

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,...

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

Ponente: MARTINEZ, J.

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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^[1] 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 In the said decision this Court ruled that "Road Lot 1 is withdrawn from the commerce of man and should be developed for the use of the general public."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 began 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 aforecited 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.[2]

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 aforequoted 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."[3]

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 PRORIETY 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."[6]

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." [7]

On the other hand, respondent QCDFC is of the view that the ruling in *White Plains Association vs. Legaspi* [8] 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) *aforecited* 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 [9] and the Supreme Court [10] 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. [11]

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 [12] are appended to the respondent's rejoinder. [13] 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.

There is likewise no dispute over the fact that the remaining 18-meter wide portion adjacent to Camp Aguinaldo, while awaiting the passage of C-5 through it, was not developed. In fact, we take public notice of the fact that up to the present it has not been developed because as stated elsewhere in this case, C-5 was constructed elsewhere.

The dormant issue of ownership has been revived in view of QCDFC's grievance that rentals from the gardeners now occupying the undeveloped land had been illegally collected by the petitioner. It is the lien or reservation over the 18-meter wide strip which the respondent prays that we lift.

Petitioner Association further posits the view that the pronouncement about Road Lot 1 being beyond the commerce of man and should be developed for the use of the general public should bar all further inquiries into its ownership, development and use. Respondent QCDFC, however, counters that the "beyond the commerce of man" ruling is subject to a suspensive condition and that the purpose for which the strip of land was reserved is the construction of C-5 through Road Lot No. 1.

But according to the petitioner, even if the government has abandoned the use of Road Lot 1 as part of C-5, this does not prevent the application of *res judicata*.^[14] The lot could still be developed for the benefit of the public because it has been reserved as an open space.

The legitimate use of Road Lot 1 has been the bone of contention in this case and in the preceding cases and should be resolved once and for all. The question is: Was the setting aside of a 38-meter wide strip of land, less than a kilometer long, exclusively for the thoroughfare now known as C-5? And if not, may the reserved area be used for any other public purpose? These are the questions which we will resolve.

We leafed through the brochure used in the selling of lots to prospective buyers in the proposed White Plains Subdivision and the centerfold thereof consists of a lot of streets and open spaces in the subdivision.^[15] According to the respondent, the total open spaces of the subdivision, exclusive of Road Lot 1, is 32,844 square meters which is more than the required 31,216 square meters or 6% of the total 520,274 square meters area of the subdivision.

A perusal of the subdivision plan shows that the reserved Katipunan Parkway by its width, dimensions and location would not have been intended for any other purpose except as a highway or thoroughfare. The map clearly indicates that it was not reserved for a park, a school campus, nor even a subdivision street.

We agree with the respondent court that Road Lot 1 was exclusively intended for C-5. Respondent QCDFC has been quick to ask: "Why should a 38-meter wide road be reserved for any other purpose except a planned expressway or parkway?" Or as otherwise stated, is there any existing development project in the country with a 38-meter wide subdivision street inside it?

QCDFC asserts that contrary to the allegations of the petitioner, it never made any representations to prospective homeowners that it will on its own initiative build a 38-meter wide Katipunan Avenue in White Plains subdivision. It states that Annex "1-B" of the rejoinder is the only representation which was submitted as evidence during the trial. Thus:

"x x x. The representations of QCDFC are found in a nine (9)-page brochure for prospective buyers.

x x x x x x x x

(c) The centerfold map or plan divides the 38-meter wide strip into two (2) unequal parts. Road Lot 1 reserved for Katipunan Parkway, now C-5, is bisected off the center. The dotted line is not at the middle by one part is larger, the 20-meter wide portion, with the other part next to the Camp Murphy (now Camp Aguinaldo) is smaller at 18 meters wide. The map or plan in the brochure shows that both ends, north and south, of the 18-meter wide reserve have perpendicular lines cutting it off from White Plains. The 20-meter wide portion is clear throughout and continues all the way to two connecting streets at the two ends."^[16]

The manifestation of QCDFC about the results after a painstakingly diligent analysis of the map in the brochure may be correct. However, it is doubtful if the average buyer of a lot in the proposed subdivision would undertake

such a detailed analysis of a map in a sales brochure. It is a known fact that buyers simply act on what is apparently represented in the brochure. In retrospect, what appears is that the government, by asking for the reservation of Road Lot 1 as a national thoroughfare, was itself responsible for the representation. Some homeowners may have believed that QCDFC was promising to construct a 38-meter wide highway for them. However, highways are not constructed by subdivision developers, and not even by city governments. It is not the fault of QCDFC if the government did not follow through with its original plan. We must thus agree with the respondent that a 38-meter wide road by its nature and definition is a parkway, not a subdivision street. The construction of Road Lot 1 as part of the parkway, now C-5, is the responsibility of the Department of Public Works and Highways, not that of the developer and not even that of the City. The lien or reservation was imposed by the national government.

