Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

WILLIAM G. KWONG MANAGEMENT, INC. and WILLIAM G. KWONG,
Petitioners,

-versus-

DIAMOND HOMEOWNERS & RESIDENTS ASSOCIATION,
Respondent.

G.R. No. 211353

Present:

PERALTA, *J., Chairperson,*
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, *JJ.*

Promulgated:
June 10, 2019

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DECISION

LEONEN, *J.*:

A homeowners' association may regulate passage into a subdivision for the safety and security of its residents, even if its roads have already been donated to the local government. It has the right to set goals for the promotion of safety and security, peace, comfort, and the general welfare of its residents.[1]

This Court resolves the Petition for Review on Certiorari[2] assailing the Court of Appeals' July 5, 2013 Decision[3] and February 12, 2014 Resolution[4]

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1 *Bel Air Village Association, Inc. v. Dionisio*, 256 Phil. 343 (1989) [Per J. Gutierrez, Jr., Third Division].

2 *Rollo*, pp. 38–54.

in CA-G.R. SP No. 115198. The Court of Appeals set aside the Office of the President's March 24, 2010 Decision[5] and found the "No Sticker, No ID, No Entry" Policy valid and issued within the authority of the homeowners' association.

Diamond Subdivision is a residential subdivision in Balibago, Angeles City, Pampanga with several commercial establishments operating within it. These establishments include beer houses, karaoke bars, night clubs, and other drinking joints.[6]

Because of these, patrons, customers, and many other people freely come in and out of Diamond Subdivision. Such unrestricted access to the subdivision, however, also exposed its residents to incidents of robbery, *akyat-bahay*, prostitution, rape, loud music, and noise that would last until the wee hours of the morning.[7]

Diamond Homeowners & Resident Association (Diamond Homeowners), the legitimate homeowners' association of Diamond Subdivision, sought to address the residents' peace and security issues by raising their concerns to the City Council of Angeles City (Angeles City Council).[8]

On February 24, 2003, the Angeles City Council issued Ordinance No. 132,[9] series of 2003, reclassifying Diamond Subdivision as exclusively residential and prohibited the further establishment and operation of any business except for those already existing.[10] The Ordinance states:

> Whereas, legitimate homeowners of the Diamond Subdivision have presented to the City Council their serious concern on what is presently occurring in their subdivision;
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> Whereas, with the present classification of Diamond Subdivision constant problems of peace and order have confronted the homeowners and residents affecting their lives, property and security;

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3 Id. at 12–27. The Decision was penned by Associate Justice Agnes Reyes-Carpio, and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Priscilla J. Baltazar-Padilla of the Special Eighth Division, Court of Appeals, Manila.

4 Id. at 29–32. The Resolution was penned by Associate Justice Agnes Reyes-Carpio, and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Priscilla J. Baltazar-Padilla of the Former Special Eighth Division, Court of Appeals, Manila.

5 Id. at 110–115. The Decision, in O.P. Case No. 09-D-151, was signed by Deputy Executive Secretary for Legal Affairs Natividad G. Dizon, by authority of the Executive Secretary of the Office of the President.

6 Id. at 13.

7 Id.

8 Id.

9 Id. at 81.

10 Id. at 13.

> Whereas, the introduction of business establishments in an uncontrolled manner have likewise proliferated due to the current classification of the subdivision;
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> Whereas, due to the R-2 classification of Diamond Subdivision the value of property have not increase[d], despite its strategic location;
>
> Whereas, there is an urgent need to address all the concern[s] of the homeowners and residents of Diamond Subdivision;
>
> Whereas, the appropriate and immediate solution to the present concerns is the reclassification of Diamond Subdivision from Residential 2 to Residential 1 Classification.
>
> Now therefore foregoing considered, the City Council of Angeles City in session assembled hereby resolved to ordain:
>
> Section 1. An Ordinance reclassifying Diamond Subdivision located in Balibago, Angeles City from Residential 2 to Residential 1 Classification status, be as it is hereby, approved.
>
> Section 2. Arayat and S.L. Orosa Streets and the service road of Diamond Subdivision are exempted from this new classification.
>
> Section 3. That existing and legitimate business establishments operating within the territorial boundaries of the said Diamond Subdivision as of approval of the ordinance shall remain and continue to operate and no commercial establishment of any kind shall be allowed thereafter.
>
> Section 4. Unless by hereditary succession no business establishment rights shall be transferred to any individual or entity after approval of this ordinance.
>
> Section 5. This Ordinance shall take effect upon its approval.[11]

However, this Ordinance was not complied with as more beer gardens and nightclubs were still put up. The peace, order, and security situation in the subdivision did not improve.[12]

Among those affected was William G. Kwong (Kwong). A resident of Diamond Subdivision for more than 38 years, he runs three (3) motels[13] in the subdivision under his company, William G. Kwong Management, Inc.[14]

Seeking to address his security concerns, Kwong proposed to his neighbors that guard posts with telephone lines be set up at the entry and exit

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11 Id. at 81.
12 Id. at 13.
13 Id. These are the Diamond Lodge, Rainbow Apartelle, and Balibago Village Hotel.
14 Id.

points on the street where he resides to screen all incoming and outgoing visitors.[15] In an August 3, 2006 Letter, Kwong wrote:

> TO THE RESIDENTS OF EMMANUEL STREET
> Diamond Subdivision, Balibago
> Angeles City
>
> Dear MR/MS _____,
>
> In direct response to a sharp increase in criminal activities in our subdivision, a number of which have remained unreported, I would like to ask your approval and cooperation on a number of proposals, which I outlined below, for our own protection and safety:
>
> 1. To put up security gates on both entry/exit points of Emmanuel Street.
>
> 2. To permanently seal off the proposed gate at Emmanuel Street corner V.Y. Orosa Street.
>
> 3. To engage the services of two security guards to man the gate 24 hours a day at Emmanuel Street corner Marlim Avenue.
>
> 4. To install a telephone line at the guard's booth to screen all incoming and outgoing visitors and outsiders. The guard will have to call the residents for approval before he lets anyone in.
>
> With regard to the costs of this project, I am willing to shoulder the cost of the two security gates and one-half (1/2) of the monthly security and telephone fees, which amounts to approximately Nine Thousand Pesos (PhP9,000.00). In support of this project, I would like to request the residents to shoulder the remaining one-half (1/2) of the monthly costs of security and telephone fees, which also amounts to approximately Nine Thousand Pesos (PhP9,000.0[0]) for 15 household or Six Hundred Pesos (PhP600.00) a month per household.
>
> It is with the sense of cooperation and solidarity that I ask you to consider this project for the security and safety of our family.
>
> Thank you for most (*sic*) kind attention and understanding.[16]

However, the other residents of Diamond Subdivision also wanted their security concerns addressed. Thus, to safeguard the whole subdivision, Diamond Homeowners proposed the "No Sticker, No ID, No Entry" Policy (the Policy).[17]

Under the Policy, visitors on vehicles who sought to enter the premises must leave with the subdivision guards their identification cards,

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15 Id.
16 Id. at 164.
17 Id. at 13.

which they may reclaim upon leaving the subdivision. Visitors on foot were not required to surrender theirs. Meanwhile, residents with vehicles may obtain stickers to identify themselves so that they did not need to surrender any identification card.[18]

After consultations and meetings, the Policy was approved in December 2006. Diamond Homeowners later issued a Memorandum to inform residents that the Policy would be implemented by March 15, 2007.[19]

Kwong, however, contested the Policy.

