

## FIRST DIVISION

[ G.R. No. 134269, July 07, 2010 ]

**THE LEARNING CHILD, INC. AND SPS. FELIPE AND MARY ANNE ALFONSO, PETITIONERS, VS. AYALA ALABANG VILLAGE ASSOCIATION, SPOUSES ERNESTO AND ALMA ARZAGA, MARIA LUISA QUISUMBING, ARTURO SENA, KSL CORPORATION, SLV MANAGEMENT CORPORATION AND LAWPHIL, INC., RESPONDENTS.**

[G.R. NO. 134440]

**JOSE MARIE V. AQUINO, MINOR AND REPRESENTED BY HIS PARENTS DR. ERROL AQUINO AND ATTY. MARILYN AQUINO; LORENZO MARIA E. VELASCO, MINOR AND REPRESENTED BY HIS PARENTS FRANCISCO VELASCO AND ROSANNA VELASCO; CHRISTOPHER E. WALMSLEY, MINOR AND REPRESENTED BY HIS PARENTS GERALD WALMSLEY AND MA. TERESA WALMSLEY; JOANNA MARIE S. SISON, MINOR AND REPRESENTED BY HER PARENTS BONIFACIO SISON AND JOSEPHINE SISON; AND MATTHEW RAPHAEL C. ARCE, MINOR AND REPRESENTED BY HIS PARENTS RAPHAEL ARCE AND MA. ERISSA ARCE, PETITIONERS, VS. AYALA ALABANG VILLAGE ASSOCIATION, SPOUSES ERNESTO AND ALMA ARZAGA, MARIA LUISA QUISUMBING, ARTURO SENA, KSL CORPORATION AND LAWPHIL, INC., RESPONDENTS.**

[G.R. NO. 144518]

**AYALA ALABANG VILLAGE ASSOCIATION, SPOUSES ERNESTO AND ALMA ARZAGA, MARIA LUISA QUISUMBING, ARTURO SENA, KSL CORPORATION, SLV MANAGEMENT CORPORATION AND LAWPHIL, INC., PETITIONERS, VS. MUNICIPALITY (NOW CITY) OF MUNTINLUPA, THE LEARNING CHILD, INC., SPOUSES FELIPE AND MARY ANNE ALFONSO, AND THE HON. COURT OF APPEALS (SPECIAL FIFTEENTH DIVISION), RESPONDENTS.**

## D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

At bar are three consolidated Petitions for Review on *Certiorari* all concerning the operation of a preparatory and grade school located in Ayala Alabang Village, more particularly on a parcel of land covered by Transfer Certificate of Title (TCT) No. 149166. The Petitions in G.R. Nos. 134269 and 134440 assail the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. CV No. 51096, dated November 11, 1997 and July 2, 1998, respectively, which enjoined said school's continued

operation on the ground that the same is in violation of the Deed of Restrictions annotated on the title of the subject property that limits the use of the lot to the establishment thereon of a preparatory (nursery and kindergarten) school. The Petition in G.R. No. 144518 challenges the Court of Appeals' Decision<sup>[3]</sup> dated August 15, 2000 in CA-G.R. SP No. 54438, which upheld the validity of a Muntinlupa Municipal Resolution correcting an alleged typographical error in a zoning ordinance. The zoning ordinance, as corrected by the challenged Muntinlupa Municipal Resolution, classifies the subject property as "institutional" where the operation of a grade school is allowed.

### **FACTS**

The factual and procedural antecedents of these consolidated cases are as follows:

Sometime in 1984, subdivision developer Ayala Land, Inc. (ALI) sold a parcel of land to the spouses Jose and Cristina Yuson. In 1987, the spouses Yuson sold the same to the spouses Felipe and Mary Anne Alfonso. A Deed of Restrictions was annotated in TCT No. 149166 issued to the spouses Alfonso, as had been required by ALI. The Deed of Restrictions indicated that:

2.2 USE AND OCCUPANCY - The property shall be used exclusively for the establishment and maintenance thereon of a preparatory (nursery and kindergarten) school, which may include such installations as an office for school administration, playground and garage for school vehicles.<sup>[4]</sup>

ALI turned over the right and power to enforce the restrictions on the properties in the Ayala Alabang Village, including the above restrictions on TCT No. 149166, to the association of homeowners therein, the Ayala Alabang Village Association (AAVA).

In 1989, the spouses Alfonso opened on the same lot The Learning Child Center Pre-school (TLC), a preparatory school which initially consisted of nursery and kindergarten classes. In 1991, TLC was expanded to include a grade school program, the School of the Holy Cross, which provided additional grade levels as the pupils who initially enrolled advanced.

