

FRANCEL REALTY CORPORATION, PETITIONER, VS. COURT OF APPEALS AND FRANCISCO T. SYCIP, RESPONDENTS.

G.R. No. 117051. January 22, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioner Francel Realty Corporation filed a complaint for unlawful detainer against private respondent Francisco T. Sycip. The case was filed in the Municipal Trial Court (MTC) of Bacoor, Cavite.

In its complaint, petitioner alleged that it had executed a Contract to Sell to private respondent Lot 16, Building No. 14 of the Francel Townhomes, at 22 Real Street, Maliksi, Bacoor, Cavite, for P451,000.00. The Contract to Sell provides inter alia that in case of default in the payment of two or more installments, the whole obligation will become due and demandable and the seller will then be entitled to rescind the contract and take possession of the property; the buyer will vacate the premises without the necessity of any court action and the downpayment will be treated as earnest money or as rental for the use of the premises. Petitioner alleged that private respondent failed to pay the monthly amortization of P9,303.00 since October 30, 1990 despite demands to update his payments and to vacate the premises, the latest of which was the demand made in the letter dated September 26, 1992, and that because of private respondent's unjust refusal to vacate, petitioner was constrained to engage the services of counsel. Petitioner prayed that private respondent be ordered to vacate the premises and pay a monthly rental of P9,303.00 beginning October 30, 1990 until he shall have vacated the premises, and P25,000.00 as attorney's fees plus appearance fee of P 1,000.00 per hearing and expenses of litigation.

On November 9, 1992, private respondent moved to dismiss the complaint but his motion was denied by the MTC. On January 20, 1993 he filed his answer,[1] in which he alleged that he had stopped paying the monthly amortizations because the townhouse unit sold to him by petitioner was of defective construction. He alleged that he had in fact filed a complaint for "unsound real estate business practice" in the Housing and Land Use Regulatory Board (HLURB Case No. REM-07-9004-80) against petitioner. Private respondent prayed that petitioner be ordered to pay P500,000.00 as moral damages, P500,000.00 as exemplary damages, P75,000.00 as attorney's fees and that he be given "all other remedies just and equitable."

In its resolution dated February 24, 1993, the MTC ruled that the answer was filed out of time on the ground that it was filed more than ten days after the service of summons.[2] On March 17, 1993, however, it dismissed the complaint for lack of jurisdiction. The MTC held that the case was cognizable by the HLURB. But it also ordered petitioner to pay private respondent P10,000.00 as moral damages, P10,000.00 as exemplary damages, P3,000.00 as attorney's fees, and to pay costs.

On appeal the Regional Trial Court affirmed the decision of the MTC. It held that the case was exclusively cognizable by the HLURB which had jurisdiction not only over complaints of buyers against subdivision developers but also over actions filed by developers for the unpaid price of the lots or units.

Petitioner filed a petition for review in the Court of Appeals, alleging that:

(a) The amounts of damages prayed for by the private respondent in his Answer are enormous and way beyond the jurisdiction of the inferior court; and

(b) Since the inferior court and the respondent court ruled that it has no jurisdiction over this case, then it has no reason, much more jurisdiction to award damages in excess of the P20,000.00 jurisdiction of the inferior Court.[3]

The appellate court dismissed the petition, holding that the MTC had jurisdiction over cases of forcible entry and unlawful detainer, regardless of the amount of damages on unpaid rentals sought to be recovered in view of § 1A(1) of the Revised Rule on Summary Procedure.[4]

Petitioner moved for reconsideration. It contended that since the MTC had ruled that it had no jurisdiction over this case, then it had no jurisdiction either to grant the counterclaim for damages in the total sum of P23,000.00. Its motion was, however, denied for lack of any "cogent reason" to reverse the appellate court's resolution of June 15, 1994.[5]

Hence this petition for review on certiorari.

It is important to first determine whether the MTC has jurisdiction over petitioner's complaint. For if it has no jurisdiction, then the award of damages made by it in its decision is indeed without any basis. It is only if the MTC has jurisdiction of the subject matter of the action that it is necessary to determine the correctness of the award of damages, including attorney's fees.

Petitioner's complaint is for unlawful detainer. While generally speaking such action falls within the original and exclusive jurisdiction of the MTC, the determination of the ground for ejectment requires a consideration of the rights of a buyer on installment basis of real property. Indeed private respondent claims that he has a right under P.D. No. 957, § 23 to stop paying monthly amortizations after giving due notice to the owner or developer of his decision to do so because of petitioner's alleged failure to develop the subdivision or condominium project according to the approved plans and within the time for complying with the same. The case thus involves a determination of the rights and obligations of parties in a sale of real estate under P.D. No. 957. Private respondent has in fact filed a complaint against petitioner for unsound real estate business practice with the HLURB.

