563 Phil. 797

SPECIAL THIRD DIVISION

[G.R. No. 166735, November 23, 2007]

SPS. NEREO & NIEVA DELFINO, PETITIONERS, VS. ST. JAMES HOSPITAL, INC., AND THE HONORABLE RONALDO ZAMORA, EXECUTIVE SECRETARY, OFFICE OF THE PRESIDENT. RESPONDENTS.

R E S O L U T I O N

CHICO-NAZARIO, J.:

Before Us for Resolution is the Motion for Reconsideration of private respondent St. James Hospital, Inc., seeking the reversal of Our Decision dated 5 September 2006. Respondent assails the Decision on the ground that the Court had erroneously interpreted the 1991 Comprehensive Land Use Plan (CLUP) or the Comprehensive Zoning Ordinance of the Municipality of Santa Rosa, Laguna, in ruling that the St. James Hospital is a non-conforming structure under the 1991 Zoning Ordinance and that the expansion of the St. James Hospital into a four-storey, forty-bed capacity medical institution within the Mariquita Pueblo Subdivision is prohibited under the provisions of the 1991 Zoning Ordinance. Moreover, respondent now contends that the case must now be decided in accordance with the latest Zoning Ordinance passed in 1999 or the Santa Rosa Zoning Ordinance which was only submitted as evidence in the instant Motion for Reconsideration.

Respondent now claims that the legislative history of the 1991 Zoning Ordinance shows that commercial and institutional uses were expressly allowed in Sec. 2, par. 1 of said Ordinance as it retained uses that are commercial and institutional as well as recreational in character and those for the maintenance of ecological balance. Thus, respondent postulates that even if parks, playgrounds and recreation centers which were expressly provided for in the 1981 Zoning Ordinance under letters (h) and (k) were excluded in the enumeration in the 1991 Zoning Ordinance, the same cannot, by any stretch of logic, be interpreted to mean that they are no longer allowed. On the contrary, respondent explains that what appears is the fact that parks, playgrounds, and recreation centers are deemed to have been covered by Sec. 2, par. 1 of the 1991 Zoning Ordinance which speaks of "x x x other spaces designed for recreational pursuit and maintenance of ecological balance x x x." Hence, respondent concludes that the same reading applies in the non-inclusion of the words hospitals, clinics, school, churches and other places of worship, and drugstores which cannot be interpreted to mean that the aforesaid uses are to be deemed non-conforming under the 1991 Zoning Ordinance as these uses are allegedly covered by the clause allowing for institutional and commercial uses.

Arising from this interpretation, respondent maintains that the Court erred in applying Sec. 1 of Article X of the 1991 Zoning Ordinance which pertains only to existing non-conforming uses and buildings, since, according to respondent, the St. James Hospital and its expansion are consistent with the uses allowed under the

zoning ordinance.

To address this matter, we deem it necessary to reiterate our discussion in our Decision dated 5 September 2006, wherein we have thoroughly examined the pertinent provisions of the 1981 and 1991 Zoning Ordinances, to wit:

> Likewise, **it must be stressed at this juncture that a comprehensive scrutiny of both Ordinances will disclose that the uses formerly allowed within a residential zone under the 1981 Zoning Ordinance such as schools, religious facilities and places of worship, and clinics and hospitals have now been transferred to the institutional zone under the 1991 Zoning Ordinance[1]. This clearly demonstrates the intention of the Sangguniang Bayan to delimit the allowable uses in the residential zone only to those expressly enumerated under Section 2, Article VI of the 1991 Zoning Ordinance, which no longer includes hospitals.**
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> It is lamentable that both the Office of the President and the Court of Appeals gave undue emphasis to the word "institutional" as mentioned in Section 2, Article VI of the 1991 Zoning Ordinance and even went through great lengths to define said term in order to include hospitals under the ambit of said provision. However, they neglected the fact that under Section 4, Article VI of said Ordinance[2], there is now another zone, separate and distinct from a residential zone, which is classified as "institutional", wherein health facilities, such as hospitals, are expressly enumerated among those structures allowed within said zone.
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> Moreover, both the Office of the President and the appellate court failed to consider that any meaning or interpretation to be given to the term "institutional" as used in Section 2, Article VI must be correspondingly limited by the explicit enumeration of allowable uses contained in the same section. Whatever meaning the legislative body had intended in employing the word "institutional" must be discerned in light of the restrictive enumeration in the said article. Under the legal maxim *expression unius est exclusion alterius,* the express mention of one thing in a law, means the exclusion of others not expressly mentioned[3]. Thus, in interpreting the whole of Section 2, Article VI, it must be understood that in expressly enumerating the allowable uses within a residential zone, those not included in the enumeration are deemed excluded. Hence, since hospitals, among other things, are not among those enumerated as allowable uses within the residential zone, the only inference to be deduced from said exclusion is that said hospitals have been deliberately eliminated from those structures permitted to be constructed within a residential area in Santa Rosa, Laguna.
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> Furthermore, according to the rule of casus omissus in statutory construction, a thing omitted must be considered to have been omitted intentionally. Therefore, **with the omission of the phrase "hospital with not more than ten capacity" in the new Zoning Ordinance, and the corresponding transfer of said allowable usage to another zone classification, the only logical conclusion is that the**