

DULOS REALTY AND DEVELOPMENT CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS AND VICENTA PELEAS, RESPONDENTS.

G.R. No. 128516. November 28, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioner urges this Court to review and reverse the decision[1] dated January 24, 1997, by the Court of Appeals in CA-G.R. CV No. 29366, which nullified and set aside the amended decision[2] dated November 28, 1989, of the Regional Trial Court of Makati, Branch 58, and reinstated its original decision[3] dated April 12, 1989, dismissing petitioner's complaint for rescission of contract, as well as private respondent's counterclaim.

The facts are as follows:

Petitioner Dulos Realty and Development Corporation (Dulos, for brevity) is the owner and developer of Airmen's Village Subdivision located at Las Piñas, Metro Manila. On January 10, 1981, it entered into a contract to sell a house and lot with private respondent Vicenta Peleas[4] for P168,180 payable as follows: (a) P20,000 upon the signing of the contract, and (b) P148,180 in monthly amortization of P2,010.36.[5] The parties agreed that in case private respondent defaulted in the payment of any monthly installment, she would have a grace period of not less than 120 days within which to pay. If despite the grace period she still failed to pay, petitioner could declare the contract cancelled. The right to cancel, however, would not obtain if private respondent's non-payment were due to petitioner's failure to complete development within the period allowed by the National Housing Authority.[6]

Upon payment of P20,000, Vicenta Peleas and her family occupied the premises. Thereafter, she failed to pay the monthly amortizations when they became due. This resulted in demands made by Dulos for her to vacate the premises, otherwise a civil case would be filed against her. However, before it could initiate the appropriate civil case, on January 21, 1985, she filed with the then Human Settlements Regulatory Commission (now Housing and Land Use Regulatory Board or HLURB) a complaint docketed as HLRB Case No. REM-991285-2615 against the company and its president, for failure to develop the subdivision in accordance with its approved plan, thus violating Presidential Decree No. 957 and related laws.

A month later, or on July 17, 1985, Dulos filed a complaint docketed as Civil Case No. 11112 against Vicenta Peleas, for rescission of contract and recovery of possession with damages before the Regional Trial Court of Makati, alleging among others, that she failed to pay her obligation under the contract. In her answer, she reiterated her allegation regarding petitioner's failure to develop the subdivision.

Pending resolution of the case by the trial court, the HLURB rendered its decision on January 2, 1989, dismissing her complaint, ratiocinating that:

. . . records show that complainant did not adduce any evidence to support her allegations of incomplete development which is vehemently denied by respondents. Such being the case, the said allegation of fact of incomplete development has not been established by substantial evidence.

With respect to the second issue, records show that no evidence has been adduced by complainant to support her allegation that she herself had to workout the installation of electrical facilities in her house or how and to what extent the omission of respondent caused her untold inconveniences and consequently damages. Such being the case, the allegation of damage to complainant and any act or omission by respondent to cause the same has not been established by substantial evidence.[7]

On April 12, 1989, the trial court rendered its decision in Civil Case No. 11112 dismissing the complaint of Dulos on the ground that both parties are in *pari delicto*. The decision reads:

From the totality of the evidence on record, the Court is convinced that as established by preponderance of proof, both parties to the Contract to Sell are guilty of breach of the contract. While it appears that the defendants incurred in delay in the payment of its amortization to the house and lot in question, the plaintiff likewise fails to comply with its contractual obligation to complete certain specified improvements including the provision for electrical, water and other facilities in the subdivision. (Exhs. 5, 5-A, 6 and 7). In this connection, the Supreme Court held that "if the subdivision owner or seller fails to comply with its contractual obligation to complete certain specified improvements in the subdivision within the specified period, xxx from the date of the execution of the contract of (sic) sell, it is not entitled to exercise its options under the contract. It could neither rescind the Contract to Sell nor treat the installment payments made by the buyer as forfeited in its favor. (*Antipolo Realty v. National Housing Corporation*, GR. 50444, August 31, 1987).

The foregoing findings notwithstanding, the defendant's counterclaim for damages, should however, be denied there being no sufficient and convincing proof adduced in support thereof.

WHEREFORE, premises considered, judgment is hereby rendered dismissing the instant complaint as well as defendant's counterclaim.[8]

On April 27, 1989, Dulos filed a Motion for Reopening/Clarification and Reconsideration, alleging that Vicenta Peleas had voluntarily relinquished possession of the subject property. During the hearing, Dulos reiterated the aforecited decision in HLRB Case No. REM-991285-2615.

