Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SPOUSES MARCIAL VARGAS and ELIZABETH VARGAS, *Petitioners,*	**G.R. No. 191997**
	Present:
- versus -	CAGUIOA, *J.*, *Chairperson*, INTING, GAERLAN, DIMAAMPAO, and SINGH, *JJ.*
STA. LUCIA REALTY AND DEVELOPMENT, INC., *Respondent.*	Promulgated: July 27, 2022 MisRDCBatt

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DECISION

GAERLAN, *J.*:

Before the Court is a Rule 45 petition for review against the August 28, 2009 Decision[1] and April 19, 2010 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 90968, which reversed the January 31, 2008 Decision[3] of the Regional Trial Court (RTC) of Quezon City, Branch 77, in Civil Case No. Q-01-45599, which in turn is a suit for easement of right of way.

Petitioners Marcial and Elizabeth Vargas (the Spouses) own a 10,000 square-meter parcel of land located in Barangay Batasan Hills, Quezon City (the Outside Lot).[4] In 2000, the Spouses bought another 300-square-meter parcel of land (the VRC Lot) in a private residential subdivision known as Vista Real Classica[5] (VRC), which is adjacent to their Outside Lot.[6]

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1 *Rollo*, pp. 28-37. Penned by Associate Justice Amelita G. Tolentino (retired), with Associate Justices Estela M. Perlas-Bernabe (retired Member of the Court) and Stephen C. Cruz (retired), concurring.

2 Id. at 40-41.

3 Id. at 42-47. Penned by Presiding Judge Vivencio S. Baclig.

4 Records, pp. 2-3, 80, 248. In the certificate of title (id. at 80), the location of the lot is listed as "Barrio of Arenda, Municipality of San Mateo, Province of Rizal."

5 Also referred to in the records as "Vista Real Classic". Id. at 225, 233-236, 239, 253-254.

6 Id. at 3-4, 85, 87-89, 196. The lot is registered in the name of "Elizabeth Vargas, married to Marcial Vargas", p. 85.

Through a letter dated October 5, 2001, the Spouses demanded from the developer of VRC, Sta. Lucia Realty and Development, Inc. (SLR),[7] a right of way from the Outside Lot through their VRC Lot, into VRC's streets, and into a public road (Commonwealth Avenue).[8]

On November 19, 2001, the Spouses filed a complaint before the Quezon City RTC, praying for the establishment of a right of way as stated in the aforementioned letter.[9] In its Answer, SLR denied receiving the Spouses' demand letter and claimed that it never had any discussion or correspondence with the Spouses regarding the right of way issue.[10] At any rate, SLR argued that a right of way for the Outside Lot cannot be constituted through VRC's streets, for the following reasons: 1) SLR is bound to enclose VRC with a perimeter fence; 2) the Deed of Restrictions for the VRC Lot expressly prohibits the use of the lot as an access to any adjacent lot outside the subdivision; 3) there is no showing that VRC is the main cause of the Outside Lot's isolation from the nearest public road; 4) the grant of right of way requires an alteration of the already-approved subdivision and development plans for VRC; and 5) the claimed right of way is not convenient, practicable, and feasible, as it would require the Spouses to obtain the consent of the VRC homeowners' association and of other VRC lot owners.[11]

During the trial, the parties called three witnesses: petitioner Marcial Vargas (Marcial), Victor Juego, Jr. (Juego), and Fredeswinda Cruz (Cruz).

The Spouses presented Marcial as their sole witness. He reiterated the allegations in their complaint. He testified that the Outside Lot and the VRC Lot are adjacent to each other.[12] He expressly stated that the nearest highway to the Outside Lot is Commonwealth Avenue, and that the route between those points is through Barcelona Street, all the way to Baltimore Street, until Vista Real Avenue (all located within VRC), towards Commonwealth Avenue.[13] He also admitted that his wife Elizabeth bought the VRC Lot for the purpose of obtaining a right of way for their Outside Lot.[14] He also presented the certificates of title, deeds of sale, tax declarations, and sketch plans for the two lots.[15] When cross-examined on the Deed of Restrictions appearing in the certificate of title of the VRC Lot, Marcial said that he "cannot understand this fully well."[16]

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7 Id. at 192 and 214.
8 Id. at 11-12.
9 Id. at 2-5.
10 Id. at 29.
11 Id. at 29-30.
12 Id. at 255. In Marcial's words, the VRC Lot "is in front of the" Outside Lot.
13 Id. at 251-252.
14 Id. at 255, 260, 262, 274.
15 Id. at 287-289, 290-294, 296-298.
16 Id. at 294.