When Diamond Homeowners did not heed his objection, Kwong filed before the Housing and Land Use Regulatory Board Regional Office a Complaint for the issuance of a cease and desist order with application for a temporary restraining order. He argued that the Policy was invalid because the subdivision roads have been donated to the City of Angeles in 1974 and were, thus, public roads that must be open for public use. Likewise, he contended that the screening of visitors would be cumbersome for his customers, affecting his businesses.[20]

Ruling in Kwong's favor, the Housing and Land Use Regulatory Board Regional Office issued a Cease and Desist Order and a Temporary Restraining Order. The records were later forwarded to the Housing and Land Use Regulatory Board Arbiter for final disposition.[21]

In his August 10, 2007 Decision,[22] the Housing and Land Use Regulatory Board Arbiter lifted the Cease and Desist Order and dismissed Kwong's Complaint. He ruled that the Policy's alleged damage to Kwong's business was "imaginary, unsubstantiated[,] and hypothetical[.]"[23]

The Arbiter further held that the protection and security of Diamond Subdivision's residents were the primary and utmost concern, and must be prioritized over the convenience of motel patrons.[24] He ruled that the Policy's objective to protect the community at large was far greater than Kwong's business concerns.[25]

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18 Id. at 14.
19 Id. at 13–14.
20 Id. at 14.
21 Id. at 15.
22 Id. at 96–101. The Decision was penned by Housing and Land Use Arbiter Pher Gedd B. de Vera, and approved by Regional Officer, RFO-III Editha U. Barrameda.
23 Id. at 100.
24 Id.
25 Id. at 101.

Upholding the Policy's validity, the Arbiter found that it neither prohibited nor impaired the use of the roads. Neither did it change the classification of the roads nor usurp the government's authority. Moreover, the roads were still for public use, and the public was still allowed to pass as long as they presented identification cards. The Arbiter noted that there was no evidence showing that persons were being refused access or asked to pay for its use.[26]

On appeal before the Board of Commissioners of the Housing and Land Use Regulatory Board, the Arbiter's ruling was reversed. In its September 12, 2008 Decision,[27] the Board of Commissioners found merit in Kwong's appeal and declared the Policy void for being "unjustifiable and without legal basis."[28]

In subjecting the subdivision roads to the Policy, the Board of Commissioners found that they were turned into private roads—inaccessible, not open to the public, and under the control of Diamond Homeowners. It also ruled that Kwong and William G. Kwong Management, Inc. have already acquired a vested right to unrestricted passage through the subdivision roads since 1974 because they owned the subdivision lots and because the public use of the roads is guaranteed by law. It found that to limit or impose pecuniary conditions for their enjoyment over the roads violates the roads' public character.[29]

The Board of Commissioners also ruled that the Policy must be justified by an issue so serious and overwhelming that it is prioritized over the lot owners' rights. Diamond Homeowners, it found, failed to present evidence of peace and security issues within the subdivision.[30]

The Office of the President, in its March 24, 2010 Decision,[31] affirmed the Board of Commissioners' Decision *in toto*. It noted that the factual findings of the Housing and Land Use Regulatory Board, as the administrative agency with the technical expertise on the matter, were entitled to great respect.[32]

Hence, Diamond Homeowners elevated the case to the Court of Appeals via a Petition for Review.[33]

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26 Id.

27 Id. at 102–107. The Decision was signed by Ex-Officio Commissioners Austere A. Panadero and Pamela B. Felizarta, and Commissioner Arturo M. Dublado of the First Division, Housing and Land Use Regulatory Board, Quezon City.

28 Id. at 106–107.

29 Id. at 105–106.

30 Id.

31 Id. at 110–115.

32 Id. at 114.

33 Id. at 12.

In its July 5, 2013 Decision,[34] the Court of Appeals granted Diamond Homeowners' Petition and set aside the Office of the President's Decision.[35] It found that Diamond Homeowners was authorized in enacting the Policy.[36]

The Court of Appeals ruled that while the local government acquires ownership rights, these rights should be harmonized with the interests of homeowners who invested life savings in exchange for special amenities, comfort, and tighter security, which non-subdivisions did not offer.[37]

The Court of Appeals found that the State recognized this interest in Presidential Decree No. 957, as amended by Presidential Decree No. 1216, and recently in Republic Act No. 9904, or the Magna Carta for Homeowners and Homeowners' Associations.[38]

The Court of Appeals noted that Presidential Decree No. 957, as amended by Presidential Decree No. 1216, required the donation of subdivision roads to the local government. While the issuance was silent on regulating access to subdivision roads, it found that the requirement was imposed to benefit homeowners, amid subdivision developers who tended to fail in maintaining the upkeep of subdivision roads, alleys, and sidewalks.[39] It cited *Albon v. Fernando*,[40] which explained that subdivision owners or developers were relieved of maintaining roads and open spaces once they have been donated to the local government.[41]

Likewise, the Court of Appeals noted the Magna Carta for Homeowners and Homeowners' Associations, under which homeowners were given the right to organize to protect and promote their mutual benefits and the power to create rules necessary to regulate and operate the subdivision facilities.[42] Section 10(d) provided homeowners' associations the right to regulate access to and passage through the subdivision roads to preserve privacy, tranquility, internal security, safety, and traffic order.[43]

The Court of Appeals further noted that the law did not distinguish between roads donated to the local government and those retained by the subdivision owners or developers. This showed that while the local

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34 Id. at 12–27.
35 Id. at 26.
36 Id. at 22.
37 Id. at 21.
38 Id. at 21–22.
39 Id. at 19 and 22.
40 526 Phil. 630 (2006) [Per J. Corona, Second Division].
41 *Rollo*, pp. 20–21.
42 Id. at 21.
43 Id. at 22 *citing* Republic Act No. 9904 (2010), sec. 10(d).

government had ownership of subdivision roads, homeowners' associations maintained their enjoyment, possession, and management.[44]

Likewise, the Court of Appeals held that the Policy was reasonably exercised.[45] It ruled that Ordinance No. 132 was sufficient to show that Diamond Subdivision was encountering peace, order, and security problems, as it explicitly stated that the subdivision was confronted with such issues affecting the residents and homeowners. As a public document, it is *prima facie* evidence of facts stated in it.[46] The Court of Appeals further found that the City of Angeles would not have approved Ordinance No. 132 had it not been substantiated by these facts.[47]

Moreover, the Court of Appeals held the Policy reasonable because its purpose was to secure and ensure the peace, safety, and security of homeowners and residents. It found that not only was the Policy supported by 314 Diamond Homeowners members, but that only Kwong opposed it, and he himself recognized the security concerns when he had proposed to set up gates at the entry and exit points on the street where he resides.[48]

The Court of Appeals further found that even if Kwong's proprietary rights may be affected, it is still his duty as a Diamond Homeowners member to support and participate in the association's projects. Likewise, it held that his personal interests may be limited for the promotion of the association's goals for the community at large.[49]

The dispositive portion of the Decision read:

> **WHEREFORE**, premises considered, the instant petition is **GRANTED**. The Decision of the Office of the President dated March 24, 2010 and its Order dated June 10, 2010 are hereby **SET ASIDE.** Accordingly, the complaint for the issuance of a cease and desist order plus damages with application for temporary restraining order filed before the House (*sic*) and Land Use Regulatory Board Region III is hereby **DISMISSED.**
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> **SO ORDERED.**[50] (Emphasis in the original)

The Court of Appeals denied Kwong's Motion for Reconsideration in its February 12, 2014 Resolution.[51]

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44 Id.
45 Id. at 23
46 Id. at 24.
47 Id. at 25.
48 Id. at 26.
49 Id.
50 Id.
51 Id. at 29–32.

