

**DELTA DEVELOPMENT & MANAGEMENT SERVICES, INC.,
(DELTA) BY: RICARDO S. DE LEON, SR., Petitioner, vs. THE HOUSING
AND LAND REGULATORY BOARD, Respondent.**

G.R. No. 146031. February 19, 2008

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TINGA, J.:

Before the Court is a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure, assailing two Resolutions dated 25 July 2000[2] and 7 November 2000[3] of the Court of Appeals in CA-G.R. SP No. 59694 and praying for the issuance of a preliminary injunction and a writ of prohibition to enjoin the Housing and Land Use Regulatory Board (HLURB) from further hearing the complaints against petitioner.

The following factual antecedents appear:

Petitioner is a domestic corporation duly licensed to engage in the real estate development of Delta Homes which is situated in Aniban, Bacoor, Cavite. Respondent HLURB is the government's regulatory body for housing and land development.

On 13 July 1999, Elizabeth Nicolas, one of the buyers of a house and lot at Delta Homes, filed a Complaint[4] against petitioner and Luzon Development Bank before the HLURB. The complaint, docketed as HLURB Case No. RIV-071399-1083, alleged that petitioner violated certain provisions of Presidential Decree No. 957 and Batas Pambansa Blg. 220. Thereafter, six other complaints were separately lodged against petitioner by different lot buyers.

On 18 April 2000, Arbiter Raymundo A. Foronda rendered a decision in HLURB Case No. RIV-071399-1083, the dispositive portion of which reads:

WHEREFORE, premises considered, a decision is hereby rendered as follows:

- Ordering complainant to pay the amount of P191,613.85 representing her balance on the maximum selling price of P375,000.00;
- Upon full payment, ordering Delta to deliver the title in favor of the complainant free from liens and encumbrances;
- Pay complainant the amount of P50,000.00 as and by way of moral damages;
- Pay complainant P50,000.00 as and by way of exemplary damages;
- Pay complainant P10,000.00 as costs of suit;
- Pay this Board the amount of P10,000.00 as administrative fine.

SO ORDERED.[5]

Sometime in May 2000, spouses Luis and Letty Sierra went to respondent's office to verify the complaints

against petitioner. They disclosed that a staff/employee of the HLURB, a certain Jun Labapi, admitted that he prepared all the other complaints and documents filed against petitioner and informed them of the cost of the preparation of the complaint. Petitioner, through its treasurer, confronted Labapi about the allegations of spouses Sierra. Although Labapi denied those allegations, he purportedly admitted having prepared the answers on behalf of other buyers named as respondents in a complaint filed against them by another developer.

On 11 July 2000, petitioner filed before the Court of Appeals a Petition for Prohibition[6] against HLURB praying for the issuance of a preliminary injunction and writ of prohibition to enjoin the HLURB from further proceeding with the resolution of the complaints filed by the buyers of Delta Homes against petitioner.

The petition mainly alleged that the proceedings before the HLURB were not impartial because the HLURB itself was basically representing the interest of the lot buyers as one of its employees prepared the complaints against petitioner on behalf of the lot buyers. It claimed that the HLURB conducted hearings only to render an appearance of validity and impartiality in the proceedings. According to petitioner, the act of HLURB in preparing the complaints of the buyers of Delta Homes deprived petitioner of due process, invalidating the proceedings and any decision of the HLURB.

On 25 July 2000, the Court of Appeals issued the first[7] of the two assailed resolutions dismissing the petition for prohibition on the ground that it violated the doctrine of exhaustion of administrative remedies. The appellate court also noted petitioner's failure to implead the various complainants as respondents and to serve copies of the petition on them.

On 7 November 2000, the Court of Appeals issued the second questioned resolution[8] which denied petitioner's motion for reconsideration.

