA MENDOZA, MYRNA BILOG, ERNESTO ADAYA, CONCHITA MANANSALA, ROSARIO SANTOS, EDNA E. FONTILLAS and OTHER STALLHOLDERS, *respondents.*

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SYNOPSIS

Respondents filed an appeal to the Secretary of Justice assailing the validity of Ordinance No. 14 (Series of 1993) fixing the monthly rental fees for the different stalls in the new public market. Respondents claimed that the rates fixed therein are unjust and excessive; and that petitioner City of Olongapo did not comply with the requirements of the ordinance's publication.

The Secretary of Justice upheld the validity of the ordinance. Respondents filed a motion for reconsideration. The Secretary of Justice refrained from taking action on said motion of respondents, but advised them to file their appeal with the court of competent jurisdiction. The respondents then filed before the trial court an action to declare void the ordinance and for writ of prohibition. Upon petitioner's Motion for Summary Judgment, the trial court, without trial, sustained the validity of the ordinance. Respondents appealed to the Court of Appeals which, however, held that as to the issue of the ordinance's publication, the trial court correctly rendered summary judgment but, as regards the question of whether the market rental rates were unjust and excessive, the same was a factual issue that required the presentation of evidence. The Court of Appeals remanded the case to the trial court for trial on this issue.

Petitioner City of Olongapo filed a petition for review before the Supreme Court, claiming that trial is unnecessary because all that the trial court had to do was, as both the Secretary of Justice and the trial court did, to examine the documents submitted by petitioner showing that the rates fixed in the assailed ordinance conformed to Department of Interior and Local Government Memorandum Circular No. 93-63. Also, evidence not submitted by respondents before the Secretaryof Justice can no longer be considered by the trial court.

In affirming the Court of Appeals decision, the Supreme Court held that a trial is required so that the parties may properly ventilate their causes of action. It is precisely the accuracy of petitioners' documents that respondents are disputing, consequently, respondents may present their own evidence to prove that the figures in the documents are inaccurate. Also, the trial court cannot be limited to reviewing the evidence adduced before the Secretary of Justice because what respondents

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filed before the trial court was not an appeal from the Secretary's decision but an original action to declare void the ordinance.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; NATURE OF ACTION IS DETERMINED BY THE ALLEGATIONS OF THE COMPLAINT; CIRCUMSTANCES UNDER WHICH ACTION WAS FILED ALSO CONSIDERED; CASE AT BAR IS AN ORIGINAL ACTION.** — Petitioner City of Olongapo submits that the RTC merely reviewed the decision of the Secretary of Justice upholding the validity of Ordinance No. 14 (Series of 1993). As such, the review by the RTC was confined to the evidence presented in the administrative proceedings. x x x Respondents, on the other hand, contend that the petition filed in the RTC was an original action. The Court of Appeals agreed with respondents, holding that, based on the allegations of the complaint, the case brought by respondents was an original case. We find no error in this ruling for it is elementary that the nature of the action is determined by the allegations of the complaint or petition. x x x Consider, too, the circumstances under which respondents sought relief from the RTC. Perhaps doubting his jurisdiction to entertain respondents' appeal as a result of the filing of *Drilon vs. Lim, supra*, the Justice Secretary issued a Memorandum directing the Chief State Counsel to refrain from acting on or accepting appeals filed under Section 187 of the Local Government Code and to "inform the appellants (herein petitioners) to file their appeal directly with the courts." The Chief State Counsel, complying with the Memorandum, advised in his letter to respondents to "file their appeal with the court of competent jurisdiction," the "appeal" referring to an action to question the validity of the subject ordinance. The Memorandum and the accompanying letter thus amounted to an abdication by the Secretary of Justice of his jurisdiction over the appeal, as conferred by Section 187. The action before the RTC cannot be deemed to be anything but an original action, and the function of the trial court cannot be limited to reviewing the evidence adduced before the Secretary of Justice.

2. **ID; ID; TRIAL; NEED FOR A TRIAL TO DETERMINE THE ACCURACY OF DISPUTED DOCUMENTS; CASE AT BAR.** — Petitioner maintains that trial is unnecessary in

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any case because all the court had to do was determine whether the rates fixed in the assailed ordinance conform to Department of Interior and Local Government Memorandum Circular No. 93-63, specifically the provision limiting the return of investment to 12 to 15% and that requiring a cost recovery scheme. Presumably, this determination can be made, as both the Secretary of Justice and the RTC did, by a mere examination of the documents submitted by petitioner. However, it is precisely the accuracy of these documents that respondents are disputing. Consequently, respondents may examine the officials who executed said documents. They may present their own evidence, both documentary and testimonial, to prove that the figures in the documents are inaccurate. All these require a trial so that the parties may properly ventilate their respective causes.

