

RAFAEL R. MARTELINO, BANCHELECHU S. MORALES, ROSELYN S. CACHAPERO, REYNALDO R. EVANGELISTA, CESAR B. YAPE, LEONORA R. PARAS, SEGUNDINA I. IBARRA, RAQUEL G. HALNIN, ZAMORA I. DIA...

G.R. No. 160208. June 30, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

On appeal is the Decision[1] dated April 22, 2003 of the Court of Appeals in C.A.-G.R. CV No. 70231, which had affirmed the March 12, 2001 Order[2] of the Regional Trial Court (RTC), Branch 120, Caloocan City, dismissing Civil Case No. C-551 for declaratory relief and prohibition. Also assailed is the appellate court's Resolution[3] dated September 25, 2003, denying petitioners' motion for reconsideration.

The case stemmed from the petition for declaratory relief and prohibition with urgent prayer for the issuance of a temporary restraining order and/or preliminary injunction[4] filed before the RTC of Caloocan City, by petitioners against the National Home Mortgage Finance Corporation (NHMFC) and the Home Development Mutual Fund (HDMF), herein respondents, and Sheriff Alberto A. Castillo.[5] Petitioners alleged that they obtained housing loans from respondents who directly released the proceeds thereof to the subdivision developer, Shelter Philippines, Inc. (Shelter).

However, Shelter failed to complete the subdivision according to its representations and the subdivision plan. They were thus compelled to spend their own resources to improve the subdivision roads and alleys, and to install individual water facilities. Respondents, on the other hand, failed to ensure Shelter's completion of the subdivision. Instead, respondents ignored their right to suspend amortization payments for Shelter's failure to complete the subdivision, charged interests and penalties on their outstanding loans, threatened to foreclose their mortgages and initiated foreclosure proceedings against petitioner Rafael Martelino. Hence, they prayed that respondents be restrained from foreclosing their mortgages.

Moreover, petitioners specifically sought a declaration from the RTC (1) that their right as house and lot buyers to suspend payment to Shelter for its failure to fully develop the subdivision also applied to respondents who released their loans directly to Shelter; and (2) that during the suspension of payment, respondents should not assess them accrued interests and penalties. Petitioners further prayed that they be allowed to pay their housing loans without interest and penalties.

In its June 17, 1998 Order,[6] the RTC set the preliminary injunction hearing, but said order, including the summons and petition, were served only on the NHMFC and Sheriff Castillo.[7] Despite notice, the NHMFC failed to attend the preliminary injunction hearing. On July 9, 1998, the RTC ordered that a writ of preliminary injunction be issued restraining the respondents from foreclosing the mortgages on petitioners' houses.[8] The writ[9] was issued on July 14, 1998.

On July 22, 1998, the NHMFC filed its Answer with Special and Affirmative Defenses.[10] Thereafter, the RTC ordered the parties to submit their pre-trial briefs and scheduled the pre-trial conference.[11]

On August 10, 1998, the NHMFC filed a Manifestation and Motion to Dismiss the Petition on the ground that the RTC had no jurisdiction over its person or over the subject matter of the case.[12]

The next day, the HDMF moved to set aside the July 9, 1998 preliminary injunction order on the ground that it was not notified of the hearing. The HDMF also stated that the petition should have been filed with the Housing and Land Use Regulatory Board (HLURB) as the case involved the developer's failure to complete the subdivision. The HDMF alleged that the RTC had no jurisdiction over the case or even to implead the HDMF which only financed petitioners' housing loans.[13]

Petitioners opposed the NHMFC's motion to dismiss and the HDMF's motion to set aside the July 9, 1998 Order.[14] They said that the NHMFC stated no basis why the RTC lacked jurisdiction. Since they sought a judicial declaration of their right to suspend amortization payments to respondents, not to the subdivision developer, the HLURB had no jurisdiction over the case. Petitioners also averred that the HDMF cannot claim ignorance of the preliminary injunction hearing because the NHMFC was duly notified. They claimed that the HDMF's motion constituted voluntary submission to the RTC's jurisdiction which cured the lack of service of summons.

On February 10, 2000, petitioners moved to cite Atty. Florentino C. Delos Santos, Manager of HDMF's Legal Department, in contempt for foreclosing the mortgage of Rosella T. Rosete[15] and threatening to pursue similar actions against petitioners, in defiance of the preliminary injunction order.[16]

On March 12, 2001, the RTC, Branch 120, Caloocan City, issued an Order, decreeing as follows:

WHEREFORE, premises considered:

- 1) The motion to set aside [the] order of this Court dated July 9, 1998 is hereby granted;
- 2) The motion to cite defendant HDMF in contempt is denied; and
- 3) The motion to dismiss is hereby granted and the herein petition is DISMISSED.

