Raised on Promises: How the Sustainability Goals of the Urban Housing and Development Act of the Philippines Fall Short

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FORTY PERCENT OF MANILA’S POPULATION IS IMPOVERISHED AND LIVING IN COMMUNITIES OF SCRAP MATERIAL, MAKESHIFT HOUSING. 1 MEANWHILE, BUSINESS TYCOONS FROM CHINA, JAPAN, AND KOREA DOMINATE THE CITY’S ECONOMY. 2 IN ORDER TO COMPETE WITH OTHER MODERN ASIAN CITIES, THE FILIPINO GOVERNMENT PASSED THE URBAN HOUSING AND DEVELOPMENT ACT OF 1992 (UDHA) TO PURSUE A PATH OF SUSTAINABLE URBAN DEVELOPMENT FOCUSED ON CREATING BUSINESS CENTERS IN MANILA. 3 THE UDHA'S GOAL TO CREATE AN ATTRACTIVE MANILA FOR FOREIGN INVESTORS IS MASKED BY ITS STATED PURPOSE OF PROVIDING SAFE HOUSING AND EMPLOYMENT FOR ITS INFORMAL SETTLERS. 7 THE UDHA PROVIDES TERMS TO EVICT AND RELOCATE THE SETTLERS: “EVICTION OR DEMOLITION . . . MAY BE ALLOWED UNDER THE FOLLOWING CIRCUMSTANCES: (A) WHEN PERSONS OR ENTITIES OCCUPY DANGER AREAS . . . (B) WHEN GOVERNMENT INFRASTRUCTURE PROJECTS WITH AVAILABLE FUNDING ARE ABOUT TO BE IMPLEMENTED, OR (C) WHEN THERE IS A COURT ORDER . . . .” 8 AFTER EVICTION OF THE SETTLERS, SETTLEMENTS ARE DEMOLISHED SO THAT A COMPANY MAY BUILD A BUSINESS CENTER. 9 THE BUSINESS CENTERS EPIТОMIZE THE GOVERNMENT'S IDEA OF SUSTAINABLE URBAN INFRASTRUCTURE DEVELOPMENT. 10 YET THE GOVERNMENT'S FAILURE TO KEEP ITS PROMISES TO THE DISPLACED SETTLERS NEGATES ITS OVERALL SUSTAINABLE URBAN INFRASTRUCTURE DEVELOPMENT GOALS. 11

THE UDHA REQUIRES THAT EVICTED SETTLERS ARE PROVIDED NEW HOUSING, LIVELIHOODS, AND ADEQUATE TRANSPORTATION ACCESS TO MANILA. 12 WHILE THE SETTLERS ARE OFTEN PROVIDED NEW HOUSING, THEIR NEW COMMUNITIES ARE WITHOUT THE PROMISED LIVELIHOODS BECAUSE THE NEW COMMUNITIES ARE BUILT IN REMOTE AREAS WITHOUT COMMERCIAL OPPORTUNITY OR ACCESS TO MANILA. 13 FOR EXAMPLE, A COMMUNITY WAS BUILT THREE HOURS NORTH OF MANILA TO HOUSE 1,200 RESIDENTS. 14 ADDITIONALLY, THE RESIDENTS WERE PROMISED EMPLOYMENT IN A GROCERY STORE SO THEY COULD PAY THEIR MONTHLY RENTS. 15

ONLY FIVE OF THE 1,200 RESIDENTS WERE TO BE EMPLOYED IN THE GROCERY STORE. 16 AS A RESULT, ONLY THOSE FIVE COULD EARN AN INCOME TO PAY THEIR NEW MONTHLY RENT. 17

WITHOUT THE PROMISED LIVELIHOOD COMPONENT, SETTLERS ABANDON THEIR NEW COMMUNITIES AND RETURN TO MANILA TO SEEK EMPLOYMENT, THUS BUILDING A NEW INFORMAL SETTLEMENT COMMUNITY IN THE PROCESS. 18 THE CYCLE OF CONSTRUCTION, EVICTION, AND DEMOLITION REPEATS ITSELF, COSTING THE GOVERNMENT SIGNIFICANT CAPITAL THAT COULD BE ALLOCATED INTO A MORE SUCCESSFUL PROGRAM. 19 OTHER GROUPS OF INFORMAL SETTLERS ARE NOT AFFORDED RELOCATION UNDER THE UDHA AND ALSO CREATE NEW MAKESHIFT COMMUNITIES FOLLOWING EVICTION. 20 THE SETTLERS OF MANILA HAVE LITTLE MEANS OF COMBATING THE UDHA'S PROGRAM COMPARED TO THE ARSENAL OF RESOURCES THE LARGE INTERNATIONAL CORPORATIONS HAVE. 21 DESPITE THEIR LACK OF WEALTH, CITIZENS HAVE CHALLENGED THE UDHA IN THE FILIPINO COURT SYSTEM. 22