Hence, Kwong and William G. Kwong Management, Inc. filed this Petition.[52]

Diamond Homeowners filed a Comment[53] and, in turn, petitioners filed their Reply.[54]

The parties later submitted their respective Memoranda.[55]

Petitioners insist that the Policy is invalid.

They assert that the subdivision roads are public roads for public use, and outside the commerce of man, having been donated to the Angeles City government since 1974.[56] They maintain that access to and use of Diamond Subdivision roads should be open to the general public, not limited to privileged individuals.[57] They point out that these roads cannot be alienated, leased, be the subject of contracts, be acquired by prescription, be subjected to attachment and execution, be burdened by any voluntary easement, or be under the control of private persons or entities, including homeowners' associations.[58]

Petitioners further argue that the Policy is an unauthorized restriction on the use of public roads as it unduly converts them to private roads, hinders their accessibility from the public, and subjects them under the exclusive control of Diamond Homeowners.[59]

Petitioners insist that it is the City of Angeles that has the power to control and regulate the use of roads.[60] As such, they argue that Diamond Homeowners should have had the city government address its concerns.[61]

Petitioners contend that the Local Government Code has conferred local government units with the authority to regulate the use of public roads and ensure protection and promotion of public welfare,[62] well before the

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52 Id. at 38–54.
53 Id. at 158–162.
54 Id. at 170–182.
55 Id. at 226–246, petitioners' Memorandum, and 189–206, Diamond Homeowners' Memorandum.
56 Id. at 233.
57 Id. at 241–242.
58 Id. at 236.
59 Id. at 241–242.
60 Id. at 233. Petitioners cite LOCAL GOVT. CODE, secs. 16, 21 and 458(a)(5)(v).
61 Id. at 241.
62 Id. at 236.

Magna Carta for Homeowners and Homeowners' Associations was enacted.[63]

Petitioners claim that the local governments' power to regulate roads cannot be exercised by a private entity. To do so would be a usurpation of the local government's authority, and an illegal abdication of power on the part of the latter. Thus, they posit that, to their and the public's prejudice, the Policy disregards the primary right, power, and authority of the City of Angeles to regulate the use of the public roads.[64]

Petitioners further insist that nothing in Presidential Decree Nos. 957 and 1216 or in *Albon*, which the Court of Appeals relied on, gives homeowners' associations the authority to regulate the use of subdivision roads that have already been donated to the local government.[65]

Petitioners also contend that since the Policy was issued before the Magna Carta for Homeowners and Homeowners' Associations, it should not apply retroactively.[66] In any case, they assert that the law did not give homeowners' associations absolute and unbridled power to regulate the use of subdivision roads. They cite Section 10(d), which lists the requisites that limit a homeowners' association's rights and powers,[67] showing that its power is merely delegated and conditional. A homeowners' association cannot arrogate unto itself the power to issue the Policy or limit or prevent the free use of public roads without complying with the law's requisites, as it would be *ultra vires*.[68]

Petitioners point out that because respondent failed to comply with the requisites under Section 10(d),[69] it violated the law.[70] They claim that the required public consultations must include the general public who use the public road, and should not be limited to the subdivision residents or the homeowners' association members. They argue that it should be done the same way public hearings are conducted by the Sangguniang Panlungsod before the enactment of an ordinance or resolution. [71]

Petitioners further allege that no authority from or memorandum of agreement with the City of Angeles was obtained. They maintain that Ordinance No. 132 cannot be treated as the required memorandum of

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63 Id. at 235.
64 Id. at 236.
65 Id. at 232 and 235.
66 Id. at 237.
67 Id.
68 Id. at 238.
69 Id. at 237.
70 Id. at 238.
71 Id. at 237–238.

agreement because it made no mention of the Policy. They argue that a separate ordinance is necessary to comply with the requirements.[72]

Petitioners further allege that while Ordinance No. 132 reclassified Diamond Subdivision as exclusively residential, it still expressly exempted Arayat and S.L. Orosa Streets and the service road from the classification. The ordinance, they point out, also recognized that the existing businesses have acquired a vested right to operate within the subdivision as it allowed them to continue their operations.[73]

Petitioners also cite Sections 2 and 18 of the Magna Carta for Homeowners and Homeowners' Associations, which provide that homeowners' associations are encouraged to actively cooperate with the local government unit to pursue common goals and provide vital and basic services. They claim that to perform this mandate, the homeowners' association should not disregard the law that gives them the power to regulate roads.[74]

Petitioners contend that if the provisions of the Local Government Code and the Magna Carta for Homeowners and Homeowners' Associations were to be harmonized, it is the local government unit that has the primary right and power to regulate the use of the public roads. Homeowners' associations only have limited, delegated power, which may only be exercised upon compliance with the conditions in the law.[75]

Moreover, petitioners deny that there are security concerns within the subdivision. They claim that the Policy was enacted based on a speculative, conjectural, and negative exaggeration of the actual situation, as there is no single evidence of an actual crime committed.[76] Likewise, they submit that Ordinance No. 132 cannot be considered as competent evidence of the alleged criminality in the subdivision.[77]

Finally, petitioners argue that the Housing and Land Use Regulatory Board has the technical expertise and special competence on matters involving the business of developing subdivisions and condominiums. Thus, its factual findings should be respected.[78]

On the other hand, respondent insists that the Policy is valid.

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72 Id. at 47 and 238.
73 Id. at 228.
74 Id. at 238–239.
75 Id. at 241.
76 Id. at 242.
77 Id. at 47.
78 Id. at 242–243.

In its Memorandum, respondent asserts it has the right and authority to issue the Policy under Section 10(d) of the Magna Carta for Homeowners and Homeowners' Associations. It insists that it issued the Policy to preserve "privacy, tranqui[l]ity, internal security[,] safety[,] and traffic order."[79]

Respondent further cites Section 30 of Presidential Decree No. 957, which mandates subdivision associations to promote and protect the mutual interests of homeowners, and Section 5 of the Rules on Registration and Supervision of Homeowners Association, which empowers homeowners' associations to adopt rules and regulations, and to exercise other powers necessary to govern and operate the association. It argues that this right and authority applies even if the subdivision roads have been donated to the local government.[80]

Respondent points out that it issued the Policy to only regulate the use of roads and streets inside Diamond Subdivision. It neither recategorized them as private property nor exercised acts of private ownership over them. It emphasizes that the roads are still public roads, open for public use.[81]

Respondent claims that subdivision owners were required to donate their roads to the local government primarily to protect and benefit the residents themselves, as some developers would lose interest in maintaining the subdivision's upkeep.[82] They claim that no law puts the exclusive authority to control, dispose, and enjoy the roads to local government units, to the exclusion of the homeowners, especially since the donation was intended for the latter's benefit. Moreover, no law denies associations their right to regulate open spaces and roads within their subdivisions.[83]

Respondent argues that the Court of Appeals correctly ruled that while the local government units own the lots, their enjoyment, possession, and management are retained by the homeowners and their association.[84]

Respondent further asserts that there was a valid reason for the Policy's adoption.[85] It was not a whimsical exercise of authority to exclude the public from using the roads, but an effort to attain peace and order within the subdivision.[86]

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79 Id. at 198.
80 Id. at 198 and 202.
81 Id. at 198.
82 Id.
83 Id. at 199.
84 Id.
85 Id.
86 Id. at 199–200.

