

**UNITED BF HOMEOWNERS’ ASSOCIATIONS, INC., PETITIONER,
VS. THE BARANGAY CHAIRMAN AND THE SANGGUNIANG
BARANGAY OF BF HOMES PARAÑAQUE, RESPONDENTS.**

G.R. NO. 140092. September 08, 2006

Ponente: CORONA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-140092/>

CORONA, J.:

At bar is an appeal by certiorari, under Rule 45 of the Rules of Court, of the decision of the Regional Trial Court (RTC) of Makati City, Branch 61, in Civil Case No. 94-077,[1] raising pure questions of law on the contending rights of petitioner and respondents over the administration of BF Homes Parañaque Subdivision's multi-purpose hall.

In 1991, then Parañaque Congressman Freddie Webb caused the construction of a multi-purpose hall on an old basketball court in BF Homes Parañaque Subdivision. The old basketball court was one of the original facilities built by the developer, BF Homes Inc. (BFHI). The funds for the construction of the building were taken from Congressman Webb's Countrywide Development Fund. The controversy arose when both petitioner and respondents claimed authority over the administration of the hall.

Due to the parties' conflicting claims, petitioner protested when respondents installed a fence around the edifice. Petitioner also censured the latter for refusing to seek its prior endorsement before issuing barangay clearances to operate or conduct businesses inside the subdivision.

According to petitioner, since the hall was erected on an "open space" in the subdivision (which had not been turned over to the local government), it remained the private property of the subdivision's developer. As BFHI's representative,[2] it was charged with the administration of the property. It also pointed out that, under Municipal Resolution No. 88-12[3] and Municipal Ordinance No. 97-08[4] passed by the Municipal (now City) Council of Parañaque, its endorsement was necessary before barangay clearances could be given to applicants for business licenses within the subdivision.

Respondents, on the other hand, invoked RA 7160 or the Local Government Code of 1991 as the source of their authority to administer the hall and to issue barangay clearances even without petitioner's prior endorsement.

When efforts to settle the dispute proved futile, petitioner filed a petition for mandamus with prayer for injunction against then Barangay Chair Helen Moreno, Kagawad Frederick Alegre, Ederlina Wenceslao and Dolores Escobar, and Sanggunian Kabataan Chair Rachel Rosel to enjoin them from administering the hall. This case was originally filed before the RTC of Makati City, Branch 64, but it was later re- raffled to Branch 61.[5]

Before the trial court, the parties stipulated on the following issues for resolution, namely: (1) who, between petitioner (as plaintiff there) and respondents (as defendants), had the right to administer the multi-purpose hall and (2) whether petitioner's endorsement was necessary before respondents could issue barangay clearances to applicants for business permits inside the subdivision.

In a decision dated April 11, 1996, the trial court denied the petition and upheld respondents' right under RA 7160.[6]

Petitioner filed a motion for reconsideration (MR). While the MR was pending resolution, a new set of barangay officials was elected in 1994, hence, petitioner filed a new motion for the issuance of a preliminary injunction to restrain them from further carrying out the policy of their predecessors. When the new officials manifested to the court that they were adopting the position of their predecessors on the above-mentioned issues, the petition was amended to implead them.[7] A similar amendment was made after the 1997 barangay elections.[8]

On June 5, 1998, the trial court recalled its April 11, 1996 decision and declared respondents in default for failing to file responsive pleadings. It also allowed petitioner to present its evidence *ex parte*.

On September 17, 1998, the trial court found no legal basis to enjoin the barangay officials from performing acts of administration over the disputed hall and accordingly dismissed the amended petition:

The prevailing law in the instant case is [RA 7160], Section 391, paragraph [a] (7), quoted as follows:

(7) regulate the use of the multi-purpose halls, multi-purpose pavements, grain or copra dryers, patios and other post harvest facilities, barangay waterworks, barangay markets, parking area or other similar facilities constructed with government funds within the jurisdiction of the barangay and charge reasonable fees for the use thereof.

The homeowners recognize the authority of the municipal government of Parañaque and its power to regulate the issuance of license and as a government authority and therefore it cannot refuse to recognize the authority of the Barangay which is now the authority within the Barangay.[9]

Petitioner moved for reconsideration in vain.[10]

Petitioner went to this Court directly raising the following legal issues: (1) whether PD 957,[11] as amended by PD 1216,[12] had been repealed by RA 7160; (2) whether petitioner had the exclusive right to administer the subject multi-purpose hall and (3) whether petitioner's (prior) endorsement was necessary before a barangay business clearance could be issued by respondents.[13]

Before anything else, lest the Court be accused of giving its imprimatur to an illegal act, it should be pointed out that the construction of the hall in the "open space" was prohibited by law. The second paragraph of Section 31 of PD 957, as amended by PD 1216, categorically provides:

Section 31. Roads, Alleys, Sidewalks and Open Spaces. - x x x

[Open spaces] shall be non-alienable public lands, and non-buildable. x x x (emphasis supplied)

Thus, no structure or edifice should have been built on the old basketball court as it was an area declared and reserved by law as an "open space" in BF Homes Subdivision.

