SUPREME COURT
THIRD DIVISION

SPOUSES CLAUDIO M. ANONUEVO, and CARMELITA ANONUEVO,
***Petitioners*,**

-versus-

G.R. No. 113739
May 2, 1995

COURT OF APPEALS, HERMOGENES B. PURUGGANAN, ET. AL. and FRANCISCO PADILLA, ET. AL.,
***Respondents*.**
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R E S O L U T I O N

MELO, *J.*:

Before us is a Petition for *Certiorari* directed against the Decision rendered by the Court of Appeals in CA-G.R. No. CV No. 35119, disposing:

> ACCORDINGLY, in view of all the foregoing, the decision appealed from is hereby REVERSED, and a new one is rendered DECLARING Lot II, Block 6 of LRC Plan Psd-4666, now covered under TCT No. 35735, Registry of Deeds of Quezon City, as an OPEN SPACE for public use and enjoyment; DECLARING as null and void TCT No. 35735 in the name of

> Francisco Padilla, married to Geraldine Padilla, and all other certificates of title derived therefrom; and, ORDERING Spouses Claudio and Carmelita Anonuevo, and all persons in privy to them, their heirs and assigns, to cease and desist from disturbing the possession and control exercised by the HOMEOWNERS of Carmel II-A Subdivision, over said Lot II, Block 6.
>
> The counterclaim, the third-party complaint and the third-party counterclaim are DISMISSED for lack of merit. No cost. (pp. 26-27, Rollo.)

The factual backdrop of the case at hand was synthesized by the Court of Appeals thusly:

> Appeal from the decision rendered on August 22, 1991, by Branch 100 of the Regional Trial Court, Quezon City, National Capital Region, the fallo of which reads, as follows:
>
> > WHEREFORE, in the light of the foregoing, this Court renders judgment dismissing plaintiffs' complaint, defendants' third-party complaint and their counterclaim as well as the counter-claim of the third-party defendants for failure to substantiate the same with sufficient evidence, without pronouncement as to costs.
> >
> > SO ORDERED.

The PROPERTY in dispute is a 1,684 square meter lot located in Carmel II-A Subdivision, Project 6, Quezon City (Exh. G, G-I & D-1), now covered under Transfer Certificate of Title No. 311854 in the name of Francisco Padilla (Exh. 7).

It is now the subject of Civil Case No. Q-44308, for quieting of title with damages, etc., involving the following PARTIES: (1) Plaintiffs-Appellants, Purugganan, et. al., are residents and homeowners or Carmel Subdivisions II and II-A; (2) Third-Party Plaintiffs/Defendants-Appellees, spouses Anonuevo, purportedly brought the disputed lot from (3) Third-Party Defendants-Appellants, spouses Francisco Padilla.

The factual antecedents are culled from the records.

In 1958, a 28,070 square meter parcel of real estate known as Lot 833 of the Piedad Estate, registered in the name of Carmel Corporation under TCT No. 37537, Registry of Deeds, Quezon City, was subdivided into what is now known as Carmel II-A Subdivision (Answer, par. 1). But before Lot 833 was subdivided, a tentative subdivision plan for Carmel II-A Subdivision was purportedly approved by the Quezon City Council on April 15, 1958, per Resolution No. 3960 pursuant to the legal requirements in 1958 for the subdivision of residential lots in Quezon City (Quezon City Ordinance Nos. 1525 [21 Nov. 1952], 2754 [10 Jan. 1956], 2969 [11 May 1956] and 3446 [30 July 1957]. Unfortunately however, this tentative subdivision plan could not now be found in the files of the City Council (Decision, Civil Case No. Q-44308, p. 3).

Plaintiffs-appellants, hereinafter referred to as "HOMEOWNERS" and/or "RESIDENTS", aver that in this proposed subdivision plan of TCT No. 37537, a 1,684 square meter portion, representing exactly six percent (6%) of the subdivided property and designated as Lot II, Block 6 on LRC Plan PSD-4666, was particularly set aside as an open space for the homeowners and residents of Carmel II-A Subdivision (Exhs. G, G-1; TSN, Aug. 6, 1978, pp. 13-14), as required under the above-cited Ordinances. It was thence covered by TCT No. 53162 in the name of Carmel Corporation.

Appellant HOMEOWNERS narrate that before they purchased their respective lots in Carmel II-A Subdivision, the leaflets and feelers distributed by Carmel Corporation to advertise the sale of residential lots therein unmistakably show that Lot II, Block 6 was allocated as an open space (Exhs. G, g, I & J). In fact, it was thereafter treated by them as such (Exhs. F, F-1 to F-6).