The first ground invoked in this petition for review states that our earlier rulings are clear and unequivocal and nothing more has to be done except to follow them. Petitioner states that "there is no need, no room, for any interpretation." [17]

We are not persuaded.

The decisions and resolutions in the earlier decisions of this Court show that petitioner's contention about all issues having been settled is belied by questions still awaiting resolution or raised by the decisions themselves. As we see it, the previous decisions of this Court raise more questions which need to be resolved.

Respondent QCDFC says it has been shuttled from one court to another in its 20-year quest to seek justice. For one, it seeks an answer to the nagging question: Why did this Court order that title remain in the name of QCDFC if, as petitioner claims, the land belongs to the government to be used for public purposes? Then, we need to resolve the all-important issue on what could legally be constructed on the disputed property at this time. An 18-meter wide strip of raw land alongside a 20-meter wide completed street in a highly developed urban area could hardly be developed for public use other than a highway.

Respondent contends that Road Lot 1 was specifically reserved for only one specific purpose, i.e., the eventual construction of a highway known as C-5 through the area. Petitioner, on the other hand, argues that the strip of land is reserved for public use. It refuses to grant that there is any connection between C-5 and the 38-meter wide reserved strip of land. It claims that there are no more questions to be settled.

However, as we reviewed the previous decisions of this Court, we find that it left certain questions still needing determination. The final resolution of the Supreme Court in *White Plains Association, Inc. vs. Court of Appeals, et. al.*, G.R. No. 55868, February 1, 1990, actually calls for negotiation or further litigation. It states:

"G.R. No. 55868 (*White Plains Association, Inc. vs. Court of Appeals, et. al.*) - Upon consideration of the private respondent's Motion for Clarification filed December 20, 1989 and petitioner's Comment thereon filed January 30, 1990, the Court Resolved to DENY said Motion, there being nothing to clarify in the Court's Resolution of November 14, 1985, which reinstated the Court of Appeals' Decision of February 12, 1980 in the case brought up for review (CA-G.R. No. 61810-R). Said Decision issued a simple, unmistakable mandate in terms that cannot be misunderstood and require no amplification, ordering '(t)he Register of Deeds of Quezon City *** to cancel TCT No. 15685, 15686 and 15687 and to issue in their stead TCT No. 112637 and to annotate on the latter the reservation or lien existing thereon prior to the decision of the CFI of Rizal dated May 14, 1970.' Except for also ordering said respondent to pay attorney's fees of P5,000.00 and costs, it required of said respondent nothing by way of compliance, being specifically directed to the Register of Deeds. Such matters alleged in the Motion for Clarification as: (a) sales of portions of the property covered by said titles to buyers in good faith; (b) private respondent's continuing to pay the real estate taxes thereon despite the declaration that it is beyond the commerce of man; and (c) petitioner's collection of rentals from lessees

thereof, can no longer be properly addressed in this proceeding, said Resolution being already long final and executory (Rollo, p. 245), but also for the equally compelling reason that being but newly-raised, their appropriate venue lies in negotiation or further litigation." [18] (*Italics supplied*)

All of the titles to the land, both the old titles ordered cancelled and the new titles replacing them are in the name of QCDFC. The reservation or lien claimed by respondent to be for the construction of C5 ordered annotated on TCT No. 112637 is the only barrier or obstacle to respondent's exercise of full ownership rights. The ruling that negotiation or further litigation is necessary on at least three matters mentioned in the aforequoted resolution calls for further determination by this Court and not a mere dismissal on matters already settled.

