

THIRD DIVISION

[G.R. No. 97882, August 28, 1996]

**THE CITY OF ANGELES, HON. ANTONIO ABAD SANTOS, IN HIS
CAPACITY AS MAYOR OF ANGELES CITY, AND THE
SANGGUNIANG PANLUNGSOD OF THE CITY OF ANGELES,
PETITIONERS, VS. COURT OF APPEALS AND TIMOG SILANGAN
DEVELOPMENT CORPORATION, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

In resolving this petition, the Court addressed the questions of whether a donor of open spaces in a residential subdivision can validly impose conditions on the said donation; whether the city government as donee can build and operate a drug rehabilitation center on the donated land intended for open space; and whether the said donation may be validly rescinded by the donor.

Petitioners claim they have the right to construct and operate a drug rehabilitation center on the donated land in question, contrary to the provisions stated in the amended Deed of Donation.

On the other hand, private respondent, owner/developer of the Timog Park residential subdivision in Angeles City, opposed the construction and now, the operation of the said center on the donated land, which is located within said residential subdivision.

Before us is a petition for review on certiorari assailing the Decision^[1] of the Court of Appeals^[2] dated October 31, 1990, which affirmed the decision^[3] of the Regional Trial Court of Angeles City Branch 56,^[4] dated February 15, 1989.

The Antecedents

In a Deed of Donation dated March 9, 1984, subsequently superseded by a Deed of Donation dated September 27, 1984, which in turn was superseded by an Amended Deed of Donation dated November 26, 1984, private respondent donated to the City of Angeles, 51 parcels of land situated in Barrio Pampang, City of Angeles, with an aggregate area of 50,676 square meters, more or less, part of a bigger area also belonging to private respondent. The amended deed^[5] provided, among others, that:

"2. The properties donated shall be devoted and utilized solely for the site of the Angeles City Sports Center (which excludes cockfighting) pursuant to the plans to be submitted within six (6) months by the DONEE to the DONOR for the latter's approval, which approval shall not be unreasonably withheld as long as entire properties donated are

developed as a Sports Complex. Any change or modification in the basic design or concept of said Sports Center must have the prior written consent of the DONOR.

"3. No commercial building, commercial complex, market or any other similar complex, mass or tenement (sic) housing/buildings(s) shall be constructed in the properties donated nor shall cockfighting, be allowed in the premises.

"4. The construction of the Sports Center shall commence within a period of one (1) year from 09 March 1984 and shall be completed within a period of five (5) years from 09 March 1984.

xxx xxx xxx

"6. The properties donated (which is more than five (5) percent of the total land area of the DONOR's subdivision) shall constitute the entire open space for DONOR's subdivision and all other lands or areas previously reserved or designated, including Lot 1 and Lot 2A of Block 72 and the whole Block 29 are dispensed with, and rendered free, as open spaces, and the DONEE hereby agrees to execute and deliver all necessary consents, approvals, endorsements, and authorizations to effect the foregoing.

7. The properties donated are devoted and described as 'open spaces' of the DONOR's subdivision, and to this effect, the DONEE, upon acceptance of this donation, releases the DONOR and/or assumes any and all obligations and liabilities appertaining to the properties donated.

8. Any substantial breach of the foregoing provisos shall entitle the DONOR to revoke or rescind this Deed of Donation, and in such eventuality, the DONEE agrees to vacate and return the premises, together with all improvements, to the DONOR peacefully without necessity of judicial action."

On July 19, 1988, petitioners started the construction of a drug rehabilitation center on a portion of the donated land. Upon learning thereof, private respondent protested such action for being violative of the terms and conditions of the amended deed and prejudicial to its interest and to those of its clients and residents. Private respondent also offered another site for the rehabilitation center. However, petitioners ignored the protest, maintaining that the construction was not violative of the terms of the donation. The alternative site was rejected because, according to petitioners, the site was too isolated and had no electric and water facilities.

On August 8, 1988, private respondent filed a complaint with the Regional Trial Court, Branch 56, in Angeles City against the petitioners, alleging breach of the conditions imposed in the amended deed of donation and seeking the revocation of the donation and damages, with preliminary injunction and/or temporary restraining order to halt the construction of the said center.

On August 10, 1988, the trial court issued a temporary restraining order to enjoin the petitioners from further proceeding with the construction of the center, which at

that time was already 40% complete.

However, the trial court denied the prayer for preliminary injunction based on the prohibition in Presidential Decree No. 1818.

In their Answer with counterclaim, petitioners admitted the commencement of the construction but alleged inter alia that the conditions imposed in the amended deed were contrary to Municipal Ordinance No. 1, Series of 1962, otherwise known as the Subdivision Ordinance of the Municipality of Angeles.^[6]

On October 15, 1988, private respondent filed a Motion for Partial Summary Judgment on the ground that the main defense of the petitioners was anchored on a pure question of law and that their legal position was untenable.

The petitioners opposed, contending that they had a meritorious defense as (1) private respondents had no right to dictate upon petitioners what to do with the donated land and how to do it so long as the purpose remains for public use; and (2) the cause of action of the private respondent became moot and academic when the Angeles City Council repealed the resolution providing for the construction of said drug rehabilitation center and adopted a new resolution changing the purpose and usage of said center to a 'sports development and youth center' in order to conform with the sports complex project constructed on the donated land.

