

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, ARTU...

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

Ponente: LEONARDO-DE CASTRO, J.

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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[1] and Resolution[2] 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[3] 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.[4]

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.[5]

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.[6]

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.[7]

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.*,[8] 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.[9]

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[10] 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 Sanguniang 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." [11]

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 Sanguniang 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, [12] 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 Sanguniang Bayan (now Sangguniang Panglungsod) of Muntinlupa is declared valid. [13]

In said Decision, the Office of the President likewise turned down the alternative prayer of oppositors AAVA and the adjacent property owners that the Office of the President should recognize the Deed of Restrictions on the subject property and restrict the use thereof in accordance therewith. The Office of the President ruled on this matter that:

Turning to the alternative relief being sought by the oppositor [that the Office of the President should recognize the Deed of Restrictions], the same cannot be granted. The reason is simple. No less than Ayala Corporation - in consenting to the transfer from the Yusons to the Alfonsos of the subject property - agreed that the "lot (shall) be used for school and related activities", thereby effectively freeing the appellants from the deed restriction that the "Lots (shall) be used exclusively for residential purposes." This is not all. Prior to its sale, the property in question was already used for school purposes.

Further the aforementioned Muntinlupa Zoning Ordinance itself classifies the area occupied by the appellants' school as an "institutional zone" and not a residential area. And the fact that TLC is not the only school operating within the AAV - De la Salle-Zobel, Benedictine Abbey School, Woodrose School, to name a few, conduct classes within the plush village - renders unpersuasive appellees' line that "x x x Through the illegal operation of their school, the parties-in-interest appellants spouses Alfonso have effectively violated the dignity, personality, privacy and peace of mind of the residents of the Village x x x." [14] (Boldfacing supplied; underscoring and italization are present in the original.)

AAVA and the adjacent property owners filed a Petition for Review with the Court of Appeals. The Petition was docketed as CA-G.R. SP No. 54438.

On August 15, 2000, the Court of Appeals rendered its Decision slightly modifying the Decision of the Office of the President:

WHEREFORE, the petition is partly GRANTED. The Decision appealed from is AFFIRMED, with the

MODIFICATION that the ruling therein passing upon the effect of Ordinance No. 91-39 on the Deed of Restrictions imposed on the subject property is hereby VACATED.[15]

The Court of Appeals agreed with the Office of the President that being merely a rectifying issuance and not a rezoning enactment, the questioned Resolution did not have to comply with the mandatory requirements of notice and hearing.[16] However, the Court of Appeals found the Office of the President to have exceeded its authority when it ruled[17] that the Deed of Restrictions had lost its force and effect in view of the passage of Ordinance No. 91-39. According to the Court of Appeals, the Office of the President effectively overruled said appellate court's Decision in CA-G.R. CV No. 51096 wherein it ruled that the reclassification under Ordinance No. 91-39 does not have the effect of nullifying the Deed of Restrictions at the back of the title of the subject property, inasmuch as there is no conflict between the Ordinance and the Deed of Restrictions.[18]

On October 3, 2000, AAVA and the adjacent property owners filed the third consolidated Petition for Review on Certiorari with this Court assailing the above Court of Appeals Decision. This Petition was docketed as G.R. No. 144518.

ISSUES

Though later in time, we shall first determine the issue in G.R. No. 144518, as the validity of Muntinlupa Resolution No. 94-179 impinges on the issue of the legality of operating a grade school in the subject property, which is the main issue in G.R. Nos. 134269 and 134440. We shall then resolve the issue in G.R. No. 134440 on whether Aquino, et al., should be allowed to intervene in the injunction case against TLC. Thereafter, we shall rule on the merits of G.R. Nos. 134269 and 134440 by deciding once and for all whether or not TLC and the spouses Alfonso should be enjoined from continuing the operation of a grade school in the subject property.

The main issues to be decided by this Court, culled from the consolidated Petitions, are therefore the following:

- Whether or not the Court of Appeals is correct in upholding the validity of Muntinlupa Resolution No. 94-179;
- Whether or not the Court of Appeals was correct in denying Aquino, et al.'s Motion to Intervene; and
- Whether or not TLC and the spouses Alfonso should be enjoined from continuing the operation of a grade school in the subject property.

As regards the third and decisive issue, the parties further exchanged their views on the following two sub-issues:

- a. Whether or not Muntinlupa Municipal Ordinance No. 91-39, as allegedly corrected by Muntinlupa Resolution No. 91-179, has the effect of nullifying the provisions of the Deed of Restrictions on the subject property; and
- b. Whether or not AAVA is estopped from enforcing the Deed of Restrictions.

RULINGS

Validity of Muntinlupa Resolution No. 94-179

AAVA claims that the Court of Appeals erred in affirming the Decision of the Office of the President that Muntinlupa Resolution No. 94-179 was merely a rectifying issuance and not a rezoning enactment, and therefore did not have to comply with the requirements of notice and hearing which are required for zoning ordinances. Notice and hearing are required under the Uniform Guidelines for the Rezoning of the Metropolitan Manila Area, contained in Resolution No. 12, series of 1991, of the then Metropolitan Manila Commission (MMC).

