IN THE SUPREME COURT OF GUAM

AGANA BEACH CONDOMINIUM HOMEOWNERS' ASSOCIATION and GERALD PEREZ,
Petitioners-Appellants,

v.

CARLOS R. UNTALAN, DIRECTOR OF THE DEPARTMENT OF LAND MANAGEMENT, GOVERNMENT OF GUAM,
Respondent-Appellee,

and

PORTIA SEELY, PRISCILLA SHERFY, JEANINE WIMETT, FLORENCE HAIR, ANTHONY H. INOCENTES as trustees of the ESTATE OF MARGARITA H. INOCENTES,
Real Parties in Interest.

Supreme Court Case No.: CVA14-030
Superior Court Case No.: SP0112-11

OPINION

Cite as: 2015 Guam 35

Appeal from the Superior Court of Guam
Argued and submitted on May 18, 2015
Hagåtña, Guam

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BEFORE: ROBERT J. TORRES, Chief Justice; F. PHILIP CARBULLIDO, Associate Justice; KATHERINE A. MARAMAN, Associate Justice.

CARBULLIDO, J.:

[1] This case is on its second appeal after remand to the trial court pursuant to this court's opinion in *Agana Beach Condominium Homeowners' Association v. Mafnas*, 2013 Guam 9. Petitioners-Appellants Agana Beach Condominium Homeowners' Association and Gerald Perez (collectively referred to as "the Homeowners") appeal the trial court's denial of their petition for writ of mandate. At the trial court, the Homeowners argued that the Director of the Department of Land Management ("the Director") wrongfully approved a lessee's request for a split-zone change. On appeal, the Homeowners argue that the trial court erred in denying their petition for writ of mandate because the plain language of 21 GCA § 61214 does not allow a lessee to perform a split-zone election. For the following reasons, we reverse the trial court's decision and remand for the trial court to issue the writ of mandate.

I. FACTUAL AND PROCEDURAL BACKGROUND

[2] On November 24, 1969, Marciano V. Pangilinan, as lessee, and Paul D. Palting, as lessor, executed a lease for property described as Lot 2121-1 for a term of years beginning on January 1, 1970, and ending December 31, 2030. On November 10, 2003, Florence Hair, Priscilla Sherfy (also named as Priscilla Price), Jeanine Wimett, and Margarita Inocentes (hereinafter "successor lessors"), as well as Pangilinan, as lessee, modified the lease agreement ("2003 Amendment") by decreasing the size of the leased premises, modifying the description of the property, and reducing the rents set forth in the lease. The modified description of the leased premises was Lot 2121-1-R6 ("the Property").

[3] In 2008, Pangilinan applied to the Director to change the Property from split-zone to entirely commercial zone pursuant to Guam Public Law 25-131[1]. By statute, the Director was required to approve written requests by property owners to correct a split-zoning situation. This split-zone law effected zone changes without providing notice or hearing to surrounding property owners, as would otherwise be required for obtaining a conditional use, zone change, or zone variance.[2]

[4] After the Director approved Pangilinan's split-zone application, Pangilinan subleased the property to Busker Alley, Inc. ("Busker Alley"). Thereafter, Busker Alley began constructing a restaurant on the undeveloped portion of the Property, which had initially been zoned as R-2.

[5] Following unsuccessful attempts to convince the Director to rescind the zone change, the Homeowners filed a petition for writ of mandate in the trial court, asking the trial court to command the Director to rescind his approval of the split-zone election, or, in the alternative, to stay the effect of the approval of the split-zone change application.

[6] The trial court ruled that the Homeowners lacked standing, the trial court lacked subject matter jurisdiction, the petition was not properly verified, and the case was moot. On appeal, this court held:

> The trial court erred when it denied the petition for writ of mandamus for lack of standing because the Homeowners are beneficially interested as adjoining landowners to the subject property. The trial court also erred in denying the petition for lack of subject matter jurisdiction because the trial court possesses

[1] Public Law 25-131 has since been codified as 21 GCA § 61214 (2005).

