

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

DAALCO DEVELOPMENT G.R. No. 264652
CORPORATION,

Petitioner,

Present:

-versus-

PALMAS DEL MAR
HOMEOWNERS ASSOCIATION
(PDM-HOA), represented by GIL
FERNANDEZ, President,

Respondent.

LEONEN, S.A.J., Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

Promulgated:

NOV 04 2024

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DECISION

LOPEZ, M., J.:

For the Court's resolution is Daalco Development Corporation's (Daalco) Petition for Review on *Certiorari*¹ assailing the Court of Appeals' (CA) Decision² and Resolution.³ The CA upheld the Human Settlements Adjudication Commission (HSAC) and Housing and Land Use Regulatory Board's (HLURB) Decisions ordering Daalco to donate the area occupied by Palmas del Mar Subdivision's water system to Bacolod City and turn over the management of the water system to Palmas del Mar Homeowners Association (PDM-HOA).

¹ *Rollo*, pp. 3--38.

² *Id.* at 165--178. The February 16, 2022 Decision in CA-G.R. SP No. 169292 was penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Gabriel T. Robeniol and Angelene Mary W. Quimpo-Sale of the Eighth Division, Court of Appeals, Manila.

³ *Id.* at 188--189. The September 8, 2022 Resolution in CA-G.R. SP No. 169292 was penned by Associate Justice Manuel M. Barrios and concurred in by Associate Justices Gabriel T. Robeniol and Angelene Mary W. Quimpo-Sale of the Former Eighth Division, Court of Appeals, Manila.

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FACTS OF THE CASE

On December 8, 2016, PDM-HOA, the registered homeowners association of Palmas Del Mar Subdivision, filed a Complaint⁴ demanding from Daalco, the subdivision developer, the donation of all open spaces, roads, and parks of the subdivision to the local government of Bacolod City, as required under Presidential Decree (PD) No. 1216.⁵ PDM-HOA claimed that Daalco only donated portions of Lot 4, Block 1, Phase 1 (Lot 4), where the water tank is located, and Road Lot 5B, where the underground pipes for the subdivision's water system are located. PDM-HOA also demanded the turnover of the ownership and management of the water facility to them, in keeping with its right to ensure the availability of quality water services at a reasonable price under Republic Act (RA) No. 9904, otherwise known as the Magna Carta for Homeowners and Homeowners' Association.⁶

For its part, Daalco contended that it has complied with the 30% open space requirement since the open spaces to be donated have a combined area of 7,209 square meters, while the roads have a combined area of 31,126 square meters. Altogether the area to be donated is 38,335 square meters out of the 127,142-square meter total project area. Excluding the area where the water facilities and pipes are located, Daalco will be donating more than 30% of the project. Daalco opined that PD No. 1216 does not include the donation of water facilities and water pipes or the lots on which they are built to the city or municipality where the subdivision is located. Lastly, Daalco insisted that its rights and interests must also be taken into consideration since the water facilities also service the Palmas del Mar Resort Hotel.⁷

HLURB DECISION

In its Decision,⁸ the HLURB Arbiter ordered the donation of the subject properties to Bacolod City and the turnover of the management of the water system to PDM-HOA, upon showing that it has consulted the general membership.⁹ The Arbiter explained that PD No. 1216 provided no exception in the donation of open spaces. Therefore, all open spaces should be donated to Bacolod City. Lastly, the Arbiter cited Section 8(g)¹⁰ of RA No. 9904 as

⁴ *Id.* at 39–45.

⁵ Defining "Open Space" in Residential Subdivisions and Amending Section 31 of Presidential Decree No. 957 Requiring Subdivision Owners to Provide Roads, Alleys, Sidewalks, and Reserve Open Space for Parks for Recreational Use (1977).

⁶ *Rollo*, pp. 39–41.

⁷ *Id.* at 48–49.

Id. at 85–94. The August 3, 2017 Decision in HLURB Case No. WVR REM-2016-0099 was penned by HL Arbiter Atty. Melchor M. Calopiz of the Housing and Land Use Regulatory Board, Western Visayas Region.