On November 28, 1989, the trial court rendered its amended decision that reads:

After a careful review and evaluation of the records of this case, particularly the introduction of additional evidence by the plaintiff, wherein said plaintiff has shown that it is entitled to the possession of the property in question due to the voluntary relinquishment/abandonment by defendant Vicenta Peleas of the property subject of this case, the Court finds preponderance of evidence to support plaintiff's complaint in this case. Furthermore, the non-payment by defendant of her monthly amortization gives right to the plaintiff to cancel and/or rescind the contract to sell pursuant to paragraph 6 thereof. (Exh. A-1). It is to be noted that a violation by a party of any of the stipulations of a contract or agreement to sell real property would entitle the other party to rescind it and that it is not always necessary for the injured party to resort to court for rescission of the contract. (*Nera vs. Vacante*, L-15725, November 29, 1961, 3 SCRA 503; *Univ. of the Phils. vs. Delos Angeles*, L-28602, September 29, 1970, 35 SCRA 102). Finally, it may be stated that there is no basis on the part of the defendant to refuse payment for alleged non-development of the subdivision since as previously mentioned the complaint for alleged non-development against plaintiff herein before the Housing and Land Use Regulatory Board has already been dismissed.

WHEREFORE, premises considered, the Decision dated April 12, 1989 is hereby reconsidered to the effect that judgment is rendered in favor of the plaintiff Dulos Realty & Development Corporation and against defendant Vicenta Peleas by declaring as rescinded and/or cancelled the contract to sell dated January 20, 1989 entered into by and between the plaintiff and the defendant herein.[9]

Vicenta Peleas appealed to the Court of Appeals. On January 24, 1997, it promulgated the decision subject of the instant petition. It held that:

In fine, we rule and so hold that the lower court committed reversible error in having the case re-opened in response to either a motion to reopen or a motion for a new trial on the ground of supposedly newly discovered evidence. Worse still, the lower court erred in eventually reversing its original decision solely based on evidence which are already known and available to, but not offered by, the appellee before the rendition thereof.

WHEREFORE, the amended decision appealed from is hereby NULLIFIED and SET ASIDE. The original decision dated April 21, 1989 is hereby AFFIRMED AND REINSTATED.[10]

Hence this petition where petitioner avers that the Court of Appeals erred in not holding that:

- THE HEARING CONDUCTED ON THE MOTION FOR RECONSIDERATION AND/OR REOPENING FOR THE RECEPTION OF EVIDENCE ON A DECISION RENDERED BY THE HSRC IN THE NON-DEVELOPMENT CASE AND THE VOLUNTARY RELINQUISHMENT OF THE PREMISES WAS WELL WITHIN THE POWER OF THE TRIAL (SIC) UNDER PAR. 2 SECTION 3 RULE 129 OF THE REVISED RULES ON EVIDENCE.
- THE EVIDENCE ADDUCED ARE MATTER MATERIALLY DECISIVE OF THE ISSUE AT HAND WHICH MAYBE TAKEN JUDICIAL NOTICE OF AND THUS NEED NOT COMPLY WITH THE REQUIREMENTS UNDER RULE 37 ON NEWLY DISCOVERED EVIDENCE.
- THE AMENDED DECISION IS IN ACCORD WITH LAW AND JURISPRUDENCE AND THE FINAL AND CONCLUSIVE FINDING OF THE HUMAN SETTLEMENT REGULATORY COMMISSION VESTED UNDER THE LAW WITH ORIGINAL AND EXCLUSIVE JURISDICTION TO HEAR COMPLAINTS OF LOT BUYERS ON ALLEGED OWNERS' / DEVELOPERS' FAILURE TO COMPLY WITH SPECIFIED SUBDIVISION DEVELOPMENT UNDER PRESIDENTIAL DECREE NO. 957 AS AMENDED.[11]

We find the following issues for resolution now: a) Did the appellate court err in treating petitioner's motion for reopening/clarification and reconsideration dated April 12, 1989, as a motion for new trial? b) Was the amended decision of the trial court dated November 28, 1989, in accord with law and jurisprudence?