THE BIASED SQUATTER-HOMELESS DISTINCTION EXTENDS BEYOND THE DEFINITIONS TO FURTHER DIMINISH THE POSSIBILITY OF SUCCESSFUL INFRASTRUCTURE DEVELOPMENT. UNDER SECTION 16, SQUATTERS ARE EXPPLICITLY PRECLUDED FROM RECEIVING THE BENEFITS OF THE UDHA. 29 UNDER SECTION 27, THE ACT OF BEING A SQUATTER IS CRIMINALIZED AND PUNISHABLE BY FINES OR IMPRISONMENT. 30 THUS, SOME CITIZEN CHALLENGES TO THE UDHA PERTAIN SPECIFICALLY TO THE CONSTITUTIONALITY OF THE SQUATTER-HOMELESS DISTINCTION, HAVING STANDING ROOTED IN THEIR CLASSIFICATION AS SQUATTERS AND NOT UNDERPRIVILEGED AND HOMELESS CITIZENS.

FOR EXAMPLE, THE PETITIONERS IN GALAY V. COURT OF APPEALS WERE EVICTED UNDER THE CLASSIFICATION OF SQUATTERS, WITHOUT WARNING OR A WARRANT AS PERMITTED UNDER SECTIONS 27 AND 28. 31

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Citing the Martires decision, the Supreme Court in this case rejected the petitioners’ challenge to the squatter-homeless citizen distinction: “While we sympathize with the millions of our people who are unable to afford the basic necessity of shelter . . . this sympathy cannot extend to squatting, which is a criminal offense. Social justice cannot condone the violation of law nor does it consider that very wrong to be a justification for priority in the enjoyment of a right.”32 In The Republic of the Philippines v. Mijares the petitioners challenged the constitutionality of the squatter-homeless distinction under Section 27.33 The Supreme Court reinforced that the UDHA’s benefits and protections were not applicable to squatters, ruling the petitioners were squatters despite their impoverished state.34

Other citizen challenges to the UDHA are continuously dismissed due to procedural shortcomings. The Supreme Court dismissed the petitioner’s challenge to the constitutionality of Section 28 in Macasiano v. National Housing Authority for lack of standing.35 In Kalipunan Ng Damayang Mahihirap, Inc. v. Robredo, the Supreme Court again failed to reach the question of Section 28’s constitutionality because the case was dismissed.36 The Supreme Court in Kalipunan held that the petitioners failed to meet the necessary standard of “unequivocal breach” of the constitution, and thus failed to establish the abuse of discretionary power by the government in evictions.37

The Filipino courts have faced claims against the UDHA, but they have been unable to reach the substantive question of its constitutionality. The eviction of non-favorable groups in pursuit of the government’s vision of a globalized Manila that attracts foreign business investment is marginalizing, discriminating, costly, and unsuccessful. Therefore, it is the responsibility of the Filipino legislative bodies to replace the UDHA with new legislation that includes all members of society for the Philippines to have a truly sustainable urban infrastructure.

ENDNOTES

3 See France-Presse, supra note 1; Trinidad, supra note 1.
4 See France-Presse, supra note 1; Trinidad, supra note 1.
7 See Urban Housing and Development Act, Rep. Act 7279 § 2(a)-(b) (1992); Kwak, supra note 5.
8 See Urban Housing and Development Act, Rep. Act 7279 § 28(a)-(c)(8).
10 See Ramos, supra note 9, at 12-6.
11 See Kwak, supra note 5; see also Ramos, supra note 9, at 12-4.
13 See id.; Trinidad, supra note 1.
14 See e.g., Alexandra Nolan & Alexandra Green, Feasibility Study Grammar: Australia Philippines Housing Co-op Santa Ana 2-4 (Aug. 1, 2016) (on file with Author).
15 Id. at 3.
16 Id.
17 Id. at 3-4.
18 See Urban Housing and Development Act, Rep. Act 7279 at §§ 22, 28(8), 29; see also Ramos supra note 9.
19 See e.g., Trinidad, supra note 1 (providing 2017 budget percentages for the program); see e.g., Nolan & Green, supra note 14 (providing 2016 budget amounts).
20 See Urban Housing and Development Act, Rep. Act 7279 § 27; see e.g., Nolan & Green, supra note 14, at 3.
21 See Megaworld, supra note 2.
24 Urban Development and Housing Act, Rep. Act 7279 § 3(m).
25 Id. § 30).
26 See Kwak, supra note 5.
28 Id. § 28.
29 Id. § 16.
30 Id. § 27.
32 Id. at *8
34 Id.
37 Id. at 325.