APPEARANCES OF COUNSEL

Ma. Ellen M. Aguilar for petitioner.

Estanislao L. Cesa, Jr. and Marc Raymund S. Cesa for private respondents.

D E C I S I O N

KAPUNAN, *J.*:

On June 30, 1993, the Olongapo City Council enacted Ordinance No 14 (Series of 1993), fixing the monthly rental fees for the different stalls in the new public market. Respondents questioned the validity of said ordinance by filing an appeal to the Secretary of Justice. The appeal was made pursuant to Section 187 of the Local Government Code,[1] which states:

SEC. 187. *Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings.* — The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided*, That public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided, further,* That *any question*

[1] Republic Act No. 7160.

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on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: *Provided, finally*, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction. (Italics supplied.)

As grounds for their appeal, respondents alleged that the ordinance: (1) violated Sections 130[2] and 186[3] of the Local

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[2] SEC. 130. *Fundamental Principles.* — The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:

(a) Taxation shall be uniform in each local government unit;

(b) Taxes, fees, charges, and other impositions shall:

(1) be equitable and based as far as practicable on the taxpayer's ability to pay;

(2) be levied and collected only for public purposes;

(3) not be unjust, excessive, oppressive, or confiscatory;

(4) not be contrary to law, public policy, national economic policy, or in restraint of trade;

(c) The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;

(d) The revenue collected pursuant to the provisions of this Code shall inure solely to the benefit of, and be subject to deposition by, the local government unit levying the tax, fee, charge or other imposition unless otherwise specifically provided herein; and

(e) Each local government unit shall, as far as practicable, evolve a progressive system of taxation.

[3] SEC. *186. Power To Levy Other Taxes, Fees or Charges.* — Local government units may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated herein or taxed under the National Internal Revenue Code, as amended, or other applicable laws: *Provided*, That the taxes, fees, or other charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy: *Provided, further*, That the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.

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Government Code as the rates fixed therein are unjust, excessive, oppressive, confiscatory, not equitable, not based as far as practicable, on the market vendors' ability to pay, and contrary to declared national policy; (2) was sought to be implemented despite lack of publication; and (3) did not comply with "the essence and spirit of the public hearings."[4]

In a Resolution dated September 29, 1993, the Secretary of Justice upheld the validity of Ordinance No. 14 (Series of 1993).

Respondents moved for a reconsideration of the Justice Secretary's Resolution. The Secretary of Justice, however, refrained from taking action on respondents' motion for reconsideration apparently in view of the pendency of a case[5] filed in this Court questioning the validity of said Section 187. In a Letter dated November 23, 1993 and addressed to counsel for respondents, Chief State Counsel Elmer T. Bautista wrote:

> With reference to your Motion for Reconsideration on the Resolution of this Office dated September 29, 1993, upholding the constitutionality and legality of Ordinance No. 14, s. 1993 of the City of Olongapo, please be informed that in view of the adverse ruling of the Regional Trial Court of Manila (Branch 33) dated October 26, 1993, and pending final determination by the Supreme Court on the constitutionality of Section 187 of Republic Act No 7160 (Local Government Code of 1991), the Secretary of Justice upheld the validity of Ordinance No. 14 (Series of 1993) deemed it appropriate to refrain from taking action thereon in the meantime.
>
> Per the Secretary's Memorandum dated November 5, 1993, copy attached, you are, however, advised to file your appeal with the court of competent jurisdiction.[6]

The contents of the "Secretary's Memorandum" referred to in the above letter is reproduced below:

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[4] Records, p. 40.

[5] *Drilon vs. Lim*, 235 SCRA 135 (1994), where this Court subsequently sustained the constitutionality of Section 187.

[6] Records, p. 15.

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In view of the adverse ruling of the Regional Trial Court of Manila (Branch 33) dated October 26, 1993, and pending final determination by the Supreme Court of the constitutionality of Section 187 of Republic Act No. 7160 (Local Government Code of 1991) which empowers the Secretary of Justice to pass upon on appeal, the legality and/or constitutionality of tax ordinances or revenue measures adopted by local government units, you are hereby directed to refrain from taking action on and/or accepting petitions/appeals filed in accordance with said legal mandate, and inform the appellants thereto to file their appeal directly with the courts.[7]

On December 22, 1993, respondents filed before the Regional Trial Court (RTC) of Olongapo City an "action to declare void Olongapo City Ordinance No. 14, s. of 1992 and for writ of prohibition."

