

FRANCEL REALTY CORPORATION, PETITIONER, VS. RICARDO T. SYCIP, RESPONDENT.

G.R. NO. 154684. September 08, 2005

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-154684/>

PANGANIBAN, ACTING CJ:

In general, lack of jurisdiction over the subject matter may be raised at any stage of the proceeding, even on appeal. This defense may be determined from the factual allegations of the complaint, regardless of the answer or even before the answer is filed.

The Case

Before us is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court, assailing the February 2, 2001 Decision[2] and August 14, 2002 Resolution[3] of the Court of Appeals in CA-GR CV No. 55127. The CA disposed as follows:

"It is not disputed that [petitioner] filed an illegal detainer case against [respondent] docketed as Civil Case No. 1310 before the Municipal Trial Court [MTC] of Bacoor, Cavite, which was accordingly dismissed by the MTC (See answer, p. 28, record). The filing of the instant case is another blatant attempt by [petitioner] to circumvent the law. For it is well-settled that where a complaint arises from the failure of a buyer [of real property] on installment basis to pay based on a right to stop monthly amortizations under Presidential Decree No. 957, as in the case at bench, the determinative question is exclusively cognizable by the Housing and Land Use Regulatory Board (HLURB) (Francel Realty Corp. v. Court of Appeals, 252 SCRA 127 [1996]).

"WHEREFORE, premises considered, the decision appealed from is hereby AFFIRMED in toto."[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

The CA narrated the facts as follows:

"x x x [I]n November, 1989, [petitioner] and [respondent] entered into a contract to sell a house and lot covered by TCT No. T-281788. Upon execution of the contract to sell, [respondent] made a down payment of P119,700.00, which was considered as monthly rentals at the rate of P2,686.00 per month. On March 16, 1990, the townhouse subject of the contract to sell was transferred in the name of [respondent] as evidenced by TCT No. T-281788. Despite the transfer of the title in the name of [respondent], the latter refused to pay the balance of P250,000.00. By applying the down payment of P119,700.00 to defendant's monthly rental starting from December 1989, said amount has been reduced to nothing. Despite several demands made by [petitioner] to [respondent], including the demand dated December 12, 1991 made by [petitioner's] counsel, the [respondent] refused to reconvey the subject property to [petitioner]. The [petitioner] suffered actual damages in the form of repairs amounting to not less than P100,000.00 as well as moral and exemplary damages, attorney's fees and litigation expenses. x x x.

"The [respondent] filed a motion to dismiss on the ground of lack of jurisdiction but the court below denied the motion stating that the ground relied upon by [respondent] did not appear to be] indubitable.

"Denying the material allegations of the complaint, the [respondent] again invoked the court's lack of jurisdiction over the subject matter of the case. Further, there is a pending case between the same parties and involving the same townhouse before the Housing and Land Use Regulatory Board for unsound real estate business practices. Likewise, the [respondent] justified his refusal to pay the amortizations alleging that the [petitioner] sold and delivered to him a defective townhouse unit under Sec. 3 of Presidential Decree No. [957].

"After trial, the court below dismissed the case for lack of jurisdiction."[5]

Ruling of the Court of Appeals

Agreeing with the trial court, the CA held that the case involved not just reconveyance and damages, but also a determination of the rights and obligations of the parties to a sale of real estate under PD 957; hence, the case fell exclusively under the jurisdiction of the HLURB. The appellate court observed that respondent and other buyers of the townhouses had notified petitioner of their intention to stop paying amortizations because of defective structures and materials used in the construction; they had in fact filed other cases, also before the HLURB, against petitioner for unsound real estate business practice.

Noting that petitioner's illegal detainer case against respondent had been dismissed by the MTC, the appellate court concluded that the filing of the instant case was another blatant attempt to circumvent the law.

Hence this Petition.[6]

Issues

In its Memorandum, petitioner raises the following issues:

"A. Whether or not the lower court can dismiss, after full blown trial, Civil Case No. BCV-94-2 of the RTC, Imus, Cavite, on the ground of lack of jurisdiction.

"B. Whether or not the lower court can dismiss this case in spite of the indisputable fact that respondent never secured HLURB authority or clearance to stop payment of monthly rentals."[7]

The Court's Ruling

The Petition lacks merit.

