JOSEFINA TEOTICO (ALSO KNOWN AS BABY SANTANA), PETITIONER, VS. ROSARIO D. BAER, RESPONDENT.

G.R. NO. 147464. June 08, 2006

Ponente: CORONA, J.

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CORONA, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the resolutions[1] of the Court of Appeals dated August 11, 2000 and March 9, 2001 in CA-G.R. No. 60052.

The facts show that on October 21, 1997 respondent filed before the Housing and Land Use Regulatory Board (HLURB) an amended complaint for specific performance, damages and attorney's fees against petitioner Josefina Teotico (also known as Baby Santana), as the administratrix of the estate of her late husband, Francisco D. Santana. Petitioner allegedly refused to execute an absolute deed of sale in respondent's favor despite complete payment of a residential lot located in Pateros, Rizal which was sold to her by the petitioner's husband, Francisco Santana, who died during the pendency of the case.

On May 25, 1998, the HLURB rendered judgment by default against petitioner for her failure to file her answer to the complaint despite the proper service of summons. The dispositive portion of the decision read:

> WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered in favor of complainant and against respondent ordering the latter to:
>
> - Issue the Deed of Absolute Sale free from all liens encumbrances in favor of complainant of Lot 14, Block 2 of TCT No. 21165 of the Registry of Deeds of Pasig;
>
> - Pay complainant the amount of P20,000.00 as exemplary damages;
>
> - Pay complainant the amount of P30,000.00 as moral damages;
>
> - Pay the complainant as attorney's fees of (sic) P50,000.00 [;and]
>
> - Cost of the suit.
>
> IT IS SO ORDERED.[2]

On August 13, 1998, the HLURB issued a writ of execution of its decision but petitioner refused to comply with it. In her opposition[3] to respondent's motion for execution and satisfaction of decision,[4] petitioner argued that the HLURB decision was null and void because respondent allegedly failed to prove petitioner was appointed as the administratrix of the estate of her late husband, Francisco Santana, and that there was no valid service of summons on her, among other things. The HLURB, however, denied petitioner's opposition for being "dilatory and without merit."[5]

On September 4, 2000, petitioner went up to the Court of Appeals via a petition for certiorari under Rule 65 of the Rules of Court assailing the judgment by default dated May 25, 1998 rendered by the HLURB and its order dated

June 14, 2000 directing the enforcement of the judgment by default, for having allegedly been issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

In a two-page decision, the CA dismissed the petition:

> x x x x x x x x x
>
> The petition alleges that there is no appeal, or any other plain, speedy or adequate remedy in the ordinary course of law considering that under Section 1, Rule IV of the 1996 Rules of Procedure of the Housing and Land Use Regulatory Board, a motion for reconsideration of any order or decision of the arbiter is a prohibited pleading.
>
> Worthy of note, however, [is] that Section 1, Rule XII of the same Rules of Procedure provides for the remedy of petition for review of the arbiter's decision within thirty (30) calendar [days] from receipt thereof. And, in the event of another adverse decision, the aggrieved party may still appeal to the Office of the President (Section 2, Rule XVIII).
>
> As held in Union Bank of the Philippines vs. Court of Appeals, 290 SCRA 198, 219:
> "xxx Basic is the rule which has been consistently held by this Court in a long line of cases that before a party is allowed to seek the intervention of the court, it is a pre-condition that he should have availed of all the means of administrative processes afforded him. Hence, if a remedy within the administrative machinery can still be resorted to by giving the administrative officer concerned every opportunity to decide on a matter that comes within his jurisdiction, then such remedy should be exhausted first before the court's judicial power can be sought. The premature invocation of court's intervention is fatal to one's cause of action. xxx"

WHEREFORE, the instant petition is DISMISSED.

SO ORDERED.[6]

Petitioner moved for a reconsideration of the above decision alleging that the 30-day period for filing a petition for review before the HLURB and to appeal to the Office of the President, had already elapsed when she learned of the judgment of default rendered against her. She further argued that she immediately went to the CA because there was an urgent need for judicial intervention due to the patent nullity of the HLURB judgment.