Records shows that appellant HOMEOWNERS had since used this lot as park and playground, and had constructed a basketball court, a kiosk, concrete benches, among others, on this piece of realty. The use of this area has since likewise been regulated by the homeowners themselves who constructed a perimeter fence around the lot, a gate, and a wrought-iron sign near the entrance reading "Carmel II

Homeowners Mini-Park" (Exhs. F, f-1 to F-6, F2-A). No particular resident or homeowner claim exclusive ownership, nor restrained any other person from enjoying possession, over this area which they considered to be a common recreational ground (Id.; TSN, Aug. 6, 1987, pp. 9, 10 & 15; TSN, Jan. 25, 1988, p. 7; TSN, April 18, 1988, pp. 8 & 11; TSN, Feb. 6, 1989, pp. 7-8; TSN, March 7, 1989, pp. 6-7). Neither did Carmel Corporation question the public character of Lot II, Block 6 of Carmel II-A Subdivision in their official communique with the appellant HOMEOWNERS (Exh. E).

This representation notwithstanding, it appears that TCT No. 53162 covering Lot II, Block 6 of Carmel II-A was sold a retro by Carmel Subdivision in favor of Sentinel Insurance Co., Inc. Wittingly or unwittingly however, it was not redeemed and consequently, TCT No. 235550 was thereafter issued in the name of Sentinel Insurance (Exh. B).

Record further discloses, that upon the dissolution of Sentinel Insurance, the same piece of land was levied upon as a consequence. In the public auction sale which ensued, Francisco Padilla presented the highest bid; perforce, TCT No. 311854 was issued in his name on February 24, 1984 (Exh. 7).

The Padillas eventually sold the disputed lot to the Anonuevo on March 4, 1985, purportedly for a consideration of P875,000.00, payable in installments. But, for reasons of non-delivery of the disputed property by the Padillas and the failure of the Anonuevos to pay the balance of the sale, this property again became the object of another suit (Civil Case No. 44308) which was elevated to this Court as CA-G.R. No. CV No. 20442 and decided by the Special Sixteenth Division on June 21, 1990.

It should be noted however, that sometime late in 1983 appellant witness Alicia Esquivias testified that she apprised the Padillas, who were then conducting an ocular inspection of the property, that Lot II, Block 6 of Carmel II-A Subdivision is an open space. The same warning was given by Mrs. Esquivias to the Anonuevos in 1984 (TSN, March 14, 1989, pp. 6-10).

This notwithstanding, third-party defendants, spouses Padilla, and third-party plaintiff-appellants, spouses Anonuevo, did not heed such telling signs of flaw in the title over the lot in dispute, relying instead, upon what appeared in the certificate of title to be a piece of real estate in fee simple. Hence, this suit:

> On April 3, 1985, after due hearing, the lower court issued a writ preliminary injunction enjoining all the defendants and those privies to them from disturbing the HOMEOWNERS from their possession of the lot in question (Record, p. 43).

After a full-blown trial, the court a quo rendered the decision herein above quoted. Dissatisfied, plaintiff-appellant HOMEOWNERS come to us challenging the decision with the following:

ASSIGNMENT OF ERROR

I. The lower court erred in holding that the property in question is not an open space required by the law to be preserved as park and playground for the benefit of the community;

II. The lower court erred in not making the injunction issued permanent. (pp. 16-19, Rollo.)

On the strength of the foregoing antecedents, the decision of the trial court was thus vacated due to these considerations articulated by Justice Galvez:

> There is a merit in this appeal. But, as hereinafter explained, while Lot II, Block 6 of LRC Plan PSD-4666 now covered under TCT No. 311854 in the name of Francisco Padilla, married, is an open space, it should nonetheless be considered owned by the Quezon City government and/or Republic of the Philippines, while its enjoyment, possession and management pertains to that of plaintiff-appellant HOMEOWNERS.
>
> In declaring that the disputed premises is NOT an open space as claimed by plaintiff-appellant HOMEOWNERS, the lower court noted the failure of said plaintiffs-appellants to presents in

> evidence the proposed subdivision plan submitted to the Quezon City Council by Carmel Corporation before it subdivided Lot 833 of the Piedad Estate into what is now known as Carmel II-A Subdivision wherein it was supposedly shown that Lot II, Block 6 is an open space. With this, court a quo assumed "that the alleged approved plan for Carmel II-A Subdivision does not exist." (Decision, Civil Case No. Q-44308, page 3).