Two SLR employees testified on the company's behalf. Juego, a civil engineer, was tasked, among others, to issue permits for the construction of houses located within SLR's subdivisions, in part, to ensure that such constructions are compliant with the Deed of Restrictions applicable to each subdivision.[17] He admitted that when the Spouses' request was referred to him, he refused to make a recommendation because his job is limited to issuing construction permits.[18] However, he pointed out that the Spouses ought to have known about the prohibition on using SLR subdivision lots as right of way access points because this is indicated on the TCT of the VRC Lot.[19] The second employee, Cruz, was the cashier/sales coordinator[20] who handled the sale and transfer transactions of the lots in VRC.[21] She testified that the Spouses bought the VRC Lot from a secondary buyer who bought the same from the persons who bought the lot directly from SLR.[22] On cross-examination, she admitted that the Deed of Restrictions is only signed by the first buyers who buy new subdivision lots directly from SLR;[23] however, she testified that such agreement is physically transferred to any subsequent buyer.[24]

The Spouses formally offered the following evidence: the transfer certificates of title (TCTs), bracketed sketch plans, tax declarations, and real property tax receipts of the VRC and Outside Lots; a copy of the October 5, 2001 demand letter; and the Deed of Sale for the VRC Lot.[25] In turn, SLR offered the following evidence: sales plan of VRC; the VRC Deed of Restrictions; the TCT for the VRC Lot; the original contract to sell between SLR and the first buyer of the VRC Lot; and the deeds of Transfer of Rights from the original buyer of the VRC Lot to the second buyer thereof, and from the second buyer to petitioner Elizabeth Vargas.[26]

After trial, the RTC rendered its decision granting the right of way as demanded by the Spouses, subject to the payment of indemnity; and ordering SLR to pay attorney's fees and litigation expenses.[27] It found that the Outside Lot was indeed surrounded by other immovables and its only outlet to a public highway is through VRC, and these facts are not even disputed by SLR.[28] Rejecting as fallacious SLR's defense that the grant of right of way to the Outside Lot through VRC amounts to an alteration of the subdivision plan prohibited under Presidential Decree No. 957,[29] the RTC held that the grant of

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17 Id. at 307-308, 310-315.
18 Id. at 320-321.
19 Id. at 321-322.
20 Id. at 327-328.
21 Id. at 329.
22 Id. at 332, 335-339.
23 Id. at 339.
24 Id. at 340.
25 Id. at 76-78.
26 Id. at 187-189.
27 Id. at 47.
28 Id. at 46.
29 The Subdivision and Condominium Buyers' Protective Decree, decreed into law on July 12, 1976.

right of way merely involves SLR, allowing the Spouses to access their Outside Lot through VRC's streets; and such mere act of allowing passage does not involve any alteration of VRC's subdivision plan.[30] Furthermore, the easement of right of way is a statutory limitation on property, and the right of the dominant estate to such right of way cannot be taken away by a subdivision plan, for statutory provisions are deemed written into the contracts between SLR and the buyers of its subdivision lots.[31]

On appeal by SLR, the CA reversed the RTC decision and dismissed the Spouses' complaint. Proceeding from the principle that easements are burdens on property which must be imposed with the strictest caution,[32] the appellate court held that the Spouses failed to prove the existence of the requisites for the establishment of a compulsory right of way under the Civil Code. First, the Spouses failed to substantiate their allegation that the route through VRC is the Outside Lot's only adequate outlet to a public highway.[33] The existence of other outlets is not clear from the record.[34] Second, the Spouses failed to prove that they offered to indemnify SLR for the claimed right of way.[35] Finally, the Spouses failed to prove that their proposed route for the claimed right of way is the least prejudicial to VRC.[36] The CA noted that the Spouses' failure to adduce proof of the condition of the other lots surrounding the Outside Lot made it impossible to ascertain: 1) the shortest route to the nearest public road, and 2) which lot will be least prejudiced by the claimed easement.[37]