In asserting that Muntinlupa Resolution No. 94-179 is not a mere rectifying enactment, AAVA faults the Office of

the President and the Court of Appeals in allegedly accepting hook, line and sinker the assertion of the ENCRFO Regional Officer and the Municipality (now City) of Muntinlupa itself that Muntinlupa Resolution No. 94-179 was passed merely to correct a typographical error in Appendix B of Ordinance No. 91-39.[19] AAVA adopts the HLURB finding that it was allegedly:

[H]ard to believe that the denomination in the text of Block 1 and instead of Block 3 as an institutional zone was an accident of (sic) mere oversight, the numbers 1 & 3 are not adjoining each other, but are separated by the number 2. TLC's position would have been worth considering had the erroneous phrase typed been Block 2 for then it is more plausible and probable for the typist to have mistyped a "2" instead of a "3." Besides, Blocks 1 and 3 are not even near each other on the map. Finally, if it were an error, it is surprising that no one noticed it until after a court had ruled against a party, who now seeks to use said correcting ordinance in its defense.[20]

We are not persuaded.

The purpose of Muntinlupa Resolution No. 94-179 is clearly set forth in its whereas clauses:

SAPAGKAT, ang Sanguniang Bayan ng Muntinlupa ay pinagtibay ang Kautusang Bayan Bilang 91-39 na nagsasaad ng bagong pagreresona ng Bayan ng Muntinlupa;

SAPAGKAT, sa pagrerepaso sa nabanggit na kautusang bayan ay napag-alamang nagkaroon ng isang "typographical error sa Appendix B" nito;

SAPAGKAT, sa halip na Lot 25, Block 3, Phase V, Ayala Alabang, ang nailagay o nai-type sa hindi sinasadyang dahilan ay Lot 25, Block 1, Phase V, Ayala Alabang;

SAPAGKAT, ang pagtatamang ito sa teksto ng Appendix B na nakapaloob sa institutional zone ay hindi makakaapekto sa ibang bahagi o kabuuang nilalaman at itinatakda sa kautusang bayan bilang 91-39.[21]

Even more telling that there was indeed a typographical error in Appendix B of Ordinance No. 91-39 is the fact that both the Official Zoning Map of Muntinlupa and that of the Ayala Alabang Village show that the subject property, described as "Lot 25, Block 3, Phase V of Ayala Alabang" is classified as "institutional." On the other hand, neither the Official Zoning Map of Muntinlupa nor that of the Ayala Alabang Village classify "Lot 25, Block 1, Phase V of Ayala Alabang" as institutional. The official zoning map is an indispensable and integral part of a zoning ordinance, without which said ordinance would be considered void.[22] Indeed, Section 3 of Ordinance No. 91-39 expressly provides that the Official Zoning Map of Muntinlupa shall be made an integral part of said ordinance. Both the MMC and the HLURB Board of Commissioners approved the Official Zoning Map of Muntinlupa. Furthermore, the very reason for the enactment of Muntinlupa Zoning Ordinance No. 91-39 is the need to accomplish an updated zoning map, as shown by the following clause in MMC's Resolution No. 2, series of 1992:

WHEREAS, the Sanguniang Bayan of Muntinlupa, Metro Manila, approved on 10 December 1991 Municipal Ordinance No. 91-39 rezoning the entire municipality (as shown in the accompanying zoning map and described in the attached Appendix "B") as a response to the need to have an updated zoning map. x x x.[23] (Emphases supplied.)

It is furthermore noted that TLC's and the spouses Alfonso's claim that Lot 25, Block 1, Phase 5 of Ayala Alabang has been and remains to be a residential lot[24] has never been rebutted by AAVA. As regards the comment that Blocks 1 and 3 are not even near the map, we agree with TLC and the spouses Alfonso that this bolsters their position even more, as the distance would make it difficult to commit an error on the map. It is much more plausible to mistype a single digit than to mistake an area for another that is far away from it.

It is therefore crystal clear that there was a typographical error in Muntinlupa Zoning Ordinance No. 91-39. AAVA, however, furthermore claims that even assuming *arguendo* that there was a typographical error in the said zoning ordinance, the proper remedy is to legislate a new zoning ordinance, following all the formalities therefor, citing the leading case of *Resins, Incorporated v. Auditor General*.^[25]

Again, we disagree.

Resins was decided on the principle of separation of powers, that the judiciary should not interfere with the workings of the executive and legislative branches of government:

If there has been any mistake in the printing of the bill before it was certified by the officers of Congress and approved by the Executive - on which we cannot speculate, without jeopardizing the principle of separation of powers and undermining one of the cornerstones of our democratic system - the remedy is by amendment or curative legislation, not by judicial decree.^[26]

In *Resins*, it was a taxpayer who alleged that there was an error in the printing of the statute, unlike in the case at bar where it is the Municipality (now City) of Muntinlupa itself which seeks to correct its own error in the printing of the ordinance. While it would be a violation of the principle of separation of powers for the courts to interfere with the wordings of a statute, there would be no violation of said principle for the court to merely affirm the correction made by the same entity which committed the error. In *Resins*, there is a presumption of regularity in favor of the enrolled bill, which the courts should not speculate on. In the case at bar, it is the curative Muntinlupa Resolution No. 94-179 which is entitled to a presumption of regularity.

Finally, AAVA claims that the power to evaluate, approve or disapprove zoning ordinances lies with the HLURB under Article IV, Section 5(b) of Executive Order No. 648.^[27] AAVA reminds us that the decisions of administrative agencies on matters pertaining to their jurisdiction will generally not be disturbed by the courts.^[28]

We should remind AAVA that the Court of Appeals, the court that was first to reexamine the case at bar, affirmed the Decision of the Office of the President, which had set aside the HLURB ruling. The authority of the HLURB is certainly subordinate to that of the Office of the President and the acts of the former may be set aside by the latter. Furthermore, while it is true that courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies,^[29] it should be noted that the HLURB and the then MMC were both tasked to regulate the rezoning of the Metropolitan Manila area. The then Municipality of Muntinlupa submitted Resolution No. 94-179 to both the HLURB and the MMC for their appropriate action. The MMC approved Muntinlupa Resolution No. 94-179, and this approval should be given more weight than the disapproval of the HLURB since it was the MMC itself which issued the Uniform Guidelines for the Rezoning of the Metropolitan Manila Area (MMC Resolution No. 12, Series of 1991), the issuance alleged by AAVA to have been violated by the Municipality of Muntinlupa.