The proposition is not well-taken. To conclude that no such plan had been approved is to sanction the situation wherein the subdivision, Carmel II-A, sprung into existence without having complied with the mandatory legal and practical requirements of a tentative subdivision plan; or, more particularly, with the requirement for an open space. Thus, it has been ruled in White Plains Association, Inc. vs. Legaspi, et. al., 193 SCRA 767, 777, that —

> Subdivision owners are mandated to set aside such open spaces before their proposed subdivision plans may be approved by the government authorities, and that such open spaces shall be devoted exclusively for the use of the general public. A subdivision owner must comply with such requirement before the subdivision plan is approved and the authority to sell it is issued. (Emphasis supplied).

Plaintiff-appellants should not bear the brunt of proving that such requirement had been complied with. The mere fact that Carmel II-A Subdivision exists and that the subdivision plan had never been altered since its inception is sufficient proof of the fact of such compliance.

Furthermore, the mere coincidence between the area (1,684 square meters) covered by Lot II, Block 6 and the area covered by Carmel II-A Subdivision (28,070 square meters) which is precisely six percent (6%) of the total land area, should not have been taken lightly. This is the only area which coincides with such requirement for an open space and no other continuous lot in Carmel II-A Subdivision would fit such prerequisite. Consequently, in ruling that Lot II, Block 6 was NOT the open space set aside pursuant to its subdivision plan, then what was?

No other piece of land had been dedicated not actually used for such purpose. While defendant-appellee Anonuevos, in their Appeal Brief (pp. 13-14), insist that Lot 3, Block 11 is the open space — contrary to their assertions in paragraph 9 (i) of their Answer (Records, p. 13) — it was not particularly pointed out which of the two, Lot 3-A (1,200 square meters) or Lot 3-B (2,253) of Block 11, was being referred to as Lot 3. At any rate, it should be noted that Lot 3-A has an area which is definitely below that required under the municipal statues aforecited, while Lot 3-B covers 8% of the total area of Carmel II-A Subdivision. More importantly, whichever of the two lots (Lot 3-A or Lot 3-B of Block 11) is being referred to by defendants-appellees, it should be stressed that neither of said parcels had been openly devoted to public use and recreation; and, neither has it been shown that Carmel Corporation allowed this to be used as an open space.

It is therefore, to our view, not a mere arithmetic coincidence that Lot II, Block 6 of Carmel II-A Subdivision covers an area which exactly coincides with the legal requirements for subdivision development but rather, a strong and clear evidence that said lot is the open space.

Even if we otherwise assume, arguendo, that the Carmel Corporation did not comply with the required submission, the latter's representations should not prejudice appellant HOMEOWNERS who purchased their respective lots upon such reliance and, indeed, who paid more valuable consideration for a piece of land located near what it advertised as an open space. It would not be amiss to refer to the pronouncement made by the Supreme Court, en banc, in G.R. No. 55868 entitled White Plains Association, Inc. vs. Court of Appeals and Quezon City Development and Financing Corporation (November 14, 1985) which was adopted in the White Plains case, cited supra thus —

> Acting upon the strength of the subdivision plan, prospective residents chose which lot they preferred to occupy, bearing in mind the access to the open areas. This Court takes judicial notice of the business practice prevailing among the subdivision owners to charge more for corners lots, or for lots situated near an open area (Rules of Court, Rule 129, Sec. 1).

> So much so that if a subdivision owner is allowed to renege and claim that the area allotted to a road should revert to a residential area by reason of abandonment, this would prejudice the residents who relied on the subdivision owner's representations when they entered into contracts for the purchase of lots in the subdivision.
>
> Subdivision owners are bound by their business representations under the equitable principles of estoppel.
>
> x x x
>
> The present case is an illustrative example of the principle of promissory estoppel or the reliance theory in the law of Contracts which is best expressed in Sections 90 of the Restatement in Contracts. (193 SCRA 765, 774)

It was therefore unwarranted for the lower to lightly consider the evidence of such representations made by Carmel Corporation to entice them to purchase lots in Carmel II-A Subdivision. These are evidence of the character of the land in dispute as had been disclosed to them by the subdivision owner either directly by advertisement or, indirectly by a formal communique (Exh. E).