In fact, the dictum in G.R. No. 95522, *White Plains Association, Inc. vs. Legaspi* [19] that the developer can be compelled to execute a deed of donation of the undeveloped strip of Road Lot 1 and, in the event QCDFC refuses to donate the land, that the Register of Deeds of Quezon City may be ordered to cancel its old title and issue a new one in the name of the city was questioned by the respondent QCDFC as contrary to law. We agree with QCDFC that the final judgment in G.R. No. 95522 is not what appears in the published February 7, 1991 decision in *White Plains Association, Inc. vs. Legaspi*. [20] It is the following resolution issued three (3) years later, on July 27, 1991, which states, *inter alia*:

"x x x (T)he Court is constrained to grant the instant Motion for Reconsideration but only insofar as the motion seeks to delete from the dispositive portion of the decision of 07 February 1991 the order of this Court requiring the execution of the deed of donation in question and directing the Register of Deeds of Quezon City, in the event that such deed is not executed, to cancel the title of QCDFC and to issue a new one in the name of the Quezon City government. It may well be that the public respondents would not be aversed to such modification of the Court's decision since they shall, in effect, have everything to gain and nothing to lose.

WHEREFORE, the second motion for reconsideration is hereby partly granted by MODIFYING the dispositive portion of this Court's decision of 07 February 1991 and to now read, 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. x x x. Costs against respondent QCDFC.

SO ORDERED'." [21]

It is true that at some point in time, litigation must come to an end. However, our two (2) earlier decisions apparently did not finally put an end to the embryonic dispute between the parties relative to this 18-meter undeveloped strip of land. To order that titles remain with QCDFC but with the lien for Highway 38 annotated thereof, cannot, and should not be, a final determination. This Court also left to future determination the contention that if the reserved land is dedicated to a public purpose other than the original plan, eminent domain proceedings will have to be instituted. Up to this date, this has remained unresolved and to our mind, there is no need to resolve the question as it has become moot and academic. For the highway has been built elsewhere, and is now known as C-5.

We have no reason to doubt the respondent court's findings that based on QCDFC's claim and annexed documents, [22] Road Lot 1 has not been donated. No deed of donation exists. This is not disputed by petitioner nor has it intimated that such a document was ever executed. The question then is: May we now force the owner to donate the property? If the owner refuses, may the Register of Deeds be ordered to cancel the owner's title and issue a new one in the name of the government? To our mind, this would partake of an illegal taking. This directive in *White Plains Association, Inc. vs. Legaspi* [23] has not been executed for almost seven (7) years because it was abandoned by this Court in the second motion for reconsideration and because it is inextricably linked with the other ruling that the 18-meter wide strip is to be utilized for the widening of Katipunan Avenue.

Now that the respondent contends that C-5 has been built elsewhere, this Court cannot close its eyes as to what is alleged as maladministration of justice because of supervening events. The petitioner's argument that title was ordered registered in QCDFC's name but it has no legal rights to what remains titled in its name and that the strip of land may be used for any public purpose, is incongruous, to say the least. Respondent court resolved the above issue in this wise:

"Thus, to emphasize, the ownership and title to Road Lot 1 remained with QCDFC but there has been no decision which confirms this issue with finality. There was no donation nor cancellation of title. The supervening event of the National Government abandoning the parkway that would include Road Lot 1 should now resolve the issue of ownership of the disputed 18-meter wide strip. Said unused portion will have to revert to its titled owner.

"This brings this Court to another reason for the grant of QCDFC's motion for reconsideration QCDFC is denied the equal protection of the law. Why were the developers of St. Ignatius Village and Green Meadows Subdivisions allowed to construct only 17 or 18-meter wide roads and sell part of their proposed 38-meter wide major thoroughfare to private persons, while QCDFC must reserve the entire 38-meter wide portion in White Plains Subdivision up to the present and for the indefinite future? If any expansion of the St. Ignatius and Green Meadows portion of the road would call for expropriation proceedings of the eighteen-meter wide portions, similar treatment must also be given to QCDFC.

It is incorrect to rule that the Quezon City Government, to which Road Lot 1 belongs, has the right to lease/rent and collect from said lot special occupancy dues. QCDFC could not have donated Road Lot 1 by implication because no parkway was constructed on the disputed area. Only after a subdivision owner has developed a road may it be donated to the local government, if it so desires. On the other hand, a subdivision owner may even opt to retain ownership of private subdivision roads, as in fact is the usual practice of exclusive residential subdivisions, for example, those in Makati City.