⁹ *Id.* at 94.

¹⁰ Section 10. *Rights and Powers of the Association*. — An association shall have the following rights and shall exercise the following powers:

....
(g) Ensure the availability of quality water services at a reasonable price and, at its option, administer and manage the waterworks system of the subdivision[.]

the basis for PDM-HOA's right to operate the water system.¹¹ The dispositive portion of the decision reads:

WHEREFORE, premises considered, decision is hereby rendered ordering DAALCO or any of its successors-in-interest, within thirty (30) days from receipt hereof, to perform the following:

1. Include in the donation to the City of Bacolod the area occupied by the water system of Palmas del Mar Subdivision;
2. Turn-over the management of the water system to [PDM-HOA] after the association has shown that it has consulted the general membership on matter of administration of water system;

The counterclaims of the Respondent is dismissed for lack of merit.

IT IS SO ORDERED.¹²

HSAC DECISION

Daalco filed an appeal with the HSAC, but it was denied in its Decision.¹³ Citing *Liwag v. Happy Glen Loop Homeowners Association, Inc.*,¹⁴ the HSAC found that Lot 4 A, where the water pipes are located, forms part of open spaces that should be donated to the local government unit.¹⁵ The HSAC also ruled that PDM-HOA, after consultation with the general membership, shall administer and manage the subdivision's waterworks, as provided under Section 49(g) of RA No. 9904 and its implementing rules.¹⁶

CA RULING

In a Petition for Review (with Prayer for a Writ of Preliminary Injunction or Status Quo Order)¹⁷ with the CA, Daalco claimed that Section 49(g) is only applicable when the waterworks system was developed for the exclusive use of the subdivision and not when the water is supplied by a community water system in a barangay or by a water provider that supplies other users.¹⁸ Daalco stressed that the water system of the subdivision was also built to service Palmas del Mar Beach Club and Resort Hotel (Resort)

¹¹ *Rollo*, pp. 92–93.

¹² *Id.* at 94.

¹³ *Id.* at 111–121. The December 9, 2020 Decision in HSAC Case No. REM-A-170913-006 (WVR-REM-2016-0099) was penned by Commissioner Marlyn M. Pintor with Commissioners Fidel J. Excarde, Jr., Ria Corazon A. Golez Cabrera, and Melzar P. Galicia of the Commission *En Banc*, Human Settlements Adjudication Commission, Diliman, Quezon City.

The dispositive portion of the Decision reads:

“WHEREFORE, in view of the foregoing, the HLURB Arbiter's Decision dated [August 3, 2017] is AFFIRMED *in toto*.

SO ORDERED.”

¹⁴ 690 Phil. 321 (2012) [Per J. Sereno, Second Division].

¹⁵ *Rollo*, pp. 115–117.

¹⁶ *Id.* at 119–120.

¹⁷ *Id.* at 122–155.

¹⁸ *Id.* at 135.

inside the subdivision. The Resort even predates the subdivision by more than twenty years. Daalco invested in its water facilities to ensure the supply of water to the Resort. Further, Daalco questioned PDM-HOA's capacity to shoulder the repair, maintenance, and equipment replacement costs of the water system and pointed out PDM-HOA's lack of experience in managing and maintaining a water system.¹⁹

Acting on the Petition, the CA found that Daalco was legally required to donate the entire Lot 4 to the government of Bacolod City even though it had earlier donated 38,597 square meters, or approximately 30.36%, of the project. The CA cited Section 31 of PD No. 1216 and *Liwag*, where the Court considered the property where the subdivision's water facilities are located as open space. As such, the donation of Lot 4, where the subdivision's water facilities are located, is proper. The 30% gross area is only a minimum requirement. The developer is not proscribed from allocating more than the required area. The CA likewise recognized PDM-HOA's right to manage the waterworks system under RA No. 9904 and reasoned that the welfare of the residents should take precedence over Daalco's business interests.²⁰ Accordingly, the CA dismissed Daalco's Petition and sustained the HSAC's Decision.²¹

Daalco moved for reconsideration and argued that in *Republic v. Spouses Llamas*,²² the Court held that developers cannot be compelled to donate open spaces.²³ The developers are free to choose whether to donate all of its open spaces. As to the management of the water system, Daalco proposed joint ownership and management because the water system supplies both the subdivision and the Resort.²⁴

The CA denied Daalco's Motion for Reconsideration.²⁵ Hence, this Petition.