However, since both parties did not question the legality of the construction and continued presence of the hall in the "open space" and, considering the impracticality of ordering at this point its demolition or removal, the parties are *pro hac vice* deemed estopped from impugning it.

We now address the issues raised by petitioner.

The first issue was not raised in the proceedings in the lower court. As a rule, an issue raised for the very first time on appeal should not be allowed.[14] Petitioner, however, contends that the resolution of the first issue is necessary to resolve the case. We do not see the point of petitioner.

Except for providing the definition of "open space,"[15] petitioner fails to cite any clear-cut basis why the Court should disregard the above rule. Neither does it provide a cogent explanation why this Court should rule that RA 7160 supposedly repealed PD 957, as amended by PD 1216. At any rate, no irreconcilable inconsistency appears in both laws that will force us to uphold one and strike down the other.

To our mind, the critical point in this case is who, between petitioner and respondents, has the authority to administer the hall built with government funds on an "open space" owned by a private entity.

Petitioner anchors its right to administer the hall on the fact that the land on which it stands belongs to BFHI. In other words, petitioner invokes in its favor the civil law principle that the accessory follows the principal.

No doubt, BFHI is the owner of the "open space." [16] However, it does not necessarily follow that petitioner should be charged with the administration of the hall. Acts of administration, as opposed to acts of ownership, [17] pertain solely to management or superintendence. They do not necessarily pivot on ownership.

Be that as it may, petitioner's right as owner's representative to use and enjoy the "open space" is not absolute but may be subjected to reasonable regulation by the government. In this regard, RA 7160, Section 391(a)(7) is pertinent:

SECTION 391. Powers, Duties, and Functions.â”€

(a) The sangguniang barangay, as the legislative body of the barangay, shall:

xxx xxx xxx

(7) regulate the use of the multi-purpose halls, multi-purpose pavements, grain or copra dryers, patios and other post harvest facilities, barangay waterworks, barangay markets, parking area or other similar facilities constructed with government funds within the jurisdiction of the barangay and charge reasonable fees for the use thereof. (emphases ours)

Based on the foregoing, it is respondents, not petitioner, who enjoy the authority to administer the hall. Although the building was erected on an "open space" owned by BFHI, there is no doubt that the cost of its construction was sourced from government funds. Thus, the hall falls within the ambit of respondents' jurisdiction. The law is clear and unambiguous, hence, it must be taken to mean exactly what it says and the court has no choice but to see to it that its mandate is obeyed. [18]

Furthermore, while it may be gainsaid that PD 957, as amended by PD 1216, is the relevant law governing subdivisions and that, under said law, the maintenance of the "open space" pertains to the residents thereof, [19] the Court nevertheless still cannot award the administration of the hall to petitioner. As the records indicate, the case does not involve merely the maintenance of the "open space" but of the hall itself that was built with government funds.

We likewise cannot sustain petitioner's stand that RA 7160, Section 391 (a)(7) applies only to multi- purpose halls accessible to the public in general and not to those which cater to an exclusive segment such as the homeowners or residents of a subdivision. Well-recognized is the rule in statutory construction that where the law does not distinguish, neither should the courts distinguish *ubi lex non distinguit, nec nos distinguere debemus*. [20]

A close reading of Section 391(a)(7) shows that the legislature did not intend to make such a distinction. Therefore, we cannot make any valid inference therefrom that the hall is different from the other multi-purpose halls referred to in the provision. The Court cannot read into the law something which was not intended by the legislature lest it be accused of encroaching on the latter's law-making power. [21]

Notwithstanding the foregoing discussion, this Court wishes to emphasize that the authority of respondents over

the hall is purely administrative in nature. They cannot exercise any act of ownership over it, especially its surrounding areas. Thus, respondents erred in constructing a fence on the areas adjoining the hall as these are already part of the "open space" (required by law) and which are therefore no longer under their jurisdiction or authority. Moreover, since respondents have shown no proof that the fence serves any purpose ancillary to their right to regulate the hall, we are constrained to strike down respondents' act as ultra vires or in excess of their mandated authority under RA 7160.

On the issue of whether petitioner's endorsement is necessary before the issuance of a barangay clearance, we rule in favor of petitioner. Under the local legislations passed by the then Municipal Council of Parañaque, Municipal (City) Resolution No. 88-12[22] and Municipal (City) Ordinance No. 97-08,[23] respondents must first obtain petitioner's prior endorsement. These issuances are in effect to this date. Respondents themselves did not present any evidence to the contrary, hence, their acquiescence thereto may be safely implied.

Furthermore, the required endorsement of petitioner cannot be negated by respondents' argument that RA 7160, Section 152(c)[24] vests on

them the exclusive right to issue said clearances. Respondents' authority to issue barangay clearances under Section 152(c) is clear. But that is not the point.

What concerns us here is the question of whether petitioner's prior endorsement is necessary before a barangay business clearance is issued, not who has the power to ultimately issue such clearance.