SO ORDERED.[17]

The RTC held that the July 9, 1998 Order was not applicable to the HDMF since it was not notified of the preliminary injunction hearing. Thus, no basis existed to declare Atty. Delos Santos in contempt of court.

In dismissing the case, the RTC ruled that the issue of non-completion of the subdivision should have been brought before the HLURB. It also ruled that no judicial declaration can be made because the petition was vague. The RTC assumed that the subject of the petition was Republic Act No. 8501[18] or the Housing Loan Condonation Act of 1998 which was cited by petitioners. But the RTC pointed out that petitioners failed to state which section of the law affected their rights and needed judicial declaration. The RTC also noted that, as stated by petitioners, respondents still foreclosed their mortgages, a breach of said law which rendered the petition for declaratory relief improper. The proper remedy was an ordinary civil action, the RTC concluded.

The Court of Appeals affirmed the RTC Order. First, the appellate court ruled that the writ of preliminary injunction was not valid against the HDMF since under Section 5,[19] Rule 58 of the Rules of Court, no preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. The HDMF was not notified of the hearing and only appeared before the RTC to object to its jurisdiction for non-service of summons. Second, the appellate court held that petitioners were not denied due

process because the motions to dismiss and to set aside the July 9, 1998 Order both raised the issue of jurisdiction and were duly heard. Petitioners even filed a memorandum. Third, the appellate court did not entertain the issue of whether the petition for declaratory relief can be converted to an ordinary action for it was not raised before the RTC. The Court of Appeals also denied the motion for reconsideration.

In this appeal, petitioners contend that the Court of Appeals erred:

I.

...IN AFFIRMING THE ORDER OF DISMISSAL OF THE TRIAL COURT BASED ON A GROUND NOT ALLEGED IN THE MOTION TO DISMISS;

II.

...IN APPLYING THE RULING IN U. BAÑEZ ELECTRIC LIGHT CO., vs. ABRA ELECTRIC COOPERATIVE[,] INC., (119 SCRA 90) TO SUPPORT THE ORDER OF DISMISSAL BY THE TRIAL COURT;

III.

...IN NOT HOLDING THAT PETITIONERS WERE DENIED THEIR RIGHT TO DUE PROCESS OF LAW WHEN THE TRIAL COURT FAVORABLY RESOLVED THE MOTION TO DISMISS BASED ON A GROUND NOT RAISED IN THE MOTION TO DISMISS;

IV.

...IN NOT HOLDING THAT THE PETITION SHOULD BE CONVERTED INTO AN ORDINARY ACTION ASSUMING THAT DECLARATORY RELIEF IS NOT THE PROPER REMEDY;

V.

...IN NOT HOLDING THAT THE TRIAL COURT HAD COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR . . . EXCESS OF JURISDICTION IN GRANTING THE MOTION TO DISMISS;

VI.

...IN SUSTAINING THE RTC ORDER SETTING ASIDE THE INJUNCTIVE ORDER BY NOT HOLDING THAT THE HOME DEVELOPMENT MUTUAL FUND IS DEEMED TO HAVE VOLUNTARILY SUBMITTED TO THE JURISDICTION OF THE LOWER COURT[.][20]

In brief, the basic issues pertain (1) to the validity of the preliminary injunction order against the HDMF and (2) the propriety of dismissing the petition for declaratory relief and prohibition.

Petitioners point out that, contrary to the finding of the Court of Appeals, the HDMF did not question the lack of service of summons upon it nor did it raise the issue of jurisdiction of the RTC over its person. What the HDMF protested, they say, were the lack of notice of the preliminary injunction hearing and the RTC's lack of jurisdiction over the subject matter. But by filing the motion to set aside the July 9, 1998 Order, the HDMF voluntarily submitted to the RTC's jurisdiction.[21]

In its comment, the HDMF maintains that it was not notified of the preliminary injunction hearing and this fact is admitted by petitioners. Thus, the preliminary injunction order is null and void.[22]

We affirm the RTC and Court of Appeals ruling that the preliminary injunction order is not valid against the HDMF. Section 5, Rule 58 of the Rules of Court expressly states that "[n]o preliminary injunction shall be

granted without hearing and prior notice to the party or person sought to be enjoined." Here, petitioners even admit that the HDMF was not notified of the preliminary injunction hearing. In fact, petitioners do not contest the lower courts' ruling that the July 9, 1998 Order cannot apply to the HDMF. They merely contend and insist that the HDMF voluntarily submitted to the RTC's jurisdiction. Unfortunately, such contention is immaterial. The issue involves the validity of the preliminary injunction order absent a notice of hearing for its issuance to the HDMF, and not the HDMF's voluntary submission to the RTC's jurisdiction.