PARTIES' ARGUMENTS

Daalco claims that the CA erred in ordering the donation of the entire Lot 4 considering the Court's rulings in *Llamas* and *Casa Milan Homeowners Association, Inc. v. The Roman Catholic Archbishop of Manila*.²⁶ Daalco also maintains that the water system is a community water system designed to

¹⁹ *Id.* at 127–129.

²⁰ *Id.* at 170–172.

²¹ *Id.* at 172. The dispositive portion of the Decision reads:

“WHEREFORE, premises considered, the Petition for Review is DENIED. The Decision dated [December 9, 2020] of the Human Settlements Adjudication Commission is SUSTAINED.
SO ORDERED.”

²² 804 Phil. 264 (2017) [Per J. Leonen, Second Division].

²³ *Rollo*, p. 175.

²⁴ *Id.* at 182–183.

²⁵ *Id.* at 174–184, 188–189.

²⁶ 839 Phil. 941 (2018) [Per J. Carpio, Second Division].

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serve the subdivision and the Resort. The CA has no legal basis in depriving Daalco of its right to manage the water system.²⁷ Meanwhile, PDM-HOA contends that Daalco prepared and presented the approved site development plan that included Lot 4 as an open space. It cannot deviate from the plan to the prejudice and damage of the subdivision lot buyers.²⁸

RULING

The Petition is meritorious.

Daalco is not required to donate the properties where the water system is located

The CA erred in ruling that Daalco is required to donate the subject properties to Bacolod City. For one, the property where the water system is located is not one of the open spaces to be donated to the city or municipality under Section 31 of PD No. 957,²⁹ as amended by Section 2 of PD No. 1216. For another, the donation under Section 31 requires *animus donandi* on the part of the owner or developer. Absent *animus donandi* on Daalco's part, the CA cannot compel the donation of the subject properties.

An open space is "an area reserved exclusively for parks, playgrounds, recreational uses, schools, roads, places of worship, hospitals, health centers, barangay centers[,] and other similar facilities and amenities."³⁰ In *Liwag*, the Court held that the property where the subdivision's water facilities are located is part of open spaces because of the phrase "other similar facilities and amenities" in the definition of open space under PD No. 1216. The Court applied the principle of *ejusdem generis* and explained that the enumeration of areas referred to as open spaces includes those areas reserved for the common welfare of the community. Since the water facility was established for the benefit of the community, the lot where the water facility is located forms part of open spaces.³¹

Using the same principle of *ejusdem generis*, Senior Associate Justice Marvic M.V.F. Leonen clarified that the enumeration of open spaces discussed in *Liwag* pertains to additional developments for the community members' well-being. As stated in the whereas clause, the purpose of reserving open spaces is to create a healthy environment in human settlements and enhance the quality of life of the residents. Meanwhile, provision for water and electricity are basic utilities necessary for the community's survival.

²⁷ *Rollo*, p. 9.

²⁸ *Id.* at 212–213.

²⁹ The Subdivision and Condominium Buyer's Protective Decree (1976).

³⁰ Presidential Decree No. 1216, sec. 1.

³¹ 690 Phil. 321, 333–334 (2012) [Per J. Sereno, Second Division].

He also explained that a subdivision's water pipeline and distribution system is a public utility that is indispensable for the community's survival. Thus, a subdivision's water system may not be considered similar to parks, playgrounds, recreational uses, schools, roads, places of worship, hospitals, health centers, and barangay centers.³²

Undeniably, a water system is a basic utility—not a mere facility that enhances the residents' quality of life.

