

## SECOND DIVISION

[ G.R. No. 128131, October 08, 1998 ]

**WHITE PLAINS HOMEOWNERS ASSOCIATION, INC., SYLVIA J. JAMORA, GLICERIO J. INTENGAN, MANUEL M. JASMINES, MANUEL M. CHING, RODOLFO M. PUNSALANG, ADEODATO DUQUE, JR., DAVID J. CRUZ, MA. ELENA C. SAMSON, VERONICA CATALAN, CARLOS TAN BON LIONG, ANTONIO RAMOS, CHOLLY ANTONIO, FELICITAS OCAMPO, ROGELIO A. VINLUAN AND LUIS TERENCE, PETITIONERS, VS. THE COURT OF APPEALS AND THE QUEZON CITY DEVELOPMENT & FINANCING CORPORATION, RESPONDENTS.**

### D E C I S I O N

**MARTINEZ, J.:**

This is the third time this case has reached this Court.

This petition for review takes its roots from two (2) cases previously decided by this Court. The first was White Plains Association, Inc. vs. Court of Appeals and Quezon City Development & Financing Corporation docketed as G.R. No. 55868. The second case was White Plains Association, Inc. vs. Hon. Godofredo Legaspi, Presiding Judge of the Regional Trial Court of Quezon City, Branch 39, and Quezon City Development & Financing Corporation, et. al.

These cases form part of the backdrop for the present dispute and which is synthesized, as follows:

Respondent Quezon City Development & Financing Corporation (QCDFC) was the owner and developer of White Plains subdivision in Quezon City prior to the sale of the lots therein to the residents of the subdivision who comprised the petitioner White Plains Association, Inc. (Association)

The disputed area of the land covered by TCT Nos. 156185, 156186 and 156187 was set aside and dedicated to the proposed Highway 38 of Quezon City. As subdivision owner and developer, respondent QCDFC represented to the lot buyers that there would be a thoroughfare known as Katipunan Avenue and that the width of the land allotted to said road was 38 meters. Of the 38 meters, respondent QCDFC developed only 20 meters. The undeveloped strip of land, 18 meters in width, of the proposed Katipunan Avenue has been and still is the subject of court litigation.

As early as April 14, 1970, QCDFC filed a petition with the then Court of First Instance of Rizal for the conversion into residential lots of this undeveloped strip of land. The controversy reached this Court. On November 14, 1985, this Court en banc<sup>[1]</sup> dismissed the petition. In the said decision this Court ruled that "Road Lot 1

is withdrawn from the commerce of man and should be developed for the use of the general public."

Then, sometime in 1989, the widening of Katipunan Avenue by 4-5 meters was begun by the Department of Public Works & Highways through a private contractor. QCDFC filed a complaint for injunction and damages to enjoin the widening of Katipunan Avenue as registered owner thereof, in the Regional Trial Court of Quezon City. The writ prayed for was granted. The Association, as intervenor, elevated the case to this Court on certiorari which was docketed as G.R. No. 95522 entitled, "White Plains, Inc. vs. Legaspi." In that case, this Court again reiterated the doctrine that Road Lot 1 had been withdrawn from the commerce of man, thus constituting it as part of mandatory open space reserved for public use. The dispositive portion of the decision in the aforementioned case was as follows:

"WHEREFORE, the petition is granted. The questioned orders of respondent judge dated July 10, 1990 and September 26, 1990 are hereby reversed and set aside. Respondent Quezon City Development & Financing Corporation is hereby directed to execute a Deed of Donation of the remaining undeveloped Road Lot 1 consisting of about 18 meters wide in favor of the Quezon City government, otherwise, the Register of Deeds of Quezon City is hereby directed to cancel the registration of said Road Lot 1 of defendant Quezon City Development & Financing Corporation under TCT No. 112637 and to issue a new title covering said property in the name of the Quezon City government.

Costs against respondent Quezon City Development & Financing Corporation.<sup>[2]</sup>

Respondent QCDFC filed a series of motions for reconsideration. On the second motion for reconsideration, this Court issued a resolution dated July 27, 1994, deleting the second sentence of the aforementioned dispositive portion, thus:

"WHEREFORE, the second motion for reconsideration is hereby partly granted by modifying the dispositive portion of this Court's decision of 7 February 1991 and now read as follows:

'WHEREFORE, the petition is hereby granted. The questioned orders of the respondent judge dated July 10, 1990 and September 26, 1990 are hereby reversed and set aside. x x x x x.'

Costs against defendant Quezon City Development & Financing Corporation."<sup>[3]</sup>

This is now the third case involving the Association and QCDFC.