The court of origin faults the plaintiffs-appellants for not having impleaded Carmel Corporation, assuming that it is still in business, as party defendant, observing that it was the source of this controversy. However, the court a quo failed to consider that the present action is neither for reconveyance nor purely for damages but, rather, for quieting of title. Hence, regardless of how the subdivision owner considered Lot II, Block 6 after such delineation, or whether or not it could be faulted for such conveyance made in favor of Sentinel Insurance, would not impair the right of the homeowners and residents of Carmel II-A Subdivision to be declared the rightful custodian of Lot II, Block 6 as against the defendants and the third-party defendants.

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. Thus pronounced in the White Plains case —

> To repeat, when it was withdrawn from the commerce of man as the open space required by law to be devoted for the use of the general public, its ownership was automatically vested in the Quezon City government and/or Republic of the Philippines, without need of paying any compensation to respondent QCDFC, although it is still registered in the latter's name. Its donation by the owner/developer to the government is a mere formality. [193 SCRA 765, 778]
>
> 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. (pp. 19-23, Rollo.)

With respect to the aspect of whether the preliminary injunction should be made permanent, respondent court gave an affirmative response:

> It is essential to underscore that in this jurisdiction, a person who deals with registered real estate is not at once relieved of his own negligence in acquiring the same for, in a plethora of jurisprudence, the issue of a buyer's good faith or bad faith finds relevance where the subject of the sale is registered land (David vs. Bandin, 149 SCRA 140); and the fact that the certificate of titles does not show any smidgen of encumbrance or defect therein will not suffice to extenuate his reckless indifference to the rights of those who manifestly lay claim over the property. It is the duty of a buyer to examine not only the certificate of title but the factual circumstances necessary for him to determine if there are any flaws in the title of the transferor or in the latter's capacity to transfer the land (Revilla vs. Galindez, L-9940, March 30, 1960). In fact, Guzman, Bocaling & Co., vs. Raoul Bonnevie, G.R. No. 86150, March 2, 1992, deplored the lack of honest intentions on the part of the purchaser of real property for taking unconscientious advantage of those who appear to have an existing claim over the reality offered for sale.

In this regard, it would not be amiss to emphasize that before purchasing the disputed property, appellees made an ocular inspection of the property sought to be purchased and, upon doing so, discovered that the same parcel had been fenced, paved and with improvements constructed therein. During this occasion, appellees were candidly given notice of the claim of appellant homeowners that the property offered to them for sale was reserved as an open space for the benefit, use and enjoyment of the residents and homeowners in Carmel Subdivision. As found by this Court in C.A.-G.R. CV No. 20442, entitled "Sps. Francisco & Geraldine Padilla, Plaintiffs-Appellants, versus Sps. Claudio & Carmelita Anonuevo, Defendants-Appellees", Special 16th Division, 21 July 1990:

> From the records, we note that the plaintiffs did not have the material possession of the land when the deed of absolute sale was executed. At that time, the land was being occupied and used as playground by the Homeowners of Carmel Subdivision which claimed that the land was an open space devoted to

public use. This fact was affirmed by plaintiff Francisco Padilla himself when on rebuttal he testified:

Q Mr. Padilla, Mr. Anonuevo the defendant in this case testified that he inspected the property and noticed that there were improvements made by the Homeowner's Association and according to Mr. Anonuevo he told you about the improvements (sic) and you said there is no problem, what can you say to that?

A Yes. When we were transacting the property I had already told him that there were some improvements on the property and that some of the homeowners were claiming that it was an open space. (pp. 2-3, tsn, Session of November 2, 1988)

x x x

As shown in the records, the claim of the Homeowners was formalized with the filing of Civil Case No. 44308 which resulted in the issuance of a writ of preliminary injunction restraining the defendants from interfering and/or interrupting the possession of the Homeowners over the land in question.

Very clearly, there existed a factual cause that prevented the passing of the land into the actual control and the possession of the defendants. The symbolic delivery effected through the execution of the deed of absolute sale was negated by the reality that the defendants failed to obtain or never obtained possession of the land.

x x x

Not having performed their obligation to deliver the land plaintiffs certainly cannot compel the defendants to pay the unpaid balance of the purchase price. (CA-G.R. CV No. 20442; Decision, pp. 5-7)

This notwithstanding, the Anonuevos still proceeded with the purchase of the disputed open space comforted merely by a certificate of title which undermined what they have admittedly discovered during and ocular inspection of the offered premises. As between

what they actually saw as the public character for which Lot II, Block 6 was devoted, and what merely appeared in the certificate of title, appellee Anonuevos opted to rely upon the latter against the better judgment of an ordinary prudent man intending to part with a sizable amount of money. they were not circumspect, to say the least, for they did not even bother to question who, as between the vendor and the actual possessors, is the rightful owner of the lot sought to be purchased. This could have been raised in an action for declaratory relief.