On the first issue, petitioner contends that the Court of Appeals erred in treating petitioner's Motion for Reopening/Clarification and Reconsideration as a motion for new trial on the ground of newly discovered evidence under Section 1(b) Rule 37 of the Rules of Court, prior to its amendment on July 1 1997.[12] According to petitioner, the motion was intended to direct the attention of the trial court to the HLURB decision on private respondent's complaint for non-development, which was mentioned in petitioner's memorandum submitted to the trial court and which the court could take judicial notice of under Rule 129 Section 3 paragraph 2 of the Revised Rules of Court,[13] and to private respondent's abandonment of the subject premises which was admitted by private respondent herself in her pleadings, and thus fell under Section 4 of the same rule.[14] Petitioner alleges that the HLURB decision settled the issue in the trial court that petitioner did not fail to complete the specified development, which in turn made private respondent's refusal to pay the monthly amortizations unjustifiable, hence a ground for rescission of the contract to sell. Petitioner also avers that private respondent's abandonment of the premises rendered the complaint before the trial court moot and academic.

Private respondent, in turn, argues that the additional evidence adduced by petitioner in its Motion for Reconsideration/Clarification and Reconsideration does not qualify as a newly discovered evidence to allow a new trial. It is a suppressed evidence that must be taken adversely against petitioner. Further, private respondent refutes the HLURB's finding of petitioner's non-violation of PD 957. According to her, administrative rulings are persuasive on the court, except in cases where it found contrary evidence, as in this case.

Did the appellate court err in treating petitioner's motion as one for new trial? We note that petitioner's motion was captioned alternatively, for reopening/clarification and reconsideration. Under Section 1 (c) of Rule 37 of the Rules of Court, before it was amended on July 1, 1997,[15] a motion for new trial was aimed to convince the court that its ruling was erroneous and improper for being contrary to the law or the evidence.[16] However, apparent from petitioner's motion and the subsequent hearing thereon was petitioner's intention to make the trial court reconsider its decision to conform with the law and the evidence by reiterating the decision of the HLURB, the government agency which has the primary jurisdiction on the enforcement of PD 957 as amended,[17] and by informing said trial court that private respondent already abandoned the premises, hence, making the Antipolo[18] ruling cited by the court inapplicable.

That private respondent had already abandoned the premises is not a newly found evidence for admittedly, petitioner knew of it before the trial court rendered its decision. Hence, it could not be introduced through a motion for new trial under Section 1 Rule 37 of the Rules of Court.[19] Neither could said abandonment be introduced through a motion to reopen, because such motion could only be made after the case was submitted for decision but before judgment is actually rendered.[20] In this case, it was only introduced as evidence in the motion filed after judgment, which in our view is appropriately one for reconsideration. Had the trial court not allowed petitioner to present said proof of abandonment, said court would not have had the chance to correct its decision. It would have effectively forced private respondent to continue with the contract to buy the house and lot on installment, even if she had lost interest in performing her obligations under that contract to the great prejudice of petitioner.

In *Lim vs. Court of Appeals*, 188 SCRA 23, 33 (1990) we held that technicalities should not be resorted to in derogation of the intent of the rules which is the proper and just determination of controversies. Every party-litigant should be afforded the amplest opportunity for the proper and just disposition of his cause free from undue constraints of technicalities. Worth noting is petitioner's allegation that private respondent is already dead and that her heirs did not seem to be interested in the matter nor were they capable of assuming private respondent's obligation under the contract, though her counsel continued to pursue the case. Nowhere in the records was this allegation denied by private respondent's counsel. Thus, we agree with the petitioner that evidence on abandonment of the premises by private respondent was properly received even only for purposes of reconsideration and clarification.

As to the second issue, we find applicable the principle of primary jurisdiction, i.e., courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies.[21] Section 3 of PD 957 as amended by Section 8 of Executive Order No. 648 Series of 1981 and further amended by Section 1 (c) of Executive Order No. 90 Series of 1986[22] entrusts to the HLURB the regulation of housing and subdivision developments. Accordingly, the trial court properly relied on the HLURB decision, when said court amended its decision on November 28, 1989. By reason of the special knowledge and expertise of administrative agencies over matters falling under their jurisdiction, they are in a better position to pass judgment thereon. Thus, their findings of fact in that regard are generally accorded great respect, if not finality by the courts.[23]

We note that the case of *Antipolo Realty Corp. vs. NHA*, 153 SCRA 399 (1987), is not in all fours with this case. Unlike the developer in Antipolo, here the developer did not default in its contractual obligation to develop the subdivision. Unlike the buyer in Antipolo who was willing to resume the contract, here the buyer had lost interest in pursuing the matter, as evidenced by her abandonment of the premises without informing petitioner or her counsel. Consequently, there would be no one left to resume payment of the monthly installments if the contract were not rescinded. In sum, we find the amended decision of the trial court dated November 28, 1989, in accord

with the law and jurisprudence.