Respondent emphasizes that the Policy was applied because the public's uncontrolled and unrestricted passage into the subdivision has made crimes rampant within it. It asserts that the situation has caused its residents fear, discomfort, and disquiet.[87]

Respondent argues that while the Angeles City Council recognized issues of peace and order in Ordinance No. 132,[88] its intervention was not sufficient to abate the recurring crimes.[89]

Respondent narrates that after the residents of the subdivision clamored for action, it studied and sought advice from other subdivisions in Angeles City that implemented the same Policy, as they had minimal security problems within their subdivision. Respondent alleges that when the Policy was approved by 314 legitimate residents[90] and implemented, the crimes decreased as it was able to deter lawless elements.[91] Thus, the Policy has improved the peace and order of the subdivision.[92]

Respondent points out that only petitioner Kwong questioned the policy, even if he recognized the crime and disorder issue himself. It points out that prior to the Policy, he was willing to shoulder the cost of putting up security gates on both the entry and exit points of the street where he resides to prohibit bypassers.[93] He even sought to block those who do not live on his street, whether or not the person was a Diamond Subdivision resident.[94] It is, therefore, contradictory for him to oppose the more reasonable solution of implementing the Policy in the entire subdivision.[95]

Respondent further argues that under the Magna Carta for Homeowners and Homeowners' Associations, subdivision residents are duty bound to support and participate in the association's projects and activities, especially if the project is supported by 314 members, with petitioner Kwong as the only opposition.[96]

Respondent further maintains that every person's right to life, property, and security is constitutionally protected. The Policy, thus, is a reasonable means to ensure that these rights are guarded, especially since the local police were unable to stop the threats to it.[97]

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87 Id. at 196.
88 Id. at 200.
89 Id. at 196.
90 Id. at 193.
91 Id. at 194.
92 Id. at 203.
93 Id. at 201.
94 Id. at 203.
95 Id.
96 Id.
97 Id.

Respondent further posits that petitioner Kwong's ownership and personal or business interests may be limited for the interests of the community at large. Such interests cannot defeat the association's right to regulate and administer the use of the roads inside the subdivision, in accordance with existing laws and regulations, and for the welfare of the homeowners and residents of Diamond Subdivision.[98]

Respondent asserts that entry to the subdivision was not confined to privileged individuals, and that it exercised no discrimination in the Policy's implementation.[99] The regulations, it alleges, were not so rigid as to make it difficult for the riding public to comply with.[100] It further points out that the roads within Diamond Subdivision are not the main entry and exit points to the highway or main roads of Angeles City.[101]

Respondent, thus, claims that it is actually working hand in hand with the City of Angeles in protecting the lives, property, and security of its residents from lawless elements.[102]

Lastly, respondent denies that the Court of Appeals disregarded the special competence of the lower administrative bodies. It points out that the Housing and Land Use Regulatory Board Arbiter even ruled in its favor and found the Policy to be justified.[103]

This Court resolves the following issues:

First, whether or not the factual findings of the Housing and Land Use Regulatory Board are entitled to respect;

Second, whether or not the security concerns within Diamond Subdivision were established; and

Finally, whether or not respondent Diamond Homeowners & Residents Association was authorized in issuing the "No Sticker, No ID, No Entry" Policy despite the roads having been donated to the local government.

This Court denies the Petition.

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98 Id.
99 Id. at 201.
100 Id. at 202.
101 Id. at 201.
102 Id. at 202.
103 Id. at 204.

I

Petitioners argue that the factual findings of the Housing and Land Use Regulatory Board should be respected as it is the agency with the technical know-how on matters involving the development of subdivisions.[104] Respondent, however, denies that the agency's special competence was disregarded, pointing out that even the Housing and Land Use Regulatory Board Regional Office found that the Policy was justified.[105]

Petitioners are correct that the factual findings of administrative agencies with special competence should be respected if supported by substantial evidence.[106] However, this Court finds that the Housing and Land Use Regulatory Board's findings were not disregarded.

To begin with, the proper procedure was followed. The matter was brought before the Housing and Land Use Regulatory Board, which exercised jurisdiction and ruled on the merits of the case. The appellate process then took place from the Housing and Land Use Regulatory Board Arbiter to the Board of Commissioners, to the Office of the President, to the Court of Appeals, and now, to this Court.

However, because the factual findings of the Housing and Land Use Regulatory Board Arbiter and the Board of Commissioners are conflicting, they cannot be deemed conclusive as to preclude any examination on appeal.

On one hand, the Arbiter found that the Policy did not prohibit or impair the use of the roads.[107] He noted that there was no evidence showing that persons were being refused access or asked to pay for its use.[108] He also found no evidence of any damage to petitioners' business. He lent credence to respondent's allegation that there was a need for the protection and security of its residents, which must be prioritized over the convenience of motel patrons.[109] These findings were affirmed by the Court of Appeals.

On the other hand, the Board of Commissioners and the Office of the President ruled that there was no evidence of peace and security issues within Diamond Subdivision. It held that subjecting the subdivision roads to

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104 Id. at 242–243.
105 Id. at 204.
106 *Villaflor v. Court of Appeals*, 345 Phil. 524, 559 (1997) [Per J. Panganiban, Third Division].
107 *Rollo*, p. 15.
108 Id. at 101.
109 Id. at 100.

the Policy converts them to private roads, which are inaccessible, not open to the public, and under respondent's control.[110]

Since the factual findings are conflicting, they cannot be deemed conclusive as to preclude any examination on appeal and, therefore, cannot bind this Court. As such, this Court may determine what is more consistent with the evidence on record. While only questions of law may be raised in Rule 45 petitions, this rule is not without exceptions. In *Spouses Miano v. Manila Electric Company*:[111]

> The Rules of Court states that a review of appeals filed before this Court is "not a matter of right, but of sound judicial discretion." The Rules of Court further requires that only questions of law should be raised in petitions filed under Rule 45 since factual questions are not the proper subject of an appeal by *certiorari*. It is not this Court's function to once again analyze or weigh evidence that has already been considered in the lower courts.
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> . . . .
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> However, the general rule for petitions filed under Rule 45 admits exceptions. *Medina v. Mayor Asistio, Jr.* lists down the recognized exceptions:
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> > (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) *When the findings of fact are conflicting;* (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.
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> These exceptions similarly apply in petitions for review filed before this Court involving civil, labor, tax, or criminal cases.[112] (Emphasis supplied, citations omitted)

Since the findings of the lower tribunals are conflicting as to whether there were security concerns within Diamond Subdivision that would

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[110] Id. at 16.
[111] 800 Phil. 118 (2016) [Per J. Leonen, Second Division].
[112] Id. at 122–123.

warrant the issuance of the Policy, this Court may exercise its discretion to resolve this factual issue.