Neither is it correct to say that Road Lot 1 may be devoted to other public purposes such as a park or playground. As stressed by QCDFC, Road Lot 1 was reserved in compliance with a requirement imposed by the National Planning Commission that this particular strip of land should be set aside or allocated for a major thoroughfare as that part of Highway 38, otherwise known as Katipunan Parkway or C-5, passing alongside White Plains Subdivision. The reservation arose from a specific plan or project of the National Government. It is not required by or implied in any law, regulation or ordinance. It is not required of subdivision developers. A parkway by its nature or definition is 38 meters wide and is the exclusive responsibility of the DPWH (National Government). The requirement of a 38-meter wide road in this case is peculiar for White Plains Subdivision and covers only a specific purpose. This means that Quezon City cannot claim an idle piece of property intended for a major thoroughfare or parkway and cannot use it for a purpose other than C-5.

It appears that the Government is not paying QCDFC for Road Lot 1 because Quezon City considers the reservation for a major thoroughfare as a 'donation.' Assuming that Quezon City is correct, it follows that the rules on donation should apply. Under Article 764 of the Civil Code an action to revoke a donation may be made if the donee fails to comply with the conditions or(sic) the donation. In *Barreto vs. City of Manila*, 7 Phil. 416, Barreto donated his lot in front of Malacañang in order to beatify the vicinity in the construction of a great public plaza. Instead of building a park, the City of Manila decided to use the property for a public street. Barreto sued the City of Manila. The Supreme Court upheld him. Road Lot 1 in this case was reserved for the construction of a major thoroughfare called C-5; thus, it cannot be dedicated to another public purpose." [24]

We agree with the aforequoted ruling of the respondent court.

The second ground for review is linked to the first ground. Petitioner questions the factual findings of the respondent court in the assailed resolution, contending that it does not have any factual moorings in the case at bar. The assailed resolution contains as the "Antecedents," the following:

"(1) The Decision of the Court of First Instance of Rizal, Branch IX, Quezon City, dated November 22, 1976, shows that the White Plains Subdivision was developed by QCDFC as early as 1960. When the National Planning Commission approved the subdivision plans, it required QCDFC to set aside Road Lot 1 for the construction of a parkway known as Highway 38. The parkway was also known as an extension of Katipunan Avenue and later as C-5 (hereinafter to be simple(sic) referred to as C-5).

(2) C-5 was planned as a 38-meter wide secondary national road to traverse Quezon City and Rizal Province. As averred in the complaint filed with the Court of First Instance, there was the undertaking that should the Government construct C-5, reasonable compensation would be paid for the expropriated Road Lot.

(3) The land set aside for C-5 was at the exact place where White Plains Subdivision shares a common boundary with Camp Aguinaldo. Road Lot 1 traverses the western periphery of the subdivision on a north to south or vice versa direction. Subdivision developers are usually required to construct their main roads or streets within or through the subdivision proper to maximize the benefits which the project can derive from it. The fact is that Road Lot 1 is at the western fringe of the two ends of the proposed parkway.

(4) In the present case, QCDFC applied for a writ of preliminary injunction in its complaint. It was granted by the RTC.

x x x x x x x x

The Katipunan Avenue was planned by the National Government as a 38-meter wide road because it formed part of the proposed major thoroughfare now known as C-5. But actually, only a 20-meter wide strip has been developed into a street by QCDFC. Any one passing along Katipunan Avenue can readily see that of this 20-meter wide street, only 10 meters wide has been paved and utilized as a street. There is an unusually wide sidewalk of 8 meters wide fronting the subdivision, while on the opposite side is the regular two-meter wide sidewalk.

The 18-meter wide remaining portion has remained undeveloped for the past thirty-six (36) years because DPWH could not make up its mind as to when and where the C-5 should be constructed. It now appears that C-5 was constructed along Libis, a place which completely bypasses White Plains. As stated by QCDFC, the National Government has fully abandoned its earlier plan. C-5 is now a fait accompli cutting through the Libis area. If a piece of private land is reserved for a specific public highway, but the highway is never constructed at that place, to whom does the unused land belong?

