

EN BANC

[G.R. No. 202384, May 04, 2021]

EQUITABLE PCI BANK, INC. (NOW BANCO DE ORO UNIBANK, INC.), PETITIONER, VS. SOUTH RICH ACRES, INC., TOP SERVICE, INC. AND THE CITY OF LAS PIÑAS, RESPONDENTS.

[G.R. No. 202397, May 4, 2021]

SOUTH RICH ACRES, INC. AND TOP SERVICE, INC., PETITIONERS, VS. EQUITABLE PCI BANK, INC. (NOW BANCO DE ORO UNIBANK, INC.), RESPONDENT.

D E C I S I O N

INTING, J.:

This case involves the following consolidated petitions: (1) Petition for Review^[1] filed by Equitable PCI Bank, Inc. (EPCIB) (now Banco de Oro Unibank, Inc. (BDO) docketed as G.R. No. 202384; and (2) Petition for Review on *Certiorari*^[2] under Rule 45 of the Rules of Court filed by South Rich Acres, Inc. (SRA) and Top Service, Inc., (Top Service) docketed as G.R. No. 202397. Both petitions assail the Decision^[3] dated March 9, 2012 and the Resolution^[4] dated June 20, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 91117.

The Antecedents

SRA and Top Service are corporations duly organized and existing under the laws of the Republic of the Philippines.^[5]

On the other hand, the City of Las Piñas is a corporate entity duly recognized and existing under the laws of the Republic of the Philippines, particularly Republic Act No. (RA) 7160, otherwise known as the "*Local Government Code of 1991*."^[6]

On July 2, 1997, the *Sangguniang Panlungsod* of the City of Las Piñas enacted City Ordinance No. 343-97, Series of 1997 (City Ordinance No. 343-97), which declared Marcos Alvarez Avenue as a public road.^[7] The Ordinance reads:

CITY ORDINANCE NO. 343-97 Series of 1997

"AN ORDINANCE DECLARING MARCOS ALVAREZ AVENUE FROM CONGRESSMAN FELIMON C. AGUILAR AVENUE (ALABANG-ZAPOTE ROAD) TO THE BOUNDARY OF THE MUNICIPALITY OF BACOR, CAVITE AS PUBLIC ROAD.

"WHEREAS, Marcos Alvarez has become a busy avenue due to the volume of motor vehicles using the same as alternative road from the

Province of Cavite;

"WHEREAS, the constant use of Marcos Alvarez Avenue by motorists coming from the Province of Cavite has aggravated the wear and tear of the same thereby necessitate [sic] the constant repair and maintenance;

"WHEREAS, the status of Marcos Alvarez Avenue has long been accepted by the residents as well as transients as public road;

"NOW, THEREFORE:

"BE IT ORDAINED by the Sangguniang Panglungsod of Las Piñas, Metro Manila, in session assembled that:

SECTION 1. The whole length of Marcos Alvarez Avenue from Congressman Felimon C. Aguilar Avenue (Alabang-Zapote Road) to the boundary of the Municipality of Bacoor, Province of Cavite, is hereby declared Public Road.

SECTION" 2. This Ordinance shall take effect upon its approval.

x x x^[8] (Italics supplied.)

Subsequently, SRA and Top Service filed a Petition for Declaratory Relief and Damages with a Prayer for Preliminary Injunction^[9] with Branch 253, Regional Trial Court (RTC), Las Piñas City against the City of Las Piñas, docketed as Civil Case No. LP-97-0190 seeking to annul City Ordinance No. 343-97.^[10]

The petition alleged the following: SRA is the present legal owner of the seven parcels of land (subject lots) which formed part of a private road network, collectively referred to as Marcos Alvarez Avenue which stretches from Alabang-Zapote Road to the boundary of Brgy. Molino, Bacoor, Cavite.^[11]

SRA acquired the subject lots from Top Service through a legal assignment. On the other hand, Top Service acquired the subject lots through a series of purchases from different private owners dating back to 1959. Of the seven parcels of land, SRA and Top Service were able to present three Transfer Certificates of Title (TCT) in the name of Top Service, particularly TCT No. S-34609,^[12] TCT No. 413759,^[13] and TCT No. 2309184^[14] and deeds of absolute sale pertaining to the other lots.^[15]

Since 1960, other landowners and developers whose properties would necessarily make access through Marcos Alvarez Avenue had secured from SRA and Top Service a right of way authority and paid due compensation therefor.^[16] This further supports their theory of ownership of Marcos Alvarez Road.