First Issue: Dismissal for Lack of Jurisdiction

Before going into the jurisdictional question, we must at the outset point out that, contrary to petitioner's assignment of errors, the trial court's Decision is not the proper subject of this Rule 45 Petition. Rather, it is the Decision of the CA that is up for review by this Court. This mistake in stating the issues could have been fatal to petitioner's case, had it not correctly restated them in its arguments and discussion.[8] That said, we now proceed to the main issues.

Petitioner argues that the CA's affirmation of the trial court's dismissal of its case was erroneous, considering that a full-blown trial had already been conducted. In effect, it contends that lack of jurisdiction could no longer be used as a ground for dismissal after trial had ensued and ended.

The above argument is anchored on estoppel by laches, which has been used quite successfully in a number of cases to thwart dismissals based on lack of jurisdiction. *Tijam v. Sibonghanoy*,[9] in which this doctrine was espoused, held that a party may be barred from questioning a court's jurisdiction after being invoked to secure affirmative relief against its opponent. In fine, laches prevents the issue of lack of jurisdiction from being raised for the first time on appeal by a litigant whose purpose is to annul everything done in a trial in which it has

actively participated.[10]

Laches is defined as the "failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it." [11]

The ruling in *Sibonghanoy* on the matter of jurisdiction is, however, the exception rather than the rule.[12] Estoppel by laches may be invoked to bar the issue of lack of jurisdiction only in cases in which the factual milieu is analogous to that in the cited case. In such controversies, laches should be clearly present; that is, lack of jurisdiction must have been raised so belatedly as to warrant the presumption that the party entitled to assert it had abandoned or declined to assert it. [13] That *Sibonghanoy* applies only to exceptional circumstances is clarified in *Calimlim v. Ramirez*, [14] which we quote:

"A rule that had been settled by unquestioned acceptance and upheld in decisions so numerous to cite is that the jurisdiction of a court over the subject-matter of the action is a matter of law and may not be conferred by consent or agreement of the parties. The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal. This doctrine has been qualified by recent pronouncements which stemmed principally from the ruling in the cited case of *Sibonghanoy*. It is to be regretted, however, that the holding in said case had been applied to situations which were obviously not contemplated therein. The exceptional circumstance involved in *Sibonghanoy* which justified the departure from the accepted concept of non-waivability of objection to jurisdiction has been ignored and, instead a blanket doctrine had been repeatedly upheld that rendered the supposed ruling in *Sibonghanoy* not as the exception, but rather the general rule, virtually overthrowing altogether the time-honored principle that the issue of jurisdiction is not lost by waiver or by estoppel." [15]

Indeed, the general rule remains: a court's lack of jurisdiction may be raised at any stage of the proceedings, even on appeal.[16] The reason is that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.[17] Moreover, jurisdiction is determined by the averments of the complaint, not by the defenses contained in the answer.[18]

From the very beginning, the present respondent has been challenging the jurisdiction of the trial court and asserting that the HLURB is the entity that has proper jurisdiction over the case. Consonant with Section 1 of Rule 16 of the Rules of Court, he had raised the issue of lack of jurisdiction in his Motion to Dismiss. Even when the Motion was denied, he continuously invoked lack of jurisdiction in his Answer with affirmative defenses, his subsequent pleadings, and verbally during the trial. This consistent and continuing objection to the trial court's jurisdiction defeats petitioner's contention that raising other grounds in a Motion to Dismiss is considered a submission to the jurisdiction of the court.[19]

We stress that Rule 9 of the Rules of Court requires that all defenses and objections -- except lack of jurisdiction over the subject matter, *litis pendentia*, bar by prior judgment and/or prescription -- must be pleaded in a motion to dismiss or in an answer; otherwise, they are deemed waived. [20] As to the excepted grounds, the court may dismiss a claim or a case at any time "when it appears from the pleadings or the evidence on record" that any of those grounds exists.

In the present case, the trial court at first denied the Motion to Dismiss filed by respondent, because the grounds he had relied upon did not appear to be indubitable. The ruling was made under the pre-1997 Rules of Civil Procedure, which then provided that the court, "after hearing x x x may deny or grant the motion or allow amendment of pleading, or may defer the hearing and determination of the motion until the trial if the ground alleged therein does not appear to be indubitable." [21] Moreover, the factual allegations of the Complaint [22] that

petitioner filed below for reconveyance and damages sufficiently conformed to the jurisdictional requisites for the exercise of the MTC's authority. Thus, in accord with the procedures then prescribed, the court conducted trial to allow all arguments and evidence to surface.

