

MA. LUISA G. DAZON, PETITIONER, VS. KENNETH Y. YAP AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 157095. January 15, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The primordial function of the Housing and Land Use Regulatory Board (HLURB) is the regulation of the real estate trade and business. Though the agency's jurisdiction has been expanded by law, it has not grown to the extent of encompassing the conviction and punishment of criminals.

The present Petition for Review on Certiorari assails the Orders of the Regional Trial Court (RTC) of Lapu-Lapu City, Branch 54 dated October 2, 2002 and January 13, 2003, which granted the Motion to Withdraw Information filed by the public prosecutor and denied the motion for reconsideration filed by petitioner, respectively.

Factual Antecedents

Respondent Kenneth Y. Yap was the president of Primetown Property Group, Inc., (Primetown) the developer of Kiener Hills Mactan Condominium, a low-rise condominium project. In November 1996, petitioner Ma. Luisa G. Dazon entered into a contract[1] with Primetown for the purchase of Unit No. C-108 of the said condominium project. Petitioner made a downpayment and several installment payments, totaling P1,114,274.30.[2] Primetown, however, failed to finish the condominium project. Thus, on March 22, 1999, petitioner demanded for the refund of her payments from Primetown, pursuant to Section 23[3] of Presidential Decree (PD) No. 957 (1976), otherwise known as "The Subdivision and Condominium Buyers' Protective Decree". Primetown failed to refund petitioner's payments.

On October 26, 2000,[4] petitioner filed a criminal complaint with the Office of the City Prosecutor of Lapu-Lapu City against respondent as president of Primetown for violation of Section 23 in relation to Section 39[5] of PD 957. Subsequently, after a finding of probable cause, an Information[6] was filed with the RTC of Lapu-Lapu City docketed as Criminal Case No. 015331-L.

Meanwhile, respondent, in connection with the resolution finding probable cause filed a Petition for Review with the Department of Justice (DOJ). On June 14, 2002, the DOJ rendered a Resolution[8] ordering the trial prosecutor to cause the withdrawal of the Information. Hence, the prosecutor filed a Motion to Withdraw Information[9] with the RTC.

The RTC disposed of the matter as follows:

Wherefore, in view of the foregoing, the Motion to Withdraw Information filed by [the] public prosecutor is hereby granted. Accordingly, the information filed against the herein accused is ordered withdrawn and to be transmitted back to the City Prosecutor's Office of Lapu-Lapu City.

Furnish copies of this order to Prosecutor Rubi, Attys. Valdez and Pangan.

SO ORDERED.[10] Petitioner's motion for reconsideration was denied.[11]

Issue

Hence, the present Petition for Review on Certiorari raising the following issue: "Whether or not a regional trial court has jurisdiction over a criminal action arising from violation of PD 957".[12]

Petitioner's Arguments

Petitioner contends that jurisdiction is conferred by law and that there is no law expressly vesting on the HLUKB exclusive jurisdiction over criminal actions arising from violations of PD 957.

Respondent's Arguments

Respondent, on the other hand, contends that there is no error of law involved in this case and that petitioner failed to give due regard to the hierarchy of courts by filing the present petition directly with the Supreme Court instead of with the Court of Appeals. He further argues that the real issue is not of jurisdiction but the existence of probable cause. The Secretary of Justice, according to respondent, found no probable cause to warrant the filing of the Information, hence its directive to cause the withdrawal of the Information.

Our Ruling

The petition has merit.

The DOJ Resolution dated June 14, 2002 which ordered the withdrawal of the information was based on the finding that the HLURB, and not the regular court, has jurisdiction over the case.

Both the respondent[13] and the OSG[14] agree with the petitioner that the regular courts and not the HLURB have jurisdiction over the criminal aspect of PD 957. The parties, however, disagree on the basis of the directive of the DOJ for the withdrawal of the Information. Was it, as argued by petitioner, lack of jurisdiction of the RTC or was it, as argued by respondent, lack of probable cause? We perused the DOJ Resolution dated June 14, 2002 and we find that the basis of the resolution was, not that there was lack of probable cause but, the finding that it is the HLURB that has jurisdiction over Hie case. Pertinent portions of the said DOJ Resolution provide:

The petition is impressed with merit.

A perusal of the allegations in the complaint-affidavit would show complainant's grievance against respondent was the failure of the latter's firm to refund the payments she made for one of the units in the aborted Mactan condominium project in the total amount of P1,114,274.30.