With their motion for reconsideration having been denied, the Spouses now raise the matter before the Supreme Court. In their pleadings,[38] the Spouses reiterate the findings and conclusions of the trial court and fault the CA for reversing the same.[39] They emphasize that SLR never disputed or disproved their allegations regarding the isolation of the Outside Lot from the public road network and the feasibility of the right of way through VRC's streets.[40] The Spouses also blame SLR for the non-tender of indemnity, as the latter never responded to their initial written demand.[41] In its comment, SLR echoes the CA in arguing that the Spouses' evidence failed to establish compliance with the legal requisites for a compulsory easement of right of way. Particularly, the sketch plan of the Outside Lot shows that it is also bounded by three other lots;[42] but the Spouses did not adduce any evidence on the access, or lack thereof, of

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30 *Rollo*, p. 46.
31 Id.
32 Id. at 34, 37.
33 Id. at 35.
34 Id.
35 Id.
36 Id. at 36.
37 Id.
38 Petition, id. at 9-21, and Reply, id. at 75-83.
39 Id. at 19.
40 Id. at 17.
41 Id. at 18-19.
42 Id. at 54.

these lots to a public road. Without such proof, the Spouses cannot claim that the route through VRC is the shortest, least inexpensive, and least prejudicial outlet to a public highway.[43]

In view of the foregoing, the Court is now asked to determine whether the Spouses are entitled to a right of way from their Outside Lot through VRC.

"An easement or servitude is an encumbrance imposed upon an immovable for the benefit of another immovable belonging to a different owner."[44] In turn, a right of way easement is one such encumbrance which is imposed for the benefit of another immovable "which is surrounded by other immovables pertaining to other persons and without adequate outlet to a public highway".[45] As laid down in Articles 649 and 650 of the Civil Code and synthesized by jurisprudence, the requisites for the establishment of a right of way easement are:

> 1. The immovable benefiting from the right of way (referred to by law as the dominant estate) is surrounded by other immovables and has no adequate outlet to a public highway;
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> 2. The owner, user, or holder of the dominant estate must pay proper indemnity to the owner of the immovable on which the easement is being imposed;
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> 3. The isolation of the dominant estate is not the result of its owner, user, or holder's own acts; and
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> 4. The claimed right of way must be at the point least prejudicial to the immovable on which the easement is being imposed (referred to by law as the servient estate); and insofar as consistent with this rule, where the distance of the dominant estate to a public highway may be the shortest.[46]

In a proceeding for the compulsory imposition of a right of way easement, the burden of proving compliance with the foregoing requisites lies

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43 Id. at 54, 56.

44 CIVIL CODE, Article 613.

45 Id., Article 649.

46 *Spouses Fernandez v. Spouses Delfin*, G.R. No. 227917, March 17, 2021; *Spouses Castro v. Spouses Esperanza*, G.R. No. 248763, March 11, 2020, *Sps. Williams v. Zerda*, 807 Phil. 491, 498 (2017); *Calimoso, et al. v. Roullo*, 779 Phil. 89, 93-94 (2016); *Reyes v. Spouses Valentin*, 753 Phil. 551, 561-562 (2015); *Sps. Sta. Maria v. CA*, 349 Phil. 275, 283 (1998); *Vda. de Baltazar v. CA*, 315 Phil. 343, 349 (1995); *Locsin, et al. v. Hon. Climaco, etc., et al.*, 136 Phil. 216, 236 (1969); *Bacolod-Murcia Milling Co., Inc., et al. v. Capitol Subd., Inc., et al.*, 124 Phil. 128 132-133 (1966).

with the owner, holder, or user of the dominant estate.[47] Consequently, the Spouses cannot rely solely on SLR's failure to submit rebuttal evidence. It is the duty of the Spouses, as the party claiming the easement of right of way, to establish compliance with the requisites set forth by law for the imposition thereof; and we find that they failed to do so.