Another important consideration in this case is that Road Lot 1 has not only been abandoned by the project for which it was reserved but title thereto has always been and remains in the name of QCDFC. The fact of QCDFC being the titled owner is recognized by the Supreme Court decision in G.R. No. 55868, entitled *White Plains Association, Inc. vs. Court of Appeals, et. al.*, February 1, 1990. The Supreme Court ordered the reinstatement of the Court of Appeals decision dated February 12, 1980 and directed the Register of Deeds of Quezon City to cancel TCT Nos. 156185, 156186, and 156187 and to issue in lieu thereof TCT No. 112637 with an annotation that a reservation or lien existing prior to the CFI decision dated May 14, 1970 remains. Otherwise stated, QCDFC is the titled owner on the basis of TCT No. 112637 but a reservation for C-5 is annotated at the back of the title.

This Court's decision dated February 12, 1980, in CA-G.R. No. 61810 makes mention of the trial court's finding that the requirement for a subdivision area is only 15 meters wide which may even be reduced to 12 meters as a collector road and that Quezon City Ordinance 60-4580 which requires that the minimum street-right-of-way for any parkway be 38 meters wide applies only to parkways or avenues which are the responsibility of the National Government."^[25]

Petitioner then posits the question: From whence or where did the respondent court derive some of its factual findings? The "Antecedents" as narrated by the respondent court apparently is culled from the previous decisions

of this Court and respondent court. The issues in this petition cannot be resolved without resorting to the earlier decisions of this Court and the Court of Appeals decisions mentioned therein. Petitioner itself raises *res judicata* as an issue. Thus, this issue of *res judicata* requires an examination of the earlier decisions.

The all important fact that Road Lot 1 was reserved to form part of the national expressway in Quezon City is a finding in G.R. No. 95522. That it has been denominated as Highway 38 by this Court and not C-5 can be explained by the fact that the name of the new highway as C-5 was publicized only recently. By way of analogy, no proof is needed for the finding that EDSA was also known earlier as Highway 54. Neither is proof needed for the existence of C-5.

The nature and appearance of the much traveled street along Camp Aguinaldo on one side and White Plains and St. Ignatius subdivision on the other, are matters of public notice and can be easily confirmed by motorists and/or pedestrians passing along White Plains subdivision. In its comment, the private respondent invites any homeowner to come out and categorically declare under oath that the existing street is anything other than what was taken notice of by the respondent court. The petitioner does not refute the factual findings as false, it simply states that they are not found in the records of the instant petition. However, this petition cannot be resolved in isolation from the earlier cases. We have to take into account what was taken up earlier. The allegation of petitioner Association that the setting aside of Road Lot 1 for the construction of a Parkway known as Highway 38, as extension of Katipunan Avenue and later as C-5 does not find any support in the evidence or records is not accurate. As can be seen in all the decisions of the Court of Appeals and this Court, this is a principal issue discussed in the respondent court and eventually elevated to this Court.

There can be no dispute that Road Lot 1 was set aside for Highway 38. As argued by the petitioner, it may be true that there is no mention of C-5 in the decisions but as earlier stated, this is called Circumferential Road 5 or C-5, Katipunan Parkway or Avenue and Highway 38 are used interchangeably. The only 38-meter wide thoroughfare in the vicinity is now called C-5 and it does not pass through Road Lot 1. Highway 38 cited as Katipunan Avenue in the decision and C-5 are one and the same thoroughfare. There should also be no gainsaying the fact that the connecting streets on both ends of White Plains subdivision including the street fronting the St. Ignatius Village are much less than 20 meters wide. Thus, we cannot but agree with QCDFC in its comment, "Whoever heard of a 38-meter wide street within a subdivision? The undeveloped space was good only and existed solely for a national thoroughfare known as C-5." [26] It would indeed be bizarre if Quezon City will have a 38-meter wide highway less than one (1) kilometer long connected at both ends by standard sized city streets each of which is about 18 meters wide. Intended to form part of C-5, this is no longer feasible because C-5 has passed elsewhere. What is the legal significance of this anomalous situation? Even assuming that in spite of its dimensions, the 18-meter wide and 1 kilometer long undeveloped area may be used for public purpose other than C-5, QCDFC contends in this petition that just compensation will have to be paid for it. As stated by QCDFC, this is because the area has never been donated; title remains with the developer; the purpose for which the reservation was made can no longer be implemented; and under the law, even indisputably, subdivision streets belong to the owner until donated to the government or until expropriated upon payment of just compensation. [27]

