

EN BANC

G.R. No. 208788 – QUEZON CITY GOVERNMENT, represented by HONORABLE HERBERT M. BAUTISTA, in his capacity as City Mayor of Quezon City, and TOMASITO L. CRUZ, in his capacity as the City Planning and Development Officer and Zoning Official of Quezon City, Petitioners, v. MANILA SEEDLING BANK FOUNDATION, INC., represented by its president and chair, LUCITO M. BERTOL, Respondent;

G.R. No. 228284 – MANILA SEEDLING BANK FOUNDATION, INC., represented by its President and Chair, LEONARDO D. LIGERALDE, Petitioner, v. QUEZON CITY GOVERNMENT, represented HONORABLE HERBERT M. BAUTISTA, in his capacity as City Mayor of Quezon City, GEN. ELMO SAN DIEGO, in his capacity as Head, Department of Public Order and Safety (DPOS), ROGER CUARESMA, and CAMERAN, M.J., and other members of the DPOS, Respondents.

Promulgated:

July 23, 2024

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CONCURRING OPINION

LEONEN, J.:

A property owner or user's vested rights must be respected when the local government unit itself has recognized those rights through a provision in the zoning ordinance.<sup>1</sup>

Before this Court are consolidated Petitions for Review assailing the rulings of the Quezon City Regional Trial Court, which issued a writ of prohibition against the enforcement or implementation of the Quezon City Zoning Ordinance, as amended (Zoning Ordinance), against Manila Seedling Bank Foundation, Inc.'s (the Foundation) property located at the corner of Quezon Avenue and Epifanio de los Santos Avenue, Quezon City.

"Zoning ordinances are integral to urban planning. Their primary purpose is to regulate land use to ensure the general welfare of the community."<sup>2</sup> The Quezon City government has the power to enact zoning ordinances in Quezon City. This Court has affirmed the local government's power to enact zoning ordinances under the Local Government Code and

<sup>1</sup> *Buklod nang Magbubukid sa Lupaing Ramos, Inc. v. E.M. Ramos and Sons, Inc.*, 661 Phil. 34, 83 (2011) [Per J. Leonardo-De Castro, First Division].

<sup>2</sup> *Cordillera Global Network v. Paje*, 851 Phil. 845, 885 (2019) [Per J. Leonen, *En Banc*].

Executive Order No. 72.<sup>3</sup> Generally, zoning ordinances may limit or restrict what property owners are permitted to build or operate on land they own.<sup>4</sup> Restrictions may be placed on expansions or extensions of current land use if these do not conform to the ordinances.<sup>5</sup> The right against non-impairment of contracts may give way to a valid exercise of police power.<sup>6</sup>

Nonetheless, I agree with the *ponencia* that the Zoning Ordinance imposes requirements on the Foundation that impair its usufructuary rights. The application of the Zoning Ordinance in this case was unduly oppressive and arbitrarily deprived the Foundation of its rights over its property.<sup>7</sup>

The vested rights of a property owner or user must be upheld when the local government unit itself has recognized those rights through a provision in the zoning ordinance.<sup>8</sup> Here, as pointed out in the *ponencia*, Section 14 of the Zoning Ordinance carves out an exception to its general applicability in favor of vested rights.<sup>9</sup> Further, no contract is alleged to have been impaired here, as in *United BF Homeowners Association, Inc. v. The (Municipal) City Mayor of Parañaque City, Metro Manila*<sup>10</sup> and *Ortigas & Co., Ltd. Partnership v. Feati Bank and Trust Co.*<sup>11</sup> Instead, the source of the Foundation's rights is a presidential decree, which this Court has affirmed in *National Housing Authority v. Court of Appeals*.<sup>12</sup>

The Zoning Ordinance itself has bound the Quezon City government and its officials to respect vested rights. Thus, the Zoning Ordinance must prospectively apply<sup>13</sup> as to the Foundation; otherwise, it would be unduly deprived of its usufructuary rights over the property.

Further, I concur in the finding that the exercise of police power here is arbitrary and excessive to the aims the Zoning Ordinance seeks to achieve.

The intent of zoning ordinances is to promote general welfare. It must be shown that "the methods or means used to protect public health, morals, safety or welfare must have a reasonable relation to the end in view."<sup>14</sup> Yet

<sup>3</sup> *Tan Chat v. The Municipality of Iloilo*, 60 Phil. 465 (1934) [Per J. Imperial, *En Banc*]; *United BF Homeowners' Associations, Inc. v. The (Municipal) City Mayor of Parañaque City, Metro Manila*, 543 Phil. 684 (2007) [Per J. Carpio, Second Division].

<sup>4</sup> *Patalinghug v. Court of Appeals*, 299 Phil. 588, 595 (1994) [Per J. Romero, Third Division].

<sup>5</sup> *See Spouses Delfino v. St. James Hospital, Inc.*, 563 Phil. 797 (2007) [Per J. Chico-Nazario, Special Third Division].