II

The case records reveal that Diamond Subdivision was experiencing security concerns.

In Ordinance No. 132, the Angeles City Council acknowledged that Diamond Subdivision had been having security problems that seriously affected the homeowners and residents. The whereas clauses state:

> Whereas, legitimate homeowners of the Diamond Subdivision have presented to the City Council their *serious concern* on what is presently occurring in their subdivision;
>
> Whereas, with the present classification of Diamond Subdivision *constant problems of peace and order have confronted the homeowners and residents affecting their lives, property and security;*
>
> Whereas, the introduction of business establishments in an uncontrolled manner have likewise proliferated due to the current classification of the subdivision;
>
> Whereas, due to the R-2 classification of Diamond Subdivision the value of property have not increase[d], despite its strategic location;
>
> Whereas, there is an *urgent need* to address all the concern[s] of the homeowners and residents of Diamond Subdivision[.][113] (Emphasis supplied)

Ordinance No. 132 explicitly states that "with the present classification of Diamond Subdivision[,] constant problems of peace and order have confronted the homeowners and residents affecting their lives, property[,] and security."[114]

Ordinance No. 132 is a public document. Under Rule 132, Section 19(a) of the Rules of Court, written official acts of the sovereign authority, official bodies and tribunals, and public officers of the Philippines are public documents. The provision states:

> SECTION 19. *Classes of documents.* — For the purpose of their presentation in evidence, documents are either public or private.
>
> Public documents are:

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113 *Rollo*, p. 81.
114 Id.

> (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
>
> (b) Documents acknowledged before a notary public except last wills and testaments; and
>
> (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.
>
> All other writings are private.

Public documents are *prima facie* evidence of the facts stated in them.[115] Rule 132, Section 23 of the Rules of Court provides:

> SECTION 23. *Public documents as evidence. — Documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie* evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

Thus, there is *prima facie* evidence of the security and safety issues within Diamond Subdivision.

Besides, these security concerns were affirmed by petitioner Kwong himself. In his August 3, 2006 Letter, he acknowledged that there was a "sharp increase in criminal activities" in Diamond Subdivision, "a number of which remain[ed] unreported."[116] He also proposed to shoulder the costs of putting up security gates on both entry and exit points of the street where he resides, and the hiring of security guards to screen incoming and outgoing visitors.[117] These constitute admissions, or declarations "as to a relevant fact that may be given in evidence against him."[118]

Petitioner Kwong presented no evidence to counter these documents. Thus, this Court affirms that Diamond Subdivision was experiencing security concerns.

III

Diamond Subdivision was, likewise, authorized in enacting the Policy.

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[115] *See Miralles v. Go*, 402 Phil. 638, 648–649 (2001) [Per J. Panganiban, Third Division].
[116] *Rollo*, p. 164.
[117] Id.
[118] RULES OF COURT, Rule 130, sec. 26.

There is no question that the subdivision roads have been donated to the City of Angeles.[119] Therefore, they are public property, for public use.

According to the Deed of Donation,[120] the donation was done in compliance with Resolution No. 162, series of 1974, of the Municipal Board of Angeles City.[121]

This donation is consistent with Section 31 of Presidential Decree No. 957, or the Subdivision and Condominium Buyers' Protection Decree. The provision states:

> SECTION 31. *Donation of Roads and Open Spaces to Local Government.* — 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 Authority.

On October 14, 1977, Presidential Decree No. 957 was amended by Presidential Decree No. 1216, which made the donation to the local government unit mandatory:

> SECTION 2. Section 31 of Presidential Decree No. 957 is hereby amended to read as follows:
>
> > SEC. 31. *Roads, Alleys, Sidewalks and Open Spaces.* — The owner as developer of a subdivision shall provide adequate roads, alleys and sidewalks. For subdivision projects one (1) hectare or more, the owner or developer shall reserve thirty percent (30%) of the gross area for open space. . . .
> >
> > . . . .
> >
> > Upon their completion as certified to by the Authority, *the roads, alleys, sidewalks and playgrounds shall be donated by the owner or developer to the city or municipality and it shall be mandatory for the local governments to accept; provided, however,* that the parks and playgrounds may be donated to the Homeowners Association of the project with the consent of the city or municipality concerned. No portion of the parks and playgrounds donated thereafter shall be converted to any other purpose or purposes. (Emphasis supplied)

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[119] *Rollo*, pp. 78–80.
[120] Id.
[121] Id. at 78.

The whereas clauses of Presidential Decree No. 1216 explicitly state that roads, alleys, and sidewalks in subdivisions are for public use, and are beyond the commerce of men:

> WHEREAS, there is a compelling need to create and maintain a healthy environment in human settlements by providing open spaces, roads, alleys and sidewalks as may be deemed suitable to enhance the quality of life of the residents therein;
>
> WHEREAS, *such open spaces, roads, alleys and sidewalks in residential subdivision are for public use and are, therefore, beyond the commerce of men*[.] (Emphasis supplied)

Moreover, both parties admit that the subdivision roads are public. Thus, there is no issue on the roads' ownership: it belongs to the Angeles City government.

However, both Presidential Decree Nos. 957 and 1216 are silent on the right of homeowners' associations to issue regulations on using the roads to ensure the residents' safety and security.

This silence was addressed in 2010 when Republic Act No. 9904, or the Magna Carta for Homeowners and Homeowners' Associations, was enacted. Section 10(d) states:

> SECTION 10. *Rights and Powers of the Association.* — An association shall have the following rights and shall exercise the following powers:
>
> . . . .
>
> (d) Regulate access to, or passage through the subdivision/village roads for purposes of preserving privacy, tranquility, internal security, safety and traffic order: *Provided*, That: (1) public consultations are held; (2) existing laws and regulations are met; (3) the authority of the concerned government agencies or units are obtained; and (4) the appropriate and necessary memoranda of agreement are executed among the concerned parties[.]

Section 10(d) gives homeowners' associations the right to "[r]egulate access to, or passage through the subdivision/village roads for purposes of preserving privacy, tranquility, internal security, safety[,] and traffic order" as long as they complied with the requisites. The law does not distinguish whether the roads have been donated to the local government or not.[122]

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[122] "*Ubi lex non distinguit, nec nos distinguere debemus.* When the law does not distinguish, we must not distinguish." *Amores v. House of Representatives,* 636 Phil. 600, 609 (2010) [J. Carpio Morales, En

Petitioners argue that the Magna Carta for Homeowners and Homeowners' Associations does not apply because it was not yet in effect when the Policy was issued. Assuming that it applies, they assert that respondent failed to comply with the stated requisites.[123]

Petitioners are correct. The Policy was approved in 2006, way before the law was enacted in 2010. Diamond Homeowners, then, could not have yet complied with the conditions provided. It would, thus, be unjustified if the Policy were to be invalidated on the ground that these conditions were not followed.

