BANCO DE ORO UNIBANK, INC. (FORMERLY EQUITABLE PCI BANK, INC.) AND EBC STRATEGIC HOLDINGS, INC., PETITIONERS, VS. REGIONAL TRIAL COURT OF PARAÑAQUE, BRANCH 274 AND ASIA AMALGAMA...

Ponente: YBAÑEZ, J.

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YBAÑEZ, J.:

This petition for certiorari[1] seeks to annul the 30 July 2008 Order[2] of the Regional Trial Court (RTC) of Parañaque City, Branch 274, in Civil Case No. 07-0349 for Declaration of Nullity of Contract and Damages denying petitioners' motion to dismiss and the subsequent 19 December 2008 Order[3] denying their motion for reconsideration.

The Antecedents

From the record, it appears that private respondent Asia Amalgamated Holdings Corporation (AAHC for brevity) is a holding company the majority shares of which are owned by Jimmy Gow (hereinafter referred to as Gow) and his family.[4] The Gow family is also the owners of almost all the shares of stocks of the Uniwide Group of Companies, consisting of Uniwide Holdings, Inc. (UHI), Uniwide Sales, Inc. (USI), Uniwide Sales Warehouse Club, Inc. (USWCI), and Uniwide Sales Realty and Resources Corporation (USRRC), otherwise referred as the Uniwide Group.[5]

The Gow family directly owns approximately 53.6%, and indirectly through USI approximately 24.4%, of the issued capital stocks of AAHC which in turn owned almost 100% of the outstanding capital stocks of Ecology Savings Bank (Ecology Bank), a thrift bank, comprising 4,500,000 common shares with a par value of P100.00 per share. After experiencing phenomenal growth and success in the retail business from the 1980's up to the early 1990's, the Uniwide Group embarked on a rapid nationwide expansion, not just in its core business of retailing, but in its other businesses as well. As a result of its attempt to expand its business, there was a pressing need for an increase in the capitalization of one of AAHC's wholly-owned companies, Ecology Bank. Equitable Banking Corporation (EBC likewise for brevity), then the Uniwide Group's depositary bank since 1965 readily extended loans and credit accommodations to the latter.[6]

The Asian financial crisis in 1997 caused tremendous financial difficulties for the Uniwide Group that was aggravated by the sudden and unexpected decision of most creditor banks to withhold further releases of loans to, and focus on efforts to collect payments from, the Uniwide Group. At this point, EBC, through its President George Co, offered to be the financial adviser of the Group with the promise that EBC would extend additional loans needed by Uniwide to which it agreed.[7]

Thereafter, EBC advised Uniwide that it could raise about P500 Million in badly needed funds if AAHC allowed EBC to take over the operations of Ecology Bank. Under severe financial distress and constant threats that the latter bank would face imminent bank runs unless it is taken over by EBC, respondent AHHC relented if only to save the Uniwide Group.[8]

In October 1998, AAHC entered into a Memorandum of Agreement with EBC Investments, Inc. (EBCII),[9] a subsidiary of EBC, in which AAHC agreed to sell to EBCII its 4,500,000 shares of stock in Ecology Bank. On 24 November 1998, AAHC entered into a Deed of Assignment[10] with petitioner EBC Strategic Holdings, Inc. (ESHI) wherein the former agreed to sell, and the latter agreed to buy, the subject shares.[11] Under the Deed of Assignment, the purchase price of the shares of stock was initially fixed at P75,000,000.00 supposedly based on the book value of Ecology Bank as of 30 September 1998 as determined by ESHI, subject to further price adjustments as may be determined in a due diligence audit to be conducted by ESHI. The Deed of Assignment likewise contains the agreements that (1) the final purchase price computation, as determined by ESHI after completion of the due diligence audit, shall be deemed final and conclusive on both parties, and (2) ownership over the assigned shares shall immediately be transferred to ESHI upon approval by the BSP of the conveyance, the pendency of the due diligence audit notwithstanding.[12]

On 21 December 1998, AAHC authorized Gow to negotiate the sale of the shares to the petitioners.[13] EBC and ESHI were able to secure BSP approval of the conveyance and transfer of Ecology Bank's share in favor of ESHI on 7 April 1999.[14] AAHC, through Gow, gave its conformity and agreed on the final price of the subject shares in the amount of negative P2.522 million on 8 June 1999 through a letter.[15] On 18 June 1999, Gow reiterated AAHC's conformity to the 8 June 1999 letter.[16] During the regular meeting of the board of directors of Ecology Bank on 21 June 1999, Gow confirmed that they had already reached an agreement with the petitioners regarding the sale of the Ecology Bank shares. Also affirmed in the meeting was that the losses for the month of May 1999 amounted to P18.36 million.[17] EBC then suddenly cut off its credit accommodations to the Uniwide Group in June 1999. As a consequence, several checks of the Uniwide Group were dishonored.[18]

In a letter dated 22 September 1999, EBC formally informed AAHC through Gow that the final price computation of the purchase price for the shares of the Ecology Bank is negative P2.522 million. This amount was reached after losses incurred by the bank were deducted from the purchase price. EBC likewise advised AAHC in the same letter that it shall formally assume the management and control of Ecology Savings Bank.[19]

On 1 October 1999, petitioner wrote the Bangko Sentral ng Pilipinas (BSP) with the information that the purchase of the shares of stock of Ecology Bank at the price of negative P2.522 million has been completed.[20] On 30 May 2000, Gow wrote petitioner that AAHC will be holding a stockholders' meeting in July 2000 to seek the approval of the stockholders of the assignment of the subject shares in Ecology Bank.[21] A Secretary's Certificate dated 10 July 2000 certifying that the stockholders of AAHC approved the assignment of the subject shares apparently with full knowledge of its negative price was subsequently transmitted to petitioners.[22]

After the completion of the transfer of the shares of stock, petitioner infused P365 million worth of deposit on subscription in Ecology Bank on 29 December 1999 to meet the minimum capitalization requirement of thrift banks, spent resources integrating the thrift bank into its system and later transferred its ownership of the subject shares of the Ecology Bank to East West Bank in 2002.[23]

On 6 November 2007, AAHC filed a complaint for Declaration of Nullity of Contract and Damages.[24] In the complaint, private respondent prayed that the Deed of Assignment dated 24 November 1998 be declared null and void and in the alternative petitioner be ordered to jointly and severally pay to AAHC the reasonable price of the subject shares to be determined by the court. Likewise prayed for is that petitioners be ordered to pay private respondent jointly and severally P100,000.00 as exemplary damages, P100,000.00 as attorney's fees and P50,000.00 as expenses for litigation.[25] Petitioners filed their motion to dismiss[26] on 20 May 2008 alleging that the respondent court has no jurisdiction over the complaint, proper docket fees were not paid, that private respondent AAHC was estopped from questioning the assignment and the complaint failed to state cause of action.

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In denying the motion to dismiss, the RTC ruled that the doctrine of primary jurisdiction is not applicable in the case since it is the constitutionally assigned function of the courts to interpret the law. Considering that the declaration of nullity of contract was made the cause of action, it falls within the exclusive domain of regular courts as it involves solely the issue of interpretation of the law on contracts. On the non-payment of correct filing fees, the court held that the cause of action being incapable of pecuniary estimation as the complaint seeks to nullify a deed of assignment, the filing fees so far paid are in order. Thirdly, estoppel is not among the grounds for dismissal of an action under Rule 16 of the 1997 Rules of Civil Procedure but a matter of defense which require the presentation of evidence for both parties. The respondent court also found the allegations in the complaint sufficient to state a cause of action.[27]

Aggrieved by the orders of the public respondent, petitioners filed this petition and submitted the following issues for consideration:

> Issues
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> I
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> WHETHER THE BANGKO SENTRAL NG PILIPINAS (BSP) HAS PRIMARY JURISDICTION OVER THE CASE.
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> II
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> WHETHER THE FILING FEES SO FAR PAID BY RESPONDENT AAHC ARE IN ORDER.
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> III
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> WHETHER AAHC, HAVING AGREED TO THE PURCHASE PRICE, IS ESTOPPED FROM QUESTIONING THE VALIDITY OF PETITIONERS' PURCHASE OF RESPONDENT AAHC'S 4.5 MILLION SHARES IN ECOLOGY SAVINGS BANK.
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> IV
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> WHETHER AAHC'S COMPLAINT DATED 24 OCTOBER 2007 FAILED TO STATE A CAUSE OF ACTION BASED ON THE ALLEGATIONS THEREIN.

The Ruling of This Court

The petition is bereft of merit.

Anent the first issue, petitioners contend that it is the Bangko Sentral ng Pilipinas that has jurisdiction over this case and not the respondent court being the central monetary authority and a body corporate with fiscal and administrative autonomy with a mandate to provide policy direction in the areas of money, banking and credit, having regulatory and supervisory powers of banks. They cited Section 17 (e) of Republic Act No. 7653 which provides that the BSP has the power to render opinions, decisions or rulings on matters regarding application or enforcement of laws pertaining to institutions supervised by the BSP. Incidental to its administrative powers, the BSP has the authority to pass upon and approve transfer of shares in banks in accordance to Section 7 of BSP Circular No. 332. Since AAHC seeks the reconveyance of the subject shares in Ecology Bank, the controversy is one which is within the special jurisdiction of the BSP as a quasi-judicial body and thus outside the jurisdiction of regular courts. Consequently, the doctrine of primary jurisdiction is applicable in the instant case.[28]

The Complaint of petitioner AAHC questions Section V of the Deed of Assignment which provided that the final purchase computation of the shares of stock of Ecology Bank, as determined by ESHI, shall be deemed final and conclusive on both parties. AAHC alleges that this provision violates Article 1473[29] of the Civil Code as the fixing of the price was left to the decision of only one of the contracting parties. Being in violation of the law, therefore, the Deed of Assignment is inexistent and void from the beginning pursuant to Article 1409.[30] It likewise assails the stipulation in the same Section V which violates Article 1473 for the absence of payment or consideration, an essential element of a contract of sale. Accordingly, it wants petitioners to return the shares of stock to AAHC in the same condition and value they had at the time they were appropriated by petitioners or, in the alternative, to jointly and solidarily pay the reasonable price thereof to be determined by the court.

The Complaint basically charged petitioners with disregarding and ignoring the provisions of the New Civil Code on contracts and clearly not a bank or a corporate dispute. The main question raised in the complaint was the validity of the Deed of Assignment which is essentially judicial and not merely for the determination of the rights of the parties under the said deed but the very validity of the said document is put in issue.

Private respondent alleges in paragraph 2.8.2 of its Complaint that AAHC had no freedom of choice under the circumstances then prevailing and was severely constrained to agree to the takeover of Ecology Bank by EBC through its subsidiary, EBCII.[31] This constitutes undue influence which vitiated respondent's consent, and under Article 1390[32] of the Civil Code, is one of the grounds for the annulment of a voidable contract. Voidable or annullable contracts, before they are set aside, are existent, valid, and binding, and are effective and obligatory between the parties. They can, however, be ratified.

The resolution of the validity or voidness of the contracts remains a legal or judicial question as it requires the exercise of judicial function. It requires the ascertainment of what laws are applicable to the dispute, the interpretation and application of those laws, and the rendering of a judgment based thereon.[33]

A judicial question is a question that is proper for determination by the courts, as opposed to a moot question or one properly decided by the executive or legislative branch. A judicial question is raised when the determination of the question involves the exercise of a judicial function; that is, the question involves the determination of what the law is and what the legal rights of the parties are with respect to the matter in controversy[34] as in the case at bar.

The objective of the doctrine of primary jurisdiction asserted by the petitioner is to guide a court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency — which has special knowledge, experience and tools to determine technical and intricate matters of fact, has determined some question, or a particular aspect of some question, arising in the proceeding before the court.[35] It applies where a claim is originally cognizable in the courts, and comes into play whenever enforcement of the claim requires the

resolution of issues which, under a regulatory scheme, have been placed within the special competence of an administrative body; in such case, the judicial process is suspended pending referral of such issues to the administrative body for its view. And in such cases, the court cannot arrogate unto itself the authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative body of special competence.[36]

Arbitration before an administrative agency is proper only when there is a disagreement between the parties as to some provisions of the contract between them, which needs the interpretation and the application of that particular knowledge and expertise possessed by members of that agency. It is not proper when one of the parties repudiates the existence or validity of such contract or agreement on the ground of fraud, oppression or undue influence as in this case. (Emphasis supplied) The validity of the contract cannot be subject of arbitration proceedings. Allegations of fraud and duress in the execution of a contract are matters within the jurisdiction of the ordinary courts of law. These questions are legal in nature and require the application and interpretation of laws and jurisprudence which is necessarily a judicial function.[37]

On the second issue, petitioners argue that the RTC did not acquire jurisdiction over the case for failure of respondent AAHC to pay the correct filing fees. According to petitioners, considering that the value of the 4.5 million Ecology Bank shares being claimed by AAHC is worth P450,000,000.00, the respondent should have paid P8,992,000.00 as docket fees, a far cry from the P7, 460.00 it paid.

Respondent countered that the action for the declaration of nullity of the deed of assignment is one where the value of the subject matter cannot be estimated. The resulting recovery of the shares of stock or payment of its reasonable value is only incidental to or a necessary consequence of the main action, thus, the main action is one incapable of pecuniary estimation. It explained that the recovery of the subject shares of stock is not an alternative to the main cause of action but only the consequence of the main cause of action.

In the 1999 case of Russell, et al. vs. Vestil, et al.,[38] the Supreme Court reiterated its earlier ruling that in determining whether an action is one the subject matter of which is not capable of pecuniary estimation, the first criterion is that the nature of the principal action or remedy sought must first be ascertained. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the courts of first instance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, such actions are considered as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by the Regional Trial Courts. Examples of actions incapable of pecuniary estimation are those for specific performance, support, or foreclosure of mortgage or annulment of judgment; also actions questioning the validity of a mortgage, annulling a deed of sale or conveyance and to recover the price paid and for rescission, which is a counterpart of specific performance[39] (emphasis supplied).

Stated differently, an action for the determination of the propriety or legality of a particular act is unquestionably one whose subject matter is not capable of pecuniary estimation, notwithstanding that some relief with monetary value is eventually awarded (e.g., in cases of support, or of recovery of the price, or of return of the proceeds), or that some property whose value may be estimated is involved. From the foregoing, the complaint filed before the Regional Trial Court is indubitably one incapable of pecuniary estimation and therefore within the jurisdiction of the respondent court.

Even assuming arguendo that respondent AAHC did not pay the correct amount of docket fees at the time of filing the original complaint, the RTC did not automatically lose jurisdiction over the complaint. The prevailing rule is that if the correct amount of docket fees are not paid at the time of filing, the trial court still acquires

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jurisdiction upon full payment of the fees within a reasonable time as the court may grant, barring prescription.[40] The prescriptive period that bars the payment of the docket fees refers to the period in which a specific action must be filed, so that in every case the docket fees must be paid before the lapse of the prescriptive period, as provided in the applicable laws, particularly Chapter 3, Title V, Book III, of the Civil Code, the principal law on prescription of actions.[41]

Even where the Clerk of Court fails to make a deficiency assessment, and the deficiency is not paid as a result, the trial court nonetheless continues to have jurisdiction over the complaint, unless the party liable is guilty of a fraud in that regard, considering that the deficiency will be collected as a fee in lien within the contemplation of Section 2, 20 Rule 141 (as revised by A.M. No. 00-2-01-SC).[42] The reason is that to penalize the party for the omission of the Clerk of Court is not fair if the party has acted in good faith.

The case of Home Guaranty Corporation vs. R-II Builders, Inc.[43] explicitly acknowledged that the complaint should NOT be dismissed outright when the trial court finds that there is a need to pay additional fees during the course of the proceedings. The High Court explained:

> Applying the rule that "a case is deemed filed only upon payment of the docket fee regardless of the actual date of filing in court" in the landmark case of Manchester Development Corporation vs. Court of Appeals,[44] this Court ruled that jurisdiction over any case is acquired only upon the payment of the prescribed docket fee which is both mandatory and jurisdictional. To temper said ruling, the Court subsequently issued the following guidelines in Sun Insurance Office, Ltd. vs. Hon. Maximiano Asuncion,[45] viz.:
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> 1. It is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the prescribed docket fee that vests a trial court with jurisdiction over the subject matter or nature of the action. Where the filing of the initiatory pleading is not accompanied by payment of the docket fee, the court may allow payment of the fee within a reasonable time but in no case beyond the applicable prescriptive or reglementary period.
>
> 2. The same rule applies to permissive counterclaims, third party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefore is paid. The court may also allow payment of said fee within a reasonable time but also in no case beyond its applicable prescriptive or reglementary period.
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> 3. Where the trial court acquires jurisdiction over a claim by the filing of the appropriate pleading and payment of the prescribed filing fee but, subsequently, the judgment awards a claim not specified in the pleading, or if specified the same has been left for determination by the court, the additional filing fee therefore shall constitute a lien on the judgment. It shall be the responsibility of the Clerk of Court or his duly authorized deputy to enforce said lien and assess and collect the additional fee.
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> Applying the third guideline in the above-cited Sun Insurance Office, Ltd. to the complaint at bar, even if it is conceded that the case is a real action, then the additional fee, if any, shall constitute a lien on the judgment but the complaint shall not be dismissed for lack of jurisdiction.[46]

The third issue pertains to whether AAHC, having agreed to the purchase price, is estopped from questioning the

validity of petitioners' purchase of respondent AAHC'S 4.5 million shares in Ecology Bank. Petitioners argue that contrary to the assertions of AAHC that the deed of assignment is inexistent and void ab initio for lack of consideration, the same document clearly shows that the parties thereto contemplated and agreed upon a real consideration for the sale of the subject shares.[47] The fact that AAHC accepted the negative purchase price of the Ecology Bank shares removed all doubts regarding the perfection of the sale. The acceptance of the negative purchase price was shown by:

(1) AAHC's authorization for Gow to negotiate the sale of the share on 21 December 1998,

(2) the 8 June 1999 letter informing them of its conformity and agreement to the final purchase price in the amount of negative P2.522 million for the subject shares,

(3) the 18 June 1999 letter where Gow reiterated AAHC's conformity to the 8 June 1999 letter,[48]

(4) the confirmation by Gow that they had already reached an agreement with the petitioners regarding the sale of the Ecology Bank shares during the regular meeting of the board of directors on 21 June 1999 and that losses for the month of May 1999 amounted to P18.36 million[49] which will be deducted from the preliminarily adjusted purchase price of the shares of P15.841 million agreed to by AAHC,

(5) the letter dated 22 September 1999 through Gow where EBC formally informed AAHC that the final price computation of the purchase price for the shares of the Ecology Bank is negative P2.522 million that was reached after losses incurred by the bank were deducted from the purchase price and that it shall formally assume the management and control of Ecology Savings Bank,[50] and

(6) the transmittal to the petitioners of a Secretary's Certificate dated 10 July 2000 certifying that the stockholders of AAHC, during the Stockholders' Meeting of 2000 approved the assignment of the subject shares with full knowledge of its negative.[51]

Upon the other hand, respondent AAHC insists that what it accepted was not the final price of negative P2.522 million but only the provisional price of P75 million which is further subject to adjustments as may be determined in a due diligence audit to be conducted by the assignee.[52] It added that the phrase "subject to adjustments as may be determined in a due diligence audit to be conducted by the assignee" shows that the parties did not mutually fix the purchase price but left the final determination to the unilateral will of the petitioners which is precisely one of the grounds for the declaration of nullity of the contract. It also posits that estoppel, if petitioners choose to raise it, can only be settled through a full blown trial.[53]

The grounds for dismissal are exclusive to those specifically mentioned in Section 1, Rule 16 of the Rules of Court, and an action can be dismissed only on a ground authorized by this provision, viz:

> Rule 16, Sec. 1. Grounds. — Within the time for but before the filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:
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> (a) That the court has no jurisdiction over person of the defending party;
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> (b) That the court has no jurisdiction over the subject matter of the claim;

(c) That venue is improperly laid;

(d) That the plaintiff has no legal capacity to sue;

(e) That there is another action pending between the same parties for the same cause;

(f) That the cause of action is barred by a prior judgment or by the statute of limitations;

(g) That the pleading asserting the claim states no cause of action;

(h) That the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned, or otherwise extinguished;

(i) That the claim on which the action is founded is unenforceable under the provisions of the statute of frauds; and

(j) That a condition precedent for filing the claim has not been complied with.

Accordingly, Rule 16, Section 1 of the Rules of Court, does not consider estoppel as a ground for a motion to dismiss. Dismissal of an action upon a motion to dismiss constitutes a denial of due process if, from a consideration of the pleadings, it appears that there are issues that cannot be decided without a trial of the case on the merits.[54] In the interest of substantial justice, the petitioner should be given an opportunity to file its answer to the Complaint because the grant of the motion to dismiss is equivalent to a disposition of the case itself, a subject clearly within the court's exclusive jurisdiction and competence.[55]

On the fourth issue, petitioners assail the complaint filed by respondent AAHC for failure to state a cause of action based on the allegations therein. The Rules of Court defines cause of action as the act or omission by which a party violates a right of another. What is dismissible via a motion to dismiss is failure of the complaint to state a cause of action. Sec. 1 (g) of Rule 16 of the Rules provides that a motion may be made on the ground that the pleading asserting the claim states no cause of action. However, in determining whether a complaint fails to state a cause of action, only the allegations therein may be properly considered. Moreover, a defendant who moves to dismiss the complaint on this ground hypothetically admits all the averments thereof.[56]

The test of the sufficiency of the facts alleged in a petition is whether, admitting the facts alleged, the court may render a valid judgment upon them in accordance with the prayer of the complaint. If the allegations in the complaint furnish sufficient basis on which it can be maintained, it should not be dismissed regardless of the defense that may be presented by the defendants. If the trial court finds the allegations to be sufficient, but doubts their veracity, it must deny the motion to dismiss and then require the defendant to answer, and proceed to try the case on the merits. A complaint states a cause of action when it contains these three essential elements: (1) the

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legal right of the plaintiff, (2) the correlative obligation of the defendant, and (3) the act or the omission of the defendant in violation of the said legal right.[57] On the basis of the foregoing and after a close scrutiny of the allegations in the complaint, it is clear that the trial court may render a valid judgment. The Complaint, therefore, passes the test of sufficiency of the facts alleged therein.

Perforce, this Court finds the arguments raised by the petitioners in their petition unavailing and that the higher interest of justice will be better served by trying the instant case on its merits.

WHEREFORE, premises considered, the instant petition for certiorari is hereby DENIED for lack of merit. The assailed 30 July 2008 Order of the Regional Trial Court (RTC) of Parañaque City, Branch 274 in Civil Case No. 07-0349 for Declaration of Nullity of Contract and Damages denying petitioners' motion to dismiss and the subsequent 19 December 2008 Order denying their motion for reconsideration are hereby AFFIRMED in toto.

SO ORDERED.

Dimaampao, (Chairperson), and Sadang, JJ., concur.

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[1] Under Rule 65 of the 1997 Rules of Court.

[2] Rollo, Annex "A," pp. 66-67 penned by Presiding Judge Fortunito L. Madrona.

[3] Id., Annex "B," p. 68.

[4] Id., p. 401.

[5] Id., p. 402.

[6] Id.

[7] Id., p. 403.

[8] Id.

[9] Id., Annex "C," pp. 69-73.

[10] Id., Annex "D," pp. 74-80.

[11] Id., p. 428.

[12] Id., p. 404.

[13] Id., Annex "E," p. 81.

[14] Id., p. 429.

[15] Id., Annex "F," pp. 82-83.

[16] Id., Annex "G," pp. 84.

[17] Id., Annex "H," pp. 85-89.

[18] Id., p. 404.

[19] Id., Annex "I," pp. 90.

[20] Id., Annex "J," p. 91.

[21] Id., Annex “K,” p. 92.

[22] Id., Annex “L,” p. 93.

[23] Id., p. 432.

[24] Id., Annex “M,” pp. 94-118.

[25] Id., pp. 102-103.

[26] Id., Annex “N,” pp. 119-166.

[27] Id., Annex “A,” pp. 66-67.

[28] Id., Petitioners’ Memorandum, pp. 438-439.

[29] ART. 1473. The fixing of the price can never be left to the discretion of one of the contracting parties. However, if the price fixed by one of the parties is accepted by the other, the sale is perfected.

[30] ART. 1409. The following contracts are inexistent and void from the beginning: (1) Those whose cause, object or purpose is contrary to law, morals, good customs, public order or public policy; (2) Those which are absolutely simulated or fictitious; (3) Those whose cause or object did not exist at the time of the transaction; (4) Those whose object is outside the commerce of man; (5) Those which contemplate an impossible service; (6) Those where the intention of the parties relative to the principal object of the contract cannot be ascertained; (7) Those expressly prohibited or declared void by law. These contacts cannot be ratified. Neither can the right to set up the defense of illegality be waived.

[31] Rollo, p. 98.

[32] ART. 1390. The following contracts are voidable or annullable, even though there may have been no damage to the contracting parties: (1) Those where one of the parties is incapable of giving consent to a contract; (2) Those where the consent is vitiated by mistake, violence, intimidation, undue influence or fraud. These contracts are binding, unless they are annulled by a proper action in court. They are susceptible of ratification

[33] Jorge Gonzales and Panel of Arbitrators vs. Climax Mining Ltd., Climax-Arimco Mining Corp., and Australasian Philippines Mining Inc., G.R. No. 161957, 28 February 2005, 452 SCRA 607.

[34] Supra.

[35] Office of the Ombudsman, represented by Hon. Aniano A. Desierto vs. Heirs of Margarita Vda. de Ventura, represented by Pacita V. Pascual, Emiliano Eusebio, Jr., and Carlos Rustia, G.R. No. 151800, 5 November 2009, 605 SCRA 1.

[36] Sherwill Development Corporation vs. Sitio Sto. Niño Residents Association, Inc. and/or Nilda Devilleres, and the Lands Management Bureau, G.R. No. 158455, 28 June 2005, 461 SCRA 517.

[37] Gonzales, et al. vs. Climax Mining, supra.

[38] G.R. No. 119347, 17 March 1999, 304 SCRA 738.

[39] Amplified in the fairly recent case of David Lu vs. Paterno Lu Ym, Sr., Paterno Lu Ym, Jr., Victor Lu Ym, John Lu Ym, Kelly Lu Ym, and Ludo & LuYm Development Corporation, G.R. No. 153690, 15 February 2011, 643 SCRA 23; Paterno Lu Ym, Sr., Paterno Lu Ym, Jr., Victor Lu Ym, John Lu Ym, Kelly Lu Ym, and Ludo & LuYm Development Corporation vs. David Lu, G.R. No. 157381, 15 February 2011; John Lu Ym and Ludo & LuYm Development Corporation vs. The Honorable Court of Appeals of Cebu City (Former Twentieth Division),

David Lu, Rosa Go, Silvano Ludo & CL Corporation, G.R. No. 170889, 15 February 2011, 643 SCRA 23.

[40] Eric Ballatan vs. Court of Appeals, et al., G.R. No. 125683, 2 March 1999, 304 SCRA 34; citing Maximo Tacay vs. RTC of Tagum, Davao del Norte, Branches 1 and 2, G.R. No. 88075-77, 20 December 1989, 180 SCRA 433, 444; Sun Insurance Office, Ltd. (SIOL) vs. Asuncion, G.R. Nos. 79937-38, 13 February 1989, 170 SCRA 274, 285.

[41] David Lu vs. Paterno Lu Ym, Sr., et al., supra, citing Central Bank of the Philippines vs. Court of Appeals, G.R. No. 88353, 8 May 1992, 208 SCRA 652; Pantranco North Express, Inc. vs. Court of Appeals, G.R. No. 105180, 5 July 1993, 224 SCRA 477.

[42] Resolution Amending Rule 141 (Legal Fees) of the Rules of Court; effective 1 March 2000, cited in David Lu vs. Paterno Lu Ym, Sr., et al., supra

[43] G.R. No. 192649, 22 June 2011, 652 SCRA 649.

[44] 149 SCRA 562 [1987]

[45] G.R. Nos. 79937-38, February 13, 1989, 170 SCRA 274 cited in Lu v. Lu Ym, Sr., supra. See Note 38.

[46] Home Guaranty Corp. vs. R-II Builders, supra.

[47] Rollo, p. 448

[48] Id., Annex “G,” pp. 84.

[49] Id., Annex “H,” pp. 85-89.

[50] Id., Annex “I,” pp. 90.

[51] Id., Annex “L,” p. 93.

[52] Id., p. 420.

[53] Id.

[54] Robern Development Corporation vs. Judge Jesus V. Quitain, Regional Trial Court of Davao City, Br. 15 and National Power Corporation, G.R. No. 135042, 23 September 1999, 315 SCRA 150.

[55] Community Rural Bank of Guimba (N. E.), Inc., Represented by Olga M. Samson vs. Judge Tomas B. Talavera, Regional Trial Court (Branch 28), Cabanatuan City, Nueva Ecija, A.M. No. RTJ-05-1909, 6 April 2005, 455 SCRA 34.

[56] Alice Vitangcol and Norberto Vitangcol vs. New Vista Properties, Inc., Maria Alipit, Register of Deeds of Calamba, Laguna, and the Honorable Court of Appeals, G.R. No. 176014, 17 September 2009, 600 SCRA 82.

[57] Mondragon Leisure and Resorts Corporation vs. United Coconut Planters Bank, G.R. No. 154187, 14 April 2004, 427 SCRA 585.

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