The City of Olongapo moved for the dismissal of the petition on the ground that it did not state a cause of action. The RTC, however, held in abeyance the resolution of this motion until after trial on the merits shall have been terminated, the ground relied upon by the City being "not indubitable."[8]

At the pre-trial, the parties agreed to limit themselves to the following issues: (1) whether the ordinance was void; and (2) whether the proposed fees are equitable, justifiable and affordable.[9]

Thereafter, the City of Olongapo filed a Motion for Summary Judgment. Finding there were no genuine issues as to any material fact, the RTC granted the motion in an Order dated October 20, 1995. On January 30, 1996, the RTC, without trial, rendered a decision sustaining the validity of Ordinance No 14 (Series of 1993). The dispositive portion of the decision reads:

WHEREFORE, and the foregoing premises considered, the legality or constitutionality of Ordinance No. 14, Series of 1993, enacted

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[7] *Id.*, at 16.

[8] *Id.*, at 126-127.

[9] *Id.*, at 148-149.

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by the City Council of Olongapo City on June 30, 1993 and which took effect on July 7, 1993, is UPHELD

The Complaint is DISMISSED.

SO ORDERED.[10]

Respondents appealed to the Court of Appeals assigning the following errors:

(A.) THE LOWER COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN DECIDING THE CASE ON SUMMARY JUDGMENT UNDER RULE 34 OF THE RULES OF COURT.

(B.) THE LOWER COURT DID NOT ACCORD DUE PROCESS TO THE APPELLANTS.

(C.) THE DECISION IS NOT JUSTIFIED BY THE EVIDENCE.[11]

In its Decision dated August 31, 1998, the Court of Appeals held that the issue of the ordinance's publication did not require any trial and that the City had complied with the requirements of publication. It declared:

As to the issue [of] whether or not the enactment of Ordinance No. 14, Series of 1993 is void insofar as the procedural requirements of the Local Government Code or R.A. 7160 on the approval of revenue measures under Rules 187 and 188 thereof is concerned, we find that the trial court did not err in finding that no genuine triable issue exists that requires trial on the merits.

Exhibits "4", "4-A", "5", "6", "7", "8", "9" and "10" attached to the Answer undisputedly show that proper publication, posting in public places, and public hearings were complied with in accordance with the requirements of the Local Government Code of 1991. We find no genuine triable issue on this matter and therefore the trial court committed no reversible error in rendering summary judgment thereon. We agree with the RTC that the procedural requirements have been met by the City Council of defendant Olongapo City in the enactment of the subject ordinance. There were publications,

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[10] *Id.*, at 240.

[11] *Rollo*, p. 26.

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posting and public hearings as shown by the aforementioned exhibits of defendants. The fact that appellants' views were not considered by the City Council does not render the enactment of the ordinance invalid.[12]

However, as regards the question of whether the market rental rates were unjust, excessive, confiscatory and inequitable, the Court of Appeals held that the same was a factual issue that required the presentation of evidence. Consequently, it remanded the case to the RTC for trial on this issue.

Aggrieved by the decision of the Court of Appeals, the City of Olongapo brought the instant petition for review.

The nature of the proceedings conducted before the RTC is at issue in this case.

Petitioner City of Olongapo submits that the RTC merely reviewed the decision of the Secretary of Justice upholding the validity of Ordinance No. 14 (Series of 1993). As such, the review by the RTC was confined to the evidence presented in the administrative proceedings. Petitioner, citing the cases of *Santos vs. Moreno*[13] and *Taleon vs. Secretary of Public Works and Communications,*[14] argues that evidence not presented before the Secretary of Justice should not be admitted and considered by the reviewing court. The RTC's function, according to petitioner, is limited to determining whether there is evidence in the administrative record substantial enough to support the findings therein; hence, the CA erred in ordering the remand of the case for trial.

Respondents, on the other hand, contend that the petition filed in the RTC was an original action. The Court of Appeals agreed with respondents, holding that, based on the allegations of the complaint, the case brought by respondents was an original case.

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[12] *Id.*, at 27-28.

[13] 21 SCRA 1141 (1967).