[2] Subsequently, the law was changed to require that all "uses permitted on the affected lot by the zone chosen by the property owner making a split-zone election shall be conditional and subject to approval in the manner required to obtain a zone variance as provided in § 61303." 21 GCA § 61214(c) (repealed and reenacted by Guam Pub. L. 31-098:2 (Sept. 30, 2011)). Further, a permit or variance is now required to extend a permitted use from one portion of the split-zone to the other if such use is not permitted on the other side. 21 GCA § 61214(b). In turn, 21 GCA § 61303 provides a schedule of fees for providing notification to surrounding property owners regarding, among other things, split-zone changes, where notifying the surrounding owners "shall apply." 21 GCA § 61303(d) (added by Guam Pub. L. 29-002:7 (May 18, 2007)).

> subject matter jurisdiction over the mandamus action seeking to annul the Director's approval of a split-zone change. Improper verification was not grounds to dismiss the case for lack of subject matter jurisdiction. On remand, the Homeowners shall have the opportunity to correct this defect. Furthermore, the trial court erred in ruling the case was moot, because the only relief sought in the petition pertained to the Director's actions in approving the split-zone change, and this relief has not yet been afforded or obviated by the present zoning situation. Lastly, although the trial court did not analyze the issue of indispensable parties, which was broached by the Director on appeal, we remand the case to proceed after joining the successor Lessors, who we determine are necessary parties to the case.

Agana Beach, 2013 Guam 9 ¶ 72.

[7] On remand, Portia Seely, Priscilla Sherfy, Jeanine Wimett, Florence Hair, and Anthony H. Inocentes, trustee of the Estate of Margarita H. Inocentes, were added to the case as real parties in interest. Moreover, the Homeowners filed a new verified petition for writ of mandate.

[8] In conducting a statutory interpretation of 21 GCA § 61214, the trial court examined the legislative history of the statute to interpret the meaning of "property owner." Record on Appeal ("RA"), tab 97 at 5 (Dec. & Order, Sept. 16, 2014). The court found that the law was introduced to remedy zoning problems that resulted when property owners who attempted to construct buildings on their property were found to be in violation of zoning laws due to the "'two hundred (200) foot' problem."[3] *Id.* at 6. The court noted that, in the instant case, the lease granted the lessee the right to erect such buildings or structures as he desires. Therefore, the court found that:

[3] In explaining the "two hundred (200) foot" problem, the trial court quoted the Committee Report for the bill which was signed into law as Public Law 25-131:

> The Committee Report states: "The Chairman explained that he introduced the bill to correct action by previous legislatures who blanket rezoned private property along the major rights-of-ways and 200 feet into their boundaries to the Commercial zone. This caused lots that straddled the 200 foot boundary line to be zoned both the old zone and the new commercial zone."

RA, tab 97 at 6 n.4 (Dec. & Order).

> [A] lessee who has the right to build structures on leased property falls within the purview of a statute designed to help those who constructed a building in light of the "two hundred (200) foot" problem inherent in a split zoned lot . . . . To find otherwise would lead to pragmatic quagmires where a lessor, who was granted the right to build structures and install fixtures and equipment as he desired, would be prevented from building any residential or commercial structure, even though he contracted for that right in the lease and has full permission by the owner to do so.

Id. Additionally, the trial court noted other jurisdictions that found that the term "property owner" can include a lessee in certain contexts. *Id.* at 7 (citing *Parker v. Minneapolis & St. L. R. Co.*, 82 N.W. 673, 673 (Minn. 1900); *People v. Thornton*, 106 N.Y.S. 704, 705 (N.Y. App. Div. 1907); *Pergament Norwalk Corp. v. Kaimowitz*, 496 A.2d 217, 221 n.5 (Conn. App. Ct. 1985); *Bonanza, Inc. v. Mclean*, 747 P.2d 792, 796 (Kan. 1987)). Therefore, the trial court found that Pangilinan, as lessee, had the right to apply for a split-zone change as a "property owner" under section 61214 and denied the Homeowners' petition for writ of mandate. *Id.* at 8.

