DELFIN ESPINOCILLA, JR., JOSEFINA ALCID, ROSITA PALOMER, HENRY ASEJO, JAIME DIAZ, MARTIN BALIGUAS, BELEN PEREZ, JOAN BONCALES, IMELDA GOGOLIN, VICTOR RAÑON, LILIA GIL, NERISSA J...

G.R. No. 151019. August 09, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Respondent corporation, the Bagong Tanyag Homeowners' Association, Inc. (BATAHAI), was in 1989 incorporated to enable the occupants of the land owned by Fortune Development Corporation, Guillermo Tantuco, and Daniel Ignacio and located in Bagong Tanyag, Taguig to purchase the respective lots they were occupying under the Community Mortgage Program (CMP) of the National Home Mortgage Finance Corporation (NHMFC).

Respondents Remedios Bico, Alfonso Ignacio, Gloria Misterio, Salvacion Poras, Rhobby Acosta, Adela Giray, Edmon Banse, Violeta Alba, Sofranio Mangampo, Navarro Abbarientos, Zacarias Arzaga, Rodrigo Picart, and Livino Torino were, at the time material to the case, officers and directors of BATAHAI, while petitioners were former members thereof.

Under the CMP, BATAHAI could obtain a loan from NHMFC to purchase the land from its owners and subdivide it among its member-beneficiaries, subject to the supervision and guidance of the National Housing Administration (NHA).[1] In turn, each member-beneficiary would pay amortizations of the loan to BATAHAI.

The BATAHAI Code of Policies (the Code) named as first priority beneficiaries the owners of houses or structures that were part of the census survey conducted in October 1984 in Bagong Tanyag and who were members of BATAHAI.

The Code named as second priority beneficiaries members of BATAHAI who were part of the census survey as lessees or rent-free occupants ("nangungupahan na may bayad, nakikitira, o nakikisama") of houses or structures in Bagong Tanyag.

Under the Code, each beneficiary is entitled to only one lot,[2] that on which his or her house or structure stands, "structure" and "house" being defined as follows:

- ESTRAKTURA - pasilidad na ginawa para sa kanlungan at tirahan ng tao, kasama ang palikuran.

- BAHAY - isang parisukat na kabahayan na tinitirahan ng namamahay.[3]

Petitioners, however, wanted to claim the vacant lots adjacent to theirs on which vacant lots they planted crops or put up fences and other improvements.[4]

On December 15, 1989, BATAHAI, in a Pahayag, required its members to submit the following documents

required by the NHMFC:

- Para sa mga empleyado (may pormal na hanapbuhay)

- Certificate of Employment and Compensation (CEC)

- Income Tax Returns para sa taong 1988

- Residence Certificate or Sedula (1990)

- Policy contract para sa mga miyembro ng GSIS/Certificate of Remittances (sa loob ng 12 buwan) at xerox copy ng ID para sa miyembro ng GSIS

- Marriage Contract

- Para sa mga self-employed (tindera, labandera, driver, negosyante, atbp.)

- Affidavit of Income

- Residence Certificate o sedula (1990)

- Marriage Contract[5]

In the meantime, a geodetic engineer, assisted by respondents, conducted a "structural survey" of the houses or structures in Bagong Tanyag to determine the actual lot sizes as well as the rightful owners of houses or structures standing thereon. Lots on which no houses or structures were built were considered open areas available for distribution to secondary beneficiaries.

Following the conduct of the "structural survey," it was recommended that some houses or structures would be relocated to make way for the construction of roads under a schematic plan selected by a majority of the BATAHAI members.[6]

Petitioners, who had laid claim on vacant lots beside those they were occupying, objected to the reduction of the number of lots they were applying for, rejected the option of assigning the adjacent vacant lots to their nearest relatives, and refused to submit the documents-requirements of the NHMFC.

From the March 16, 1990 Pahayag[7] issued by the NHA, only 30% of the BATAHAI members had, as of said date, submitted complete documents. It gave 15 days for the rest of the members to comply with the requirements of the NHMFC, with the caveat that the NHMFC would not release the proceeds of the loan if all requirements were not complied with.