Significantly, petitioner has previously sued respondent's brother and co-complainant before the HLURB over the same subdivision project. In *Francel Realty v. Court of Appeals and Francisco Sycip*,^[23] petitioner's Complaint for unlawful detainer was premised on the failure of respondent's brother to pay monthly amortizations on the basis of his right to stop paying them under PD 957. In that case, the Court had ruled that the issue involved a "determinative question x x x exclusively cognizable by the HLURB"; that is, a "determination of the rights and obligations of parties in a sale of real estate under P.D. 957."^[24]

Because an earlier Complaint had been filed by Sycip before the HLURB against Francel Realty Corporation for unsound real estate business practices, the Court dismissed petitioner's cause of action. The reason for the dismissal was that the Complaint should "instead be filed as a counterclaim in [the] HLURB [case] in accordance with Rule 6, Section 6 of the Rules of Court x x x."^[25] For the same reason, this Court has ruled that a suit to collect on a promissory note issued by a subdivision lot buyer involves the "sales of lots in commercial subdivisions"; and that jurisdiction over such case lies with the HLURB, not with the courts.^[26]

Further, the rules governing counterclaims^[27] and the prohibition on the splitting of causes of action (grounded on the policy against a multiplicity of suits)^[28] should effectively bar the Complaint for reconveyance and damages filed by petitioner. Its Complaint came at the heels of its unlawful detainer suit that had previously been dismissed by the MTC of Imus, Cavite, and of the litigation filed by respondent against Francel Realty before the HLURB. Petitioner avers that the present controversy is not cognizable by the HLURB, because it was filed by the developer rather than by the buyer, as provided under PD No. 1344.^[29] Such pretension flies in the face of the ruling of the Court in *Francel Realty Corp. v. Court of Appeals and Francisco Sycip*,^[30] which we quote:

"x x x. In the case of *Estate Developers and Investors Corporation v. Antonio Sarte and Erlinda Sarte* 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 P.D. 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.'"^[31]

Petitioner's strategy, if allowed, would open a convenient gateway for a developer to subvert and preempt the rights of buyers by the mere expediency of filing an action against them before the regular courts, as in this case. Fortunately, the CA saw through the ruse. Contrary to petitioner's contention, the HLURB is not deprived of jurisdiction to hear and decide a case merely on the basis that it has been initiated by the developer and not by the buyer.

Petitioner cites *Ayala Corporation v. Ray Burton Development Corporation*^[32] and *Fajardo Jr. v. Freedom to Build, Inc.*,^[33] which do not further its cause either. These cases pertain to deed restrictions and restrictive

covenants in the sale of subdivision units; hence, they do not fall under any of the cases over which the HLURB exercises exclusive jurisdiction. Naturally, there was every reason for the courts in the said cases to assume and exercise their jurisdiction.

Second Issue: Authority to Stop Payment of Monthly Rentals

The next proposition relates to the absence of a clearance from the HLURB authorizing respondent to stop payment of his amortizations. It is petitioner's position that under Section 23 of Rule VI of the Rules implementing PD 957, clearance must first be secured from the Board before the buyer of a subdivision lot or a home can lawfully withhold monthly payments.

This contention is also unmeritorious.

First, Section 23 of PD 957 -- the law upon which the Implementing Rule cited was based -- requires only due notice to the owner or developer for stopping further payments by reason of the latter's failure to develop the subdivision according to the approved plans and within the time limit. Section 23 provides as follows:

"SECTION 23. Non-Forfeiture of Payments. — No installment payment made by a buyer in a subdivision or condominium project for the lot or unit he contracted to buy shall be forfeited in favor of the owner or developer when the buyer, after due notice to the owner or developer, desists from further payment due to the failure of the owner or developer to develop the subdivision or condominium project according to the approved plans and within the time limit for complying with the same. Such buyer may, at his option, be reimbursed the total amount paid including amortization interests but excluding [delinquency] interests, with interest thereon at the legal rate." (Italics supplied)

To be valid, an administrative rule or regulation must conform, not contradict, the provisions of the enabling law.[34] An implementing rule or regulation cannot modify, expand, or subtract from the law it is intended to implement. Any rule that is not consistent with the statute itself is null and void.[35] Thus, the Court in *People v. Maceren*[36] explained as follows:

"Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and should be for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself cannot be extended. x x x.

"The rule making power must be confined to details for regulating the mode or proceeding to carry into effect the law as it has been enacted. The power cannot be extended to amending or expanding the statutory requirements or to embrace matters not covered by the statute. Rules that subvert the statute cannot be sanctioned. x x x."