Petitioners also argue that the Court of Appeals erred when it sustained the RTC's dismissal of the petition on a ground not relied upon by respondents. They contend that the RTC went beyond the issue of jurisdiction raised by respondents by determining the sufficiency of the petition and ruling that it was vague and improper. The basic issue petitioners raised is whether their right under Section 23[23] of Presidential Decree No. 957[24] to suspend amortization payments to the subdivision developer is equally available against respondents.

In response, the NHMFC "reiterates and adheres" to the lower courts' ruling that the petition for declaratory relief is a case of forum shopping considering consolidated HLRB Cases Nos. REM-111585-4240 and REM-022690-4355 (HLRB cases) which were decided allegedly in petitioners' favor. The NHMFC also maintains that the RTC had no jurisdiction since petitioners' complaint of the developer's failure to complete the subdivision is a case cognizable by the HLURB.

After a careful study of the case, we are in agreement to uphold the dismissal of the petition for declaratory relief and prohibition.

I. Worthy of recall, the RTC held that respondents'[25] act of initiating foreclosure proceedings was in breach of Rep. Act No. 8501 and rendered the action of declaratory relief improper. The RTC suggested that the proper remedy is an ordinary civil action. Incidentally, this point is also related to petitioners' contention that the Court of Appeals should have ordered the conversion of their petition filed before the RTC to an ordinary civil action, under the provisions of Section 6,[26] Rule 63 of the Rules of Court.

We agree with the RTC but hasten to point out that the RTC had not ruled on whether the petition was also improper as a petition for prohibition. Indeed, under Section 1,[27] Rule 63, a person must file a petition for declaratory relief before breach or violation of a deed, will, contract, other written instrument, statute, executive order, regulation, ordinance or any other governmental regulation. In this case, the petitioners had stated in their petition that respondents assessed them interest and penalties on their outstanding loans, initiated foreclosure proceedings against petitioner Rafael Martelino as evidenced by the notice of extra-judicial sale[28] and threatened to foreclose the mortgages of the other petitioners, all in disregard of their right to suspend payment to Shelter for its failure to complete the subdivision. Said statements clearly mean one thing: petitioners had already suspended paying their amortization payments. Unfortunately, their actual suspension of payments defeated the purpose of the action to secure an authoritative declaration of their supposed right to suspend payment, for their guidance. Thus, the RTC could no longer assume jurisdiction over the action for declaratory relief because its subject initially unspecified, now identified as P.D. No. 957 and relied upon -- correctly or otherwise -- by petitioners, and assumed by the RTC to be Rep. Act No. 8501, was breached before filing the action. As we said in *Tambunting, Jr. v. Sumabat*: [29]

. . . The purpose of the action [for declaratory relief] is to secure an authoritative statement of the rights and obligations of the parties under a statute, deed, contract, etc. for their guidance in its enforcement or compliance and not to settle issues arising from its alleged breach. It may be entertained only before the breach or violation of the statute, deed, contract, etc. to which it refers. Where the law or contract has already been contravened prior to the filing of an action for declaratory relief, the court can no longer assume jurisdiction over the action.... Under such circumstances, inasmuch as a cause of action has already accrued in favor of one

or the other party, there is nothing more for the court to explain or clarify short of a judgment or final order.[30]

Under the circumstances, may the Court nonetheless allow the conversion of the petition for declaratory relief and prohibition into an ordinary action? We are constrained to say: no. Although Section 6, Rule 63 might allow such course of action, the respondents did not argue the point, and we note petitioners' failure to specify the ordinary action they desired. We also cannot reasonably assume that they now seek annulment of the mortgages. Further, the records support the Court of Appeals' finding that this issue was not raised before the RTC.[31] The Court of Appeals therefore properly refused to entertain the issue as it cannot be raised for the first time on appeal.[32]

Relatedly, the Court had considered *De La Llana, etc., et al. v. Alba, etc., et al.*,[33] where this Court considered a petition erroneously entitled *Petition for Declaratory Relief and/or for Prohibition* as an action for prohibition. That case involved the constitutionality of Batas Pambansa Blg. 129 or the Judiciary Reorganization Act of 1980. Citing *De La Llana*, Justice Florenz D. Regalado opined in his book[34] that if the petition has far-reaching implications and it raises questions that should be resolved, it may be treated as one for prohibition.