AAVA wrote several letters to TLC and the spouses Alfonso, essentially (1) protesting the TLC's and the spouses Alfonso's violation of the Deed of Restrictions, (2) requesting them to comply with the same, and (3) ordering them to desist from operating the grade school and from operating the nursery and kindergarten classes in excess of the two classrooms allowed by the ordinance.<sup>[5]</sup>

### **Injunction Case**

On October 13, 1992, AAVA filed with the Regional Trial Court (RTC) of Makati City an action for injunction against TLC and the spouses Alfonso, alleging breach of contract by the defendant spouses, particularly of the Deed of Restrictions, the contents of which likewise appear in the Deed of Absolute Sale. It also alleged violation of Metropolitan Manila Commission Ordinance No. 81-01 (MMC No. 81-01), otherwise known as the Comprehensive Zoning Ordinance for the National Capital

Region and Barangay Ordinance No. 03, Series of 1991. MMC No. 81-01 classified Ayala Alabang Village for zoning purposes as a low-density residential area, or R-1, thereby limiting the use of the subject property to the establishment or operation of a nursery and kindergarten school, which should not exceed two classrooms. The aforementioned *barangay* ordinance, on the other hand, prohibited parking on either side of any street measuring eight meters in width. TLC is adjacent to Balabac and Cordillera Streets, which are both less than eight meters in width. AAVA prayed that defendants be restrained from continuing the operation of the school. The Complaint was docketed as Civil Case No. 92-2950, and was raffled to Branch 65.

On November 24, 1992, owners of properties within the vicinity of TLC, namely the spouses Ernesto and Alma Arzaga, Maria Luisa Quisumbing, Arturo Sena, KSL Corporation, and LawPhil, Inc. (hereinafter referred to as the adjacent property owners), filed a Complaint-in-Intervention, seeking the same relief as AAVA and prayed for damages.

On July 22, 1994, the RTC rendered its Decision in favor of AAVA, disposing of the case as follows:

WHEREFORE, defendants are ordered to cease and desist at the end of the schoolyear 1994-95 from operating The Learning Child School beyond nursery and kindergarten classes with a maximum of two (2) classrooms in accordance with the Deed of Restrictions, and to pay the plaintiff the following:

- 1) P20,000.00 in attorney's fees
- 2) costs of this suit.

The complaint-in-intervention is dismissed for failure of the plaintiffs-in-intervention to show by preponderance of evidence that they are entitled to the damages prayed for.<sup>[6]</sup>

The RTC ruled that the operation of the grade school and the nursery and kindergarten classes in excess of two classrooms was in violation of a contract to which the defendants are bound. The RTC emphasized that the restrictions were in reality an easement which an owner of a real estate may validly impose under Article 688 of the Civil Code. The RTC also agreed with the plaintiffs therein that by allowing parking on either side of the streets adjacent to the school, the defendants likewise violated Barangay Ordinance No. 3, Series of 1991.

On August 19, 1994, TLC and the spouses Alfonso filed a Motion for Reconsideration of the said Decision. They alleged in the Motion that with the passage of Muntinlupa Zoning Ordinance No. 91-39 reclassifying the subject property as "institutional," there ceased to be a legal basis for the RTC to uphold the Deed of Restrictions on the title of the spouses Alfonso. The adjacent property owners did not move for a reconsideration of, nor appeal from, the said Decision insofar as it dismissed their Complaint-in-Intervention.

In an Order dated March 1, 1995, the RTC agreed with the spouses Alfonso and set

aside its earlier Decision. The decretal portion of the RTC Order reads:

WHEREFORE, the Decision of this Court dated 22 July 1995 is hereby reconsidered and set aside and the Complaint and Complaint-in-Intervention filed on 13 October 1992 and 24 November 1992, respectively, are dismissed.<sup>[7]</sup>

The RTC ruled that with the reclassification by Muntinlupa Zoning Ordinance No. 91-39 of the subject property, the earlier residential classification can no longer be enforced. Citing *Ortigas & Co. Limited Partnership v. Feati Bank & Trust Co.*,<sup>[8]</sup> it decreed that while non-impairment of contracts is constitutionally guaranteed, the rule is not absolute since it has to be reconciled with the legitimate exercise of police power by the municipality.

On March 22, 1995, AAVA moved for a reconsideration of the above RTC Order. On July 21, 1995, the RTC denied the said Motion.

AAVA filed a Notice of Appeal on August 4, 1995. The Appeal was docketed as CA-G.R. CV No. 51096.