In sum, Muntinlupa Resolution No. 94-179, being a mere corrective issuance, is not invalidated by the lack of notice and hearing as AAVA contends.

Motion to Intervene of Aquino, et al.

It is recalled that the Motion for Leave to Intervene of Aquino, et al., was filed on February 5, 1998, which was three months after the Special Third Division of the Court of Appeals had already rendered its Decision dated November 11, 1997 setting aside the RTC Resolution which had been in favor of TLC and the spouses Alfonso.

Aquino, et al., premised their intervention on their being grade school students in the School of the Holy Cross,

wherein they allegedly benefit from the full-inclusion program of said school. Under said full-inclusion program, Aquino, et al., who claim to suffer from various learning disabilities and behavioral disorders, are enrolled full-time in educational settings enjoyed by regular, typically developing children. Aquino, et al., alleges that TLC is the only educational institution in the Philippines that offers a full-inclusion program, adding that other schools offer only partial integration programs wherein children with special needs join their typically developing classmates only in certain classes.

Considering the date of the Motion for Leave to Intervene, February 5, 1998, it is apparent that Aquino, et al., would not still be in grade school at this time, thus rendering their alleged interest in this case moot. Neither could Aquino, et al., claim to represent other special children since the Motion for Reconsideration filed with the Motion for Leave to Intervene bore no indication that it was intended as a class action; they merely sought to represent themselves. Since the interest of Aquino, et al., in the instant case is already moot, it is but proper for us to affirm the denial of their Motion for Leave to Intervene before the trial court.

Assuming, however, for the sake of argument, that Aquino, et al.'s, interest in the injunction suit had not yet been mooted, we nevertheless find no reversible error in the Court of Appeals' denial of their Motion for Leave to Intervene.

The Motion to Intervene filed by Aquino, et al., was denied in the same Resolution wherein the Court of Appeals denied the Motion for Reconsideration of TLC and the spouses Alfonso. The ground for the denial of Aquino, et al.'s, Petition is Section 2, Rule 19 of the 1997 Rules on Civil Procedure, which provides:

Sec. 2. Time to intervene. - The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (Emphasis supplied.)

This section is derived from the former Section 2, Rule 12, which then provided that the motion to intervene may be filed "before or during a trial." Said former phraseology gave rise to ambiguous doctrines on the interpretation of the word "trial," with one decision holding that said Motion may be filed up to the day the case is submitted for decision,[30] while another stating that it may be filed at any time before the rendition of the final judgment.[31] This ambiguity was eliminated by the present Section 2, Rule 19 by clearly stating that the same may be filed "at any time before rendition of the judgment by the trial court," in line with the second doctrine above-stated. The clear import of the amended provision is that intervention cannot be allowed when the trial court has already rendered its Decision, and much less, as in the case at bar, when even the Court of Appeals had rendered its own Decision on appeal.

Aquino, et al., claim that they could not have intervened in the case earlier, as the full-inclusion program was allegedly commenced by defendants TLC and the spouses Alfonso only in 1997. However, said defendants cannot be benefited by their allegedly recent introduction of a full-inclusion program. While we sympathize with the plight of the minor intervenors, we cannot allow that a program commenced by the defendants way beyond the institution of the case in 1992 could be considered as a valid defense. To do so would put into the hands of the defendant in a case the power to introduce new issues to a litigation on appeal with the assistance of intervenors.

Injunction against the operation of the School of the Holy Cross

Effect of Ordinance No. 91-39, as corrected by Resolution No. 94-179 to the Deed of Restrictions

In reversing itself on Motion for Reconsideration, the RTC cited the Ortigas[32] case and held that the earlier residential classification can no longer be enforced due to the reclassification by Muntinlupa Municipal Ordinance

No. 91-39 of the subject property.

In Ortigas, the restriction of exclusive use for residential purposes was contained in the Deeds of Sale of the subject properties at the insistence of developer Ortigas & Co. and was annotated in the corresponding titles thereof. Therein defendant Feati Bank and Trust Co. eventually acquired the subject properties from the successor-in-interest of the original buyers; the deeds of sale and the TCTs issued likewise reflected the same restriction. However, the then Municipal Council of Mandaluyong, Rizal passed a Resolution declaring the area to which the subject property is situated as an industrial and commercial zone. Ortigas & Co. later on sued Feati Bank, seeking an injunction to restrain the latter from completing a commercial bank building on the premises. This Court held that the Mandaluyong Resolution was passed in the exercise of police power.[33] Since the motives behind the passage of the questioned resolution is reasonable, and it being a legitimate response to a felt public need, not whimsical or oppressive, the non-impairment of contracts clause of the Constitution will not bar the municipality's exercise of police power.[34]

As previously stated, the Court of Appeals set aside the RTC Resolution and reinstated the original RTC Decision enjoining TLC and the spouses Alfonso from the operation of the school beyond nursery and kindergarten classes with a maximum of two classrooms. The Court of Appeals held that there is no conflict between the Deed of Restrictions, which limited the use of the property for the establishment of a preparatory school, and the provisions of the Muntinlupa Zoning Ordinance No. 91-39, which reclassified the subject property as "institutional." The Court of Appeals continued that there are valid grounds for it not to apply the Ortigas case cited by the RTC Resolution, holding that while the subject property in said case was found in an area classified as industrial and commercial, "a study of the location of defendants' school would clearly reveal that the same is situated within a residential area - the exclusive Ayala Alabang Village." [35]

TLC and the spouses Alfonso insist on the applicability of Ortigas in the case at bar, and likewise cited Presley v. Bel-Air Village Association, Inc.[36] in order to drive home its point that reclassification of properties is a valid exercise of the state's police power, with which contractual obligations should be reconciled.