On September 10, 1997, the City of Las Piñas filed its Answer.^[17] It did not deny that the subject lots were private properties. However, it asserted that Marcos Alvarez Avenue was already government property, having been withdrawn from the commerce of man as an open space.^[18]

In the meantime, the Royal South Subdivision makes use of Marcos Alvarez Avenue for ingress and egress.^[19] Thus, on September 29, 1997, Royal Asia Multi-Properties, Inc. (RAMPI) filed a Motion for Leave of Court to File Answer in

Intervention^[20] on the ground that it has legal interest in the upholding of the validity and constitutionality of City Ordinance No. 343-97 because SRA and Top Service had been unjustifiably demanding payment from them for the use of Marcos Alvarez Avenue.^[21] Specifically, RAMPI alleged that it was the owner and developer of the Royal South Subdivision Project located at *Sitio* Mulawin, Bo. Talon, Pamplona, Las Piñas which uses Marcos Alvarez Avenue. RAMPI further alleged that it was being accused by SRA and Top Service of violating their rights as it relied on City Ordinance No. 343-97 instead of paying for the use of Marcos Alvarez Avenue.^[22]

Although the RTC denied the motion in its Resolution dated October 6, 1997, it reconsidered and set it aside in another Resolution dated January 12, 1998.^[23]

Attached to the aforesaid motion was RAMPI's Answer in Intervention [with Motion to Dismiss and opposition to the Prayer for Preliminary Injunction].^[24] RAMPI asserted that City Ordinance 343-97 was enacted pursuant to Presidential Decree No. (PD) 1216^[25] which amended PD 957, otherwise known as *The Subdivision And Condominium Buyers' Protective Decree*. For RAMPI, under PD 1216, the open spaces and roads in residential subdivisions are beyond the commerce of men, having been automatically and directly identified for public use and vested in favor of the then Municipality of Las Piñas. It also cited the case of *White Plains Ass'n., Inc. v. Judge Legaspi*,^[26] promulgated in 1991, to support its theory that, although the properties were registered in the name of other private entities, open spaces of residential subdivisions are, by operation of law, owned by the City of Las Piñas.^[27]

On October 17, 1997, the RTC issued a Resolution which granted SRA and Top Service's prayer for the issuance of a writ of preliminary injunction to enjoin the effectivity and implementation of City Ordinance No. 343-97.^[28]

On July 24, 2000, SRA and Top Service filed a Motion for Substitution of Parties with Motion to Annotate *Lis Pendens*.^[29] The RTC granted the motions in its Resolution dated October 5, 2000. Consequently, EPCIB substituted RAMPI as intervenor-defendant because all the rights and interests over the Royal South Subdivision had already been transferred, conveyed, and assigned by RAMPI to EPCIB. Likewise, the Register of Deeds of Las Piñas was directed to annotate a notice of *lis pendens* in all the titles of Royal South Subdivision project.^[30]

Subsequently, EPCIB filed its Answer on May 4, 2001.^[31]

Meanwhile, the case proceeded to pre-trial, followed by trial on the merits.^[32]

The RTC Ruling

In a Decision^[33] dated April 30, 2004, the RTC, *first*, declared City Ordinance No. 343-97 as invalid and unconstitutional for taking the property without just compensation,^[34] and *second*, denied the claim of SRA and Top Service for damages against EPCIB for lack of merit.^[35]

SRA and Top Service filed a Motion for Partial Reconsideration^[36] dated May 25, 2004. On the other hand, EPCIB filed a Notice of Appeal^[37] dated May 27, 2004 and a Motion to Cancel Notice of *Lis Pendens*^[38] dated March 23, 2005. SRA and Top

Service filed their Comment/Opposition (Re: Motion to Cancel Notice of *Lis Pendens*)^[39] dated April 29, 2005.

Thereafter, in its Consolidated Order^[40] dated October 18, 2005, the RTC denied SRA and Top Service's and EPCIB's respective motions and directed the transmission of the entire records to the CA in view of EPCIB Notice of Appeal.

EPCIB then filed its Partial Motion for Reconsideration [Re: Consolidated Order dated October 18, 2005].^[41] On the other hand, SRA and Top Service filed their Notice of Appeal^[42] dated November 10, 2005.