Hence, the instant petition, raising the following issues:

- WHETHER OR NOT THE HONORABLE COURT OF APPEALS CORRECTLY RULED THAT THE INSTANT PETITION IS A VIOLATION OF THE DOCTRINE OF EXHAUSTION OF ADMINISTRATIVE REMEDIES;
- WHETHER OR NOT THE RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF ITS JURISDICTION IN HAVING BEEN INVOLVED IN THE PREPARATION OF THE COMPLAINTS FILED BY THE COMPLAINING BUYERS AGAINST THE PETITIONER.[9]

Petitioner contends that the petition for prohibition before the Court of Appeals was the proper remedy to enjoin the HLURB from further conducting what petitioner alleges as irregular and void proceedings of the HLURB. According to petitioner, because the said petition for prohibition did not assail any HLURB decision or resolution on the complaints filed against petitioner but only the proceedings being conducted in relation to those complaints, there was yet nothing to appeal to the HLURB Board of Commissioners, rendering the doctrine of exhaustion of administrative remedies inapplicable.

In its Comment,[10] the HLURB denies petitioner's allegations. It contends that the quasi-judicial hierarchy and appellate procedure in the HLURB ensure that no single person is able to maneuver its proceedings or influence the outcome of any of its decisions. It argues that petitioner was not without any recourse within the HLURB's quasi-judicial machinery to address the alleged maneuvering by Labapi.

The instant petition must be denied.

Being an extraordinary remedy, prohibition cannot be resorted to when the ordinary and usual remedies provided

by law are adequate and available. Prohibition is granted only where no other remedy is available or sufficient to afford redress. That the petitioner has another and complete remedy at law, through an appeal or otherwise, is generally held sufficient reason for denying the issuance of the writ.[11]

Also, a writ of prohibition will not be issued against an inferior court unless the attention of the court whose proceedings are sought to be stayed has been called to the alleged lack or excess of jurisdiction. The foundation of this rule is the respect and consideration due to the lower court and the expediency of preventing unnecessary litigation; it cannot be presumed that the lower court would not properly rule on a jurisdictional objection if it were properly presented to it.[12]

Contrary to petitioner's stance, it has a remedy other than a petition for prohibition to assail the alleged illegality of the proceedings before the HLURB. The 1996 HLURB Rules of Procedure, which then governed the quasi-judicial proceedings in the HLURB, provides for a rule on the inhibition and disqualification of an arbiter. Section 3 of Rule IX expressly directs the party alleging partiality of the arbiter to file with the arbiter his objection in writing stating the grounds therefor; thereafter, the arbiter shall decide the incident. This provision could have properly addressed petitioner's perception that the proceedings before the arbiter were tainted with bias.

Petitioner's failure to avail of this remedy is fatal. The records show that petitioner did not bring to the attention of the arbiter the alleged underhanded practice of the HLURB employee so as to give the arbiter the opportunity to assess the same and determine if the proceedings had been compromised. It was not even shown that said HLURB employee was a staff of or worked for the arbiter before whom one of the cases against petitioner was pending. Instead, petitioner took upon itself to decide that the determination of all the other cases filed against it had been affected by the purported irregularity and sweepingly concluded that it would not be able to obtain an impartial hearing before the HLURB.

Petitioner also asserts that the act of Labapi in preparing the complaints on behalf of the complainants was tantamount to a denial of its right to due process before the HLURB; thus, its failure to exhaust the remedies under the HLURB Rules of Procedure was permissible as an exception to the doctrine of exhaustion of administrative remedies.

Petitioner should not be allowed to claim the denial of its right to due process based solely on its perception that the HLURB and the complainants conspired in a sham proceeding when, to begin with, it failed to raise the matter before the concerned arbiters who were in a position to correct the alleged irregularity. On the contrary, petitioner's prayer for the issuance of a writ of injunction to enjoin the HLURB arbiters from hearing the cases against petitioner smacks of an absolute denial of due process as far as the complainants are concerned because it would then foreclose the avenue through which their complaints could be heard.

WHEREFORE, the instant petition is DENIED and the resolutions dated 25 July 2000 and 7 November 2000 of the Court of Appeals in CA-G.R. SP No. 59694 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 8-16.

[2] Id. at 20.

[3] Id. at 31.

[4] CA rollo, pp. 15-22.

[5] Rollo, pp. 39-40.

[6] CA rollo, pp. 2-7.

[7] Supra note 2.

[8] Supra note 3.

[9] Rollo, p. 11.

[10] Id. at 57-66.

[11] *Esquivel v. Ombudsman*, 437 Phil. 702, 714-715 (2002).

[12] *Esquivel v. Hon. Ombudsman*, supra note 11 at 715.

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