AAVA counters that even where the exercise of police power is valid, the same does not operate to automatically negate all other legal relationships in existence since the better policy is to reconcile the conflicting rights and to preserve both instead of nullifying one against the other, citing the case of *Co v. Intermediate Appellate Court*. [37] AAVA thus adopt the finding of the Court of Appeals that even assuming that the subject property has been validly reclassified as an institutional zone, there is no real conflict between the Deed of Restrictions and said reclassification.

A careful study of the pertinent documents yields the conclusion that there is indeed a way to harmonize the seemingly opposing provisions in the Deed of Restrictions and the assailed zoning ordinance.

To recall, the annotation at the back of TCT No. 149166 covering the subject property provides:

PE-222/T-134042 - RESTRICTIONS - The property cannot be subdivided for a period of fifty (50) years from the date of sale. 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. x x x.[38] (Emphasis ours.)

It is noted that the above restriction limits the use of the subject property for preparatory (nursery and kindergarten) school, without regard to the number of classrooms. The two-classroom limit is actually imposed, not by the Deed of Restrictions, but by MMC Ordinance No. 81-01, otherwise known as the Comprehensive Zoning Ordinance for the National Capital Region, which classified Ayala Alabang Village as a low density residential area or an "R-1 zone." The principal permitted uses of a "low-density residential area" or "R-1 zone,"

the classification of the subject property if not for the correction under Muntinlupa Municipal Resolution No. 94-179, is listed in Comprehensive Zoning Ordinance No. 81-01 as follows:

In R-1 districts, no building, structure or land used, and no building or structure shall be erected or altered in whole or in part except for one or more of the following:

Principal Uses

- One-family dwellings;
- Duplex type buildings;
- Churches or similar places of worship and dwelling for the religious and seminaries;
- Nursery and kindergarten schools, provided that they do not exceed two (2) classrooms;
- Clubhouses, lodges and other social centers;
- Parks, playgrounds, pocket parks, parkways, promenades and playlots;
- Recreational uses such as golf courses, tennis courts, baseball diamonds, swimming pools and similar uses operated by the government or private individuals as membership organizations for the benefit of their members, families or guests not primarily for gain;
- Townhouses.[39]

(Emphasis supplied.)

On the other hand, the following are the principal uses of an institutional site, the classification of the subject property by virtue of Ordinance No. 91-39 as corrected by Muntinlupa Municipal Resolution No. 94-179:

Institutional

Principal Uses

- Barangay health centers;
- Day-care centers;
- Puericulture centers;
- Clinics, family planning clinics and children's clinics;
- Nursery and kindergarten schools;
- Elementary schools;
- Elementary and high school;
- Local civic centers, local auditoriums, halls and exhibition centers;
- Churches, temples and mosques;
- Chapels;
- Barangay centers;
- Maternity hospitals;
- National executive, judicial, legislative and related facilities and activities;

- Government buildings;
- Tertiary and provincial hospitals and medical center;
- National museums and galleries;
- Art galleries;
- Planetarium;
- Colleges or universities;
- Vocational and technical schools, special training;
- Convents and seminaries;
- Welfare and charitable institutions;
- Municipal buildings;
- Fire and police station buildings;
- Local museum and libraries;
- University complexes; and
- Penal institutions.[40] (Emphasis supplied.)

The jurisprudence cited by TLC and the spouses Alfonso requires a meticulous review. We find that a clarification of the doctrines laid down in the aforesaid cases of Co, Ortigas, and Presley is in order.

In the Ortigas case which had been interpreted differently by the RTC and the Court of Appeals, this Court, in upholding the exercise of police power attendant in the reclassification of the subject property therein over the Deed of Restrictions over the same property, took into consideration the prevailing conditions in the area:

Resolution No. 27, s-1960 declaring the western part of Highway 54, now E. de los Santos Avenue (EDSA, for short) from Shaw Boulevard to the Pasig River as an industrial and commercial zone, was obviously passed by the Municipal Council of Mandaluyong, Rizal in the exercise of police power to safeguard or promote the health, safety, peace, good order and general welfare of the people in the locality. Judicial notice may be taken of the conditions prevailing in the area, especially where lots Nos. 5 and 6 are located. The lots themselves not only front the highway; industrial and commercial complexes have flourished about the place. EDSA, a main traffic artery which runs through several cities and municipalities in the Metro Manila area, supports an endless stream of traffic and the resulting activity, noise and pollution are hardly conducive to the health, safety or welfare of the residents in its route. Having been expressly granted the power to adopt zoning and subdivision ordinances or regulations, the municipality of Mandaluyong, through its Municipal Council, was reasonably, if not perfectly, justified under the circumstances, in passing the subject resolution.[41] (Emphasis supplied.)