This Court takes notice of the increasing instances where the subdivision owner/developer encumbers or sells what it has designated in its subdivision plan to be an open space. This iniquitous act is quite easy to accomplish considering that the certificate of title is left in the name of the owner/developer. Thus, questionable dealings commonly perpetrated by the subdivision owner/developers. Nevertheless, the homeowners of residential subdivisions, and their children as well, should not be unfairly and irreparably deprived of such spaces for public utilities and amenities ordained by law to loosen the noose of congestion of urban living.

This Court cannot contribute to the perpetuation such inequitable practice.

In fine, we reiterate that plaintiffs-appellants Purungganan, et. al., representing the homeowners of Carmel II and II-A Subdivision, are NOT the owners of Lot II, Block 6 of Plan Psd-4666, otherwise covered under TCT No. 311854, although they enjoy possession, management and control of the land in controversy . Likewise, defendant-appellee Anonuevos, and those in privy with them are without any right to own and possess the lot in question for it is an OPEN SPACE which rightly belongs to the Quezon City government and/or Republic of the Philippines. (pp. 24-26, Rollo.)

It must be emphasized that petitioners, as defendants-appellees below, opted to ask the Court of Appeals to declare “the property in dispute as an open space” (p. 8, Brief for the Appellee; p. 22, Rollo) which request was precisely heeded by respondent court. There is thus no doubt that the piece of reality subject matter of the controversy at bench is an open space. However, petitioners take

exception to the second portion of the assailed dispositive portion which nullified Transfer Certificate of Title No. 35735 in the name of Francisco Padilla married to Geraldine Padilla, and all other certificates of title derived therefrom on account of the fact that petitioners' title over the property emanated from the Padilla spouses. And in the process of impugnating the discourse of respondent court along this line, petitioners are of the fundamental impression that respondent court resolved an aspect of the case which was not raised before the appellate court.

Petitioners main thesis does not jibe well with accepted jurisprudential precept to the effect that an unassigned error closely related to the error properly assigned, or upon which the determination of the question raised by the error properly assigned is dependent, will be considered by the appellate court notwithstanding the failure to assign it as error (Bando vs. Fraiser, 227 SCRA 126 [1993]). Verily, the title of the disputed property was raised as an issue under paragraph 15 of the amended complaint for quieting of title (p. 32, Rollo) for which the trial court expressed the opinion thus:

> Proceeding now to a consideration of the defendant/third-party plaintiff's stance, the court notes that the title of the seller, the Padilla spouses, is the sole foundation of their position. According to them they were shown a copy of transfer certificate of title no. 311854 in the name of the sellers. They examined it and found no marking or liens at the back of the Title. In other words, the Title of Padillas is clean. While holding such contention, they nonetheless admit that there were improvements on the subject property when they inspected it. Thus as ascribed by the plaintiffs, defendants/third-party plaintiffs are not innocent purchaser for value. (p. 71, Rollo.)

Petitioners cannot therefore feign ignorance of their active participation in the resolution of the question of the property's title and claim at this juncture that respondent court deviated from the principal issues of the case.

The last argument aired by petitioners has reference to that principle in land registration cases that innocent third persons need not go beyond the four corners of the certificate of title to ascertain regularity of its issuance. Yet, it remains undisputed that herein petitioners made an ocular inspection of the property sought to be purchased (p. 24, Rollo). It was during such occasion when they discovered that the same reality has been fenced and paved, with existing improvements, which concrete signs could not have escaped the attention of petitioners as prospective buyers and should have put them on guard that somebody has adverse possession thereof. Indeed, the defense of indefeasibility of Torrens Title does not extend to a transferee who takes the certificate of title with notice of flaw in his title (Pena, Registration of Land Titles and Deeds, 1988 rev. ed., p. 146).

WHEREFORE, inasmuch as the impugned Decision of the Court of Appeals is unblemished with any reversible error, the petition is hereby dismissed for want of substance.

SO ORDERED.

Feliciano, Romero, Vitug and Francisco, *JJ.*, concur.
