

## FIRST DIVISION

**[ G.R. NO. 157285, February 16, 2007 ]**

**WOODRIDGE SCHOOL, INC., AND MIGUELA JIMENEZ-JAVIER,  
PETITIONERS, VS. ARB CONSTRUCTION CO., INC., RESPONDENT.**

### DECISION

#### **CORONA, J.:**

Petitioners Woodridge School, Inc. (Woodridge) and Miguela Jimenez–Javier come to us assailing the decision<sup>[1]</sup> dated September 30, 2002 and resolution<sup>[2]</sup> dated February 14, 2003 of the Court of Appeals in CA–G.R. CV No. 515333 which, in turn, modified the ruling of the Regional Trial Court (RTC) of Imus, Cavite awarding P500,000 to respondent ARB Construction Co., Inc. (ARB) as reasonable indemnity for the use of ARB’s road lot.<sup>[3]</sup>

Woodridge is the usufructuary of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-363902 in the name of spouses Ernesto T. Matugas and Filomena U. Matugas. Its co-petitioner, Miguela Jimenez–Javier, is the registered owner of the adjacent lot under TCT No. T-330688.

On the other hand, ARB is the owner and developer of Soldiers Hills Subdivision in Bacoar, Cavite, which is composed of four phases. Phase I of the subdivision was already accessible from the Marcos Alvarez Avenue. To provide the same accessibility to the residents of Phase II of the subdivision, ARB constructed the disputed road to link the two phases.

As found by the appellate court, petitioners’ properties sit right in the middle of several estates: Phase I of Soldiers Hills Subdivision in the north, a creek in the east and Green Valley Subdivision the farther east, a road within Soldiers Hills Subdivision IV which leads to the Marcos Alvarez Avenue in the west and Phase III of Soldiers Hills Subdivision in the south.

Initially, petitioners offered to pay ARB P50,000 as indemnity for the use of the road. Adamant, ARB refused the offer and fenced the perimeter of the road fronting the properties of petitioners. By doing so, ARB effectively cut off petitioners’ access to and from the public highway.

After failing to settle the matter amicably, petitioners jointly filed a complaint<sup>[4]</sup> in the RTC of Imus, Cavite to enjoin ARB from depriving them of the use of the disputed subdivision road and to seek a compulsory right of way after payment of proper indemnity. On November 24, 1995, the trial court rendered its decision in favor of petitioners:

The reasons why this case is not one for a right of way as an easement are not difficult to discern.

The questioned road is part and parcel of the road network of Soldiers Hills IV, Phase II. This road was constructed pursuant to the approved subdivision plan of Soldiers Hills IV, Phase II. As such, the road has already been withdrawn from the commerce of men as the ownership of which was automatically vested in the government without need of any compensation, although it is still registered in the name of the [ARB], the moment the subdivision plan was approved. While it is not yet donated to the government [,] [it] is of no moment for donating this road to the government is a mere formality.

Differently stated, the government automatically becomes the owner of the subdivisions' roads the moment the subdivision plan is approved. From that time on, the roads are withdrawn from the commerce of men even [if] the titles are still registered in the name of the subdivision owners and the roads are not yet donated to the government. Thus, the subdivision owner can no longer sell or alienate the roads for they are already owned by the government; thus, even if [petitioners] want to buy this road, and the [ARB] wants to sell the same, this transaction cannot materialize for the above-stated reasons. Accordingly, [ARB] cannot prevent/prohibit plaintiffs from using the road as the same belongs to the government.

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WHEREFORE, ... [ARB] is ordered to cease and desist from preventing [petitioners] in using the subject road or any other road in the subdivision.

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xxx

SO ORDERED. <sup>[5]</sup> (citations omitted)

ARB elevated the case to the Court of Appeals.<sup>[6]</sup> Finding merit in the appeal, the appellate court reversed the decision of the lower court. It explained that the 1991 case of *White Plains Subdivision*<sup>[7]</sup> did not apply to the present case which was decided under a different factual milieu:

... In the assailed Decision, the Court below relied on the ruling of the Supreme Court in *White Plains Association, Inc. vs. Legaspi* (193 SCRA 765). The ruling is not applicable. In the *White Plains* case, the disputed area was specifically set aside by the Quezon City Government, with the concurrence of the owner and developer of the White Plains Subdivision in Quezon City, for the purpose of constructing a major thoroughfare open to the general public. The case was filed by the association of homeowners of White Plains in Quezon City ... when the owner-developer sought to convert the disputed lot to residential lots. The Supreme Court initially held that the disputed lot was not longer within the commerce of men, it having been segregated for a particular purpose, that of being used as "part of a mandatory open space reserved for public use to be improved into the widened Katipunan Road". It was within this context that the Supreme Court held that "ownership was automatically vested in

the Quezon City government and/or the Republic of the Philippines, without need of paying any compensation”.<sup>[8]</sup>

The appellate court went on to rule that a compulsory right of way exists in favor of petitioners as “[t]here is no other existing adequate outlet to and from [petitioners’] properties to the Marcos Alvarez Avenue other than the subject existing road lot designated as Lot No. 5827-F-1 belonging to [ARB].”<sup>[9]</sup> In addition, it awarded P500,000 to ARB as reasonable indemnity for the use of the road lot.

Acting on petitioners’ motion for reconsideration, the appellate court justified the monetary award in this manner:

In [o]ur Decision, [w]e awarded the amount of P500,000.00 merely as reasonable indemnity for the use of the road lot, not the alienation thereof. The amount was based on equitable considerations foremost of which is that, while there is no alienation to speak of, the easement is of long-standing, that is, until a shorter and adequate outlet is established. Moreover, [ARB] should be compensated for the wear and tear that [petitioners’] use of the road would contribute to; it is [ARB] which is solely to be credited for the completion of the road lot. Going by the conservative valuation of the Municipality of Bacoor, Cavite presented by [petitioners], the 4,760 sq. m. road lot would cost P1,904,000 but as stated what is compensated is the use of the road lot not its alienation.

[Petitioners’] original offer cannot be considered a reasonable indemnity, there being a knotty legal question involved and it is not [ARB’s] fault that the parties had to resort to the courts for a resolution.<sup>[10]</sup>

Unsatisfied with the ruling of the appellate court, petitioners filed this petition for review on certiorari insisting that ARB is not entitled to be paid any indemnity.

Petitioners argue that the contested road lot is a property of public dominion pursuant to Article 420<sup>[11]</sup> of the Civil Code. Specifically, petitioners point out that the disputed road lot falls under the category “others of similar character” which is the last clause of Article 420 (1).<sup>[12]</sup> Hence, it is a property of public dominion which can be used by the general public without need for compensation. Consequently, it is wrong for ARB to exclude petitioners from using the road lot or to make them pay for the use of the same.

We disagree.

In the case of *Abellana, Sr. v. Court of Appeals*,<sup>[13]</sup> the Court held that “the road lots in a private subdivision are private property, hence, the local government should first acquire them by donation, purchase, or expropriation, if they are to be utilized as a public road.”<sup>[14]</sup> Otherwise, they remain to be private properties of the owner-developer.

Contrary to the position of petitioners, the use of the subdivision roads by the general public does not strip it of its private character. The road is not converted into public property by mere tolerance of the subdivision owner of the public’s passage through it. To repeat, “the local government should first acquire them by donation,