Near the end of the Ortigas Decision, this Court added:

Applying the principle just stated to the present controversy, We can say that since it is now unprofitable, nay a hazard to the health and comfort, to use Lots Nos. 5 and 6 for strictly residential purposes, defendants-appellees should be permitted, on the strength of the resolution promulgated under the police power of the municipality, to use the same for commercial purposes. In *Burgess v. Magarian, et al.*, it was held that "restrictive covenants running with the land are binding on all subsequent purchasers x x x." However, Section 23 of the zoning ordinance involved therein contained a proviso expressly declaring that the ordinance was not intended "to interfere with or abrogate or annul any easements, covenants or other agreement between parties." In the case at bar, no such proviso is found in the subject resolution. (Emphasis supplied.)

In the case at bar, as observed by the Court of Appeals, the subject property, though declared as an institutional lot, nevertheless lies within a residential subdivision and is surrounded by residential lots. Verily, the area surrounding TLC did not undergo a radical change similar to that in Ortigas but rather remained purely residential to this day. Significantly, the lot occupied by TLC is located along one of the smaller roads (less than eight meters in width) within the subdivision. It is understandable why ALI, as the developer, restricted use of the subject lot to a smaller, preparatory school that will generate less traffic than bigger schools. With its operation of both a preparatory and grade school, TLC's student population had already swelled to around 350 students at the time of the filing of this case. Foreseeably, the greater traffic generated by TLC's expanded operations will affect the adjacent property owners enjoyment and use of their own properties. AAVA's and ALI's insistence on (1) the enforcement of the Deed of Restrictions or (2) the obtainment of the approval of the affected residents for any modification of the Deed of Restrictions is reasonable. On the other hand, the then Municipality of Muntinlupa did not appear to have any special justification for declaring the subject lot as an institutional property. On the contrary, Engr. Hector S. Baltazar, the Municipal Planning and Development Officer of Muntinlupa, testified that in declaring the subject property as institutional the municipality simply adopted the classification used in a zoning map purportedly submitted by ALI itself. In other words, the municipality was not asserting any interest or zoning purpose contrary to that of the subdivision developer in declaring the subject property as institutional.

It is therefore proper to reconcile the apparently conflicting rights of the parties herein pursuant to the aforementioned Co case. In Co, agricultural tenant Roaring, facing a demolition order, filed a complaint for maintenance of possession with the Court of Agrarian Relations of Quezon City. The landowner challenged the jurisdiction of the court arguing that the classification of the subject property therein from agricultural to a light industrial zone. This Court denied the applicability of the reclassification, and clarified Ortigas:

This is not to suggest that a zoning ordinance cannot affect existing legal relationships for it is settled that it can legally do so, being an exercise of the police power. As such, it is superior to the impairment clause. In the case of Ortigas & Co. v. Feati Bank, for example, we held that a municipal ordinance establishing a commercial zone could validly revoke an earlier stipulation in a contract of sale of land located in the area that it could be used for residential purposes only. In the case at bar, fortunately for the private respondent, no similar intention is clearly manifested. Accordingly, we affirm the view that the zoning ordinance in question, while valid as a police measure, was not intended to affect existing rights protected by the impairment clause.

It is always a wise policy to reconcile apparently conflicting rights under the Constitution and to preserve both instead of nullifying one against the other. x x x.[42] (Emphasis supplied.)

In Presley, the Deed of Restrictions of Bel-Air subdivision likewise restricted its use for a residential purpose. However, the area (Jupiter Street) where the lot was located was later reclassified into a high density commercial (C-3) zone. Bel-Air Village Association (BAVA) sought to enjoin petitioner therein from operating its Hot Pan de Sal Store, citing the Deed of Restrictions. We allowed the operation of the Hot Pan de Sal Store despite the Deed of Restrictions, but not without examining the surrounding area like what we did in Ortigas:

Jupiter Street has been highly commercialized since the passage of Ordinance No. 81-01. The records indicate that commercial buildings, offices, restaurants, and stores have already sprouted in this area. We, therefore, see no reason why the petitioner should be singled out and prohibited from putting up her hot pan de sal store. Thus, in accordance with the ruling in the Sangalang case, the respondent court's decision has to be reversed.[43]

Furthermore, we should also take note that in the case of Presley, there can be no reconciliation between the restriction to use of the property as a residential area and its reclassification as a high density commercial (C-3) zone wherein the use of the property for residential purposes is not one of the allowable uses.

Alleged estoppel on the part of AAVA from enforcing the Deed of Restrictions

TLC and the spouses Alfonso's main argument against the enforcement of the Deed of Restrictions on their property is the AAVA had allegedly abrogated said restrictions by its own acts. TLC and the spouses Alfonso proceeded to enumerate acts allegedly constituting a setting aside of said restrictions:

1. AAVA Village Manager Frank Roa admitted before the trial court that AAVA had previously approved the proposed construction of a school building with 24 classrooms, which approval is further evidenced by a stamp mark of AAVA on the Site Development Plan with the signature of Frank Roa himself.[44]
2. While the case was submitted for resolution with the Court of Appeals, AAVA, through its president Jesus M. Tañedo, authorized through a letter the construction of a new "school building extension." [45]
3. ALI itself requested the reclassification of the subject property as institutional, as allegedly proven by the testimony of then Municipal Planning and Development Officer Engineer Hector S. Baltazar, who said:
Engineer Baltazar:

There was a publication, your Honor, the developer of the Ayala Alabang Village, in fact, was the one who submitted this map of theirs. In deference to the Ayala Land, Inc. which is the developer of the Ayala Alabang Village whom we know "na maayos naman ang kanilang zoning," we just adopted what they submitted to us. Whereas, the other areas are "talagang pinag-aralan pa namin." [46]

TLC and the spouses Alfonso point out that the subject property was considered institutional in the Official Zoning Map, thereby implying that the submission of the latter constitutes an intent to have the subject property reclassified as institutional.