This is, therefore, not a simple case for unlawful detainer arising from the failure of the lessee to pay the rents, comply with the conditions of a lease agreement or vacate the premises after the expiration of the lease. Since the determinative question is exclusively cognizable by the HLURB, the question of the right of petitioner must be determined by the agency.

Petitioner's cause of action against private respondent should instead be filed as a counterclaim in HLURB Case No. REM-07-9004-80 in accordance with Rule 6, § 6 of the Rules of Court which is of supplementary application to the 1987 HLURB Rules of Procedure per § 3 of the same. In the case of *Estate Developers and Investors Corporation v. Antonio Sarte and Erlinda Sarte*[6] the developer filed a complaint to collect the balance of the price of a lot bought on installment basis, but its complaint was dismissed by the Regional Trial Court for lack of jurisdiction. It appealed the order to this Court. In dismissing the appeal, we held:

The action here is not a simple action to collect on a promissory note; it is a complaint to collect amortization payments arising from or in connection with a sale of a subdivision lot under PD. Nos. 957 and 1344, and accordingly falls within the exclusive original jurisdiction of the HLURB to regulate the real estate trade and industry, and to hear and decide cases of unsound real estate business practices. Although the case involving Antonio Sarte is still pending resolution before the HLURB Arbiter, and there is as yet no order from the HLURB authorizing suspension of payments on account of the failure of plaintiff developer to make good its

warranties, there is no question to Our mind that the matter of collecting amortizations for the sale of the subdivision lot is necessarily tied up to the complaint against the plaintiff and it affects the rights and correlative duties of the buyer of a subdivision lot as regulated by NHA pursuant to P.D. 957 as amended. It must accordingly fall within the exclusive original jurisdiction of the said Board, and We find that the motion to dismiss was properly granted on the ground that the regular court has no jurisdiction to take cognizance of the complaint.

Accordingly, we hold that the MTC correctly held itself to be without jurisdiction over petitioner's complaint. But it was error for the MTC to grant private respondent's counterclaim for damages for expenses incurred and inconveniences allegedly suffered by him as a result of the filing of the ejectment case.[7]

Pursuant to Rule 6, § 8 a party may file a counterclaim only if the court has jurisdiction to entertain the claim. Otherwise the counterclaim cannot be filed.[8]

Even assuming that the MTC had jurisdiction, however the award of damages to private respondent must be disallowed for the following reasons:

(1) The MTC decision itself stated that the answer with its counterclaim was filed out of time or more than 10 days from private respondent's receipt of summons. In effect, therefore, private respondent did not make any counterclaim.

(2) Moreover, a reading of the MTC decision showed no justification for the award of moral and exemplary damages and attorney's fees. As held in *Buan v. Camaganacan*,[9] an award of attorney's fees without justification is a "conclusion without a premise, its basis being improperly left to speculation and conjecture." It should accordingly be stricken out. With respect to the award of moral and exemplary damages, the record is bereft of any proof that petitioner acted maliciously or in bad faith in filing the present action which would warrant such an award.[10]

WHEREFORE, the decision of the Court of Appeals is REVERSED and the complaint against private respondent is DISMISSED. The private respondent's counterclaim is likewise DISMISSED.

SO ORDERED.

Regalado (Chairman), Romero and Puno, JJ., concur.

[1] Reply, Annex A, Rollo, pp. 57-63.

[2] The Revised Rule on Summary Procedure provides:

§ 5. Answer. - Within ten (10) days from service of summons, the defendant shall file his answer to the complaint and serve a copy thereof on the plaintiff. Affirmative and negative defenses not pleaded therein shall be deemed waived, except for lack of jurisdiction over the subject matter. Cross-claims and compulsory counterclaims not asserted in the answer shall be considered barred. The answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

[3] As quoted in petitioner's Motion for Reconsideration dated June 28, 1994, Rollo, p. 8.

[4] Per Justice Ricardo J. Francisco and concurred in by Justices Ramon A. Barcelona and Hector L. Hofilena.

[5] Resolution of August 25, 1994.

[6] G.R. No. 93646, August 13, 1990; See also *Estate Developers and Investors Corp. v. Court of Appeals*, 213 SCRA 353 (1992).

[7] Tiu Po v. Bautista, 103 SCRA 388 (1981).

[8] Metals Engineering Resources Corp. v. Court of Appeals, 203 SCRA 273 (1991) citing I MORAN, COMMENTS ON THE RULES OF COURT 354 (1979 Ed.).

[9] 16 SCRA 221 (1966).

[10] See Albenson Enterprises v. Court of Appeals, 217 SCRA 16(1993).

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