Likewise, the subject property here is the lot where the subdivision's water system is located. However, this does not mean that the developer is required to donate the land where the water facilities are located.

Section 31 requires the reservation of 30% of the gross area of one hectare or more subdivision projects for open spaces. The same section also provides that upon completion, the roads, sidewalks, and playgrounds shall be donated by the subdivision owner or developer to the city or municipality:

Section 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.** Such open space shall have the following standards allocated exclusively for parks, playgrounds and recreational use:

- a. 9% of gross area for high density or social housing (66 to 100 family lot per gross hectare).
- b. 7% of gross area for medium-density or economic housing (21 to 65 family lot per gross hectare).
- c. 3.5% of gross area low-density or open market housing (20 family lots and below per gross hectare).

These areas reserved for parks, playgrounds and recreational use shall be non-alienable public lands, and non-buildable. The plans of the subdivision project shall include tree planting on such parts of the subdivision as may be designated by the Authority.

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)

³² J. Leonen, *Reflections*, pp. 2–3.

Section 31 has four portions. *First*, the *provision* of adequate roads, alleys, and sidewalks. *Second*, the *reservation* of 30% of the gross area for open space. *Third*, the *allocation* of open spaces to parks, playgrounds, and areas for recreational use and the nature of these areas. *Fourth*, the *donation* of roads, alleys, sidewalks, and playgrounds to the local government where the subdivision is located.

A plain reading of the fourth portion or last paragraph of Section 31 conveys that the developer is required to donate the roads, alleys, sidewalks, and playgrounds to the local government unit. There is no mention of other open spaces, such as schools, places of worship, hospitals, health centers, barangay centers, and other similar facilities and amenities. Under the rules of statutory construction, the express mention of one person, thing, or consequence implies the exclusion of all others. This is expressed in the maxim *expressio unius est exclusio alterius*.³³ Applying this principle, the donation of other open spaces is not required. Even if the Court considered the lot where the water system is located as an open space, it is not included in the enumeration of open spaces to be donated. The last paragraph of Section 31 does not contain the phrase “other similar facilities and amenities” mentioned in the definition of open spaces. Therefore, Section 31 does not require the donation of all open spaces.

At this juncture, the Court clarifies that the reservation of at least 30% of the gross area of a subdivision project for open spaces does not automatically carry with it the donation of all open spaces to the local government unit.³⁴ This is especially true since the Court has already ruled in *Llamas* that the compulsion to donate under the last part of Section 31 is invalid because a donation is an act of liberality under Article 725 of the Civil Code:

The last paragraph of Section 31 is oxymoronic. One cannot speak of a donation and compulsion in the same breath.

A donation is, by definition, “an act of liberality.” Article 725 of the Civil Code provides:

Article 725. Donation is an act of liberality whereby a person disposes gratuitously of a thing or right in favor of another, who accepts it.

To be considered a donation, an act of conveyance must necessarily proceed freely from the donor's own, unrestrained volition. A donation cannot be forced: it cannot arise from compulsion, be borne by a requirement, or otherwise be impelled by a mandate imposed upon the donor by forces that are external to him or her. Article 726 of the Civil Code reflects this commonsensical wisdom when it specifically states that

³³ *De La Salle Araneta University v. Bernardo*, 805 Phil. 580, 601 (2017) [Per J. Leonardo-De Castro, First Division].

³⁴ *See Woodridge School, Inc. v. ARB Construction Company, Inc.*, 545 Phil. 83, 89 (2007) [Per J. Corona, First Division].

conveyances made in view of a “demandable debt” cannot be considered true or valid donations.

In jurisprudence, *animus donandi* (that is, the intent to do an act of liberality) is an indispensable element of a valid donation, along with the reduction of the donor's patrimony and the corresponding increase in the donee's patrimony.