WHEREFORE, the petition is GRANTED. The decision dated January 24, 1997, of the Court of Appeals is REVERSED and the decision dated November 28, 1989, of the Regional Trial Court of Makati, Branch 58, is REINSTATED. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, pp. 37-50.

[2] CA Rollo, pp. 19S-19U.

[3] Id. at 19Q-19R.

[4] Also spelled as Vicenta Pelias.

[5] Rollo, p. 96.

[6] Id. at 97.

[7] Original Records, pp. 147-148.

[8] Rollo, p. 150.

[9] Id. at 164-165.

[10] Id. at 49-50.

[11] Id. at 22.

[12] Rule 37, Section 1. Grounds of and period for filing motion for new trial. - Within the period for perfecting appeal, the aggrieved party may move the trial court to set aside the judgment and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) x x x

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered, and produced at the trial, and which if presented would probably alter the result;

(c) x x x

[13] Rule 129, Section 3. Judicial notice, when hearing necessary. - During the trial, the court, on its own initiative, or on request of a party, may announce its intention to take judicial notice of any matter and allow the parties to be heard thereon.

After the trial, and before judgment or on appeal, the proper court, on its own initiative or on request of a party, may take judicial notice of any matter and allow the parties to be heard thereon if such matter is decisive of a material issue in the case.

[14] Rule 129, Section 4. Judicial admissions.- An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

[15] Rule 37, Section 1, Rules of Court. - Grounds of and period for filing motion for new trial- Within the period for perfecting appeal, the aggrieved party may move the trial court to set aside the judgment and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party: xxx (c) Award of excessive damages, or insufficiency of the evidence to justify the decision, or that the decision is against the law.

[16] *Siy vs. Court of Appeals*, G.R. No. L-39778, 138 SCRA 536, 544 (1985).

[17] Otherwise known as the Subdivision and Condominium Buyers' Protective Decree.

[18] *Antipolo Realty Corp. vs. National Housing Authority*, G.R. No. L-50444, 153 SCRA 399 (1987).

[19] See note 8.

[20] *Agulto vs. Court of Appeals*, G.R. No. 52728, 181 SCRA 80, 82-83 (1990).

[21] *Moomba Mining Exploration Company vs. Court of Appeals*, G.R. No. 108846, 317 SCRA 388, 397 (1999).

[22] PD 957, Section 3: National Housing Authority - The National Housing Authority shall have exclusive jurisdiction to regulate the real estate trade and business in accordance with the provisions of this Decree.

Executive Order No. 648 Series of 1981, Section 8 : Transfer of Functions. - The regulatory functions of the National Housing Authority pursuant to Presidential Decrees No. 957, 1216, 1344 and other related laws are hereby transferred to the (Human Settlements Regulatory) Commission, together with such applicable personnel, appropriation, records, equipment and property necessary for the enforcement and implementation of such functions. Among these regulatory functions are: 1) Regulation of the real estate trade and business; 2) Registration of subdivision lots and condominium projects; 3) Issuance of license to sell subdivision lots and condominium units in the registered units; 4) Approval of performance bond and the suspension of license to sell; 5) Registration of dealers, brokers and salesmen engaged in the business of selling subdivision lots or condominium units; 6) Revocation of registration of dealers, brokers and salesmen; 7) Approval or mortgage on any subdivision lot or condominium unit made by the owner or developer; 8) Granting of permits for the alteration of plans and the extension of period for completion of subdivision or condominium projects; 9) Approval of the conversion to other purposes of roads and open spaces found within the project which have been donated to the city or municipality concerned; 10) Regulation of the relationship between lessors and lessees; and 11) Hear and decide cases on unsound real estate business practices; claims involving refund filed against project owners, developers, dealers, brokers or salesmen and cases of specific performance.

Executive Order No. 90, Series of 1986, Section 1 (c). Human Settlements Regulatory Commission - The Human Settlements Regulatory Commission; renamed as the Housing and Land Use Regulatory Board, shall be the sole regulatory body for housing and land development. It is charged with encouraging greater private sector participation in low-cost housing through liberalization of development standards, simplification of regulations and decentralization of approvals for permits and licenses.

[23] *Crusaders Broadcasting System, Inc. vs. National Telecommunications Commission and Court of Appeals*, G.R. No. 139583, 332 SCRA 819, 829 (2000).

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