On March 15, 1991, a Pahayag was posted containing the list of BATAHAI members who had not complied with the NHMFC requirements, and calling for compliance therewith.[8]

On November 25, 1991, respondents issued a list of prospective CMP beneficiaries.[9] The BATAHAI members who did not comply with the requirements were delisted. To afford the delisted members a chance to benefit from the CMP, however, respondents set new deadlines for compliance with the requirements[10] and sent petitioners individual letters demanding compliance therewith, failing which they would be deemed to have lacked interest to thereby forfeit their rights as beneficiaries of the CMP.[11]

NHA personnel in fact visited recalcitrant BATAHAI members, reminding them to comply with the requirements.[12]

Respondents later issued Resolution No. 24 on April 20, 1992 declaring that the lots occupied by the recalcitrant members would be shared among the other BATAHAI members and that the vacant lots would be raffled off to

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the second priority beneficiaries.[13]

Petitioners were thus prompted to file on February 4, 1993 a complaint before the Home Insurance and Guaranty Corporation (HIGC), docketed as HIGC Case No. HOA-93-004, for reinstatement and declaration of nullity of actions by the defendants-herein respondents.[14]

In their complaint, petitioners alleged that respondents subdivided the lots which they have been occupying since 1978 without their knowledge and consent, reassigned the lots without observing due process of law, omitted or deleted their names from the January 3, 1993 certified list of prospective beneficiaries, and unlawfully replaced three BATAHAI directors.

By Decision[15] of February 6, 1995, Hearing Officer Roberto C. Abrajano of the HIGC held that by deleting petitioners' names from the master list of beneficiaries and reassigning the lots they occupied to others, respondents deprived them of their property without due process of law.[16]

On appeal, the HIGC Appeals Board reversed the hearing officer's findings and declared valid the acts of respondents.[17]

The Court of Appeals affirmed the findings of the HIGC Appeals Board.[18] Hence, the present Petition for Review[19] which faults the appellate court . . . in not declaring the act of the respondents as contrary to the express mandate of Article XIII, Section 9 and 10 of the 1987 Constitution of the Philippines and the laws passed in relation thereto, particularly Republic Act No. 7279[20] [and]

> . . . in completely ignoring the findings of fact of the HIGC Hearing Officer to the effect that respondents failed to create and organize the required Arbitration Committee, as well as the Final Arbitration Committee (Adjudication Committee) which is the final arbiter of all disputes and controversies in the allocation of lots within the area of the CMP which issue was constantly raised by the petitioners in all stages by the proceedings but which was avoided by the HIGC Appeals Board and the Court of Appeals thereby causing denial of due process.[21]

The petition fails.

The resolution of the petition hinges on a determination of whether petitioners were deprived of property without due process of law.

The essence of due process is the opportunity to be heard. What the law prohibits is not the absence of previous notice but the absolute absence thereof and the lack of opportunity to be heard.[22]

The records of the case show that petitioners had had more than sufficient notice and opportunity to be heard before they were delisted as prospective beneficiaries.

Before respondents issued the questioned November 25, 1991 list of prospective beneficiaries, sufficient notices were posted informing petitioners of the need to submit the documents required by the NHMFC.

Even after petitioners were delisted as beneficiaries, respondents set new deadlines for petitioners to submit the requirements, sending each of them letters reminding them of the consequences of non-compliance therewith.

Petitioners argue, however, that the HIGC Hearing Officer found that they showed their consistent interest to acquire the lots and pay the cost of acquisition to BATAHAI as soon as the re-subdivided lots be reverted to their original sizes.[23] They add that the BATAHAI should have created an Arbitration Committee and that the NHMFC should have organized an Adjudication Committee according to the amended by-laws of BATAHAI and the association's Code, which bodies should have heard their grievances to afford them due process.

Petitioners' arguments fail.

First, the "structural survey" which triggered the controversy did not subdivide petitioners' lots. By petitioner Delfin Espinocilla's admission before the HIGC Hearing Committee, the purpose of the "structural survey" was to identify the actual structures owned by Bagong Tanyag settlers:

> Q [Atty. Almo]: As a member of the BATAHAI, were you aware of any activities that the officers of the BATAHAI undertake [sic] in order that your occupancy of the lot may be properly known?
> A [Delfin Espinocilla]: Yes sir.
>
> Q: What is this action does [sic] the BATAHAI undertake?
> A: The structural survey submitted in April 1990 executed by Engineer Ponciano Miranda.
> Q: When you said structural survey, what does this survey referred [sic] to?
> A: Respective structural houses of the individual claimant.
>
> x x x x
>
> Q: What does this structural plan refer to?
> A: To distinguished [sic] the actual structure of the respective beneficiaries sir.
>
> Q: Will you be able to tell this Honorable Office about the particular purpose of this structural plan?
> A: Para malaman ang structure ng mga bahay diyan sa BATAHAI at para mabilang ang mga structure na sinasabi.
>
> Hearing Officer:
> So you mean if there is the existing house, it shall be included in the structural plan?
> A: Yes sir.
>
> Hearing Officer:
> So if you have no structure, you will not be included in the structural survey?
> A: Yes sir.[24] (Italics and underscoring supplied)