Laws are not retroactive. Article 4 of the Civil Code states that "laws shall have no retroactive effect, unless the contrary is provided." *Lex prospicit, non respicit*; the law looks forward, not backward. This is due to the unconstitutional result of retroacting a law's application: it divests rights that have already become vested or impairs obligations of contract.[124] In *Espiritu v. Cipriano*:[125]

> Likewise the claim of private respondent that the act is remedial and may, therefore, be given retroactive effect is untenable. A close study of the provisions discloses that far from being remedial, the statute affects substantive rights and hence a strict and prospective construction thereof is in order. Article 4 of the New Civil Code ordains that laws shall have no retroactive effect unless the contrary is provided and that where the law is clear, Our duty is equally plain. We must apply it to the facts as found. . . . The said law did not, by its express terms, purport to give a retroactive operation. It is a well-established rule of statutory construction that "*Expressium facit cessare tacitum*" and, therefore, no reasonable implication that the Legislature ever intended to give the law in question a retroactive effect may be accorded to the same. . . .
>
> . . . .
>
> . . . Well-settled is the principle that while the Legislature has the power to pass retroactive laws which do not impair the obligation of contracts, or affect injuriously vested rights, it is equally true that statutes are not to be construed as intended to have a retroactive effect so as to affect pending proceedings, unless such intent is expressly declared or clearly and necessarily implied from the language of the enactment.[126] (Citations omitted)

Banc] *citing Vide Adasa v. Abalos*, 545 Phil. 168 (2007) [Per J. Chico-Nazario, Third Division] and *Philippine Free Press, Inc. v. Court of Appeals*, 510 Phil. 411 (2005) [Per J. Garcia, Third Division].

123 *Rollo*, p. 237.

124 *Gauvain v. Court of Appeals*, 282 Phil. 530, 544 (1992) [Per J. Gutierrez, Jr., Third Division].

125 154 Phil. 483 (1974) [Per J. Esguerra, First Division].

126 Id. at 488–490.

The Magna Carta for Homeowners and Homeowners' Associations does not state that it has a retroactive effect. Thus, it cannot be applied to the Policy. This Court must rule on the Policy's validity based on the laws, rules, and court doctrines in force at the time of its issuance.

Under Section 16 of the Local Government Code, local governments have the power to govern the welfare of those within its territorial jurisdiction:

> SECTION 16. *General Welfare.* — Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

This includes the power to close and open roads, whether permanently or temporarily:

> SECTION 21. *Closure and Opening of Roads.* — (a) A local government unit may, pursuant to an ordinance, permanently or temporarily close or open any local road, alley, park, or square falling within its jurisdiction: *Provided, however*, That in case of permanent closure, such ordinance must be approved by at least two-thirds (2/3) of all the members of the sanggunian, and when necessary, an adequate substitute for the public facility that is subject to closure is provided.
>
> (b) No such way or place or any part thereof shall be permanently closed without making provisions for the maintenance of public safety therein. A property thus permanently withdrawn from public use may be used or conveyed for any purpose for which other real property belonging to the local government unit concerned may be lawfully used or conveyed: *Provided, however*, That no freedom park shall be closed permanently without provision for its transfer or relocation to a new site.
>
> (c) Any national or local road, alley, park, or square may be temporarily closed during an actual emergency, or fiesta celebrations, public rallies, agricultural or industrial fairs, or an undertaking of public works and highways, telecommunications, and waterworks projects, the duration of which shall be specified by the local chief executive concerned in a written order: *Provided, however*, That no national or local road, alley, park, or square shall be temporarily closed for athletic, cultural, or civic activities not officially sponsored, recognized, or approved by the local government unit concerned.

> (d) Any city, municipality, or barangay may, by a duly enacted ordinance, temporarily close and regulate the use of any local street, road, thoroughfare, or any other public place where shopping malls, Sunday, flea or night markets, or shopping areas may be established and where goods, merchandise, foodstuffs, commodities, or articles of commerce may be sold and dispensed to the general public.

More relevantly, local governments may also enact ordinances to regulate and control the use of the roads:

> SECTION 458. *Powers, Duties, Functions and Compensation.* — (a) The sangguniang panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the city as provided for under Section 22 of this Code, and shall:
>
> . . . .
>
> (5) Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Section 17 of this Code, and in addition to said services and facilities, shall:
>
> . . . .
>
> (v) Regulate the use of streets, avenues, alleys, sidewalks, bridges, parks and other public places and approve the construction, improvement, repair and maintenance of the same[.]

In *Albon*, this Court upheld the City of Marikina's right to enact an ordinance to widen, clear, and repair the existing sidewalks of Marikina Greenheights Subdivision that have been donated to it:

> Like all LGUs, the City of Marikina is empowered to enact ordinances for the purposes set forth in the Local Government Code (RA 7160). It is expressly vested with police powers delegated to LGUs under the general welfare clause of R.A. 7160. With this power, LGUs may prescribe reasonable regulations to protect the lives, health, and property of their constituents and maintain peace and order within their respective territorial jurisdictions.
>
> Cities and municipalities also have the power to exercise such powers and discharge such functions and responsibilities as may be necessary, appropriate or incidental to efficient and effective provisions of the basic services and facilities, including infrastructure facilities intended primarily to service the needs of their residents and which are financed by their own funds. These infrastructure facilities include municipal or city roads and bridges and similar facilities.

> There is no question about the public nature and use of the sidewalks in the Marikina Greenheights Subdivision. One of the "whereas clauses" of P.D. 1216 (which amended P.D. 957) declares that open spaces, roads, alleys and sidewalks in a residential subdivision are for public use and beyond the commerce of man. In conjunction herewith, P.D. 957, as amended by P.D. 1216, mandates subdivision owners to set aside open spaces which shall be devoted exclusively for the use of the general public.
>
> . . . .
>
> Moreover, the implementing rules of P.D. 957, as amended by P.D. 1216, provide that it is the registered owner or developer of a subdivision who has the responsibility for the maintenance, repair and improvement of road lots and open spaces of the subdivision prior to their donation to the concerned LGU. The owner or developer shall be deemed relieved of the responsibility of maintaining the road lots and open space only upon securing a certificate of completion and executing a deed of donation of these road lots and open spaces to the LGU.[127] (Citations omitted)

Nonetheless, homeowners' associations are not entirely powerless in protecting the interests of homeowners and residents. Section 31 of Presidential Decree No. 957 recognizes the need for a homeowners' association to promote and protect their mutual interest and assist in community development:

> SECTION 30. *Organization of Homeowners Association.* — The owner or developer of a subdivision project or condominium project shall initiate the organization of a homeowners association among the buyers and residents of the projects for the purpose of *promoting and protecting their mutual interest and assist in their community development.*

Moreover, the Housing and Land Use Regulatory Board issued Resolutions that provided the powers and rights of homeowners' associations. Its Resolution No. R-771-04, or the Rules on the Registration and Supervision of Homeowners Associations, states:

> SECTION 5. *Powers and Attributes of a Homeowners Association.* — The powers and attributes of the Homeowners Association are those stated in its by-laws, which shall include the following:
>
> a. To adopt and amend by-laws, rules and regulations;
>
> b. To adopt an annual program of activities and the corresponding budget therefor, subject to the limitations and conditions imposed under the by-laws;
>
> c. To impose and collect reasonable fees on members and non-member residents who avail of or benefit from the facilities and

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[127] *Albon v. Fernando,* 526 Phil. 630, 635–639 (2006) [Per J. Corona, Second Division].