4. ALI assented to the reclassification of the subject property to institutional, as shown by its letter dated July 24, 1991, wherein it stated:

This refers to the 26 June 1991 letter of Mr. Manuel Luis C. Gonzales concerning the proposed expansion of the school curriculum to grade school of the Learning Child Pre-school owned by Mrs. Mary Anne Alfonso.

Insofar as an evaluation of such proposed expansion of the school is concerned, we believe that it is a worthy undertaking that will definitely benefit the community, and thus interpose no objection to such proposal as long as the conditions mentioned below are met.[47]

We are not convinced.

Estoppel by deed is "a bar which precludes one party from asserting as against the other party and his privies any right or title in derogation of the deed, or from denying the truth of any material facts asserted in it." [48] We have previously cautioned against the perils of the misapplication of the doctrine of estoppel:

Estoppel has been characterized as harsh or odious, and not favored in law. When misapplied, estoppel becomes a most effective weapon to establish an injustice, inasmuch as it shuts a man's mouth from speaking the truth and debars the truth in a particular case. Estoppel cannot be sustained by mere argument or doubtful inference; it must be clearly proved in all its essential elements by clear, convincing and satisfactory evidence. x x x.[49]

TLC and the spouses Alfonso failed to prove by clear and convincing evidence the gravity of AAVA's acts so as to bar the latter from insisting compliance with the Deed of Restrictions.

In numbers 1 and 2 above, TLC and the spouses Alfonso claim that the previous approvals by AAVA of the construction of additional classrooms allegedly constitute a revocation of the Deed of Restrictions. However, as we have previously discussed, the two-classroom restriction is not imposed in the Deed of Restrictions but rather

in MMC Ordinance No. 81-01. The alleged assent of AAVA to the construction of additional classrooms is not at all inconsistent with the provisions of the Deed of Restrictions, which merely limit the use of the subject property "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 school vehicles."

The circumstances around the enumerated acts of AAVA also show that there was no intention on the part of AAVA to abrogate the Deed of Restrictions nor to waive its right to have said restrictions enforced. Frank Roa's signature in the Site Development Plan came with the note: "APPROVED SUBJECT TO STRICT COMPLIANCE OF CAUTIONARY NOTICES APPEARING ON THE PLAN AND TO RESTRICTIONS ENCUMBERING THE PROPERTY REGARDING THE USE AND OCCUPANCY OF THE SAME." [50] The Site Development Plan itself was captioned "The LEARNING CHILD PRE-SCHOOL," [51] showing that the approval was for the construction of a pre-school, not a grade school. AAVA's letter dated March 20, 1996 contained an even more clear cut qualification; it expressly stated that the approval is "subject to the conditions stipulated in the Deed of Restrictions covering your above-mentioned property, which states, among others, that the property shall be used exclusively for the establishment and maintenance thereon of a PREPARATORY (NURSERY AND KINDERGARTEN) SCHOOL."

We furthermore accept AAVA's explanation as regards the March 20, 1996 letter that at it had to allow the construction of the new school building extension in light of the trial court's Orders dated March 9, 1995 and August 3, 1995. It should be noted here that AAVA was the party appealing to the Court of Appeals as the trial court decision favorable to them had been reversed by the same court on Motion for Reconsideration.

Numbers 3 and 4 are acts allegedly performed by ALI. AAVA claims that these acts cannot be considered in the case at bar under the *res inter alios acta* rule, as ALI is not a party to the case. Section 28, Rule 130 of the Rules of Court embodies said rule:

Sec. 28. Admission by third party. -- The rights of a party cannot be prejudiced by an act, declaration, or omission of another, except as hereinafter provided.

We have to clarify that ALI's statements, if damaging to AAVA, would be binding on the latter. The general Ayala Alabang Village "Deed Restrictions," which was attached to the Deed of Restrictions on the title of the subject property, expressly state that: "2. Compliance with the said restrictions, reservation, easements and conditions maybe enjoined and/or enforced by Court action by Ayala Corporation and/or the Ayala Alabang Village Association, their respective successors and assigns, or by any member of the Ayala Alabang Village Association." [52] As such, it appears that Ayala Corporation is jointly interested with AAVA in an action to enforce the Deed of Restrictions, and is therefore covered under the following exception to the *res inter alios acta* rule:

Sec. 29. Admission by copartner or agent. -- The act or declaration of a partner or agent of the party within the scope of his authority and during the existence of the partnership or agency, may be given in evidence against such party after the partnership or agency is shown by evidence other than such act or declaration. The same rule applies to the act or declaration of a joint owner, joint debtor, or other person jointly interested with the party. [53] (Emphasis supplied.)

However, the acts of ALI are not at all damaging to the position of AAVA. The act in number 1 concerns the alleged assent of ALI to the reclassification of the subject property as institutional which, as we have already ruled, does not amount to a nullification of the Deed of Restrictions. As regards the act in number 2, the statement in ALI's July 24, 1991 letter that it believes the expansion of TLC is a "worthy undertaking," it should be pointed

out that ALI's purported assent came with conditions:

Insofar as an evaluation of such proposed expansion of the school is concerned, we believe that it is a worthy undertaking that will definitely benefit the community, and thus interpose no objection to such proposal as long as the conditions mentioned below are met.

It is true that the Ayala Alabang Village Association (AAVA) Board does not have the authority on its own to alter the Deed of Restrictions for Ayala Alabang Village, and the approval of Ayala is an indispensable condition precedent to any change in the restrictions. However, we feel that any change in the restrictions for Ayala Alabang should be concurred to by the AAVA Board on the premise that any change in the restrictions affects the general welfare of the community which is the primary concern of the AAVA Board. On this same premise, we have imposed as an additional condition to our approval of the change in restrictions, that such change should be approved by the residents of the Village or by the residents of the particular district where the school is situated, at the option of the Board. We feel that the concurrence of not only the AAVA Board but also of the residents of the Village or of the affected district (as the case may be) is fair and reasonable under the circumstances.[54](Emphases supplied.)