In another Order^[43] dated January 10, 2006, the RTC: (a) denied EPCIB's Motion for Partial Reconsideration of the Consolidated Order dated October 18, 2005, (b) noted SRA and Top Service's Notice of Appeal, and (c) ordered the transmission of the records to the CA.^[44]

In its Appellant's Brief^[45] filed before the CA on April 3, 2009 BDO, formerly EPCIB, maintained that the RTC erred in: (a) invalidating City Ordinance No. 343-97; and (b) denying BDO's motion to lift or cancel the notice of *lis pendens* on all certificates of title covering the affected Royal South Subdivision properties.^[46]

Meanwhile, CA rendered a Resolution^[47] dated April 28, 2009 dismissing SRA and Top Service's appeal as the CA deemed it abandoned for failure to file the appellant's brief within the reglementary period.^[48] The Resolution became final and executory on May 20, 2009.^[49]

The CA Ruling

In the Decision^[50] dated March 9, 2012, the CA in CA-G.R. CV No. 91117 found BDO's appeal to be partially meritorious.

The CA affirmed the RTC's: (a) declaration that City Ordinance No. 343-97 is unconstitutional, and (b) finding that because the lots belonging to SRA and Top Service were neither expropriated nor donated in favor of the City of Las Piñas, City Ordinance No. 343-97 violated the rights of SRA and Top Service against confiscation of property without just compensation.^[51]

The CA dismissed BDO's invocation of police power to maintain the constitutionality of City Ordinance No. 343-97. It ruled that the City of Las Piñas never raised in its Answer the allegation that the enactment of City Ordinance No. 343-97 was pursuant to the exercise of the local government unit's police power. It further explained that when there is a taking or confiscation of private property for public use, the State exercises not police power but some other inherent power, *i.e.*, eminent domain.^[52]

The CA then declined to pass upon BDO's insinuation that as a result of declaring City Ordinance No. 343-97 unconstitutional, an absurd situation will arise such that 1/3 portion of Marcos Alvarez Avenue is classified as privately-owned, while the rest is classified as public property. The records do not indicate that Marcos Alvarez Avenue only covered 1/3 of the properties of SRA and Top Service.^[53]

The CA also did not give credence to BDO's contention that the ownership of the lots was automatically vested in favor of the City of Las Piñas purportedly by virtue of the obligation of owners and developers of a subdivision under PD 1216 to provide adequate roads, alleys, and sidewalks; and that for subdivision projects comprising of one hectare or more, the owners and developers must reserve 30% of the gross area for open space which, upon completion, shall be donated to the city or municipality.^[54] In dismissing BDO's contention, the CA relied on the subsequent 1998 Decision of the Court in *White Plains Homeowners Asso., Inc. v. CA*,^[55] wherein the Court quoted the discussion of the CA therein of the relevant provisions of PD 957 and PD 1216 and ruled that a private owner cannot be compelled to transfer, or donate one's property to the government.^[56]

However, the CA found the annotation of notice of *lis pendens* on the titles of BDO's properties improper because only the particular properties subject of litigation, which in this case are the properties of SRA and Top Service, may be covered by a notice of *lis pendens*.^[57]

The dispositive portion of the CA Decision provides:

WHEREFORE, in view of the foregoing premises, the instant appeal is hereby partially GRANTED. Accordingly, the assailed Decision dated April 30, 2004 of Branch 253 of the Regional Trial Court of the National Capital Judicial Region in Las Piñas City, Metro Manila in Civil Case No. LP-97-0190 with respect to the declaration that City Ordinance No. 343-97 issued by the city of Las Piñas is invalid and unconstitutional is hereby AFFIRMED. However, this Court ORDERS the Register of Deeds of Las Piñas City to cancel the notices of *lis pendens* annotated on all of the transfer certificates of titles of the Royal South Subdivision project of the respondent-appellant Equitable PCI Bank, now Banco de Oro Unibank, Inc..

SO ORDERED.^[58]

BOO, and SRA and Top Service filed their separate Motions for Partial Reconsideration^[59] of the CA Decision dated March 9, 2012. However, the CA denied the motions in its Resolution^[60] dated June 20, 2012.

The Petitions

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BDO maintains that the CA in CA-G.R. CV No. 91117 erred in finding City Ordinance No. 343-97 unconstitutional. BDO argues that City Ordinance No. 343-97 is a valid exercise of police power without the need to pay just compensation as it served the interest of the public in general and was reasonably necessary for the accomplishment of its intended purpose.^[61]

G.R. No. 202397

SRA and Top Service maintain that the CA correctly upheld the trial court's invalidation of City Ordinance No. 343-97 of the City of Las Piñas. SRA and Top Service argue that the City of Las Piñas did not appeal from the RTC Decision dated April 30, 2004 which declared City Ordinance No. 343-97 unconstitutional. Thus, as