Anent the first requisite, although the Spouses were able to prove that the Outside Lot is indeed surrounded by other immovables, they failed to prove that it has no adequate outlet to a public highway. On this note, the prevailing rule is that the courts will compel the establishment of a right of way only when ***absolutely necessary***. If an isolated lot may be given access to a public road without imposing an easement, courts will not grant the easement.[48] Thus, we have consistently dismissed right of way claims upon proof of the existence another adequate outlet from the dominant estate to a main road.[49] In *Costabella Corp. v. Court of Appeals*,[50] we held that "*when there is already an existing adequate outlet from the dominant estate to a public highway, even if the said outlet, for one reason or another, be inconvenient, the need to open up another servitude is entirely unjustified*".[51] In *Reyes v. Valentin*,[52] we dismissed the claim for right of way upon a finding that the lot in question can be connected to the public road network by building a bridge over an irrigation canal which separated the lot from the adjacent road; and in *Dichoso, Jr. v. Marcos*,[53] we held that:

> Admittedly, petitioners had been granted a right of way through the other adjacent lot owned by the Spouses Arce. In fact, other lot owners use the said outlet in going to and coming from the public highway. Clearly, there is an existing outlet to and from the public road.
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> However, petitioners claim that the outlet is longer and circuitous, and they have to pass through other lots owned by different owners before they could get to the highway. We find petitioners' concept of what is "adequate outlet" a complete disregard of the well-entrenched doctrine that in order to justify the imposition of an easement of right of way, there must be real, not fictitious or artificial, necessity for it. Mere convenience for the dominant estate is not what is required by law as the basis of setting up a compulsory easement.[54]

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47 *Cristobal v. CA*, 353 Phil. 318, 327 (1998); *Costabella Corp. v. Court of Appeals*, 271 Phil. 350, 358 (1991); *Bacolod-Murcia Milling Co. v. Capitol Subdivision, Inc.*, supra.

48 *Dichoso, Jr., et al. v. Marcos*, 663 Phil. 48, 55 (2011); *Cristobal v. Court of Appeals*, supra note 47.

49 See *Reyes v. Valentin*, supra note 46; *Dichoso, Jr. v. Marcos*, id.; *Spouses Valdez v. Spouses Tabisula*, 582 Phil. 328 (2008); *Spouses De la Cruz v. Ramiscal*, 491 Phil. 62 (2005); *Cristobal v. Court of Appeals*, id.; *David-Chan v. Court of Appeals*, 335 Phil. 1140 (1997); *Floro v. Llenado*, 314 Phil. 715 (1995); *Francisco v. Intermediate Appellate Court*, 258 Phil. 324 (1989); *Ramos, Sr. v. Gatchalian Realty, Inc.*, 238 Phil. 689 (1987); *Angela Estate, Inc. v. Court of First Instance of Negros Occidental*, 133 Phil. 561 (1968).

50 Supra note 47.

51 Id. at 358-359.

52 Supra note 46.

53 Supra note 48.

54 Id. at 56.

To prove the absence of an adequate outlet to a public highway, jurisprudence requires the claimant to allege and prove the accessibility circumstances of ***all the immovables surrounding*** the isolated lot. In *Sps. Mejorada v. Vertudazo*,[55] we held that the first requisite had been met because the claimant was able to prove that "*there is **no other road** which respondents could use leading to [the nearest public road] except the passageway on petitioners' property*";[56] while in *Quimen v. CA*,[57] the trial court found that the dominant estate was "***totally isolated** from the public highway*".[58] In *Calimoso v. Roullo*,[59] the evidence submitted by the parties enabled the courts to discern three access options for the dominant estate, thus facilitating the determination of the propriety of the claimed right of way:

> That the respondent's lot is surrounded by several estates and has no access to a public road are undisputed. The only question before this Court is whether the right-of-way passing through the petitioners' lot satisfies the fourth requirement of being established at the point least prejudicial to the servient estate.
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> Three options were then available to the respondent for the demanded right-of-way: the first option is to traverse directly through the petitioners' property, which route has an approximate distance of fourteen (14) meters from the respondent's lot to the Fajardo Subdivision Road; the second option is to pass through two vacant lots (Lots 1461-B-1 and 1461-B-2) located on the southwest of the respondent's lot, which route has an approximate distance of forty-three (43) meters to another public highway, the Diversion Road; and the third option is to construct a concrete bridge over Sipac Creek and ask for a right-of-way on the property of a certain Mr. Basa in order to reach the Fajardo Subdivision Road.[60]

In *Naga Centrum, Inc. v. Sps. Orzales*,[61] we sustained the trial court's grant of a right of way in favor of respondents, who were able to submit a detailed history of the surroundings of their isolated lot, as follows:

> The evidence shows that when respondents bought their property in 1965, they passed through the open spaces within Estela and Dela Cruz's lots to get from their lot to the public road, Valentin Street. When Rizal Street was created as a passageway to and from Valentin Street by informal settlers who occupied portions of the subject 1.9-hectare property, which was then owned by Felix Ledda, respondents began using the same as well, after having personal disagreements with Estela and Dela Cruz. Petitioner acquired the property from the Leddas only on July 7, 1980. In 2003, petitioner evicted the informal settlers and closed Rizal Street, except to respondents, who were

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55 561 Phil. 682 (2007).
56 Id. at 687.
57 326 Phil. 969 (1996).
58 Id. at 978.
59 Supra note 46.
60 Id. at 94.
61 795 Phil. 243 (2016).

> allowed to use the same as access to and from Valentin Street, although on a limited schedule, or from 6:00 a.m. to 9:00 p.m. daily. Burdened by this imposition, respondents made a formal demand to acquire a portion of petitioner's property to serve as access to Valentin Street, which petitioner rejected. Respondents then instituted Civil Case No. 2004-0036.[62]

In *Lee v. Spouses Carreon*,[63] we also sustained the grant of a right of way, upon the CA's finding that:

> What defendant-appellant insists is that plaintiffs-appellees can use another outlet leading to the nearest road by traversing several small lots and thereafter use the northern portion of his property which he is willing to be the subject of a right of way. The trial court found that plaintiffs-appellees managed to reach the nearest road **through any passage available**, passing through several lots as they were unobstructed by any structure of fence. However, as correctly ruled by the court a quo, this is not the adequate outlet referred to by law. Plaintiffs-appellees have every right in accordance with law to formally demand for an adequate outlet sufficient for their needs. Moreover, the alternative route referred to by defendant-appellant appears to be merely a proposed outlet, not yet in existence.[64]

In *Sps. Sta. Maria v. CA*,[65] the detailed accessibility circumstances of the surrounding estates, as appearing in the records, enabled us to uphold the grant of a right of way:

> Under the second and fourth assigned errors, the petitioners try to convince us that there are two other existing passage ways over the property of Cruz and over that of Jacinto, as well as a "daang tao," for private respondents' use. Our examination of the records yields otherwise. Said lots of Cruz and Jacinto do not have existing passage ways for the private respondents to use. Moreover, the Ocular Inspection Report reveals that the suggested alternative ways through Cruz's or Jacinto's properties are longer and "circuitous" than that through petitioners' property. This is also clear from the Sketch Plan submitted by the private respondents wherein it is readily seen that the lots of Cruz and Jacinto are only adjacent to that of private respondents unlike that of petitioners which is directly in front of private respondents' property in relation to the public highway.[66]

Finally, in *Almendras v. CA*[67] (*Almendras*), which involved a claim for right of way by the owner of a subdivided lot which became isolated from the public road network by virtue of the subdivision, we remanded the case for further proceedings on the basis of the detailed accessibility circumstances of the

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62 Id. at 262-263.
63 560 Phil. 490 (2007).
64 Id. at 494.
65 Supra note 46.
66 Id. at 287.
67 336 Phil. 506 (1997).

surrounding lots, which served as the Court's basis for reinstating the case and the remand thereof:

