

## SECOND DIVISION

**[ G.R. NO. 140138, October 11, 2006 ]**

**SPS. ANGEL L. SADANG AND MARITONI A. SADANG,  
PETITIONERS, VS. HONORABLE COURT OF APPEALS AND  
CATHAY LAND, INC., RESPONDENTS.**

### DECISION

**AZCUNA, J.:**

This is a petition for review on certiorari under Rule 45 of the Rules of Court questioning the Decision of the Court of Appeals which granted the petition for certiorari, prohibition and mandamus of private respondent which sought to annul the the following orders: An order of the Regional Trial Court of Pasig, Branch 160, denying private respondent's motion to dismiss petitioner's complaint for damages, revocation/annulment of development permit, barangay certification, MMDA certification, with prayer for temporary restraining order and a writ of preliminary injunction; and the order denying the motion for reconsideration.

The facts are as follows:

Petitioners filed a complaint with the Regional Trial Court of Pasig City, Branch 160, on July 21, 1997.<sup>[1]</sup> The complaint was denominated "For Damages, Revocation/Annulment of Development Permit, Barangay Certification, MMDA Certification With Prayer For Temporary Restraining Order and Later Writ of Preliminary Injunction."

The following were alleged in the complaint:

Plaintiffs, herein petitioners, Angel L. Sadang and his wife, Maritoni A. Sadang are registered owners of a house and lot located at No. 2 Gen. Malvar Street, San Antonio Village, Pasig City.

Sometime in 1986, defendant, herein private respondent Cathay Land, Inc. (Cathay) purchased four residential lots in the same San Antonio Village, which are adjacent to plaintiffs' residence, and located at the corner of Amber Avenue, Gen. Araneta and General Lukban Streets. After its purchase of the said four lots, Cathay made known its plans to construct two 35-storey residential condominium buildings to be known as the Astoria Plaza.

The residents of San Antonio Village, particularly plaintiffs immediately objected to the construction of the two 35-storey residential condominium buildings through letters of the president of the San Antonio Village Association, Inc. (AVA), Roy Eduardo T. Lucero to Gregorio R. Rupisan, Barangay Captain of their barangay, and Wilfredo I. Imperial, Regional Director of the HLURB. Despite the objections, Cathay proceeded to construct through its retained construction company, Golangco.

Regional Director of the HLURB Imperial initially denied Cathay's development permit on the ground that there was apparently an inadvertent misprint of the zoning map which caused the zoning map and the actual location of the streets to not conform. Imperial found that the subject properties are within a Light Intensity Residential Zone. Even assuming that the properties are within a commercial zone, the height of the structures cannot exceed four storeys since they are adjoining a residential area, pursuant to Sec. 10 of Metro Manila Zoning Ordinance series of 81-01. Allegedly, Imperial suddenly reversed the denial of the development permit by granting Cathay's motion for reconsideration.

According to plaintiffs, Barangay Captain Rupisan granted the locational clearance, through a certification dated September 11, 1995, misrepresenting therein that Barangay San Antonio had no objections to the project.

The City Development and Planning Officer of Pasig City, Luisa S. Soriano, issued a certification dated September 5, 1995 attesting that the four lots owned by Cathay are within a Medium Intensity Commercial Zone.

The Acting Metro Manila Zoning Administrator, or the Metro Manila Authority, issued a certification dated September 18, 1995 allowing Cathay and Golangco to proceed with the construction.

Questioning Cathay's continuing construction and the development permit, certification for construction and MMDA certification issued, plaintiffs filed the abovementioned complaint in the Regional Trial Court.<sup>[2]</sup> Plaintiffs prayed for the following:

- (1) Immediately upon filing of this complaint, a temporary restraining order or a cease and desist order be issued enjoining defendants Cathay and Golangco from continuing with the construction of the 35-storey Astoria Plaza located at the corner of Amber Avenue, Gen. Araneta and Gen. Lukban Streets within the San Antonio Village, Pasig City adjacent to plaintiffs' residence;

- (2) After notice and hearing , a writ of preliminary injunction issue enjoining defendants Cathay and Golangco from continuing with the construction of the 35-storey Astoria Plaza, located at the corner of Amber Avenue, Gen. Araneta and Gen. Lukban Streets, within the San Antonio Village, Pasig City adjacent to plaintiffs' residence;

- (3) After hearing, judgment be rendered as follows:

- (a) Permanently enjoining defendants Cathay and Golangco from continuing the construction of the 35-storey Astoria Plaza located at the corner of Amber Avenue, Gen. Araneta, Gen. Lukban Streets, within the San Antonio Village, Pasig City adjacent to plaintiffs' residence;

- (b) Declaring null and void the following:

- (1) Development Permit dated 1 December 1995 issued by

defendant Wilfredo I. Imperial, Regional Director, ENCRFO, HLURB;

- (2) Locational Clearance dated 11 September 1995 issued by Gregorio Rupisan, Barangay Captain, San Antonio Village;
- (3) Certification to Construct in a C-2 Zone issued by Luisa S. Soriano, City Development & Planning Officer, Pasig City;
- (4) MMDA Certification dated 18 September 1995 issued by Orlando Malabanan Metro Manila Zoning Administration, MMDA.

(c) Ordering defendants jointly and severally to pay plaintiffs:

- 1. Actual - P 100,000 damages
- 2. Moral - P1,000,000 damages
- 3. Attorney's- P 100,000 fees

Plaintiffs pray for such other relief and remedy which may be deemed just and equitable under the premises.<sup>[3]</sup>

Defendant Cathay filed a motion to dismiss the complaint, which the trial court denied. After a motion for reconsideration was denied, defendant filed a petition for certiorari, prohibition and mandamus with a prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order with the Court of Appeals.

<sup>[4]</sup>

The Court of Appeals decided, as follows:

There can be no debate that private respondents' first cause of action pertains to the same subject matter as that of HLURB No. REM-A-960603 earlier initiated by private respondent Angel L. Sadang against petitioner before the HLURB. Both proceedings are for the nullification of one and the same development permit covering Astoria Plaza Condominium. A decision was rendered by the HLURB against them which was appealed to the Office of the President where it is pending. Surely, he cannot now seek in the RTC for the annulment of the development permit issued pursuant to the HLURB decision without awaiting the final outcome of the HLURB case. This would be a violation of the doctrine of primary jurisdiction. The doctrine of primary jurisdiction simply calls for the determination of administrative questions, which are ordinarily questions of fact, by administrative agencies rather than courts of justice. Increasingly, the Supreme Court has been committed to the view that unless the law speaks clearly unequivocally, the choice should fall on an administrative agency.

True, private respondents rightly argue they are not buyers of subdivision