<sup>6</sup> *United BF Homeowners' Associations, Inc. v. The (Municipal) City Mayor of Parañaque City, Metro Manila*, 543 Phil. 684, 698 (2007) [Per J. Carpio, Second Division].

<sup>7</sup> *Ponencia*, p. 31.

<sup>8</sup> *Buklod nang Maghubukid sa Lupaing Ramos, Inc. v. E.M. Ramos and Sons, Inc.*, 661 Phil. 34, 83 (2011) [Per J. Leonardo-De Castro, First Division].

<sup>9</sup> *Ponencia*, p. 32.

<sup>10</sup> 543 Phil. 684 (2007) [Per J. Carpio, Second Division].

<sup>11</sup> 183 Phil. 176 (1979) [Per J. Santos, *En Banc*].

<sup>12</sup> 495 Phil. 693 (2005) [Per J. Carpio, First Division].

<sup>13</sup> *See Co v. Intermediate Appellate Court*, 245 Phil. 347 (1988) [Per J. Cruz, First Division].

<sup>14</sup> *Social Justice Society v. Atienza*, 568 Phil. 658, 704 (2008) [Per J. Corona, First Division].

there is no showing here that the Foundation's exercise of its usufructuary rights is a threat to the public safety, health, or welfare of the surrounding area, as was the case in *Social Justice Society v. Atienza*,<sup>15</sup> or that its use of the property is inconsistent with the prevailing conditions of the area, as in *Ortigas & Co.* Here, the Foundation was seeking locational clearance for its administrative office in an institutional zone.<sup>16</sup> Depriving it of this use has no relation to the protection of the general welfare, absent any finding that the maintenance of the administrative office would threaten public safety, health, or welfare in the rezoned area.

As noted in *Tan Chat v. The Municipality of Iloilo*:<sup>17</sup>

There is no question that in the exercise of its police power the municipality of Iloilo may enact ordinances establishing residential, commercial and industrial zones etc., for the beautification of the municipality, the protection of the health of its inhabitants, the value of real property and the safety of the buildings from fire. But such ordinances cannot be given retroactive effect by ordering the destruction of buildings already erected which do not measure up to the standard therein prescribed unless they constitute a danger to public health and morals and to the safety of the inhabitants and their property. The right of ownership and the use and enjoyment of property is a natural and constitutional right, of which nobody shall be deprived without due process of law and adequate compensation, even through the exercise of the eminent domain of the State. In accordance with these principles a municipality can only deprive a person of the use and enjoyment thereof constitute a menace to public health, morals and comfort, in which case summary and drastic measures may be taken; or when a city is divided into zones for the welfare of the community. It is only in the second case, to wit, when a real "nuisance" or public inconvenience exists, that a summary exercise of the police power of a municipality is authorized and this is so because the right of ownership and the right to use and enjoy property implies a social obligation on the part of the owner to exercise such right without causing injury to others, and looking to the attainment of the common good. In the first case a complaint for expropriation is necessary *and in the third case there must be a zoning ordinance or law with prospective operation regulating the erection of buildings and the repair of those already erected in the residential zone, as well as the conduct of commerce and industry in the commercial and industrial zones, but not the destruction of buildings already erected, the removal of the business or industries already established, unless they be a menace to public health and morals and to safety of persons and property.*<sup>18</sup> (Emphasis supplied)

Finally, I agree with the *ponencia*'s conclusion that, even with the nullification of certain provisions of the Zoning Ordinance, there would no longer be any use to affirm the trial court's other directives to the Quezon City government. As such, the Foundation may, at its option, seek other remedies

<sup>15</sup> 568 Phil. 658 (2008) [Per J. Corona, First Division].

<sup>16</sup> *Ponencia*, p. 4.

<sup>17</sup> 60 Phil. 465 (1934) [Per J. Imperial, *En Banc*].

<sup>18</sup> J. Villa-Real, Dissenting Opinion in *Tan Chat v. The Municipality of Iloilo*, 60 Phil. 465, 483-484 (1934) [Per J. Imperial, *En Banc*].

such as the nullification of the foreclosure sale, recovery of possession, or action for damages.<sup>19</sup>

**ACCORDINGLY**, I vote to **DENY** the Petition for Review on *Certiorari* in G.R. No. 208788, and to **AFFIRM WITH MODIFICATIONS** the June 18, 2013 Decision and August 13, 2013 Resolution of the Quezon City Regional Trial Court in Special Civil Action No. Q-12-70830. In G.R. No. 228284, I also vote to **DISMISS** the Petition for Review on *Certiorari* and Petition for Prohibition and Injunction with Damages and with Application for a Writ of Preliminary Prohibitory and Mandatory Injunction and a Temporary Restraining Order in Special Civil Action No. Q-12-71638.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice

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<sup>19</sup> *Ponencia*, pp. 36–37.