As previously stated, a majority of AAVA's members, on April 5, 1992, voted to ratify the Board of Governors' resolutions that the Deed of Restrictions should be implemented. Therefore, the conditions for ALI's approval of the alteration of the Deed of Restrictions, namely the concurrence of the AAVA Board and the approval of the affected residents of the village, were clearly not met.

Finally, a thorough examination of the records of the case furthermore shows that AAVA consistently insisted upon compliance with the Deed of Restrictions:

1. Petitioner Mary Anne Alfonso, as directress of TLC, wrote AAVA on May 20, 1991 requesting "reconsideration and approval to modify the restrictions at our property at 111 Cordillera to include the establishment and maintenance of a grade school" and avowed to make a similar representation to ALI.[55] AAVA replied on June 26, 1991 with a letter stating that the matter of interpretation or relaxation of the Deed of Restrictions is not within its power, but of ALI, and thus referred the request to the latter.[56] ALI wrote AAVA on July 24, 1991 stating that while it interposes no objection to the modification of the restrictions on the subject property, any change on such restrictions should be concurred in by AAVA's Board of Governors and approved by the residents of the village, particularly the residents of the district where the school is situated.[57] AAVA's Board of Governors, during its regular meeting on August 27, 1991, voted unanimously to retain the restrictions and recommended said retention to ALI.[58]
2. The spouses Alfonso wrote AAVA on October 25, 1991 requesting a reconsideration of the decision of AAVA's Board of Governors.[59] On October 31, 1991, AAVA wrote ALI to inquire about the reasons for the restrictions.[60] ALI replied that the restrictions were imposed because the school sites located along small roads had to be limited to small nursery schools since the latter generate less traffic than bigger schools. ALI reiterated that the residents should be consulted prior to any change in the restrictions.[61] In the meantime, TLC proceeded to operate a grade school on the subject property. On February 27, 1992, AAVA's former counsel wrote TLC a letter demanding that they suspend the enrollment of students other than for pre-school.[62]
3. The spouses Alfonso wrote AAVA on March 11, 1992, reiterating their request to operate a grade school in the subject property. [63] On March 24, 1992, the Board of Governors of AAVA affirmed its earlier decision to retain the restrictions. On March 27, 1992, AAVA replied to the spouses Alfonso's letter informing them of the denial.[64]
4. On April 5, 1992, during AAVA's annual membership meeting, the spouses Alfonso appealed directly to the

members of AAVA. Majority of AAVA's members voted to ratify the Board of Governor's Resolutions,[65]

5. On April 24, 1992, the spouses Alfonso wrote AAVA another letter requesting that it be allowed to continue holding classes for Grades I to III at their premises for at least the coming school year, since they needed time to relocate the same outside the village.[66] AAVA replied on April 30, 1992, explaining that the Board of Governors has to follow the April 5, 1992 decision of the members and demanded that the TLC close its grade school in the coming school year.[67]

6. On June 4, 1992, the spouses Alfonso wrote to AAVA again, appealing to be allowed to continue in their premises for three more months, June to August, after which they solemnly promised to move the grade school out of the village, possibly in TLC's former school site in B.F. Homes Parañaque.[68] AAVA replied on June 16, 1992 denying their request, and demanded that TLC cease its operation of a grade school on the subject property.[69]

7. In view of the continued operation of the grade school, AAVA sent letters to TLC on August 17 1992 and September 4, 1992 demanding that the latter immediately cease and desist from continuing and maintaining a grade school in the subject property.[70]

From the foregoing, it cannot be said that AAVA abrogated the Deed of Restrictions. Neither could it be deemed estopped from seeking the enforcement of said restrictions.

DISPOSITION

This Court hereby resolves to affirm with modification the Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 51096 insofar as they reinstated the July 22, 1994 RTC Decision ordering the defendants in Civil Case No. 92-2950 to cease and desist from the operation of the Learning Child School beyond nursery and kindergarten classes. Pursuant to Muntinlupa Ordinance No. 91-39, as corrected under Muntinlupa Municipal Resolution No. 94-179, we therefore delete the two-classroom restriction from said Decision.

This Court, however, understands the attendant difficulties this Decision could cause to the current students of the School of the Holy Cross, who are innocent spectators to the litigation in the case at bar. We therefore resolve that the current students of the School of the Holy Cross be allowed to finish their elementary studies in said school up to their graduation in their Grade 7. The school, however, shall no longer be permitted to accept new students to the grade school.

WHEREFORE, the Court rules on the consolidated Petitions as follows:

1. The Petition in G.R. No. 134269 is **PARTIALLY GRANTED**. The Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 51096 dated November 11, 1997 and July 2, 1998, respectively, insofar as they reinstated the July 22, 1994 RTC Decision ordering the defendants in Civil Case No. 92-2950 to cease and desist from the operation of the Learning Child School beyond nursery and kindergarten classes with a maximum of two classrooms, is hereby **AFFIRMED** with the **MODIFICATION** that (1) the two-classroom restriction is deleted, and (2) the current students of the School of the Holy Cross, the Learning Child School's grade school department, be allowed to finish their elementary studies in said school up to their graduation in their Grade 7. The enrollment of new students to the grade school shall no longer be permitted.