[14] 20 SCRA 69 (1967).

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We find no error in this ruling for it is elementary that the nature of the action is determined by the allegations of the complaint or petition.[15] Respondents explicitly alleged in their petition that:

> 1. This is a petition to declare void the rates for market stalls at the Pag-asa Public Market imposed under Ordinance No. 14 s. of 1992 of the City of Olongapo for being unjust, excessive, oppressive, confiscatory, and, contrary to declared national policy.[16]

The petition alleged the same grounds for declaring the ordinance void as those raised in the appeal to the Secretary of Justice, thus:

> III. Grounds For Voiding Ordinance No 46 s. of 1992
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> 9. Ordinance No. 14, s. of 1993 violates Section 130, and 186 of the Local Government Code of 1991, because the rates therein fixed are unjust, excessive, oppressive, confiscatory, not equitable and based as far as practicable on the market vendors['] ability to pay, and, contrary to declared national policy.
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> 10. Ordinance No. 14, s. of 1993 is sought to be implemented already, yet, as far as known to the appellants, it has not yet been published in full for three (3) consecutive days in a newspaper of local circulation.
>
> 11. The essence and spirit of the public hearing was not complied with.[17]

Consider, too, the circumstances under which respondents sought relief from the RTC. Perhaps doubting his jurisdiction to entertain respondents' appeal as a result of the filing of *Drilon vs. Lim, supra*, the Justice Secretary issued a Memorandum directing the Chief State Counsel to refrain from acting on or accepting appeals filed under Section 187 of the Local Government

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[15] *Union Bank of the Philippines vs. Court of Appeals*, 290 SCRA 198 (1998).

[16] Records, p. 3.

[17] *Id.*, at 5.

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Code and to "inform the appellants (herein petitioners) to file their *appeal* directly with the courts." The Chief State Counsel, complying with the Memorandum, advised in his letter to respondents to "file their *appeal* with the court of competent jurisdiction," the "appeal" referring to an action to question the validity of the subject ordinance. The Memorandum and the accompanying letter thus amounted to an abdication by the Secretary of Justice of his jurisdiction over the appeal, as conferred by Section 187.

Accordingly, the action before the RTC cannot be deemed to be anything but an original action, and the function of the trial court cannot be limited to reviewing the evidence adduced before the Secretary of Justice.

Nevertheless, petitioner maintains that trial is unnecessary in any case because all the court had to do was determine whether the rates fixed in the assailed ordinance conform to Department of Interior and Local Government Memorandum Circular No. 93-63, specifically the provision limiting the return of investment to 12 to 15% and that requiring a cost recovery scheme. Presumably, this determination can be made, as both the Secretary of Justice and the RTC did, by a mere examination of the documents submitted by petitioner.

However, it is precisely the accuracy of these documents that respondents are disputing. Consequently, respondents may examine the officials who executed said documents. They may present their own evidence, both documentary and testimonial, to prove that the figures in the documents are inaccurate. All these require a trial so that the parties may properly ventilate their respective causes. Thus, the CA correctly ruled that:

> The lower court based its conclusion that the market rates are just and equitable in accordance with the Local Government Code on the affidavits of one Loreto P. Azores, the City Treasurer of defendant and member of the Local Finance Committee (*p. 204, Original Records*); and Johnny B. Choa, City Budget Officer of defendant and the Officer in Charge of the City Accountant's Office as well as a member of the Local Finance Committee (*p. 207, id.*).

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In view of the complaint of plaintiffs-appellants as to the equitableness, justifiability and affordability of the market rates imposed, it behooved the trial court to conduct trial on the merits which would involve, among others, the cross-examination of said affiants so as to determine whether or not the computation of the Local Finance Committee is based on facts or mere estimates. Fundamental issues as to the details concerning the issue of expenditures in constructing a public market place; the claim of plaintiffs-appellants that the construction of the new public market came from the Mt. Pinatubo Calamity Fund, at no cost to the City (*p. 20, Brief for the Plaintiffs-Appellants*); the actual cost of operations and basis of computed revenue; the validity of the schedule of personal services; the actual maintenance and operating expenses, and others, that would be necessary in the determination of the justness of the market rates, would require trial on the merits if proper judgment is to be resolved by the court *a quo*.[18]

WHEREFORE, the decision of the Court of Appeals is *AFFIRMED*.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, Pardo, and *Ynares-Santiago, JJ.*, concur.

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[18] *Rollo*, pp. 28-29.