The CA denied the motion for reconsideration for lack of merit. It ruled:

> Section 1, Rule XII of the Rules of Procedure of the HLURB provides for the remedy of petition for review of the Arbiter's decision within thirty (30) calendar days from receipt thereof. In view of petitioner's claim that she learned of the judgment by default against her only when she received a copy of the motion for execution dated July 14, 1998, then the thirty-day period would be reckoned from the date when she allegedly received a copy of said motion.
>
> Moreover, Section 26 of the 1987 Rules of Procedure of the HLURB provides that pending resolution of the petition for review of the decision of the Arbiter, the Chief Executive Officer or, in his absence, any Commissioner may, upon motion by either party, issue interlocutory or ancillary remedies such as but not limited to temporary restraining orders and/or preliminary injunctions, if in his judgment the Board has jurisdiction over the subject matter and that the motion is complete in form and substance and the issue will become moot and academic or the final judgment ineffectual if no action is made thereon. Consequently, petitioner had a plain, speedy or adequate remedy in the ordinary course of law which she, however, did not pursue. Settled is the rule that certiorari cannot be used as a substitute for the lost or lapsed remedy of appeal especially if such loss or lapse was occasioned by one's neglect or error in the choice of remedies. (Republic vs. Court of Appeals, 313 SCRA 376, 383).
>
> WHEREFORE, the motion for reconsideration is DENIED for lack of merit.

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SO ORDERED.[7]

The thrust of the rule on exhaustion of administrative remedies is that the courts must allow the administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence. Reasons of law, comity and convenience prevent the courts from entertaining cases proper for determination by administrative agencies.[8]

The HLURB is the sole regulatory body for housing and land development.[9] 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.[10] The HLURB has established rules of procedure in the adjudication of the cases before it. Any party who is aggrieved by its decision "may file with the Regional Office a verified petition for review of the arbiter's decision within 30 calendar days from receipt thereof."[11] The regional officer shall then elevate the records to the Board of Commissioners together with the summary of proceedings before the arbiter within 10 calendar days from receipt of the petition.[12] If the party is still dissatisfied with the decision of the Board, he may appeal to the Office of the President within 15 calendar days from receipt of the decision.[13]

Under the doctrine of exhaustion of administrative remedies, recourse through court action cannot prosper until after all such administrative remedies have first been exhausted.[14] If remedy is available within the administrative machinery, this should be resorted to before resort can be made to courts.[15] It is settled that non-observance of the doctrine of exhaustion of administrative remedies results in lack of cause of action, which is one of the grounds in the Rules of Court justifying the dismissal of the complaint.[16]

Here, petitioner failed to exhaust her administrative remedies when she directly elevated to the CA the HLURB arbiter's decision without appealing it first to the Board and then later, the Office of the President. She has failed to convince us that her case is one of those exempted from the application of the doctrine of exhaustion of administrative remedies.[17] Her petition must necessarily fall.

WHEREFORE, the instant petition is hereby DENIED for lack of merit.

Costs against petitioner.

SO ORDERED.
Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Associate Justice Marina L. Buzon and concurred in by Associate Justice Ramon A. Barcelona and Associate Justice Edgardo P. Cruz of the 10th Division of the Court of Appeals; rollo, pp. 33-34.[2] Penned by Atty. Rowena C. Balasolla, Housing and Land Use arbiter, approved by Dunstan T. San Vicente, Head Legal Division, HLURB, Quezon City, rollo, pp. 64-65.[3] Rollo, p. 73.[4] Rollo, p. 70.[5] Order, rollo, p. 82.[6] CA decision, rollo, pp. 33-34.[7] Order, rollo, pp. 36-37.[8] Gonzales v. Court of Appeals, G.R. No. 106028, 9 May 2001, 357 SCRA 599.[9] Executive Order No. 90 - Identifying the Government Agencies Essential for the National Shelter Program and Defining Their Mandates, Creating the Housing and Urban Development Coordinating Council , Rationalizing Funding Sources and Lending Mechanisms for Home Mortgages and Other Purposes.[10] Id.[11] Rule XII, Section 1, Board of Commissioners Resolution No. R-586, Series of 1996, Adopting the 1996 Rules of Procedure of the Housing and Land Use Regulatory Board.[12] Id.[13] Rule XVIII, Section 2, id.[14] Garcia v. Court of Appeals, 411 Phil. 25 (2001).[15] Id.[16] Castro v. Gloria, 415 Phil. 645 (2001).[17] Instances when the doctrine of exhaustion of administrative remedies may be dispensed with and judicial action may be validly resorted to immediately are: (1) when the question raised is purely legal; (2) when

the administrative body is in estoppel; (3) when the act complained of is patently illegal; (4) when there is urgent need for judicial intervention; (5) when the claim involved is small; (6) when irreparable damage will be suffered; (7) when there is no other plain, speedy and adequate remedy; (8) when strong public interest is involved; and, (9) in quo warranto proceedings. Castro v. Gloria, 415 Phil. 645 (2001).

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