Second, the records of the case show that petitioners were afforded the opportunity to be heard on the alleged subdivision of their lots. Thus they brought up their concerns to the Office of the President which, in turn, referred the same to the NHA which passed upon them.[25]

At all events, the due process guarantee cannot be invoked when no vested right has been acquired.[26] The period during which petitioners occupied the lots, no matter how long,[27] did not vest them with any right to claim ownership since it is a fundamental principle of law that acts of possessory character executed by virtue of license or tolerance of the owner, no matter how long, do not start the running of the period of acquisitive prescription.[28] It bears recalling that BATAHAI was formed precisely to enable the Bagong Tanyag settlers, including petitioners, to purchase the lots they were occupying.

Petitioners nevertheless invoke the following social justice provisions of the Constitution:

> Article XIII.
>
> x x x x
>
> Section 9. The State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas. It shall also promote adequate employment opportunities to such citizens. In the implementation of such programs the State shall respect the rights of small property owners.

> Section 10. Urban or rural poor dwellers shall not be evicted nor their dwellings demolished, except in accordance with law and in a just and humane manner.
>
> No resettlement of urban or rural dwellers shall be undertaken without adequate consultation with them and the communities where they are to be relocated.

The invocation does not help their cause. Petitioners' obstinancy in not complying with the BATAHAI and NHMFC requirements had delayed the release of the loan to BATAHAI[29] to the detriment of the other BATAHAI members who, like petitioners, are also urban poor dwellers but who complied with the requirements and even agreed to be relocated in case the construction of roads for the common interest required the demolition of their houses or structures.[30] To grant the petition would, instead of promoting, defeat social justice.

WHEREFORE, the petition is DENIED and the challenged decision of the Court of Appeals is AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

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

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[1] HIGC folder 1, pp. 121-128. (HIGC folders 1, 2, and 3 are paginated 500-1, 351-1, and 78-1, respectively).

[2] Id. at 462-463. Vide HIGC records folder 2, pp. 28-32.

[3] Id. at 464.

[4]Id. at 77.

[5]Id. at 461.

[6] Id. at 80-81, 312; HIGC records folder 2, p. 26; CA rollo, p. 291.

[7] HIGC records folder 1, p. 460.

[8] Id. at 396.

[9] Id. at 336-341.

[10]Id. at 118.

[11] Id. at 397-426, 428-435, 456-459.

[12] Id. at 245 (2 pages); HIGC records folder 2, pp. 43-44.

[13] HIGC records folder 1, pp. 447-448.

[14]Id. at 27-32.

[15]Id. at 491-500.

[16] Id. at 492-496.

[17] HIGC records folder 3, pp. 71-78.

[18] Decision of December 12, 2001, penned by Court of Appeals Associate Justice Rebecca de Guia-Salvador, with the concurrences of Associate Justices Eugenio S. Labitoria and Teodoro P. Regino. CA rollo, pp. 337-352.

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[19] Rollo, pp. 51-76.

[20] Id. at 67.

[21] Id. at 69.

[22] Medenilla v. Civil Service Commission, G.R. No. 93868, February 19, 1991, 194 SCRA 278, 285 (citations omitted).

[23] Rollo, p. 163.

[24] HIGC records folder 2, pp. 271-273.

[25] HIGC records folder 1, pp. 112-117, 247-252.

[26] Vide Tagum Doctors Enterprises v. Apsay, G.R. No. L-81188, August 30, 1988, 165 SCRA 154, 160.

[27] The case filed before the HIGC pegs the start of the occupation at 1978 (HIGC records folder 1, p. 31) but the affidavits of the individual petitioners state different dates for each of them (HIGC records folder 1, pp. 160, 164, 167, 171, 175, 178, 182, 186, 190, 195, 198, 201, 204, 211, 215, 225, 231, 259, 271, 330, 352, 356.

[28]Bogo-Medellin Milling Co., Inc. v. Court of Appeals, G.R. No. 124699, July 31, 2003, 407 SCRA 518, 526-527. Vide CIVIL CODE, Article 1119: "Acts of possessory character executed in virtue of license or by mere tolerance of the owner shall not be available for the purposes of possession."

[29] Vide HIGC records folder 1, pp. 88, 143, 245-245 (both pages were inadvertently numbered "245"), 427, 448.

[30]HIGC records folder 1, pp. 81, 464.

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