On February 15, 1989, the trial court rendered its decision, in relevant part reading as follows:

"x x x the Court finds no inconsistency between the conditions imposed in the Deeds of Donation and the provision of the Subdivision Ordinance of the City of Angeles requiring subdivisions in Angeles City to reserve at least one (1) hectare in the subdivision as suitable sites known as open spaces for parks, playgrounds, playlots and/or other areas to be dedicated to public use. On the contrary, the condition requiring the defendant city of Angeles to devote and utilize the properties donated to it by the plaintiff for the site of the Angeles City Sports Center conforms with the requirement in the Subdivision Ordinance that the subdivision of the plaintiff shall be provided with a playground or playlot, among others.

On the other hand the term "public use" in the Subdivision Ordinance should not be construed to include a Drug Rehabilitation Center as that would be contrary to the primary purpose of the Subdivision Ordinance requiring the setting aside of a portion known as "Open Space" for park, playground and playlots, since these are intended primarily for the benefit of the residents of the subdivision. While laudable to the general public, a Drug Rehabilitation Center in a subdivision will be a cause of concern and constant worry to its residents.

As to the third issue in paragraph (3), the passage of the Ordinance changing the purpose of the building constructed in the donated properties from a Drug Rehabilitation Center to a Sports Center comes too late. It should have been passed upon the demand of the plaintiff to the defendant City of Angeles to stop the construction of the Drug Rehabilitation Center, not after the complaint was filed.

Besides, in seeking the revocation of the Amended Deed of Donation, plaintiff also relies on the failure of the defendant City of Angeles to submit the plan of the proposed Sports Center within six (6) months and construction of the same within five years from March 9, 1984, which are substantial violations of the conditions imposed in the Amended Deed of Donation."

The dispositive portion of the RTC decision reads:

"WHEREFORE, judgment is hereby rendered:

(1) Enjoining defendants, its officers, employees and all persons acting on their behalf to perpetually cease and desist from constructing a Drug Rehabilitation Center or any other building or improvement on the Donated Land.

(2) Declaring the amended Deed of Donation revoked and rescinded and ordering defendants to peacefully vacate and return the Donated Land to plaintiff, together with all the improvements existing thereon. And,

(3) Denying the award of compensatory or actual and exemplary damages including attorney's fees.

NO PRONOUNCEMENT AS TO COST."

In March 1989, petitioners filed their Notice of Appeal. On April 15, 1989, while the appeal was pending, petitioners inaugurated the Drug Rehabilitation Center.^[7]

On April 26, 1991, the respondent Court rendered the assailed Decision affirming the ruling of the trial court. Subsequently, the petitioners' motion for reconsideration was also denied for lack of merit.

Consequently, this Petition for Review.

The Issues

The key issues^[8] raised by petitioners may be restated as follows:

I. Whether a subdivision owner/developer is legally bound under Presidential Decree No. 1216 to donate to the city or municipality the "open space" allocated exclusively for parks, playground and recreational use.

II. Whether the percentage of the "open space" allocated exclusively for parks, playgrounds and recreational use is to be based on the "gross area" of the subdivision or on the total area reserved for "open space."

III. Whether private respondent as subdivision owner/developer may validly impose conditions in the Amended Deed of Donation regarding the use of the "open space" allocated exclusively for parks and playgrounds.

IV. Whether or not the construction of the Drug Rehabilitation Center on

the donated "open space" may be enjoined.

V. Whether the donation by respondent as subdivision owner/developer of the "open space" of its subdivision in favor of petitioner City of Angeles may be revoked for alleged violation of the Amended Deed of Donation.

Central to this entire controversy is the question of whether the donation of the open space may be revoked at all.

First Issue: Developer Legally Bound to Donate Open Space

The law involved in the instant case is Presidential Decree No. 1216, dated October 14, 1977,^[9] which reads:

"PRESIDENTIAL DECREE NO. 1216

Defining 'Open Space' In Residential Subdivisions And Amending Section 31 Of Presidential Decree No. 957 Requiring Subdivision Owners To Provide Roads, Alleys, Sidewalks And Reserve Open Space For Parks Or Recreational Use.

WHEREAS, there is a compelling need to create and maintain a healthy environment in human settlements by providing open spaces, roads, alleys and sidewalks as may be deemed suitable to enhance the quality of life of the residents therein;

WHEREAS, such open spaces, roads, alleys and sidewalks in residential subdivisions are for public use and are, therefore, beyond the commerce of men;

WHEREAS, pursuant to Presidential Decree No. 953 at least thirty per cent (30%) of the total area of a subdivision must be reserved, developed and maintained as open space for parks and recreational areas, the cost of which will ultimately be borne by the lot buyers which thereby increase the acquisition price of subdivision lots beyond the reach of the common mass;

WHEREAS, thirty percent (30%) required open space can be reduced to a level that will make the subdivision industry viable and the price of residential lots within the means of the low income group at the same time preserve the environmental and ecological balance through rational control of land use and proper design of space and facilities;

WHEREAS, pursuant to Presidential Decree No. 757, government efforts in housing, including resources, functions and activities to maximize results have been concentrated into one single agency, namely, the National Housing Authority;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree: