

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. OFFICE OF THE
PRESIDENT, HOUSING AND LAND USE REGULATORY BOARD,
ALFONSO MAGLAYA, ANGELINA MAGLAYA P. REYES, JORGE C.
BERNARDINO, CORAZO...**

G.R. No. 104528. January 18, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

May a buyer of a property at a foreclosure sale dispossess prior purchasers on installment of individual lots therein, or compel them to pay again for the lots which they previously bought from the defaulting mortgagor-subdivision developer, on the theory that P.D. 957, "The Subdivision and Condominium Buyers' Protective Decree," is not applicable to the mortgage contract in question, the same having been executed prior to the enactment of P.D. 957? This is the question confronting the Court in this Petition challenging the Decision dated March 10, 1992 of the Office of the President of the Philippines in O.P. Case No. 4249, signed by. the Executive Secretary, Franklin M. Drilon, "by authority of the President."

Private respondents were buyers on installment of subdivision lots from Marikina Village, Inc. (represented by spouses Antonio and Susana Astudillo). Notwithstanding the land purchase agreements it executed over said lots, the subdivision developer mortgaged the lots in favor of the petitioner, Philippine National Bank. Unaware of this mortgage, private respondents duly complied with their obligations as lot buyers and constructed their houses on the lots in question.

Subsequently, the subdivision developer defaulted and PNB foreclosed on the mortgage. As highest bidder at the foreclosure sale, the bank became owner of the lots.

Acting on suits brought by private respondents (which were later consolidated), the HLURB Office of Appeals, Adjudication and Legal Affairs (OAALA) in a decision rendered on October 28, 1988 ruled that PNB -- without prejudice to seeking relief against Marikina Village, -- Inc. may collect from private respondents only the "remaining amortizations, in accordance with the land purchase agreements they had previously entered into with" Marikina Village, Inc., and cannot compel private respondents to pay all over again for the lots they had already bought from said subdivision developer. On May 2, 1989, the Housing and Land Use Regulatory Board affirmed this decision. On March 10, 1992, the Office of the President, invoking P.D. 957, likewise concurred with the HLURB. Hence, the present recourse to this Court.

Under Revised Administrative Circular No. 1-95, "appeals from judgments or final orders of the x x x Office of the President x x x may be taken to the Court of Appeals x x x." However, in order to hasten the resolution of this case, which was deemed submitted for decision three years ago, the Court resolved to make an exception to the said Circular in the interest of speedy justice.

Petitioner bank raised the following issues:

1. The Office of the President erred in applying P.D. 957 because said law was enacted only on July 12, 1976, while the subject mortgage was executed on December 18, 1975; and
2. Petitioner Bank is not privy to the contracts between private respondents and mortgagor-subdivision developer, hence, the Office of the President erred in ordering petitioner Bank to accept private respondents' remaining amortizations and issue the corresponding titles after payment thereof.

Normally, pursuant to Article 4 of the Civil Code, "(1)aws shall have no retroactive effect, unless the contrary is provided." However, it is obvious and indubitable that P.D. 957 was intended to cover even those real estate mortgages, like the one at issue here, executed prior to its enactment, and such intent (as succinctly captured in the preamble quoted below) must be given effect if the laudable purpose of protecting innocent purchasers is to be achieved:

"WHEREAS, it is the policy of the State to afford its inhabitants the requirements of decent human settlement and to provide them with ample opportunities for improving their quality of life;

"WHEREAS, numerous reports reveal that many real estate subdivision owners, developers, operators, and/or sellers have reneged on their representations and obligations to provide and maintain properly subdivision roads, drainage, sewerage, water systems, lighting systems, and other similar basic requirements, thus endangering the health and safety of home and lot buyers;

"WHEREAS, reports of alarming magnitude also show cases of swindling and fraudulent manipulations perpetrated by unscrupulous subdivision and condominium sellers and operators, such as failure to deliver titles to the buyers or titles free from liens and encumbrances, and to pay real estate taxes, and fraudulent sales of the same subdivision lots to different innocent purchasers for value;"[1] (*Italics supplied*).

While P.D. 957 did not expressly provide for retroactivity in its entirety, yet the same can be plainly inferred from the, unmistakable intent of the law to protect innocent lot buyers from scheming subdivision developers. As between these small lot buyers and the gigantic financial institutions which the developers deal with, it is obvious that the law -- as an instrument of social justice -- must favor the weak. Indeed, the petitioner Bank had at its disposal vast resources with which it could adequately protect its loan activities, and therefore is presumed to have conducted the usual "due diligence" checking and ascertained (whether thru ocular inspection or other modes of investigation) the actual status, condition, utilization and occupancy of the property offered as collateral. It could not have been unaware that the property had been built on by small lot buyers. On the other hand, private respondents obviously were powerless to discover the attempt of the land developer to hypothecate the property being sold to them. It was precisely in order to deal with this kind of situation that P.D. 957 was enacted, its very essence and intendment being to provide a protective mantle over helpless citizens who may fall prey to the razzmatazz of what P.D. 957 termed "unscrupulous subdivision and condominium sellers."

The intent of the law, as culled from its preamble and from the situation, circumstances and condition it sought to remedy, must be enforced. Sutherland, in his well-known treatise on Statutory Construction (quoted with approval by this Court in an old case of consequence, *Ongsiako vs. Gamboa*[2]), says:

"The intent of a statute is the law. If a statute is valid it is to have effect according to the purpose and intent of the lawmaker. The intent is the vital part, the essence of the law, and the primary rule of construction is to ascertain and give effect to the intent. The intention of the legislature in enacting a law is the law itself, and must be enforced when ascertained, although it may not be consistent with the strict letter of the statute. Courts will not follow the letter of a statute when it leads away- from the true intent and purpose of the legislature and to conclusions inconsistent with the general purpose of the act. Intent is the spirit which gives life to a legislative enactment. In construing statutes the proper course is to start out and follow the true intent of the legislature and to adopt that sense which harmonizes best with the context and promotes in the fullest manner

the apparent policy and, objects of the legislature." [3]

Truly, this Court cannot allow the injustice that will be wrought by a strictly prospective application of the law. Little people who have toiled for years through blood and tears would be deprived of their homes through no fault of their own. As the Solicitor General, in his comment, argues:

"Verily, if P.D. 957 were to exclude from its coverage the aforecited mortgage contract, the vigorous regulation which PD. 957 seeks to impose on unconscientious subdivision sellers will be translated into a feeble exercise of police power just because the iron hand of the State cannot particularly touch mortgage contracts badged with the fortunate accident of having been constituted prior to the enactment of P.D. 957. Indeed, it would be illogical in the extreme if P.D. 957 is to be given full force and effect and yet, the fraudulent practices and manipulations it seeks to curb in the first instance can nevertheless be liberally perpetrated precisely because PD. 957 cannot be applied to existing antecedent mortgage contracts. The legislative intent could not have conceivably permitted a loophole which all along works to the prejudice of subdivision lot buyers (private respondents)." [4]

Likewise noteworthy are certain provisions of P.D. 957, which themselves constitute strong arguments in favor of the retroactivity of PD. 957 as a whole. These are Sections 20, 21 and 23 thereof, which by their very terms have retroactive effect and will impact upon even those contracts and transactions entered into prior to PD. 957's enactment:

"SEC. 20. Time of Completion.-- Every owner or developer shall construct and provide the facilities, improvements, infrastructures and other forms of development, including water supply and lighting facilities, which are offered and indicated in the approved subdivision or condominium plans, brochures, prospectus, printed matters, letters or in any form of advertisement, within one year from the date of the issuance of the license for the subdivision or condominium project or such other period of time as may be fixed by the Authority.

"SEC. 21. Sales Prior to Decree.-- In cases of subdivision lots or condominium units sold or disposed of prior to the effectivity of this Decree, it shall be incumbent upon the owner or developer of the subdivision or condominium project to complete compliance with his or its obligations as provided in the preceding section within two years from the date of this Decree unless otherwise extended by the Authority or unless an adequate performance bond is filed in accordance with Section 6 hereof.

"Failure of the owner or developer to comply with the obligations under this and the preceding provisions shall constitute a violation punishable under Section 38 and 39 of this Decree.

"SEC. 23. Non-Forfeiture of Payments.--No installment payment made by a buyer in a subdivision or condominium project for the lot or unit he contracted to buy shall be forfeited in favor of the owner or developer when the buyer, after due notice to the owner or developer, desists from further payment due to the failure of the owner or developer to develop the subdivision or condominium project according to the approved plans and within the time limit for complying with the same. Such buyer may, at his option, be reimbursed the total amount paid including amortization interests but excluding delinquency interests, with interest thereon at the legal rate." (*Italics supplied*)

As for objections about a possible violation of the impairment clause, we find the following statements of Justice Isagani Cruz enlightening and pertinent to the case at bench:

"Despite the impairment clause, a contract valid at the time of its execution may be legally modified or even completely invalidated by a subsequent law. If the law is a proper exercise of the police power, it will prevail over the contract.

"Into each contract are read the provisions of existing law and, always, a reservation of the police power as

long as the agreement deals with a matter affecting the public welfare. Such a contract, it has been held, suffers a congenital infirmity, and this is its susceptibility to change by the legislature as a postulate of the legal order."^[5]

This Court ruled along similar lines in *Juarez vs. Court of Appeals*^[6]:

"The petitioner complains that the retroactive application of the law would violate the impairment clause. The argument does not impress. The impairment clause is now no longer inviolate; in fact, there are many who now believe it is an anachronism in the present-day society. It was quite useful before in protecting the integrity of private agreements from government meddling, but that was when such agreements did not affect the community in general. They were indeed purely private agreements then. Any interference with them at that time was really an unwarranted intrusion that could properly struck down.

"But things are different now. More and more, the interests of the public have become involved in what are supposed to be still private agreements, which have as a result been removed from the protection of the impairment clause. These agreements have come within the embrace of the police power, that obtrusive protector of the public interest. It is a ubiquitous policeman indeed. As long as the contract affects the public welfare one way or another so as to require the interference of the State, then must the police power be asserted, and prevail, over the impairment clause."

The decision of the Court of Appeals in *Breta and Hamor vs. Lao, et al.*^[7], penned by then Court of Appeals Associate Justice Jose A. R. Melo, now a respected member of this Court, is persuasive, the factual circumstances therein being of great similarity to the antecedent facts of the case at bench:

"Protection must be afforded small homeowners who toil and save if only to purchase on installment a tiny home lot they can call their own. The consuming dream of every Filipino is to be able to buy a lot, no matter how small, so that he may somehow build a house. It has, however, been seen of late that these honest, hard-living individuals are taken advantage of, with the delivery of titles delayed, the subdivision facilities, including the most essential such as water installations not completed, or worse yet, as in the instant case, after almost completing the payments for the property and after constructing a house, the buyer is suddenly confronted by the stark reality, contrived or otherwise, in which another person would now appear to be owner.

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"We cannot over emphasize the fact that the BANK cannot barefacedly argue that simply because the title or titles offered as security were clean of any encumbrance or lien, that it was thereby relieved of taking any other step to verify the over-reaching implications should the subdivision be auctioned on foreclosure. The BANK could not have closed its eyes that it was dealing over a subdivision where there were already houses constructed. Did it not enter the mind of the responsible officers of the BANK that there may even be subdivision residents who have almost completed their installment payments?" (*Id.*, pp. 7 & 9).

By the foregoing citation, this Court thus adopts by reference the foregoing as part of this Decision.

The real estate mortgage in the above cited case, although constituted in 1975 and outside the beneficial aegis of P.D. 957, was struck down by the Court of Appeals which found in favor of subdivision lot buyers when the rights of the latter clashed with the mortgagee bank's right to foreclose the property. The Court of Appeals in that case upheld the decision of the trial court declaring the real estate mortgage as null and void.

As to the second issue of non-privity, petitioner avers that, in view of the provisions of Article 13 11 of the Civil Code, PNB, being a "total stranger to the land purchase agreement," cannot be made to take the developer's place.

We disagree. P.D. 957 being applicable, Section 18 of said law obliges petitioner Bank to accept the payment of

the remaining unpaid amortizations tendered by private respondents.

"SEC. 18. Mortgages. -- No mortgage on any unit or lot shall be made by the owner or developer without prior written approval of the Authority. Such approval shall not be granted unless it is shown that the proceeds of the mortgage loan shall be used for the development of the condominium or subdivision project and effective measures have been provided to ensure such utilization. The loan value of each lot or unit covered by the mortgage shall be determined and the buyer thereof, if any, shall be notified before the release of the loan. The buyer may, at his option, pay his installment for the lot or unit directly to the mortgagee who shall apply the payments to the corresponding mortgage indebtedness secured by the particular lot or unit being paid for, with a view to enabling said buyer to obtain title over the lot or unit promptly after full payment thereof." (Italics supplied)

Privity of contracts as a defense does not apply in this case for the law explicitly grants to the buyer the option to pay the installment payment for his lot or unit directly to the mortgagee (petitioner), which is required to apply such payments to reduce the corresponding portion of the mortgage indebtedness secured by the particular lot or unit being paid for. And, as stated earlier, this is without prejudice to petitioner Bank's seeking relief against the subdivision developer.

Finally, before closing this Resolution, we enjoin petitioner Bank to focus not only on the strictly legal issues involved in this case but also to take another look at the larger issues including social justice and the protection of human rights as enshrined in the Constitution; firstly, because legal issues are raised and decided not in a vacuum but within the context of existing social, economic and political conditions, law being merely a brick in the up-building of the social edifice; and secondly, petitioner, being THE state bank, is for all intents and purposes an instrument for the implementation of state policies so cherished in our fundamental law. These consideration are obviously far more weighty than the winning of any particular suit or the acquisition of any specific property. Thus, as the country strives to move ahead towards economic self-sufficiency and to achieve dreams of "NIC-hood" and social well-being for the majority of our countrymen, we hold that petitioner Bank, the premier bank in the country, which has in recent years made record earnings and acquired an enviable international stature, with branches and subsidiaries in key financial centers around the world, should be equally as happy with the disposition of this case as the private respondents, who were almost deprived and dispossessed of their very homes purchased through their hard work and with their meager savings.

WHEREFORE, in view of the foregoing considerations, the petition is hereby DENIED, petitioner having failed to show any REVERSIBLE ERROR or GRAVE ABUSE OF DISCRETION in the assailed decision. No costs.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide Jr., Melo, and Francisco, JJ., concur.

[1] Preamble, Presidential Decree No. 957.

[2] 2 86 Phil. 50 (April 8, 1950).

[3] Vol. II, Sutherland, Statutory Construction, pp. 693-695.

[4] Comment filed by the Solicitor General on behalf of the public -respondent, p. 9;

[5] Rollo, p. 78.

[6] 6 214 SCRA 475,480 (October 7, 1992).

[7] CA-G.R. No. 58728-R, promulgated on November 11, 1981.

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