The third ground in this petition refers to the application of the principle of *res judicata*. The respondent court resolved *inter alia* the *res judicata* issue in this wise:

"x x x. This Court is aware that in *White Plains Association, Inc. vs. Legaspi* G.R. No. 95522 (193 SCRA 765) decided on February 7, 1991 the Supreme Court stated that the cause of action of QCDFC in that case was barred by *res judicata* because of the earlier decision in G.R. 55868. This Court, with due respect, believes that this may be so, insofar as the decision to uphold the contemplated construction of a 38-meter wide road called C-5 along the area is concerned. However, as previously explained, supervening events have come in, which

brought about a complete change to the scenario. When the National Government decided to construct C-5 in another part of Quezon City, completely bypassing the White Plains area, the reservation for C-5 in Road Lot 1 ceased to have any meaning. This Court believes that there can be no *res judicata* for something which can no longer be accomplished. Whatever the petitioner wishes to be done on Road Lot 1, be it another road parallel to the existing 20 meter highway or a park, a school building, a market, or a public garden to be leased to private gardeners, is no longer in accord with the purpose for which the reservation of Road Lot 1 was made. When the National Government abandoned its plan for C-5 or a 38 meter wide parkway through Road Lot 1, this Court is of the view that any claim based on *res judicata* ceases to have any validity.

Res judicata simply means that when a right or a fact has been judicially determined by a court with competent jurisdiction, the determination is conclusive upon the parties and their privies unless the doctrine is reversed or modified by the Supreme Court or, in proper cases, by statute. (See *Phil. National Bank vs. Baretto* 52 Phil.. 816; *Sarabia vs. Secretary of Agriculture and Natural Resources* 111 Phil. 1081).

x x x x x x x x

But it bears emphasis that there is no final (sic) judgment or order barring this present case because the Supreme Court Resolution in G.R. No. 55868 merely ordered the issuance of a title in the name of respondent QCDFC with a lien or reservation intended for the 38-meter wide highway or parkway. Apart from the reservation having been mooted because the parkway was built elsewhere, the lot cannot be used for any other purpose. Changed circumstances such as the sale and titling of properties connecting both ends of the proposed parkway have also occurred.

What was settled in G.R. No. 55868 was limited to the construction of the 38-meter wide C-5. Other matters were left by G.R. No. 55868 itself to negotiation or future litigation.

x x x x x x x x

In fact, to repeat, the February 7, 1991 decision in G.R. No. 95522 was itself modified by the Supreme Court on July 27, 1994 in a resolution acting on a second motion for reconsideration in the case. If there was *res judicata* in G.R. No. 55868, neither G.R. No. 95522 nor the July 27, 1994 resolution could have modified it. Furthermore, both the 1991 decision and the July 27, 1994 modification are premised on C-5 being pushed through in Road Lot 1, something which was not done.

G.R. No. 95522 was not the further litigation that would have settled the sales of portion of the property to buyers in good faith and for value, the payment of real estate taxes by QCDFC, and the collection of rentals from lessees.

This Court therefore believes that there is no conclusive determination of the issues raised in this present petition by the earlier judgments, hence *res judicata* will not apply. (*Moldes vs. Mullet*, 104 Phil. 731; *Maxion vs. Manila Railroad Co.*, 44 Phil. 595; *Bayot vs. Zurbito*, 39 Phil. 651; *O'Connell vs. Mayuga*, 8 Phil. 442).

This Court need not belabor that the doctrine of *res judicata* is based on the principle that there should be an end to litigation at some time (*PCIBank vs. Pfeleider* 65 SCRA 22). But where the previous judgment did not determine all the issues because it required the parties to either negotiate or litigate, *res judicata* cannot be invoked. (See *Phil. Coal Miners Union vs. Cebu Portland Cement Co.* 10 SCRA 784 [1964]).

But even assuming for the sake of argument that the requisites of *res judicata* are present here, no less than the Supreme Court was(sic) had stated in *Teodoro vs. Carague*, 206 SCRA 429 (1992) that:

'Some members of the court, however, frown at the thought of disregarding the principle of *res judicata* in the instant case. This frown is hopelessly unrealistic cruel, and verily most unkind. Be it noted that this is not the first time in American or in Philippine jurisprudence when the principle of *res judicata* has been set aside in favor of substantial justice which is after all the avowed purpose of all law and jurisprudence. Thus, the

following are in point.