Section 31's compulsion to donate (and concomitant compulsion to accept) cannot be sustained as valid. Not only does it run afoul of basic legal concepts; it also fails to withstand the more elementary test of logic and common sense. As opposed to this, **the position that not only is more reasonable and logical, but also maintains harmony between our laws, is that which maintains the subdivision owner's or developer's freedom to donate or not to donate. This is the position of the 1998 *White Plains* Decision. Moreover, as this 1998 Decision has emphasized, to force this donation—and to preclude any compensation—is to suffer an illegal taking.**³⁵ (Emphasis supplied, citations omitted)

Relevantly, the Court stressed in *Casa Milan* that “open spaces belong to the subdivision owners and developers primarily, meaning they have the freedom to retain or dispose of the open space in whatever manner they desire.”³⁶ Put simply, the subdivision owners or developers have the freedom to donate or not donate the open spaces. This interpretation maintains harmony between our laws. Otherwise, the compulsion to donate would constitute illegal taking without compensation.³⁷

Notably, even the Rules and Regulations Implementing Section 31 of PD No. 957, as amended by PD No. 1216, recognize the subdivision owner or developer's right to donate or not donate the road lots and open space. Specifically, Rule IV, Section 9, provides that if the owner or developer did not donate the open space, it is responsible for maintaining the subdivision facilities.³⁸

Here, Daalco will be donating 38,597 square meters, or approximately 30.36% of the project to Bacolod City.³⁹ Although Daalco will only donate

³⁵ 804 Phil. 264, 276–277 (2017) [Per J. Leonen, Second Division].

³⁶ 839 Phil. 941, 952, (2018) [Per J. Carpio, Second Division], citing *White Plains Homeowners Association, Inc. v. Court of Appeals*, 358 Phil. 184 (1998) [Per J. Martinez, Second Division].

³⁷ 804 Phil. 264, 276–277 (2017) [Per J. Leonen, Second Division].

³⁸ Rules and Regulations Implementing Section 31 of Presidential Decree No. 957, As Amended By Presidential Decree No. 1216, Rule IV, Section 9:

SECTION 9. *Effects.*— Once the registered owner or developer has secured the Certificate of completion and has executed a Deed of Donation of Road Lots and Open Space, he/she shall be deemed relieved of the responsibility of maintaining the road lots and open space of the subdivision notwithstanding the refusal of City/Municipality concerned to accept the donation.

Should the registered owner or developer merely secure a Certificate of Completion without making the corresponding deed of donation, he/she is still deemed responsible for the maintenance of the subdivision facilities in which case a reasonable amount of the performance bond shall reserved to guarantee the maintenance of the road and open space. This reserved amount shall be totally released by the Commission only upon showing by the registered owner or developer of proof of a deed of donation executed in favor of the City/Municipality concerned.

³⁹ *Rollo*, p. 115.

Lot 4-A and retain Lot 4-B where the water tank is located,⁴⁰ this does not mean that it altered the subdivision plan. Lot 4-B is still part of the subdivision's water system.

Evidently, Daalco has no intention of donating the property where its water system is located. Absent any intention to donate on Daalco's part, the CA cannot compel the donation of the subject properties to Bacolod City. The applicable jurisprudence and the laws on donation require *animus donandi* or the intent to do an act of liberality⁴¹ to proceed with the donation. Forcing Daalco to donate the subject property constitutes unlawful taking.

*Daalco is not required to
turnover the management
of the water system to
PDM-HOA*

RA No. 9904, or the Magna Carta for Homeowners and Homeowners Association, does not require the turnover of the management of the water system to the homeowners' association. This is supported by the changes made in the initial draft of the power of the subdivision homeowners' associations to manage and administer the waterworks system under Section 10(g) of RA No. 9904.