[9] The Homeowners filed a Notice of Appeal.

II. JURISDICTION

[10] This court has jurisdiction over an appeal from a final judgment. 48 U.S.C.A. § 1424-1(a)(2) (Westlaw through Pub. L. 114-61 (2015)); 7 GCA §§ 3107, 3108(a) (2005). However, in this case, the trial court did not enter a separate document setting forth the entry of a final judgment when the Notice of Appeal was filed on October 13, 2014. Under Rule 58(a)(1) of the Guam Rules of Civil Procedure, "[e]very judgment and amended judgment must be set forth on a separate document," with exceptions that do not include a denial of a petition for writ of mandate. *See* Guam R. Civ. P. 58(a)(1). If no separate judgment is entered, Rule 58(b)(2)(B) allows a judgment to be effectively entered, for the purpose of the separate document rule, 150 days after entry of the underlying Decision and Order on the docket. Guam R. Ci.v P. 58(b)(2)(B). The Decision and Order denying the Homeowners' petition for writ of mandate

resolved all issues in the litigation and was entered on September 17, 2014. RA, tab 98 (Notice of Entry on Docket & Decl. of Mailing (D&O), Sept. 17, 2014). The 150th day after entry of the trial court's decision and order fell on Saturday, February 14, 2015. Therefore, a final judgment was entered for the purposes of the separate document rule on February 16, 2015. *See* Guam R. Civ. P. 58(b)(2)(B); *see also* Guam R. App. P. 11(a)(1)(C) (providing that if the last day of a given period is a Saturday, Sunday, or legal holiday, "the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday"). Although the Notice of Appeal was prematurely filed, Rule 4(a)(2) of the Guam Rules of Appellate Procedure allows a prematurely entered Notice of Appeal to refer to the subsequently entered judgment. Thus, the appeal was timely and proper once judgment was effectively entered on February 16, 2015. *See Quijano v. Atkins-Kroll, Inc.*, 2008 Guam 14 ¶ 5; *see also Rapadas v. Benito*, 2011 Guam 28 ¶ 9. Moreover, the fact that the Homeowners did not file a renewed notice of appeal does not defeat this court's jurisdiction. *See Rapadas*, 2011 Guam 28 ¶ 9.

III. STANDARD OF REVIEW

[11] Issues of statutory interpretation are reviewed *de novo*. *People v. Gutierrez*, 2005 Guam 19 ¶ 13. The court's "duty is to interpret statutes in light of their terms and legislative intent." *Carlson v. Guam Tel. Auth.*, 2002 Guam 15 ¶ 46 n.7.

[12] This court "review[s] the denial of a petition for writ of mandate for an abuse of discretion." *Bank of Guam v. Reidy*, 2001 Guam 14 ¶ 11. A trial court abuses its discretion when its decision is based on clearly erroneous factual findings or an incorrect legal standard. *Id.* This court "will not reverse a trial court's decision unless [this court has] a definite and firm conviction that [the trial court] committed a clear error of judgment in the conclusion it reached upon weighing of the relevant factors." *Id.*

IV. ANALYSIS

[13] The central issue in this case is the interpretation of the term "property owner," as used in 21 GCA § 61214. In cases involving statutory construction, this court first looks to the language of the statute itself. *Sumitomo Constr., Co. v. Gov't of Guam*, 2001 Guam 23 ¶ 17. "Absent clear legislative intent to the contrary, the plain meaning [of the statute] prevails." *Id.* However, the plain meaning of statutory language need not be followed "where the result would lead to absurd or impractical consequences, untenable distinctions, or unreasonable results." *Id.* (internal quotation marks omitted). Additionally, "in determining legislative intent, a statute should be read as a whole, and . . . courts should construe each section in conjunction with other sections." *Id.* Therefore, "in expounding a statute, this court must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy." *Id.* (internal quotation marks omitted).

A. Plain Language

[14] Title 21, Chapter 61 of the Guam Code Annotated codifies Guam's zoning laws. Under the Chapter, there are three alternative methods in which zone designations may be changed. The first method involves the statute at issue in the instant case and concerns split-zone elections. At the time of Pangilinan's split-zone change application, 21 GCA § 61214 provided:

> Whenever a lot has two (2) separate zoning designations within its boundaries, the *property owner* shall have the right to select one of the two (2) zones and to have it apply to the entire lot. Upon receiving a written request by a *property owner* to correct a split-zoning situation, the Director of the Department of Land Management shall approve the request, shall process all necessary documents to reflect the approval, and shall update all official maps of the Island to indicate the zone which the *property owner* has chosen.

21 GCA § 61214 (2005) (emphasis added) (repealed and reenacted by Guam Pub. L. 31–098:2 (Sept. 30, 2011) (changing the wording but leaving it substantially similar in effect)).

[15] The next method provides a general method in which zone designations may be changed. Title 21 GCA § 61631 provides:

> A proposed change may be initiated by the Commission or by an application directed to the Commission by *any person owning or leasing real property* within the area covered by the zone.

21 GCA § 61631 (2005) (emphasis added).

[16] Finally, 21 GCA § 61639 provides a method in which agriculturally- or single family residentially-zoned properties can be expeditiously rezoned. Section 61639 provides, in pertinent part:

> The Department of Land Management (the Department) is directed to set up a procedure whereby *landowners* of agriculturally-or single family residentially-zoned properties in Guam can expeditiously apply for rezoning of their parcels. *Owners* of agriculturally-zoned property may apply to rezone their property as either Single Family Residential (R–1) or Multi–Family Residential (R–2); owners of single-family residentially-zoned property may apply to rezone their property to Multi–Family Residential (R–2).

21 GCA § 61639 (2005) (emphasis added).

[17] Under the statutory scheme, 21 GCA §§ 61214 and 61639 specifically use the terms "property owner" and "landowners" or "owners." They do not explicitly mention "lessees." These statutes seem to allow property owners in certain specific situations to change the zoning designation of their property without the time and expense of general re-zoning procedures. *See* 21 GCA § 61639 ("The Department of Land Management (the Department) is directed to set up a procedure whereby landowners of agriculturally-or single family residentially zoned properties in Guam can expeditiously apply for rezoning of their parcels."); *see also* Pub. L. 25-131 (adding section 61214 and providing that this legislation "relieves owners whose lots were partially rezoned on the bases of zoning laws that rezoned property within a certain number of feet from a major road from the time and expense of going through rezoning procedures when zoning is

already provided for the lot"). In contrast, section 61631 allows "any person owning or leasing real property within the area covered by the zone" to apply for a zone change.

[18] The Legislature's use of these different terms within the same statutory framework not only shows that the Legislature knew the distinction between an owner and a lessee, but also lends support for the Legislature's intention to allow both owners and lessees the ability to apply for zone changes pursuant to section 61631, but to allow only property owners the ability to apply for zone changes using the expeditious methods provided by sections 61214 and 61639.

[19] Moreover, section 61214 was passed at a later time than section 61631.[4] Thus, the Legislature knew of the "any person owning or leasing property" language in section 61631 at the time it passed section 61214. Accordingly, it is logical to conclude that the Legislature was deliberate in excluding lessees in section 61214 and that the Legislature only meant to grant property owners the ability to make a split-zone election pursuant to that statute. That the Legislature kept this same language when section 61214 was repealed and reenacted further supports this interpretation.

[20] Accordingly, the plain meaning of 21 GCA § 61214 suggests that only property owners, and not lessees, have the right to a split-zone election pursuant to that statute.

B. Legislative History

[21] In its interpretation of 21 GCA § 61214, the trial court examined the statute's legislative history. RA, tab 97 at 6 (Dec. & Order). The trial court stated that the law was passed in order "to remedy such a problem which might arise when structures are built on certain real property."

[4] The entirety of Chapter 61, including 21 GCA § 61631, "was repealed and reenacted by P.L. 24-171:3 (Apr. 17, 1998) as part of the adoption of the *I Tano'-Ta* Land Use Plan. P.L. 25.011:2 (May 26, 1999) repealed P.L. 24-171 and and [sic] P.L. 25-011:3 expressly reenacted the version of Chapter 61 before the passage of P.L. 24-171." 21 GCA Chapter 61 (SOURCE). Title 21 GCA § 61214 was added by Pub. L. 25-131:2 (May 22, 2000) and repealed and reenacted by Pub. L. 31-098:2 (Sept. 30, 2011).

Id. Furthermore, the trial court found that, in the instant case, the lease granted the lessee the right to erect such buildings or structures as he desires. *Id.* Therefore, the court held "that a lessee who has the right to build structures on leased property falls within the purview of a statute designed to help those who constructed a building in light of the 'two hundred (200) foot' problem inherent in a split-zoned lot." *Id.* However, the trial court erred in examining the terms of the lease agreement in its interpretation of the statute.

[22] Moreover, the trial court did not examine the specific issues caused by the "two hundred foot" problem. The legislative history explains that problems occurred "when property owners approach[ed] lending institutions wishing to secure a mortgage, or to refinance their existing mortgage. Additionally, difficulty [was] experienced while attempting to sell the property." Pub. L. 25-131. Although it is possible that a lessee can hold a mortgage, it is much more common for the owner to do so. Furthermore, the Legislature's goal of ameliorating the difficulty experienced while attempting to sell property generally applies to owners. The legislative history specifically provides that the purpose of the legislation is to "afford[] the *property owners* who have a split-zone to select either of the two zones, and have it apply to the entire lot without having to go through a lengthy and expensive rezoning process." *Id.* (emphasis added). The law was meant as a way to relieve owners of split-zoned property by allowing them to rezone the split-zone into a singular zoning designation without expending much time or expense and without the necessity of other procedures or approvals. *Id.* Nothing in the legislative history suggests the statute's applicability to lessees. "Absent clear legislative intent to the contrary, the plain meaning [of the statute] prevails." *Sumitomo*, 2001 Guam 23 ¶ 17. Here, no clear legislative intent exists that the Legislature wished to include lessees in the

definition of "property owner" in the split-zone statute. Accordingly, the plain meaning of the statute, that "property owner" does not include lessee, prevails.

C. Absurd Consequences

[23] The trial court found that lessees who have the right to build structures on leased property are included in the meaning of "property owner" pursuant to 21 GCA § 61214. RA, tab 97 at 6 (Dec. & Order). The court reasoned that finding otherwise would lead to pragmatic quagmires where a lessee, who was granted the right to build structures and install fixtures and equipment as he desired, would be prevented from building any residential or commercial structure, even though he contracted for that right in the lease and has full permission by the owner to do so. *Id.* However, the trial court's qualms are misplaced since a lessee who contracts the right to build structures on leased premises would be able to apply for zone changes through 21 GCA § 61631 and/or would be able to seek possible contractual remedies. *See* 21 GCA § 61631.

[24] Instead, interpreting the term "property owner" to include lessees could lead to absurd consequences. If all lessees are allowed to receive a split-zone change, even short-term lessees, e.g., a short term lessee with a lease term of one year, would be able to submit requests for split-zone elections. And since the Director is required to grant split-zone elections under section 61214, there would be no limitations on a short-term lessee's ability to perform a split-zone election. *See* 21 GCA § 61214 ("[T]he Director of the Department of Land Management *shall* approve the request . . . ." (emphasis added)). This would leave the property owner to have to resort to 21 GCA § 61631, which is a process that can be lengthy and expensive, if he or she wishes to change the lessee's split-zone election.

[25] Accordingly, interpreting "property owner" to exclude lessees does not lead to absurd consequences.

D. Other Jurisdictions

[26] The trial court also cited case law from other jurisdictions to support its conclusion that the term "property owner" includes lessees. RA, tab 97 at 7-8 (Dec. & Order). While this court has stated that "[w]here a statute contains an undefined term, it is useful to reference other courts' interpretation of that term," *Carlson*, 2002 Guam 15 ¶ 21, as discussed above, the plain language seems to indicate that "property owner" does not include lessee. Regardless, the cases cited by the trial court are distinguishable from the case at hand.

[27] The trial court first cited a case from the Supreme Court of Minnesota. RA, tab 97 at 7 (Dec. & Order) (citing *Parker*, 82 N.W. at 673). *Parker* held that "[t]he word 'owner' includes any person who has usufruct, control, or occupation of real estate, whether his interest in it is an absolute fee, or an estate for years under a lease." 82 N.W. at 673 (citations omitted). However, the issue in *Parker* did not involve statutory interpretation or a change in a zoning designation. Rather, the *Parker* court examined whether it was proper for the plaintiff-lessee to allege in his complaint that he was the owner of the real property in question in an action for ejectment. *Id.* In so doing, the court equated ownership, as used by the plaintiff-lessee, with possessory title. *See id.* In the instant case, the issue involves a statutory interpretation of the term "property owner." Thus, *Parker* appears inapplicable to the interpretation of "property owner" as used by a split-zone statute.

[28] Additionally, the trial court cited *People v. Thornton* for the proposition that "an owner of property includes 'all persons having any estate, interest or easement in the property to be taken, or any lien, charge or encumbrance thereon.'" RA, tab 97 at 7 (Dec. & Order) (citing *Thornton*, 106 N.Y.S. at 705. However, the issue in that case was whether a lessee was entitled to an award of damages as an owner where the leased property was condemned for public use. *See Thornton*,

106 N.Y.S. at 705. That context is unlike the instant case, in which this court must determine the meaning of "property owner" as used by a split-zone statute. Moreover, in *Thornton*, the New York statute specifically defined owner as "including all persons having any estate, interest or easement in the property to be taken, or any lien, charge or encumbrance thereon." *Id.* (citing N.Y. Code Civ. Proc. § 3358). Thus, the New York court simply followed the statutory definition rather than interpreting the meaning of "owner." In contrast, in the instant case, the Legislature has provided no explicit definition of "property owner." Thus, *Thornton* is inapplicable to this court's interpretation of "property owner" in the context of a split-zone statute.

[29] The trial court also relied on *Pergament Norwalk Corporation v. Kaimowitz*. RA, tab 97 at 7 (Dec. & Order) (citing *Pergament*, 496 A.2d at 217). *Pergament* did note, in a footnote, "the possibility that a tenant for a great number of years may, because of such factors as the length and nature of its tenancy, its formal assumption of real estate property tax liability, and its ability, under its lease to deal with the property almost as if it were, in effect, a fee holder, be deemed an owner of the property for purposes of a particular zoning ordinance or statute." 496 A.2d at 221 n.5. *Pergament*'s ultimate holding, however, contradicts the trial court's analysis. *Pergament* held that the plaintiff, as a lessee, lacked "owner" status and thus, was not entitled to notice by mail of a neighboring business's grant of a zoning variance. *Id.* at 219-20. While an argument can be made that the facts of the instant case correspond with *Pergament*'s suggestion that a tenant may be deemed an owner of the property for purposes of a particular zoning statute, as discussed above, the plain language of the statutory scheme suggests that lessees are not allowed to execute a split-zone election as a "property owner." Further, the issue presented in

this case is one of statutory interpretation, and the terms of the lease do not modify the plain meaning of "property owner."

[30] Finally, the trial court cited *Bonanza, Inc. v. McLean*. RA, tab 97 at 7 (Dec. & Order) (citing *McLean*, 747 P.2d at 792). In *McLean*, a plaintiff-lessee who held a 92-year lease was granted a petition to change the leased property zoning from residential to commercial use. 747 P.2d at 795. The Supreme Court of Kansas upheld the validity of the zoning actions and reasoned that "[the plaintiff], as a lessee under a 92-year lease, was a real party in interest, and therefore, qualified to seek rezoning." *Id.* at 796. The court went on to note that under Kansas case law, plaintiffs, as lessees, could be considered an owner of the premises. *Id.* Furthermore, the court held that "[l]egally, [the plaintiff] 'owned' the leasehold interest, if not the land." *Id.* The Kansas statute for changing a zoning designation provides, "A proposal for such amendment may be initiated by the governing body, the planning commission or upon application of the owner of property affected." *See Taco Bell v. City of Mission*, 678 P.2d 133, 138 (Kan. 1984) (citing K.S.A. 12-708 (repealed by Laws 1999, ch. 56, § 28)). Thus, on the surface, *McLean* seems to support interpreting "property owner" to include a lessee. However, *McLean* is distinguishable because the facts of the instant case involve a split-zone statute, which the Legislature created to allow property owners a quick and inexpensive method of resolving a zoning problem created by prior legislation. Moreover, Guam's regular zone change statute, 21 GCA § 61631, does provide lessees a means to apply for zone changes. Accordingly, due to Guam's statutory scheme for zone changes, *McLean* is distinguishable from the case at hand.

E. The Director's Argument that the Owners Assigned all their Rights in the Land to the Lessees

[31] The Director argues that the Homeowners' appeal should fail because "the owners assigned all their rights in the land to the lessees of the property." Appellee's Br. at 5 (Jan. 21,

2015). In support, the Director alleges that the lease vested all rights of ownership in the lessees and effected a complete assignment of legal rights to the lessees. *Id.* at 6. Thus, the Director reasons that when Pangilinan requested a zoning change, "[he] spoke with the legal authority of the property owners." *Id.*

[32] The Director's argument fails for two reasons. First, contrary to the Director's assertion, the trial court never made a determination that the owners assigned all rights of ownership to the lessees. In actuality, the trial court only went as far as to hold "that Pangilinan, as tenant and lessee, has the right to erect on said premises such building or structures as he desires." RA, tab 97 at 6 (Dec. & Order) (internal quotation marks omitted). Second, there is nothing in the record to support that the "the owners assigned all their rights in the land to the lessees of the property." *See* Appellee's Br. at 5. There is no fee simple deed to Pangelinan or any transfer of the Homeowners' reversionary interest to the property. The Director, in support of his argument of a complete assignment of legal rights, quoted the lease as follows: "TO HAVE AND TO HOLD, the above-described premises, together with all rights appurtenant thereto and other rights in connection therewith . . . upon the terms, covenants and conditions hereinafter set forth." *Id.* at 6. However, the Director omitted a crucial part of that sentence. In its entirety, the sentence reads: "TO HAVE AND TO HOLD, the above-described premises, together with all rights appurtenant thereto and other rights in connection therewith *or thereunto belonging unto the Tenant for a term beginning January 1, 1970, and ending December 31, 2030, at midnight*, upon the terms, covenants and conditions hereinafter set forth." RA, tab 29 at Ex. 1 (Maher Decl., Aug. 17, 2011) (emphasis added). Thus, rather than showing that the owners assigned all rights of ownership, this term in the lease shows that the lessee has all the rights of a tenant.

Accordingly, the Director's argument that the appeal should fail because the lessee was assigned all the rights of ownership has no merit.

V. CONCLUSION

[32] We find that lessees are not included within the meaning of "property owner" as used by 21 GCA § 61214 because the plain language of the statutory scheme indicates that the Legislature intentionally excluded lessees from that statute. Accordingly, we **REVERSE** the trial court's decision and **REMAND** for the trial court to issue the writ of mandate.

Original Signed By: F. Philip Carbullido

F. PHILIP CARBULLIDO
Associate Justice

Original Signed By: Katherine A. Maraman

KATHERINE A. MARAMAN
Associate Justice

Original Signed By: Robert J. Torres

ROBERT J. TORRES
Chief Justice