In this respect it has been declared that *res judicata*, as the embodiment of a public policy, must at times be weighed against competing interests, and must, on occasion, yield to other policies. The determination of the question is said to require a compromise, in each case of the two opposing policies, of the desirability of finality and the public interest in searching the right result. (46 Am. Jur. Pp. 402-403).

Underlying all discussion of the problem must be the principle of fundamental fairness in the due process sense. It has accordingly been adjudged that the public policy underlying the principle of the *res judicata* must be considered together with the policy that a party shall not be deprived of a fair adversary proceeding in which to present his case. (46 Am. Jur. P. 403).

x x x *Res judicata* is to be disregarded if the application would involve the sacrifice of justice to technicality.' (159 SCRA 264, *Republic vs. De los Angeles*)."[28]

We agree.

It may be noted that the respondent court called attention to the fact that the dictum in *White Plains Association, Inc. vs. Legaspi* found in the published reports[29] had been modified on the basis of a second motion for reconsideration. It is wrong to accept as settled the doctrine still not clearly resolved that a subdivision developer may be forced to donate a street to the city against the owner's will. Conclusively so, if the road to be donated was intended for a national highway which has been since abandoned. This is not what this Court finally promulgated in that case.

In the *White Plains Association, Inc. vs. Legaspi* case, the Court simply went back to the decision in the earlier case, G.R. No. 55868, which ordered title to remain in the name of QCDFC but with a lien or a reservation for the construction of a thoroughfare or highway. Permanent ownership was not resolved.

The ruling of the respondent court sustains the rejoinder of QCDFC which cites and then explains the law on subdivision streets donation:

"(c) If Quezon City wants to use the 18 meter wide strip reserved for C-5 and to dedicate it to another public purpose, it must institute eminent domain proceedings and pay just compensation. It cannot force a private citizen to donate to the city government something reserved for a specific purpose. And which purpose has been abandoned.

(d) In fact, Sec. 31 of P.D. 957 provides:

'The registered owner or developer of the subdivision or condominium project, upon completion of the development of said project, may at his option convey by way of donation the roads and open spaces found within the project to the city or municipality wherein the project is located. Upon acceptance of the donation by the city or municipality concerned, no portion of the area donated shall thereafter be converted to any other purpose or purposes unless, after hearing, the proposed conversion is approved by the (National Housing) Authority.

-Italics supplied'

Please note the phrase 'at his option.' There is also the provision that any portion thus donated cannot be converted to a purpose other than the original purpose. The approval by the National Housing Authority is required only in genuine donations. Donation has an established meaning in law. Any change from the original purpose always results in reversion of the donated property to the donor or his heirs. At any rate, the law calls for a 'donation.'

(e) P.D. 1216, Section 2 gives the owner or developer the option of donation to either the Homeowners

Association or the local government. There is nothing about forcible donation. What is mandatory is for the local government to accept a developed road or open space given as a donation." [30]

These provisions of the law are only a carryover from existing jurisprudence. In the early case of *Young vs. City of Manila*, [31] this Court ruled:

"We are therefore of the opinion and so hold that the plaintiff cannot compel the defendant City of Manila to purchase from him the street areas described in his complaint. Neither can he be compelled to donate said land and transfer his title to the city so that the latter may build and maintain the streets. But as long as the plaintiff retains title and ownership of said street areas, he is under obligation to pay the land taxes thereon as well as to reimburse to the city the expenses of filling the same."

The third and fourth grounds in the petition revolve around the issuance or non-issuance of a preliminary injunction. The answer to the questions raised by the grounds of the petition are subsumed in the discussion of the first two (2) grounds. The decision of the respondent court cannot be faulted for alleged over-breadth. The issue as to whom rentals should be paid cannot be resolved without determining who legally owns or possesses the property. It also begs the question on the legality of the gardeners' continued occupancy of the premises. The petitioner Association admits that it is not the owner of the disputed property. Quezon City has expressly excluded Road Lot 1 from the streets and open spaces of White Plains donated by QCDFC and accepted by the City. Quezon City cannot be the owner of a national highway traversing not only the city but other cities and municipalities as well. The national government has constructed C-5 in another location, thereby abandoning the reserved highway. We note that only a lien or reservation for Highway 38 or C-5 was imposed on the developer. There was no requirement that QCDFC would develop the highway obviously because the construction of national highways is a function of the national government. Under the facts and applicable law, there is no reason why QCDFC should be restrained from exercising the rights of full ownership and possession with no more reservation or lien.