A comparison of the initial draft of the subdivision homeowners association's power to manage the subdivision's waterworks system and Section 10(g) indicates the legislature's intention of not requiring the turnover of the management of the waterworks system from the owner or developer to the subdivision' association. Senate Bill No. 1586 states: "[a]dminister and manage **the waterworks system** of the subdivision, **which shall be turned over by the developer upon completion of the subdivision.**" Meanwhile, Senate Bill Nos. 182 and 2072 provides: "[a]t its option, administer and manage **the waterworks system** of the subdivision, **which shall be turned over by the developer upon completion of the subdivision.**" But then, Section 10(g) of RA No. 9904 now reads: "[e]nsure the availability of quality water services at a reasonable price and, **at its option, administer and manage the waterworks system of the subdivision.**"

Indisputably, the legislature deleted the portion requiring the turnover of the waterworks system by the subdivision owner or developer. During the committee deliberations, the committee members expressed their reservations regarding the turnover portion because of possible conflict with existing laws:

THE PRESIDING OFFICER. Okay po.

⁴⁰ *Id.* at 20.

⁴¹ *Abello v. Commissioner of Internal Revenue*, 492 Phil. 303, 308–310 (2005) [Per J. Azcuna, First Division].

So, let's proceed with Item Number 9 doon sa Biazon version, on Page 6 now, **"At its option, administer and manage the waterworks system of the subdivision which shall be turned over by the developer upon completion of the subdivision."** Again, if I recall it correctly, may discussion din tayo diyan doon sa pagma-man[a]ge nila o pag-o-operate nila ng ganitong klaseng utility, water system. **It was discussed kung they really have to or they really have the right, 'no, kasi may nagsabi, may view na nagsabi na they need a franchise for that, 'no, but just the same, may mga areas na hindi naaabot ng local water utilities, water districts or the Maynilad in case of Metro Manila or Manila Waters.** So, I think wala rin naman po—has there been a case filed questioning iyong operations ng mga homeowners sa kanilang subdivision sa pagpo-provide ng waterworks system?

MS. ANTONIO. Excuse me.

THE PRESIDING OFFICER. Yes, Ma'am.

MS. ANTONIO. There are cases filed by homeowners against the developer and there are also cases filed against the—sa association itself because they are charging too high.

THE PRESIDING OFFICER. Exorbitant fees. Members po but not per se questioning the rights of the homeowners or the developer to provide the water system doon sa kanilang subdivision, **kasi it was raised po kung we really have to put it here, baka ma-question tayo doon sa legality.**

THE PRESIDING OFFICER. ...doon sa legality noong – you know, allowing this homeowners association to operate or manage the waterwork system within their subdivision.

MR. MAGLALANG. The other problem, Mr. Chair, will be, the similar provision in the Biazon and Zubiri Bills is that they are **implied amendments kasi to existing laws.** I don't know if it's a P.D. regarding LWUA yata 'yan eh or with 957. Part ba ito ng kuwan? **Kasi ang language niya "shall"- "it shall be turned over." Baka ma – I think we need to study this further.**⁴² (Emphasis supplied)

Further, a scrutiny of the committee deliberations on the homeowners association's power to administer and manage the subdivision's waterworks system reveals the significance of such power, especially in situations where there is no duly franchised local water utility, company, or cooperative that would operate the subdivision's waterworks system.

September 26, 2007:

MR. MANUEL ...water system, Your Honor. The association should not be allowed only—**the association should only be allowed in the absence of a duly franchised local water utility, company or cooperative.**

⁴² TCM, November 15, 2007, pp. 10–14.

THE CHAIRMAN. I think that's fair. That is fair.⁴³ (Emphasis supplied)

October 24, 2007:

THE PRESIDING OFFICER. Okay, sige po.

Yes, sir. But still we will welcome po iyong mga suggestion ninyo for the wordings ng Section 5, No. 5.

Okay, let's move on sa No. 6 po. "Hire, discharge or contract with managing agents and other employees, agents and independent contractors." I think wala naman pong pagtatalo dito, ano? Okay na po, ano?

So, let's move on sa No. 8 sa Biazon bill, which should be actually No. 7. Acquire hold, encumber and convey in its own name any right, title or interest to real or personal property, and utilities."

Atty. Jasarino.