As early as in the case of *Solid Homes, Inc. vs. Payawal*, 177 SCRA 72, the Supreme Court had ruled that the Housing and Land Use Regulatory Board (HLURB) has exclusive jurisdiction over cases involving real estate business and practices under PD 957. This ruling is reiterated in several subsequent cases, to name a few of them, *Union Bank of the Philippines-versus-HLURB*, G.R. No. 953364, June 29, 1992; *C.T. Torres Enterprises vs. Hilionada*, 191 SCRA 286; *Villaflor vs. Court of Appeals*, 280 SCRA 297; *Marina Properties Coip. vs. Court of Appeals*, 294 SCRA 273; and *Raet vs. Court of Appeals*, 295 SCRA 677. Of significant relevance is the following pronouncement of the Supreme Court in *Raet vs. Court of Appeals* (supra), as follows:

xxx The contention has merit. The decision in the ejectment suit is conclusive only on the question of possession of the subject premises. It does not settle the principal question involved in the present case, namely, whether there was perfected contract of sale between petitioners and private respondent PVDHC involving the units in question. Under 8(100) of E.O. No. 648 dated February 7, 1981, as amended by E.O. No. 90 dated December 17, 1986 this question is for the HLURB to decide. The said provision of law gives that agency the power to—

Hear and decide cases of unsound real estate business practices; claims involving refund filed against project owners, developers, dealers, brokers, or salesmen; and cases of specific performance.

This jurisdiction of the HLURB is exclusive. It has been held to extend to the determination of the question whether there is a perfected contract of sale between condominium buyers and [the] developer x x x.

In fine, the Rule of Law dictates that we should yield to this judicial declaration upholding the jurisdiction of the HLURB over cases of this nature.

Hence, there is a need for the Court to make a definite ruling on a question of law - the matter of jurisdiction over the criminal aspect of PD 957.

Jurisdiction over criminal actions
arising from violations of PD 957
is vested in the regular courts.

Jurisdiction is" conferred by law and determined by the material averments in the complaint as well as the character of the relief sought.¹⁵ The scope and limitation of the jurisdiction of the HLURB are well-defined.¹⁶ Its precursor, the National Housing Authority (NHA),¹⁷ was vested under PD 957 with exclusive jurisdiction to regulate the real estate trade and business,¹⁸ specifically the registration of subdivision or condominium projects and dealers, brokers and salesmen of subdivision lots or condominium units, issuance and suspension of license to sell; and revocation of registration certificate and license to sell. Its jurisdiction was later expanded under PD 1344 (1978) to include adjudication of certain cases, to wit:

Sec. 1. In the exercise of its functions to regulate the real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have the exclusive jurisdiction to hear and decide cases of the following nature:

- a) Unsound real estate business practices;
- b) Claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and
- c) Cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman. (*Italics supplied*)

It is a settled rule of statutory construction that the express mention of one thing in the law means the exclusion of others not expressly mentioned. This rule is expressed in the familiar maxim *expressio unius est exclusio alterius*[19]. Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.[20] Noticeably, cases that are criminal in nature are not mentioned in the enumeration quoted above. The primordial function of the HLURB, after all, is the regulation of the real estate trade and business and not the conviction and punishment of criminals. "It may be conceded that the legislature may confer on administrative

boards or bodies quasi-judicial powers involving the exercise of judgment and discretion, as incident to the performance of administrative functions. But in so doing, the legislature must state its intention in express terms that would leave no doubt, as even such quasi-judicial prerogatives must be limited, if they are to be valid, only to those incidental to or in connection with the performance of administrative duties, which do not amount to conferment of jurisdiction over a matter exclusively vested in the courts".[21]

Administrative agencies being tribunals of limited jurisdiction can only wield such powers as are specifically granted to them by their enabling statutes. PD 957 makes the following specific grant of powers to the NHA (now HLURB) for the imposition of administrative fines, and it also mentions penalties for criminal cases, to wit:

Sec. 38. Administrative Fines.- The Authority may prescribe and impose fines not exceeding ten thousand pesos for violations of the provisions of this Decree or any rule or regulation thereunder. Fines shall be payable to the Authority and enforceable through writs of execution in accordance with the provisions of the Rules of Court (Italics supplied)

Sec. 39. Penalties.- Any person who shall violate any of the provisions of this Decree and/or any rule or regulation that may be issued pursuant to this Decree shall, upon conviction, be punished by a fine of not more than twenty thousand (P20,000.00) pesos and/or imprisonment of not more than ten years: Provided, That in the case of corporations, partnership, cooperatives, or associations, the President, Manager or Administrator or the person who has charge of the administration of the business shall be criminally responsible for any violation of this/Decree and/or the rules and regulations promulgated pursuant thereto,

Having limited, under Section 38 of PD 957, the grant of power to the former NHA, now HLURB, over the imposition of fines to those which do not exceed ten thousand pesos, it is clear that the power in relation to criminal liability mentioned in the immediately succeeding provision, to impose, upon conviction, fines above ten thousand pesos and/or imprisonment, was not conferred on it. Section 39, unlike Section 38, conspicuously does not state that it is the MIA that may impose the punishment specified therein.