Plainly, therefore, Section 23 of Rule VI of the Implementing Rules cannot rise higher than Section 23 of PD 957, which is the source of its authority. For that matter, PD 957 would have expressly required the written approval of the HLURB before any stoppage of amortization payments if it so intended, in the same manner that the decree specifically mandates written consent or approval by the NHA (now the HLURB) in Section 18.[37]

Section 18 has been held by the Court to be a prohibitory law; hence, "acts committed contrary to it are void,"[38] pursuant to the intent of PD 957 "to provide a protective mantle over helpless citizens who may fall prey to the razzmatazz of what P.D. 957 termed 'unscrupulous subdivision and condominium sellers.'"[39] The Court stressed that "such construal ensures the attainment of the purpose of the law: to protect lot buyers, so that they do not end up still homeless despite having fully paid for their home lots with their hard-earned cash." [40]

Apropos, to require clearance from the HLURB before stopping payment would not be in keeping with the intent

of the law to protect innocent buyers of lots or homes from scheming subdivision developers. To give full effect to such intent, it would be fitting to treat the right to stop payment to be immediately effective upon giving due notice to the owner or developer or upon filing a complaint before the HLRUB against the erring developer. Such course of action would be without prejudice to the subsequent determination of its propriety and consequences, should the suspension of payment subsequently be found improper.

Significantly also, the Court has upheld the reliance of a buyer on Section 23 of PD 957 when he ordered his bank to stop payment of the checks he had issued, so that he could suspend amortization payments until such time as the owner or developer would have fulfilled its obligations.[41] In *Antipolo Realty Corporation v. National Housing Authority*,[42] the exercise of a statutory right to suspend installment payments was considered a valid defense against the purported violations of Batas Pambansa (BP) Blg. 22 by the petitioner in that case. Such right negated the third element – the "subsequent dishonor of the check without valid cause." With more reason, then, should the buyer's right to suspend installment payments be considered a valid defense against the suit for reconveyance and damages.

WHEREFORE, this Petition is hereby DENIED and the assailed Decision and Resolution are AFFIRMED. Costs against petitioner.

SO ORDERED.

Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.
Carpio Morales, J., on official business.

[1] Rollo, pp. 8-14.

[2] Penned by Justice Rodrigo V. Cosico and concurred in by Justices Ramon A. Barcelona (then Division chair) and Alicia L. Santos.

[3] Rollo, pp. 25-31.

[4] CA Decision, p. 3; *id.*, p. 19.

[5] *Id.*, pp. 1-2 & 17-18.

[6] This case was deemed submitted for decision on June 21, 2004, upon the Court's receipt of respondent's Memorandum, signed by Atty. Melamarisa L. Mauricio. Petitioner's sparse 7-page Memorandum, signed by Atty. Rosendo G. Tansinsin Jr., was received by the Court on June 18, 2004.

[7] Petitioner's Memorandum, p. 3; rollo, p. 132. Original in uppercase.

[8] While the issues, as stated, referred to the trial court, the arguments and discussions that followed did in fact assail the CA Decision; hence, we overlooked the mistake in the "Statement of the Issues" on p. 3 of petitioner's Memorandum.

[9] 23 SCRA 29, April 15, 1968, per Dizon, J.

[10] *Id.*, pp. 35-36. See also *Emin v. De Leon*, 428 Phil. 172, 185, February 27, 2002; *Prudential Bank and Trust Company v. Reyes*, 352 SCRA 316, 326, February 20, 2001; *Stilianopulos v. City of Legaspi*, 374 Phil. 879, 894-895, October 12, 1999.

[11] *Ibid.*; *Oca v. CA*, 428 Phil. 696, 702, March 7, 2002; *Westmont Bank v. Ong*, 425 Phil. 834, 846, January 30, 2002; *Uy v. CA*, 342 Phil. 329, 341, July 28, 1997.

[12] *Lopez v. David Jr.*, 426 SCRA 535, 543, March 30, 2004; *Uy v. CA*, supra; *Oca v. CA*, supra, 701-702.

[13] In *Sibonghanoy*, lack of jurisdiction was raised for the first time in a Motion to Dismiss filed almost fifteen years after a ruling had been rendered.

[14] 204 Phil. 25, November 19, 1982.