> In the case at bar, the trial court ruled that the easement should be constituted through the land of private respondents on the eastern side because it would be the shortest way to the provincial road, being only 17.45 meters long, compared to 149.22 meters if the easement was constituted on the Opone and Tudtud roads on the western and southern sides of petitioner's land.
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> On the other hand, as already pointed out, the Court of Appeals, in pointing to the longer way, considered the fact that this was already existing and does not preclude its use by other parties than the individual owners of Lot 1-A to Lot 1-G and the owners of the land on which the connecting Tudtud road is found.
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> The way may be longer and not the most direct way to the provincial road, but if the establishment of the easement in favor of petitioner on this road will cause the least prejudice, then the easement should be constituted there. This seems to be reasoning of the Court of Appeals. However, this can only be determined if the several lot owners (i.e., the Opones and their buyers and those of Bienvenido Tudtud) are before the court, **for the determination of the point least prejudicial to the owners of servient estates (if there are two or more possible sites for an easement) requires a comparative evaluation of the physical conditions of the estates. It is not possible to determine whether the estates which would be least prejudiced by the easement would be those of the owners of the Opone and Tudtud properties because they have not been heard. Although evidence concerning the condition of their estates has been presented by private respondents, it is impossible to determine with certainty which estate would be least prejudiced by the establishment of an easement for petitioner until these parties have been heard.** Any decision holding them liable to bear the easement would not be binding on them since they are not parties to this action.[68]

In the case at bar, although the Spouses repeatedly claim that the route through VRC is the only access to the Outside Lot, this allegation is not supported by evidence which **precludes the existence of** "*other roads which they could traverse or x x x other adequate outlets which may lead to other roads.*"[69] Stated differently, the Spouses' evidence does not prove that, in the Court's words, "*there is **no other road** which they could use*" other than the streets within VRC, or that the Outside Lot was "***totally isolated** from the public highway*". The sketch plans submitted by the Spouses clearly show that the Outside Lot is a rectangular parcel bounded on one side by VRC, and on the other three sides, by three other lots, denominated in the plans as Lot 10, PCS-2587, Lot 9, PCS-2587, and Lot 14, PCS-2587.[70] Following the aforequoted decisions of the Court, the Spouses should have alleged and proved the physical

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68 Id. at 512-513.
69 *Rollo*, p. 36.
70 Records, p. 81.

and geographical circumstances of these three adjacent lots, so that the courts may determine if these lots are adequate outlets for the Outside Lot. However, the sketch plans submitted by the Spouses focus solely on mapping their proposed route through VRC Lot, without providing the same level of mapping detail for Lots 9, 10, and 14 of PCS-2587. The Spouses' pleadings do not explain the absolute dearth of evidence on the accessibility circumstances of said lots. Instead, they simply harp on SLR's failure to adduce rebuttal evidence, and devote their efforts solely to arguing for their proposed right of way through VRC, which is not surprising, since, by their own admission, they bought the VRC Lot for the sole purpose of obtaining a right of way for their adjacent Outside Lot.[71]

The Spouses' failure to submit any evidence on the physical and geographical condition of the three other lots surrounding the Outside Lot also prevented them from establishing compliance with the fourth requisite. Verily, the trial court could not have ruled on the Spouses' allegation that the streets inside VRC are the **shortest route and only available access** from the Outside Lot to Commonwealth Avenue, precisely because there is no data on the accessibility of the three other lots with which the trial court could compare and contrast the adequacy of the proposed route through VRC. In the absence of such data, it is not even possible to rule on the specific objections raised by SLR to the use of its VRC streets, for, in the words of *Almendras*, the "*determination of the point least prejudicial to the owners of servient estates (if there are two or more possible sites for an easement) requires a comparative evaluation of the physical conditions of the estates.*"[72] Again, we reiterate that the Spouses' failure to submit evidence on the condition of the three other lots surrounding the Outside Lot made such comparative evaluation impossible.

WHEREFORE, the Court **DENIES** the present petition and **AFFIRMS** the assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 90968.

SO ORDERED.

SAMUEL H. GAERLAN
Associate Justice

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71 Id. at 3, 225, 260.

72 *Almendras v. Court of Appeals*, supra note 67 at 513.

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

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.

ALFREDO BENJAMIN S. CAGUIOA
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.

ALEXANDER G. GESMUNDO
Chief Justice