2. The Petition in G.R. No. 134440 is **DISMISSED** on the ground of mootness. The Resolution of the Court of Appeals in CA-G.R. CV No. 51096 dated July 2, 1998, insofar as it dismissed the Motion for Leave to Intervene filed by Jose Marie V. Aquino, Lorenzo Maria E. Veloso, Christopher E. Walmsley, Joanna Marie S. Sison, and Matthew Raphael C. Arce is hereby **AFFIRMED**.

3. The Petition in G.R. No. 144518 is DENIED. The Decision of the Court of Appeals in CA-G.R. SP No. 54438, dated August 15, 2000, which upheld the validity of a Mandaluyong Municipal Resolution correcting an alleged typographical error in a zoning ordinance is hereby AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Del Castillo, and Perez, JJ., concur.

[1] Penned by Associate Justice Lourdes Tayao-Jaguros with Associate Justices Ricardo P. Galvez and Oswaldo D. Agcaoli, concurring. Rollo (G.R. No. 134269), pp. 62-71; rollo (G.R. No. 134440), pp. 83-93.

[2] Penned by Associate Justice Oswaldo D. Agcaoli with Associate Justices Angelina S. Gutierrez and Ricardo P. Galvez, concurring. Id. at 73-74; id. at 99-100.

[3] Penned by Associate Justice Ruben T. Reyes with Associate Justices Andres B. Reyes, Jr. and Jose L. Sabio, Jr., concurring. Rollo (G.R. No. 144518), pp. 80-97.

[4] Records, Vol. VI, p. 2281.

[5] Id. at 2296-3313; Exhibits G, H, I, J, K, M, P and R.

[6] Records, Vol. II, p. 720.

[7] Id. at 1421.

[8] 183 Phil. 176 (1979).

[9] Rollo (G.R. No. 134269), p. 70.

[10] Sec. 2. Time to intervene. - The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.

[11] Rollo (G.R. No. 144518), p. 435.

[12] Otherwise known as the "Uniform Guidelines for the Rezoning of the Metropolitan Manila Area."

[13] Rollo (G.R. No. 144518), p. 194.

[14] Id. at 193.

[15] Id. at 95-96.

[16] Id. at 92.

[17] Boldfaced portion of the above-quoted paragraphs of the Decision of the Office of the President.

[18] Rollo (G.R. No. 144518), pp. 94-95.

[19] Id. at 56.

[20] Id. at 434.

[21] Records, Vol. VII, p. 2894.

- [22] 82 Am. Jur. 2d 79, p. 521.
- [23] Records, Vol. II, p. 943.
- [24] Comment of The Learning Child, Inc. and the spouses Felipe and Mary Anne Alfonso, p. 18; rollo (G.R. No. 144518), pp. 1179-1210.
- [25] 134 Phil. 697 (1968).
- [26] Id. at 700.
- [27] Rollo (G.R. No. 144518), p. 55.
- [28] San Luis v. Court of Appeals, G.R. No. 80160, June 26, 1989, 174 SCRA 258, 271-272.
- [29] First Lepanto Ceramics, Inc. v. Court of Appeals, 323 Phil. 657, 664 (1996), citing Felipe Ysmael, Jr. & Co., Inc. v. Deputy Executive Secretary, G.R. No. 79538, October 18, 1990, 190 SCRA 673, 680.
- [30] Vigan Electric Light Co., Inc. v. Arciaga, 157 Phil. 201, 210 (1974).
- [31] Lichauco v. Court of Appeals, 159 Phil. 737, 747 (1975).
- [32] Ortigas & Co. Limited Partnership v. Feati Bank and Trust Co., supra note 8.
- [33] Id.
- [34] Id.
- [35] Rollo (G.R. No. 134269), p. 70.
- [36] G.R. No. 86774, August 21, 1991, 201 SCRA 13.
- [37] 245 Phil. 347 (1988).
- [38] Records, Vol. V, p. 2103.
- [39] MMC Ordinance No. 81-01, Appendix "C," referred to in Article IV, Section 5 of the same ordinance.
- [40] MMC Ordinance No. 81-01, Appendix "C", referred to in Article IV, Section 5 of the same ordinance.
- [41] Ortigas & Co. Limited Partnership v. Feati Bank and Trust Co., supra note 8 at 189.
- [42] Co v. Intermediate Appellate Court, supra note 37 at 354.
- [43] Presley v. Bel-Air Village Association, Inc., supra note 36 at 20.
- [44] TLC and the spouses Alfonso's Memorandum, pp. 25-26; rollo, Vol. II (G.R. No. 134269), pp. 2512-2513.
- [45] Id. at 26; id. at 2513.
- [46] Id. at 30-31; id. at 2517-2518, quoting TSN, January 20, 1995, pp. 7-9.
- [47] Id. at 31; id. at 2518, quoting Exhibit F.
- [48] Lopez v. Court of Appeals, 446 Phil. 722, 741 (2003).
- [49] Kalalo v. Luz, 145 Phil. 152, 161 (1970).
- [50] Exhibit 2.

[51] Id.

[52] Records, Vol. V, p. 1984.

[53] Rule 130, Rules of Court.

[54] Id. at 1990.

[55] Records, Vol. I, pp. 116-117.

[56] Id. at 118-119.

[57] Id. at 120-121.

[58] Id. at 122.

[59] Id. at 123-124.

[60] Id. at 125.

[61] Id. at 126.

[62] Id. at 127.

[63] Id. at 128-129.

[64] Id. at 130.

[65] Id. at 131-135.

[66] Id. at 126.

[67] Id. at 137.

[68] Id. at 138.

[69] Id. at 141.

[70] Id.

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