[15] *Id.*, pp. 34-35, per Vasquez, J. (Italics supplied)

[16] *Lopez v. David*, supra, p. 543; *Oca v. CA*, supra; *Duero v. CA*, 424 Phil. 12, 23, January 4, 2002; *Gumabon v. Larin*, 422 Phil. 222, 231, November 27, 2001.

[17] *Gumabon v. Larin*, supra, *Arcelona v. CA*, 345 Phil. 250, 265, October 2, 1997.

[18] *Lopez v. David*, supra, p. 520; *Javellana v. Presiding Judge, RTC, Branch 30, Manila*, 443 SCRA 497, 506 & 508, November 23, 2004 (citing *Sps. Kakilala v. Faraon*, 440 SCRA 414, 421, October 18, 2004); *Roxas v. CA*, 439 Phil. 966, 978-979, October 29, 2002; *Gochan v. Young*, 354 SCRA 207, 216, March 12, 2001.

[19] See *Avon Insurance PLC v. CA*, 343 Phil. 849, 863-864, August 29, 1997. Petitioner had cited this case in support of his argument that respondent should be deemed to have submitted himself to the jurisdiction of the Court. However, a contrary ruling was in fact adopted by the Court.

[20] §1 of Rule 9 of the Rules of Court. See *Obando v. Figueras*, 379 Phil. 150, 161, January 18, 2000.

[21] Section 3, Rule 16 of the pre-1997 Rules of Civil Procedure. Under the amended 1997 Rules of Civil Procedure, deferment of the resolution of a motion to dismiss, if the ground relied upon is not indubitable, is now disallowed in view of the provision requiring presentation of all available arguments and evidence. Thus, there is no longer any need to defer action until the trial, because the evidence presented -- and such additional evidence as the trial court may require -- will already enable the trial court to rule on whether the ground alleged is dubitable or not. Under the amended Rules, there are now three courses of action that the trial court may take to resolve a motion to dismiss: to grant, to deny or to allow amendment of the pleading. See *Lu Ym v. Nabua*, GR No. 161309, February 23, 2005, p. 11, per Tinga, J.

[22] *Rollo*, pp. 91-94.

[23] 322 Phil. 138, January 22, 1996.

[24] *Id.*, p. 143, per Mendoza, J.

[25] *Ibid.*

[26] *Estate Developers and Investors Corporation v. CA*, 213 SCRA 353, 358, September 2, 1992, per Nocon, J.

[27] §2 of Rule 9 of the 1997 Rules of Civil Procedure.

[28] *Reyes v. Court of Appeals*, 38 SCRA 138, March 27, 1971.

[29] Petitioner's Memorandum, p. 6.

[30] *Supra*.

[31] *Ibid.*, pp. 143-144.

[32] 355 Phil. 475, August 7, 1998.

[33] 391 Phil. 799, August 1, 2000.

[34] SGM Realty Corporation v. Office of the President, 393 Phil. 697, 703, August 30, 2000.

[35] Ibid., GMCR Inc. v. Bell Telecommunication Phils., Inc., 338 Phil 507, 525, April 30, 1997.

[36] 79 SCRA 450, 458, October 18, 1977.

[37] "SEC. 18. Mortgages. — No mortgage on any unit or lot shall be made by the owner or developer without prior written approval of the Authority. Such approval shall not be granted unless it is shown that the proceeds of the mortgage loan shall be used for the development of the condominium or subdivision project and effective measures have been provided to ensure such utilization. The loan value of each lot or unit covered by the mortgage shall be determined and the buyer thereof, if any, shall be notified before the release of the loan. The buyer may, at his option, pay his installment for the lot or unit directly to the mortgagee who shall apply the payments to the corresponding mortgage indebtedness secured by the particular lot or unit being paid for, with a view to enabling said buyer to obtain title over the lot or unit promptly after full payment thereof." (Emphasis supplied)

[38] Home Bankers Savings & Trust Co. v. CA, GR No. 128354, p. 14, April 26, 2005, per Austria-Martinez, J. (citing Far East Bank and Trust Co. v. Marquez, 420 SCRA 349, 355, January 20, 2004).

[39] Id., pp. 14-15 (citing Philippine National Bank v. Office of the President, 322 Phil. 9, 13, January 18, 1996, per Panganiban J.).

[40] Far East Bank and Trust Co. v. Marquez, supra, p. 355, per Panganiban, J.

[41] Sycip Jr. v. CA, 385 Phil. 143, 157, March 17, 2000.

[42] 153 SCRA 399, 409-411, August 31, 1987, per Feliciano, J.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.