MR. JASARINO. Iyong from the word "acquire" up to "property," standard iyan, eh, that's a corporate prerogative. **Pero iyong "and utilities," parang biglang sumaksak from somewhere. Somehow it does not fit in the description of the authority—power of the association. In fact, parang indirectly nilundagan mo yung water system, because that's utility.**

THE PRESIDING OFFICER. Exactly nga po. I think iyan din and naisip ko doon, iyong water system.

MR. JASARINO. Biglang hindi mo ina-allow iyong water system, biglang doon in-allow mo. So, baka kako dapat tingnan maige iyong paglalagay noong "and utilities."

THE PRESIDING OFFICER. And utilities. **But there are some homeowners' association po na sila talaga iyong nagma-manage o nagpo-provide ng mga water system kasi hindi pa umaabot doon ang NAWASA, 'no, so deep well ang gamit nila and then they charge a certain fee doon sa mga homeowners.**

MR. JASARINO. If I may? My suggestion there is to have a separate provision, para siya klaro. Kasi on its own, Number 8 should not be a problem, eh except for the two words. Kung gusto talagang magkaroon ng hiwalay na power to cover that situation where there's no—for instance, there's no NAWASA coming in, then a separate provision para klarong-klaro siya.

MR. MAGLALANG. Mr. Chair.

THE PRESIDING OFFICER. Okay, Mr. Maglalang.

MR. MAGLALANG. I don't know, siguro upon the return of Atty. Manuel, we can clarify this.

⁴³ TCM, September 26, 2007, p. 73.

There is an existing law which states that **you cannot just operate water utilities. You have to register this actually with the National Water Resources Board**, or something—LWUA before, but - -

MR. DAYRIT. LWUA. Kapag mga water districts, LWUA iyan.

MR. MAGLALANG. Sa probinsya, oo. So we have to marry this provision with that of existing law para for it to be in conformity with each other.

Atty. Manuel, ano na nga ho iyong PD or law regarding the management of water utilities?

MR. MANUEL. Mayroong portion doon sa PD 957. Pero may EO silang inaano ngayon, eh, and MWSS, mayroon silang pinopropose na EO.

VOICE. Iyong PD 957 po muna, Attorney, ano'ng nakalagay na provision doon?

THE PRESIDING OFFICER. Sir, please use the microphone po, for the record, para hindi po naming ma-miss iyong mga discussion.


MR. MANUEL. **Specifically as to the sourcing of water supply, dito sa Metro Manila area, iyong sa MWSS, pero kung may existing locality doon ang local water district, iyon ang magiging source nila. Doon lang ang particular provision.** Pero mayroong Executive Order na pin-propose sila empowering the MWSS in coordination with HLURB, etcetera, for the takeover of the water system in a subdivision project.

THE PRESIDING OFFICER. Okay po. **We will take the suggestion of Atty. Jasarino na lang na we put another section or provision for that to cover iyong mga ganoong instances especially iyong water system.**⁴⁴ (Emphasis supplied)

Section 10(g) initially contemplates a situation where the homeowners' associations have to manage and administer the waterworks system because there is no existing company, cooperative, or local water utility. If there is already an existing company, cooperative, or local water utility that manages the water system, the association may still administer the waterworks system at its option. However, there is nothing in Section 10(g) that requires the existing company, cooperative, or local water utility to transfer the management and administration of the water system to the association. This is evident from the removal of the phrase "which [waterworks system] shall be turned over by the developer upon completion of the subdivision" from the initial draft of Section 10(g).

All things considered, PDM-HOA has no demandable right to compel the transfer of the management and administration of the waterworks system from Daalco, regardless of whether the waterworks system serves both the subdivision and the Resort, or the subdivision only.

⁴⁴ TCM, October 24, 2007, pp. 100–103.