> services of the association, to defray necessary operational expenses, subject to the limitations and conditions imposed under the law, regulations of the Board and the association by-laws;
>
> d. To sue and be sued in its name;
>
> e. To enter into contracts for basic and necessary services for the general welfare of the association and its members;
>
> f. To acquire, hold, encumber and convey in its own name any right, title or interest to any property;
>
> g. To impose reasonable sanctions upon its members for violations and/or non-compliance with the association by laws; and upon non-member residents by reason of any act and/or omission prejudicial to the interest of the association or its members; and
>
> h. To exercise other powers necessary for the governance and operation of the association.

Housing and Land Use Regulatory Board Resolution No. 770-04, or the Framework for Governance of Homeowners Associations, states that associations are expected to promote the security of residents in their living environment:

> WHEREAS, there is a need to highlight the basic roles, powers and responsibilities of a homeowners association and its officers and members under existing laws and regulations;
>
> WHEREAS, there is also a need to promote and operationalize the best practices and norms of good governance in the management of a homeowners association:
>
> WHEREAS, the active and enlightened management of the affairs of a homeowners association will *enhance the delivery of basic services to and promote the general welfare of its members;*
>
> . . . .
>
> SECTION 3. *General Principles.* — An Association should —
>
> a. *endeavor to serve the interest of its members* through equity of access in the decision-making process, transparency and accountability, and *the promotion of security in their living environment;*
>
> b. establish its vision, define and periodically assess its mission, policies, and objectives and the means to attain the same; and
>
> c. without abandoning its non-partisan character:
>
> i. actively cooperate with local government units and national government agencies, in furtherance of its

> common goals and activities for the benefit of the residents inside and outside of the subdivision; and
>
> ii. complement, support and strengthen local government units and national government agencies in *providing vital services to its members* and in helping implement local government policies, programs, ordinances, and rules.

This Court has also acknowledged the right of homeowners' associations to set goals for the promotion of safety and security, peace, comfort, and the general welfare of their residents.[128] In *Bel Air Village Association, Inc. v. Dionisio*:[129]

> The petitioner also objects to the assessment on the ground that it is unreasonable, arbitrary, discriminatory, oppressive and confiscatory. According to him the assessment is oppressive because the amount assessed is not based on benefits but on the size of the area of the lot, discriminatory and unreasonable because only the owners of the lots are required to pay the questioned assessment and not the residents who are only renting inside the village; and confiscatory because under the by-Laws of the respondent association, the latter holds a lien on the property assessed if the amount is not paid.
>
> We agree with the lower court's findings, to wit:
>
> . . . .
>
> The second question has reference to the reasonableness of the resolution assessing the monthly dues in question upon the defendant. The exhibits annexed to the stipulation of facts describe the purpose or goals for which these monthly dues assessed upon the members of the plaintiff including the defendant are to be disbursed. They are intended for garbage collection, salary of security guards, cleaning and maintenance of streets, establishment of parks, etc. *Living in this modern, complex society has raised complex problems of security, sanitation, communitarian comfort and convenience and it is now a recognized necessity that members of the community must organize themselves for the successful solution of these problems. Goals intended for the promotion of their safety and security, peace, comfort, and general welfare cannot be categorized as unreasonable. Indeed, the essence of community life is association and cooperation for without these such broader welfare goals cannot be attained.* It is for these reasons that modern subdivisions are imposing encumbrance upon titles of prospective lot buyers a limitation upon ownership of the said buyers that they automatically become members of homeowners'

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[128] *Bel Air Village Association, Inc. v. Dionisio*, 256 Phil. 343 (1989) [Per J. Gutierrez, Jr., Third Division].

[129] Id.

> association living within the community of the subdivision.[130] (Emphasis supplied)

In *Spouses Anonuevo v. Court of Appeals*,[131] this Court, quoting the Court of Appeals Decision, affirmed that ownership of public spaces is with the local government, while enjoyment, possession, and control are with the residents and homeowners:

> It appears that reliance was placed by the lower court upon the fact that TCT No. 37527 covering Lot II, Block 6 did not contain an annotation as to the open space character of said piece of land. But the argument does not find justification with applicable jurisprudence. When the lot in question had been allotted as an open space by Carmel Corporation, *it had become the property of the Quezon City government and/or the Republic of the Philippines held under the management, control and enjoyment of the residents and homeowners of Carmel II-A Subdivision*. . . .
>
> . . . .
>
> Therefore, with the approval of the subdivision plan of Carmel II-A followed with it the exclusion of the land from the commerce of man. It would not be too presumptuous to conclude that the sale by Carmel Corporation which resulted in the subsequent private dealings involving this public property is void *ab initio*. And the mere fact that Carmel Corporation did not consider Lot II, Block 6 as the designated open space would not give it licentious freedom to sell such *public property* "under the nose", so to speak, *of the Quezon City government, the Republic of the Philippine, and the homeowners who are the direct beneficiaries thereof.* While the afore-enumerated entities do not hold the owners' duplicate title over the open space, hence, could not properly forewarned of any prejudicial act of conveyance or encumbrance perpetrated by the subdivision owner/developer, they should not be faulted for taking a belated attempt to question these conveyances affecting the open space which are made manifest only during the actual disruptions accompanying the exercise of ownership and possession by the ultimate vendee.[132] (Emphasis in the original, citation omitted)

From all these, we hold that the Policy is valid. In *De Guzman v. Commission on Audit*:[133]

> It is a basic principle in statutory construction that when faced with apparently irreconcilable inconsistencies between two laws, the first step is to attempt to harmonize the seemingly inconsistent laws. In other words, courts must first exhaust all efforts to harmonize seemingly conflicting laws and only resort to choosing which law to apply when harmonization is impossible.[134] (Citations omitted)

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130 Id. at 351–352.
131 313 Phil. 709 (1995) [Per J. Melo, Third Division].
132 Id. at 720–721.
133 791 Phil. 376 (2016) [Per J. Velasco, En Banc].
134 Id. at 380.

The Policy maintains the public nature of the subdivision roads. It neither prohibits nor impairs the use of the roads. It does not prevent the public from using the roads, as all are entitled to enter, exit, and pass through them. One must only surrender an identification card to ensure the security of the residents. As stated, the residents and homeowners, including petitioner Kwong, have valid security concerns amid a sharp increase in criminal activities within the subdivision.

The Policy, likewise, neither denies nor impairs any of the local government's rights of ownership. Respondent does not assert that it owns the subdivision roads or claims any private right over them. Even with the Policy, the State still has the *jus possidendi* (right to possess), *jus utendi* (right to use), *just fruendi* (right to its fruits), *jus abutendi* (right to consume), and *jus disponendi* (right to dispose) of the subdivision roads. It still has the power to temporarily close, permanently open, or generally regulate the subdivision roads.

It must be pointed out that this case is not even between a homeowners' association and the local government, but a homeowners' association and a resident who disagrees with the Policy. Respondent, therefore, is not asserting any right against any local government act on the subdivision roads. Neither is the local government claiming that its right to regulate the roads is being impinged upon.

