Investments in Income-Producing Real Properties

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"The investment of its funds is an integral part of the life insurance business and of equal importance with the issuance of life insurance policies", thus held in *Prudential v. Richman* in 1937.

It is the legal framework, the Insurance Code and the Circular Letters of the Insurance Commission that spells out the areas within which investments by insurance companies may be made. Our investment rules are influenced highly by American insurance laws, specifically by New York laws. The state of New York provides for the strictest investment laws in the United States and certainly has become the most influential than any other U.S. state. Before the Armstrong or Hughes investigations of life insurance companies in 1905, insurance companies had been given wide latitude in the matter of investments. Subsequent legislations though have allowed and limited the areas of investments. Initially, investments in stocks and in income producing real properties were not permitted. In the beginning, only real estate mortgage loans was allowed and real estate acquired in satisfaction of debt had to be disposed of within 5 years from the time it was acquired, unless extended on the ground of hardship.

Soon, changes were made in the middle 1930s and the early 1940s. In the late thirties, New York law allowed life insurance companies to acquire and construct housing projects "to promote and supplement public and private efforts to provide an adequate supply of decent, safe and sanitary dwelling accommodations for persons of low and moderate income and to assist in relieving the housing situation". For the first time, investments in large scale rental housing projects for low and moderate income groups were allowed. This reform allowed direct ownership of housing projects rather than mere investments in public housing companies.

More importantly, a 1942 Virginia statue allowed, for the first time, limited investments in income-producing real estate (also called 'income real estate'). It excluded, though, real estate primarily for agriculture, ranch, mining and amusement purposes. Among other reforms, investments in common stocks was allowed for the first time. In the years 1945 (seven states), 1946 (three states) and 1947 (twenty-one states), several states followed suit in allowing income real estate. During these periods, real estate values were generally considered to be high. Of course, there were varying limitations with states setting maximum amounts based on company assets which may be invested in income real estate.

As observed in 1947, “the increasing need of life insurance companies for a broadening and modernization of their investment powers has been accompanied by a growing recognition by the states that certain types of real estate are, to a limited extent, proper for investment of funds of life insurance companies on a permanent basis.”

In the Philippines, as provided in the Code, any insurance company, life or non-life, may acquire, hold and own real properties to serve as its main place of business or as branch offices provided that such real properties shall not exceed 20% of its net worth (Sec. 206 [b], [1]; Sec. 210 [a]).

In addition, life companies may also acquire real properties that produce income on the condition that the cost of each real property, including the estimated cost of the improvement or development, when added to the book value of all other income-producing real property shall not exceed 25% of its admitted assets, as of the 31st day of December next preceding (Sec. 208 [b]). Life companies may also acquire or construct housing projects provided the aggregate book value of the investments in such projects shall not exceed 25% of the total admitted assets of the company on the 31st day of December next preceding (Sec. 208 [a]).

As for investments of non-life companies in income-producing real properties, the Insurance Code is silent on the matter. This silence should not be interpreted as a prohibition. It is the position of the author that such investment may be allowed by regulation. While the interests of the non-life companies in the insurance policies may be on a short-term basis, it should not entirely preclude investments in income-producing real estate.

The insurance industry is in a continued search for new investment outlets that yields sufficient income. Finding new investment outlets has always been a pressing problem for the insurance industry.

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