Lastly, we find no inconsistency between Section 152(c) of RA 7160 and the local legislations passed by the then Municipal Council of Parañaque. In fact, they only made more evident the authority split between petitioner and respondents to, on one hand, endorse applications for and, on the other, issue barangay clearances within the subdivision.

WHEREFORE, the petition is hereby partially GRANTED. Respondents are hereby directed to (1) seek petitioner's endorsement before issuing barangay clearances to applicants of business permits and (2) desist from acts of ownership over the "open space" on which the multi-purpose hall stands.

No costs.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

[1] A petition for mandamus with prayer for injunction entitled United BF Homeowners' Associations, Inc. v. Barangay Chairman Helen Moreno, et al.

[2] Evidenced by a letter from BFHI recognizing petitioner as the official representative of all homeowners/residents in the contiguous area of BF Homes Parañaque. Rollo, p. 74.

[3] Id., p. 45.

[4] Id., p. 48.

[5] Judge Delia Panganiban of RTC of Makati City, Branch 64 inhibited herself from trying the case, hence, the case was re-raffled to Branch 61.

[6] Decided by Judge Fernando V. Gorospe, Jr., rollo, pp. 141-143.

[7] Those who were impleaded in the amended petition were Barangay Chair Florencia N. Amurao and Kagawad Remedios Soria, Estrella Guloy, Ernesto Quijano, Pedro Rojas, Dante Verona, Delia Hidalgo and Frederick Alegre.

[8] Those who were impleaded were Barangay Chair Florencia N. Amurao and Kagawad Ernesto Quijano, Delia Hidalgo, Pedro Rojas, Jonathan Espino, Joseph Bargo and Jaime Lazaro.

[9] Decided by Judge Fernando V. Gorospe, Jr., rollo, pp. 8-11.

[10] RTC Order dated July 1, 1999, id., pp. 13-14.

[11] Regulating the Sale of Subdivision Lots and Condominiums Providing Penalties for Violations Thereof.

[12] Defining "Open Space" in Residential Subdivision and Amending Section 31 of Presidential Decree No. 957 Requiring Subdivision Owners to Provide Road, Alleys, Sidewalks and Reserve Open Space for Parks or Recreational Use.

[13] Petition, rollo, p. 33.

[14] Gualberto, et al. v. Go, G.R. No 139843, 21 July 2005, 463 SCRA 671.

[15] The term "open space" shall mean an area reserved exclusively for parks, playgrounds, recreational use, schools, roads, places of worship, hospital, health centers, barangay centers and other similar facilities and amenities.

[16] In the 1998 case of White Plains Homeowners Association, Inc. v. Court Appeals, the Court confirmed that reserved areas (or "open spaces") in subdivisions belong to the owner thereof until donated to the government. The Court further ruled there that the developer or owner may not be compelled to donate these areas, with their improvements, to the local government.

[17] Ownership of a property includes the right to enjoy and dispose the thing owned. Correlatively, the right to enjoy consists: 1) jus utendi or the right to receive from the thing what it produces; 2) jus abutendi or the right to consume the thing of its use; and, 3) jus dispendendi or the right to dispose the thing, or the power of the owner to alienate, encumber, transform and even destroy the thing owned. See Archipelago Management and Marketing Group v. Court of Appeals, G.R. No. 128850, 20 November 1998, 299 SCRA 43.

[18] Philippine Global v. De Vera, G.R. No. 157214, 7 June 2005, 459 SCRA 260.

[19] See 3rd Whereas clause, PD 1216.

[20] Philippine Free Press v. Court of Appeals, G.R. No. 132864, 24 October 2005, 473 SCRA 639.

[21] Rizal Commercial Banking Corp. v. Intermediate Appellate Court, 378 Phil. 10 (1999).

[22] The operative clause of the resolution reads:

"NOW THEREFORE BE IT RESOLVED, AS IT IS HEREBY RESOLVED by the Municipal Council with Parañaque assembled the new application and renewal for license and business permit of establishments in subdivisions shall contain the conformity and consent of the barangay and the president of homeowners' association concerned and in cases where conformity and consent of the homeowners' association is denied, the same can be appealed to the Mayor with a written explanation from the party that denied such request."

[23] Municipal Ordinance No. 97-08, otherwise known as Parañaque Comprehensive Zoning Ordinance, Sections 11.5 and 11.6 provide:

"All permissible usages under this zone for new structures, buildings and/or businesses, if situated within a private subdivision shall secure the following requisites:

- a. Clearance from [H]omeowners [A]ssociation, if any in form of a [B]oard [R]esolution;
- b. Clearance from the [F]ederation of [H]omeowners [A]ssociation, if any in form of a [B]oard [R] esolution;
- c. Barangay Council Resolution xxx before the issuance of any locational clearance, building permits and business license and permit."

[24] Section 152. Scope of Taxing Powers. - The barangays may levy taxes, fees, and charges, as provided in this Article, which shall exclusively accrue to them:

(c) Barangay Clearance. - No city or municipality may issue any license or permit for any business or activity unless a clearance is first obtained from the barangay where such business or activity is located or conducted. xxx

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.