Furthermore, Section 31 of Presidential Decree No. 957, as amended, on the donation of subdivision roads to the local government, "was [enacted] to remedy the situation prevalent at that time where owners/developers fail to keep up with their obligation of providing and maintaining the subdivision roads, alleys[,] and sidewalks."[135] The whereas clauses of Presidential Decree No. 957 reveal the legislative intent:

> *WHEREAS, it is the policy of the State to afford its inhabitants the requirements of decent human settlement and to provide them with ample opportunities for improving their quality of life;*
>
> *WHEREAS, numerous reports reveal that many real estate subdivision owners, developers, operators, and/or sellers have reneged on their representations and obligations to provide and maintain properly subdivision roads, drainage, sewerage, water systems, lighting systems, and other similar basic requirements, thus endangering the health and safety of home and lot buyers;*
>
> WHEREAS, reports of alarming magnitude also show cases of swindling and fraudulent manipulations perpetrated by unscrupulous subdivision and condominium sellers and operators, such as failure to deliver titles to the buyers or titles free from liens and encumbrances, and

[135] *Rollo*, p. 19.

> to pay real estate taxes, and fraudulent sales of the same subdivision lots to different innocent purchasers for value;
>
> WHEREAS, these acts not only undermine the land and housing program of the government but also defeat the objectives of the New Society, particularly the promotion of peace and order and the enhancement of the economic, social and moral condition of the Filipino people;
>
> WHEREAS, this state of affairs has rendered it imperative that the real estate subdivision and condominium businesses be closely supervised and regulated, and that penalties be imposed on fraudulent practices and manipulations committed in connection therewith. (Emphasis supplied)

Evidently, here, the donation was for the benefit of the subdivision's homeowners, lot buyers, and residents. This must be taken into consideration in interpreting the provision for the donation:

> In the construction or interpretation of a legislative measure — a presidential decree in these cases — the primary rule is to search for and determine the intent and spirit of the law. *Legislative intent is the controlling factor,* for in the words of this Court in *Hidalgo v. Hidalgo,* per Mr. Justice Claudio Teehankee, whatever is within the spirit of a statute is within the statute, and this has to be so if strict adherence to the letter would result in absurdity, injustice and contradictions.[136] (Emphasis in the original, citation omitted)

In *Spouses Belo v. Philippine National Bank*:[137]

> It is well settled that courts are not to give a statute a meaning that would lead to absurdities. If the words of a statute are susceptible of more than one meaning, the absurdity of the result of one construction is a strong argument against its adoption, and in favor of such sensible interpretation. We test a law by its result. A law should not be interpreted so as not to cause an injustice. There are laws which are generally valid but may seem arbitrary when applied in a particular case because of its peculiar circumstances. We are not bound to apply them in slavish obedience to their language.[138] (Citations omitted)

Thus, the donation of the roads to the local government should not be interpreted in a way contrary to the legislative intent of benefiting the residents. Conversely, residents should not be disempowered from taking measures for the proper maintenance of their residential area. Under Section 30 of Presidential Decree No. 957, they may protect their mutual interests. Here, the Policy was not inconsistent with this purpose. To rule against it would be contrary to the intention of the law to protect their rights.

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[136] *People v. Purisima*, 176 Phil. 186, 203 (1978) [Per J. Munoz Palma, En Banc].
[137] 405 Phil. 851 (2001) [Per J. De Leon, Jr., Second Division].
[138] Id. at 874.

This Court further notes that the Deed of Donation recognizes the Diamond Subdivision's power to monitor the security within the subdivision. The Deed of Donation between the developer of Diamond Subdivision and the City of Angeles states:

> That it is a condition of this donation, that the Severina Realty Corporation will have the exclusive right to appoint and to enter into a contract with any duly licensed security guard agency for the security guard services of the Diamond Subdivision, Angeles City.[139]

Thus, the subdivision is still empowered to determine how best to maintain the security and safety within the subdivision.

Moreover, it is common knowledge that when homeowners purchase their properties from subdivisions, they pay a more valuable consideration in exchange for better facilities, safer security, and a higher degree of peace, order, and privacy. Some may also have purchased their properties in contemplation of their right to organize and to take measures to protect these interests. It would be an injustice if these were not taken into consideration in determining the validity of the Policy.

Here, the Policy was enacted to ensure the safety and security of Diamond Subdivision residents who have found themselves exposed to heightened crimes and lawlessness. The Policy was approved by 314 members of the homeowners' association, with only petitioner Kwong protesting the solution. His protest is ultimately rooted in the damage that the Policy has allegedly caused to his businesses. However, he failed to present any evidence of this damage.

It is established that he who alleges a fact has the burden of proving it. In *Republic v. Estate of Hans Menzi*:[140]

> It is procedurally required for each party in a case to prove his own affirmative allegations by the degree of evidence required by law. In civil cases such as this one, the degree of evidence required of a party in order to support his claim is preponderance of evidence, or that evidence adduced by one party which is more conclusive and credible than that of the other party. It is therefore incumbent upon the plaintiff who is claiming a right to prove his case. Corollarily, the defendant must likewise prove its own allegations to buttress its claim that it is not liable.
>
> The party who alleges a fact has the burden of proving it. The burden of proof may be on the plaintiff or the defendant. It is on the

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139 *Rollo*, p. 79.

140 *Republic v. Estate of Hans Menzi*, 512 Phil. 425 (2005) [Per J. Tinga, En Banc].

> defendant if he alleges an affirmative defense which is not a denial of an essential ingredient in the plaintiff's cause of action, but is one which, if established, will be a good defense — *i.e.*, an "avoidance" of the claim.[141] (Citations omitted)

Since petitioner Kwong presented no evidence of the damage caused to him, this Court cannot rule in his favor.

In any case, the community's welfare should prevail over the convenience of subdivision visitors who seek to patronize petitioners' businesses. Article XII, Section 6 of the Constitution provides that the use of property bears a social function, and economic enterprises of persons are still subject to the promotion of distributive justice and state intervention for the common good:

> SECTION 6. The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.

Article XIII, Section 1 of the Constitution states that the State may regulate the use of property and its increments for the common good:

> SECTION 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.
>
> To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

These provisions reveal that the property ownership and the rights that come with it are not without restrictions, but rather come with the consideration and mindfulness for the welfare of others in society. The Constitution still emphasizes and prioritizes the people's needs as a whole. Such is the case here: even if petitioner Kwong's rights are subordinated to the rights of the many, the Policy improves his own wellbeing and quality of life. In *Bel Air Village Association, Inc.*:

> Even assuming that defendant's ownership and enjoyment of the lot covered by TCT No. 81136 is limited because of the burden of being a member of plaintiff association *the goals and objectives of the association are far greater because they apply to and affect the community at large. It*

[141] Id. at 456–457.

> *can be justified on legal grounds that a person's enjoyment of ownership may be restricted and limited if to do so the welfare of the community of which he is a member is promoted and attained. These benefits in which the defendant participates more than offset the burden and inconvenience that he may suffer.*[142] (Emphasis supplied)

WHEREFORE, this Court **AFFIRMS** the Court of Appeals' July 5, 2013 Decision and February 12, 2014 Resolution in CA-G.R. SP No. 115198. This Court finds that Diamond Homeowners & Residents Association's "No Sticker, No ID, No Entry" Policy is valid and consistent with law and jurisprudence.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Chairperson

ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

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[142] 256 Phil. 343, 353 (1989) [Per J. Gutierrez, Jr., Third Division].

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

DIOSDADO M. PERALTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
AUG 08 2019