Not having been specifically conferred with power to hear and decide cases which are criminal in nature, as well as to impose penalties therefor, we find that the HLURB has no jurisdiction over criminal actions arising from violations of PD 957.

On the other hand, BP Big. 129 states:

Sec. 20. Jurisdiction in Criminal Cases. - Regional Trial Courts shall exercise exclusive original jurisdiction in all criminal cases not within the exclusive jurisdiction of any court, tribunal or body, except those now falling under the exclusive and concurrent jurisdiction of the Sandiganbayan which shall hereafter be exclusively taken cognizance of by the latter.

Based on the above-quoted provision, it is the RTC that has jurisdiction over criminal cases arising from violations of PD 957.

In the present case, the affidavit-complaint[23] alleges the violation of Section 23 of PD 957 and asks for the institution of a criminal action against respondent Yap, as President of Primetown. The Office of the City Prosecutor found probable cause for the filing of an Information for the subject offense. The DOJ made no reversal of such finding of probable cause. Instead, it directed the withdrawal of the information on the erroneous premise that it is the HLURB which has jurisdiction over the case. However, as above-discussed, and contrary to the resolution of the Secretary of Justice, it is not the HLURB but the RTC that has jurisdiction to hear the said criminal action.

WHEREFORE, the petition is GRANTED. The assailed October 2, 2002 and January 13, 2003 Orders of the Regional Trial Court of Lapu-Lapu City, Branch 54, are REVERSED and SET ASIDE. The said Court is

DIRECTED to proceed with the arraignment of the respondent and to hear the case with dispatch.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] Records, pp. 28-35.

[2] Id. at 36.

[3] Sec. 23. Non-Forfeiture of Payments. - No installment payment made by a buyer in a subdivision or condominium project for the lot or unit lie contacted 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.

[4] Records, pp. 5-9.

[5] Sec. 39. Penalties. - Any person who shall violate any of the provisions of this Decree and/or any rule or regulation that may be issued pursuant to this Decree shall, upon conviction, be punished by a fine of not more than twenty thousand (P20,000.00) pesos and/or imprisonment of not more than ten years: Provided, that in the case of corporations, partnerships, cooperatives, or associations, the President, Manager or Administrator or the person who has charge of the administration of the business shall be criminally responsible for any violation of this Decree and/or the rules and regulations promulgated pursuant thereto.

[6] Records, pp. 1-3.

[7] Id. at 58-65.

[8] Id. at 273-276.

[9] Id. at 277-278.

[10] Id. at 326-327; penned by Judge Rumoldo R. Fernandez.

[11] Id. at 369.

[12] Rollo, p. 187.

[13] Id. at 168.

[14] Id. at 278.

[15] See *Saura v. Saura, Jr.*, 312 Phil. 337,346 (1999); *Heirs of Florencio Adolfo v. Cabral*, G.R. No. 164934, August 14, 2007, 530 SCRA 111; *Department of Agrarian Reform v. Cuenca*, 482 Phil. 208,216 (2004); *Aleamar 's (Sibal & Sons), Inc. v. Court of Appeals*, 403 Phil. 236,242 (2001).

[16] See *Debs Santos v. Sanniento*, G.R. No.154877, March 27, 2007, 519 SCRA 62.

[17] By virtue of Executive Order No. 648, the Human Settlements Regulatory Commission (HSRC) was created to regulate zoning and land use and development and to assume the regulatory and adjudicator functions of the NHA. HSRC was later renamed HLURB under Executive Order No. 90. See *Debs Santos v. Sanniento*, supra.

[18] Sec. 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. (*Italics supplied*)

[19] See *Delfino v. St. James Hospital, Inc.* G.R. No. 166735, September 5, 2006, 501 SCRA 97, 115..

[20] See *PSDSA v. De Jesus*, OR.No. 157286, June 16, 2006, 491 SCRA 55.

[21] *Miller v. Mardo and Gonzales*, 112 PM. 792, 802(1961).

[22] See *Prudential Guarantee and Assurance, Inc. v. Equinox Land Corporation*, 533 SCRA 257; see also *Miller v. Mardo and Gonzales*, *supra*.

[23] *Rollo*, pp. 50-52.

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