On November 11, 1997, the Court of Appeals rendered its Decision setting aside the March 1, 1995 RTC Resolution:

WHEREFORE, the appealed order dated March 1, 1995 of the lower court in Civil Case No. 92-2950 is hereby SET ASIDE. The earlier decision of the said court dated July 22, 1994 is Reinstated. Costs against defendants-appellees.<sup>[9]</sup>

On December 4, 1997, TLC and the spouses Alfonso moved for a reconsideration of the said Decision. On February 5, 1998, petitioners in G.R. No. 134440, namely, Jose Marie V. Aquino, Lorenzo Maria E. Velasco, Christopher E. Walmsley, Joanna Marie S. Sison, and Matthew Raphael C. Arce (Aquino, *et al.*), alleging that they are minor children who suffer from various learning disabilities and behavioral disorders benefiting from TLC's full-inclusion program, filed a Motion for Leave to Intervene and their own Motion for Reconsideration with the Court of Appeals.

On July 2, 1998, the Court of Appeals promulgated the assailed Resolution denying the Motion for Reconsideration filed by TLC and the spouses Alfonso. In the same Resolution, the Court of Appeals denied the Motion to Intervene filed by Aquino, *et al.*, for being proscribed by Section 2, Rule 19<sup>[10]</sup> of the 1997 Rules on Civil Procedure.

TLC and the spouses Alfonso on one hand, and Aquino, *et al.*, on the other, filed separate Petitions for Review with this Court challenging the July 2, 1998 Resolution of the Court of Appeals. The Petition of TLC and the spouses Alfonso, filed on July 9, 1998, was docketed as G.R. No. 134269. The Petition of Aquino, *et al.*, filed within the extended period on August 21, 1998, was docketed as G.R. No. 134440.

## **Zoning Ordinance Case**

In the meantime, on October 3, 1994, while the Motion for Reconsideration of TLC and the spouses Alfonso was still pending in the RTC, the Municipality of Muntinlupa, through its Sangguniang Bayan, passed Resolution No. 94-179 correcting an alleged typographical error in the description of a parcel of land under the heading "Institutional Zone" in Appendix B of Ordinance No. 91-39, adjusting the description "Lot 25, Block **1**, Phase V, Ayala Alabang" to "Lot 25, Block **3**, Phase V, Ayala Alabang." This is the same ordinance which was used as basis by the Makati RTC in Civil Case No. 92-2950, when it reversed its own Decision on Motion for Reconsideration in its Order dated March 1, 1995. Lot 25, Block 3, Phase V is the subject property wherein TLC is located.

On November 29, 1994, the Municipality of Muntinlupa wrote a letter to the Metropolitan Manila Zoning Administration Office, informing the latter of the enactment of Muntinlupa Resolution No. 94-179. On December 1, 1994, the Municipality of Muntinlupa filed a Petition for the approval of Muntinlupa Resolution No. 94-179 with the Housing and Land Use Regulatory Board (HLURB). AAVA and the adjacent property owners filed an Opposition.

On June 26, 1995, the HLURB issued its Resolution on the Petition of the Municipality of Muntinlupa, the dispositive part of which states:

WHEREFORE, PREMISES CONSIDERED, we defer action to the Muntinlupa SB Resolution No. 94-179 and remand the same to the Sangguniang Bayan of Muntinlupa for the conduct of the required public hearings as mandated by Resolution No. 12, Series of 1991, of the Metro Manila Council entitled "Uniform Guidelines for Rezoning of the Metro Manila Area."<sup>[11]</sup>

According to the HLURB, Muntinlupa Resolution No. 94-179 is not a case of a mere correction of an error but an actual rezoning of the property into an institutional area, and therefore remanded the same to the Sangguniang Bayan of Muntinlupa for the conduct of the required public hearings. The Municipality of Muntinlupa, TLC and the spouses Alfonso appealed the HLURB Resolution to the Office of the President.

On July 27, 1999, the Office of the President rendered its Decision, which held that Muntinlupa Resolution No. 94-179 is a mere rectifying issuance to an alleged typographical error in Ordinance No. 91-39, and therefore does not need for its validity compliance with the mandatory requirements of notice and hearing pursuant to Resolution No. 12, series of 1991,<sup>[12]</sup> of the Metropolitan Manila Council:

WHEREFORE, the appealed Resolution of the Board of Commissioners, Housing and Land Use Regulatory Board, dated June 26, 1995 is hereby SET ASIDE. Accordingly, Resolution No. 94-179 of the Sangguniang Bayan (now Sangguniang Panglungsod) of Muntinlupa is declared valid.<sup>[13]</sup>

In said Decision, the Office of the President likewise turned down the alternative