The respondent court ruled:

"This case has been shuttling back and forth from the trial court to this Court, and then to the Supreme Court for approximately twenty (20) years now without any final resolution of the basic issue as to who should exercise full ownership and possession over the disputed 18-meter wide portion of Road Lot 1. Since any leasing out or disposition of the property, collection of occupancy dues, and other rights of an owner cannot be justified unless the basic question is resolved, this Court has decided to cut the Gordian knot in this case and hopefully resolve this controversy once and for all.

This Court agrees with QCDFC that the former's decision of December 14, 1995 leaves the status of the disputed land in an even more confusing limbo than before. Earlier decisions of this Court and the Supreme Court left it to future litigation or negotiations to resolve remaining issues. QCDFC points out that the parties have now gone to court to resolve this festering sore that has plagued them for 36 years. It therefore behooves this Court to prevent the seeds of future litigation from flourishing further. Too much of the precious time and limited resources of our courts of justice have been used up by this one single controversy."

We cannot dispute the wisdom of the aforecited observation of the respondent court.

It is time we think to cut the Gordian knot. The unresolved issues have to be decided. Thus, we treat this petition in the light of unsettled matters in our two (2) earlier decisions. The orders in G.R. No. 55868 and G.R. No. 95522, that title to Road Lot 1 remains with QCDFC but the lien or reservation for the expanded highway shall be maintained, should be conclusively resolved in the light of the government's abandoning its plan to use Road Lot 1 as part of C-5.

WHEREFORE, the instant petition is DISMISSED. The reservation or lien on Road Lot 1 intended for a highway or parkway is LIFTED. Rights of full ownership including the development of the property or the collection of fees and rentals from the gardeners therein are restored to the Quezon City Development & Financing Corporation.

SO ORDERED.

Regalado, (Acting C.J.), Melo, and Mendoza, JJ., concur.
Puno, J., No part due to close relation with some parties.

[1] En Banc Resolution in G.R. No. 55685 entitled, "White Plains Association vs. Court of Appeals and Quezon City Development & Financing Corporation" dated November 14, 1985.

[2] Decision in G.R. No. 95522.

[3] Resolution in G.R. No. 95522 dated July 27, 1994.

[4] Rollo, pp. 62-70.

[5] Rollo, pp. 46-60.

[6] Rollo, pp. 23-24.

[7] Petition, p. 2; Rollo, p. 11.

[8] 193 SCRA 765 [1991].

[9] CA-G.R. 61810.

[10] G.R. No. 55868 & G.R. No. 96522.

[11] Annex "1-B," Rejoinder, cited as Exh. "GG" in Civil Case No. Q-15914 and p. 162 of the Rollo of G.R. No. 55868.

[12] Cited at pp. 200-205 of the rollo in G.R. No. 55868.

[13] Annexes "2," "2-A" & "2-R."

[14] Petition, p. 22.

[15] Annex "1-B" of respondent's rejoinder, cited as p. 162 of the rollo of G.R. No. 55868 and Exhibit "GG" of Civil Case No. Q-15914.

[16] Rollo, p. 240.

[17] Petition, p. 16.

[18] Resolution in G.R. No. 55868 dated February 1, 1990.

[19] Supra.

[20] 193 SCRA 765, 778 [1991].

[21] Resolution in G.R. No. 95522 dated July 27, 1991.

[22] Annexes "2," "2-A" & "2-B," Rejoinder to Petitioner's Reply.

[23] Supra.

[24] Rollo, pp. 53-54.

[25] Rollo, pp. 48-50.

[26] Rollo, p. 248.

[27] Young vs. City of Manila, 73 Phil. 538 at p. 957.

[28] Rollo, pp. 55-59.

[29] Supra at p. 778.

[30] Rollo, pp. 242-243.

[31] 73 Phil. 537.

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