Petitioner Association filed before the Regional Trial Court of Quezon City, a case for injunction, entitled "Quezon City Development & Financing Corporation vs. White Plains Homeowners Association, Inc., et. al."

As in the two (2) previous cases, it is the remaining undeveloped 18 meters width of the proposed Katipunan Avenue (Road Lot 1) which is the subject of the controversy. The undeveloped portion has been occupied by garden operators who have been paying the Association monthly "special occupancy dues" for the use of

the respective areas they occupy as commercial gardens and landscaping business. From 1985 to June, 1995, the Association collected and received the monthly rentals. QCDFC made demands on the Association to account for and deliver the amount collected from the garden operators which was, however, ignored by the Association.

Thus, on August 4, 1985, QCDFC filed an action to enjoin the Association from collecting the rentals from the garden operators occupying the undeveloped 18 meters width of the proposed Katipunan Avenue (Highway 38). The case was raffled to Branch 222 of the Regional Trial Court of Quezon City presided by Judge Eudario B. Valencia, who issued a temporary restraining order commanding the Association to desist and refrain from collecting rentals from the occupants/possessors of the undeveloped 18 meters width of the proposed Katipunan Avenue. Thereafter, respondent judge issued an order granting the application for preliminary injunction.

Aggrieved, the Association filed with the respondent court a petition for certiorari to set aside the order. The respondent court, in its decision dated December 14, 1985, [4] upheld the theory of the Association that the strip of undeveloped land, 18 meters wide, of the proposed 38-meter wide Katipunan Avenue, no longer belongs to QCDFC. However, it ruled that the strip of land belongs to Quezon City which has the right to lease/rent and collect therefrom the "special occupancy dues." Thus, it set aside the order of the Regional Trial Court granting the writ of preliminary injunction.

The Association and QCDFC separately filed motions for reconsideration. QCDFC prayed that the respondent court's decision be set aside. On the other hand, the Association filed a partial motion for reconsideration seeking the modification of the respondent court's decision by deleting the *obiter dictum* regarding the authority of Quezon City to collect occupancy dues from tenants of the disputed property.

The respondent court in its now assailed resolution dated January 31, 1997 [5] granted the motion for reconsideration of QCDFC and denied that of the Association. In the process, it also ruled that "on the basis of the records and applicable law" the "full right of possession and ownership of the disputed property should now be restored to QCDFC."

Hence this petition for review by the Association based on the following grounds:

"I

THE RESPONDENT COURT ERRONEOUSLY REFUSED TO FOLLOW THE RULING OF THIS HONORABLE COURT IN TWO PREVIOUS CASES INVOLVING THE SAME PARTIES TO THE EFFECT THAT 'ROAD LOT 1 HAD BEEN WITHDRAWN FROM THE COMMERCE OF MAN, THUS CONSTITUTING PART OF MANDATORY OPEN SPACE RESERVED FOR PUBLIC USE TO BE IMPROVED INTO THE WIDENED KATIPUNAN AVENUE.'

II

THE RESPONDENT COURT COMMITTED REVERSIBLE ERROR IN JUNKING THE AFORESAID RULING OF THIS HONORABLE COURT BASED UPON FINDINGS OF FACT TOTALLY DEVOID OF SUPPORT IN THE RECORD OR

EVIDENCE.

### III

THE RESPONDENT COURT ERRED IN REFUSING TO APPLY THE PRINCIPLE OF RES JUDICATA DESPITE THE PRESENCE OF ALL THE REQUISITES.

### IV

THE RESPONDENT COURT COMMITTED REVERSIBLE ERROR IN GOING BEYOND THE ISSUES INVOLVED IN RESPECT OF THE VALIDITY OR PROPRIETY OF THE ISSUANCE OF THE WRIT OF PRELIMINARY INJUNCTION AND EVEN BEYOND THE RELIEF PRAYED FOR BY GIVING 'FULL RIGHTS OF POSSESSION AND OWNERSHIP' TO QCDFC.

### V

RESPONDENT COURT OF APPEALS ERRONEOUSLY SUSTAINED THE ISSUANCE BY THE REGIONAL TRIAL COURT OF QUEZON CITY OF THE WRIT OF PRELIMINARY INJUNCTION.

(A) THE CASE IS BARRED BY PRIOR JUDGMENT.

(B) THE PRIVATE RESPONDENT QCDFC DOES NOT HAVE A CLEAR AND UNMISTAKABLE' RIGHT TO INJUNCTIVE RELIEF.

(C) THE PRIVATE RESPONDENT QCDFC WILL NOT SUFFER ANY IRREPARABLE INJURY BY THE NON-ISSUANCE OF THE INJUNCTION SINCE ITS ALLEGED INJURY IS QUANTIFIABLE AND MAY BE FULLY COMPENSATED IN DAMAGES.

(D) A COURT SHOULD NOT ISSUE A WRIT OF PRELIMINARY INJUNCTION IF THE ISSUANCE THEREOF WOULD IN EFFECT DISPOSE OF THE CASE ON THE MERITS."<sup>[6]</sup>

The petitioner Association raises the issue of res judicata. The respondent court allegedly disregarded the ruling of this Court in the two related cases above-cited that the 18-meter wide strip of land along Katipunan Avenue is "beyond the commerce of man and should be developed for the use of the general public." Petitioner further contends that the respondent court not only disregarded the aforesaid ruling of this Court but expressly "overruled" it by its holding that "on the basis of the records and applicable law, this Court believes that full right of possession and ownership of the disputed property should now be restored to Quezon City Development & Financing Corporation."<sup>[7]</sup>

On the other hand, respondent QCDFC is of the view that the ruling in *White Plains Association vs. Legaspi*<sup>[8]</sup> was not the final judgment in that case. QCDFC states that the February 7, 1991 "beyond the commerce of man" dictum and the dispositive portion of the judgment were set aside and modified on July 17, 1994 upon a second motion for reconsideration. QCDFC insists that the judgment in the two (2) aforesaid decisions is still the same, i.e., title to Road Lot 1 remains in the

name of QCDFC but a lien or reservation for the construction of Highway 38, now C-5, shall stay imposed upon the title. Thus, there is no disregard of the judgment in the two (2) above-cited cases since, up to the present, the inconclusive situation in both judgments exist.

Respondent QCDFC now argues that since ultimately, the thoroughfare C-5 did not pass through Road Lot 1 as proposed, the lien or reservation for C-5 has ceased to have any force and may no longer be continued. The lien or reservation has been overtaken by supervening events and is no longer valid. Respondent states that the thoroughfare known as Highway 38, Katipunan Parkway, and C-5 passed through another part of Quezon City at the Libis area, completely bypassing its earlier proposed route through Road Lot 1. The decision in this petition, according to QCDFC, should now lift the meaningless and obsolete reservation or lien which disturbs its exercise of the right of full ownership.

The facts of this case culled from the records of this petition, unrebutted averments of the parties, and the prior decisions of the Court of Appeals,<sup>[9]</sup> and the Supreme Court<sup>[10]</sup> show that Road Lot 1 covered by TCT Nos. 156185, 156186 and 156187 was set aside and dedicated to the proposed section of Highway 38 in Quezon City. The width of the land allotted as extension of the highway was 38 meters. Of this, QCDFC actually developed a 20-meter wide strip. It extends through the length of White Plains Subdivision from the street leading to Highway 54 or EDSA at the South end to the street fronting St. Ignatius Village at the North end.<sup>[11]</sup>

When QCDFC developed the White Plains Subdivision, it reserved the 38-meter wide strip as required by the government. In the meantime that the thoroughfare was not yet constructed through Road Lot No. 1, QCDFC did not leave the entire 38-meter strip idle and undeveloped waiting for the government to construct the proposed highway. Respondent built the 20-meter wide portion adjacent to White Plains Subdivision into a street for the ingress and egress of the homeowners into and out of the subdivision.

There is no dispute over the developed 20-meter width of Road Lot No. 1. However, it appears from the records of the case that when all the streets inside White Plains Subdivision were donated to Quezon City by the developer, the entire Road Lot 1 was excluded from the donation. Quezon City has acknowledged the exclusion of Road Lot 1 and as accepted all the other streets of the subdivision. It appears from the pleadings and apparent from Annex "1 -B" of the rejoinder that Road Lot 1 is less than a kilometer long.

The Deed of Donation and the documents on its acceptance<sup>[12]</sup> are appended to the respondent's rejoinder.<sup>[13]</sup> The deed signed by Mayor Norberto Amoranto for the donee shows that the donation was accepted pursuant to City Council Resolution No. 7591, S-68, dated June 3, 1968. The letter from Acting City Engineer Baltazar Aquino dated February 10, 1964 verifies that "the roads which you have constructed in the White Plains Subdivision situated at Murphy, this City, had been completed in accordance with the plans and specifications therefor as approved by the City Council x x x." The letter dated February 4, 1976 from City Engineer Pantaleon P. Tabora shows that the city's acceptance of the donation is with the exception of Road Lot 1.