Moreover, the CA cannot order the turnover of the management of the waterworks system absent any showing that PDM-HOA consulted its members. The implementing rules and regulations of RA No. 9904, requires a consultation with the subdivision's general membership before the homeowners' association can administer and manage the waterworks system of the subdivision:

Section 67. Rights and Powers of the Association. An association duly registered in accordance with this Rules shall have the following rights and powers:

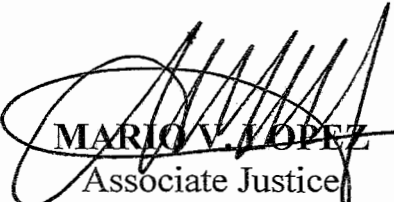
....

g. Where the association's water services are operated and maintained by the subdivision owner/developer or a third-part provider, ensure the availability of quality of water services at a reasonable price and, **at its option, after consultation with the general membership, administer and manage the waterworks system of the subdivision[.]**⁴⁵ (Emphasis supplied)

The burden of proving that the requirements have been complied with rests on the homeowners' association. There is no finding that PDM-HOA consulted its general membership before demanding the turnover of the waterworks system. Further, Senior Associate Justice Leonen emphasized that the association must still comply with the conditions of operating and maintaining a centralized water system for the subdivision, the requirements for operating and managing water utilities under the relevant laws and regulations, and the minimum standards and regulations imposed by the Local Water Utilities Administration.⁴⁶ Therefore, it is premature for the CA to rule that Daalco should turn over the administration and management of the waterworks system to PDM-HOA.

ACCORDINGLY, the Petition is **GRANTED**. The Court of Appeals Decision dated February 16, 2022, and Resolution dated September 8, 2022 in CA-G.R. SP No. 169292 are **REVERSED**. Palmas del Mar Homeowners Association's complaint is **dismissed** for lack of merit.

SO ORDERED.

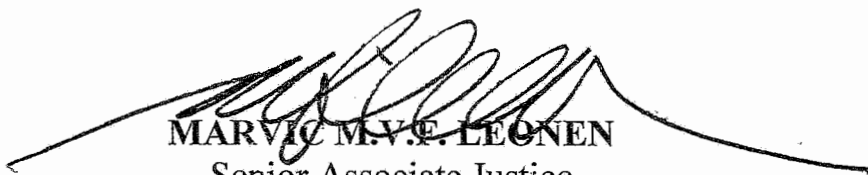

MARIO V. LOPEZ
Associate Justice

⁴⁵ Department of Human Settlements and Urban Development's Department Order No. 2021-007, Rule XI, Section 67(g) further requires compliance with the existing laws before the subdivision associations can administer and manage the water works system of the subdivision:

(g) Where the association's water services are operated and maintained by the subdivision owner/developer or a third-party provider, ensure the availability of quality water services at a reasonable price and, at its option, after consultation with the general membership, and subject to compliance with existing laws, administer and manage the waterworks system of the subdivision[.]

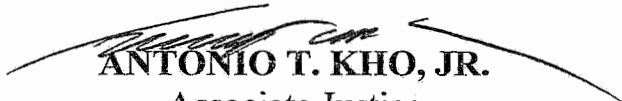
⁴⁶ J. Leonen, *Reflections*, p. 12.

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice

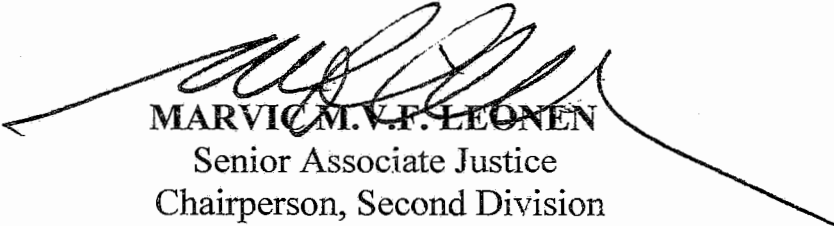

AMY C. LAZARO-JAVIER
Associate Justice


JHOSEP LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

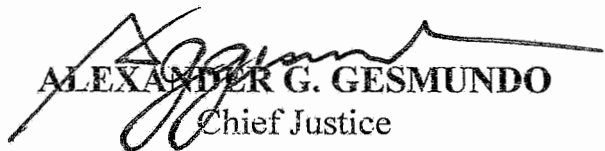
ATTESTATION

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.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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