Assuming the Court can also treat the *Petition for Declaratory Relief and Prohibition* as an action for prohibition, we must still hold that prohibition is improper. Prohibition is a remedy against proceedings that are without or in excess of jurisdiction, or with grave abuse of discretion, there being no appeal or other plain, speedy adequate remedy in the ordinary course of law.[35] But here, the petition did not even impute lack of jurisdiction or grave abuse of discretion committed by respondents and Sheriff Castillo regarding the foreclosure proceedings. Foreclosure of mortgage is also the mortgagee's right in case of non-payment of a debt secured by mortgage. The mortgagee can sell the encumbered property to satisfy the outstanding debt.[36] Hence, the HDMF cannot be faulted for exercising its right to foreclose the mortgages,[37] under the provisions of Act No. 3135[38] as amended by Act No. 4118.[39] We are not saying, however, that the HDMF must exercise its right at all cost, considering that Rep. Act No. 8501 allows condonation of loan penalties when appropriate.

We note that Rep. Act No. 8501 not only allows condonation of loan penalties,[40] it also grants to the HDMF Board of Trustees the power to condone penalties imposed on loans of HDMF members-borrowers who for, justifiable reasons, failed to pay on time any obligation due to the HDMF.[41] Notably, the law applies to borrowers who failed or refused to pay their monthly amortizations due to structurally defective or substandard housing units and/or subdivisions lacking in basic amenities such as water, light, drainage, good roads and others as required by law.[42] And the rules promulgated by the HDMF provide that such refusal shall be considered as a justifiable reason for failure to pay the required amortization.[43] Furthermore, the Board of Trustees of the HDMF may also consider other causes similarly justifiable.[44]

Petitioners wanted to avail of the benefits of Rep. Act No. 8501 and said that "the most that [respondents] should have done under the circumstances was to advise [them] about the effectivity of said law and encourage them to apply thereunder." [45] But instead of applying for condonation of penalties and restructuring of their loans, they filed an erroneous petition before the RTC. They need not wait for encouragement because the HDMF, the assignee of petitioners' loans, had already issued and published its rules according to the NHMFC.[46] Petitioners need only to apply with the HDMF and squarely raise before the HDMF not only their refusal to pay amortizations because of the defective subdivision - a justifiable reason according to the rules - but also their implied imputation of negligence against respondents who allegedly released the proceeds of their loans directly to Shelter, despite its failure to complete the subdivision.

The HDMF could then determine if the latter ground is also a justifiable cause for non-payment of amortization. Surely, respondents would not espouse a policy to go after petitioners if they were found justified. Respondents could even enhance administrative controls for releasing future loans to protect borrower-mortgagors against

subdivision developers who renege on their obligations.

II. We cannot agree, however, with the RTC's ruling that the vagueness of the petition furnished additional justification for its dismissal. If the petition for declaratory relief and prohibition was vague, dismissal is not proper because the respondents may ask for more particulars.[47] Notably, the NHMFC never assailed the supposed vagueness of the petition in its motion to dismiss nor did it ask for more particulars before filing its answer. When the RTC also set the pre-trial conference and ordered the parties to submit their pre-trial briefs, it even noted that the issues had already been joined.[48] Petitioners fairly stated also the necessary ultimate facts, except that their action for declaratory relief was improper.

Moreover, the RTC made an assumption that Rep. Act No. 8501 was the subject matter of the case. But while the petition mentioned the law, the declaration that petitioners sought was not anchored on any of its provisions. The petition only stated that despite the effectivity of said law, respondents still acted in bad faith and with undue haste in threatening petitioners with foreclosures, instead of encouraging them to avail of its benefits.

III. On the matter of forum shopping, we find the claim unsubstantiated. The NHMFC has not explained why there is forum shopping.[49] It failed to show the elements of forum shopping, i.e., (1) identity of parties in the HLRB cases and this case; (2) identity of rights asserted or relief prayed for; and (3) identity of the two preceding particulars so that the judgment in the HLRB cases will be res judicata in this case.[50] In any event, the decision in the HLRB cases, as affirmed with modification by the HLURB Board of Commissioners,[51] ordered Shelter to complete the subdivision roads, sidewalks, water, electrical and drainage systems. Thus, there is no forum shopping since the petition for declaratory relief and prohibition filed by petitioners against respondents is entirely different from the HLRB cases. Involved were different parties, rights asserted and reliefs sought. Obviously, the NHMFC invokes a ruling of the RTC and Court of Appeals that petitioners committed forum shopping, when no such ruling exists.

IV. Respondents' contention that the case should or could have been filed with the HLURB lacks merit. The jurisdiction of the HLURB is defined under Section 1 of P.D. No. 1344,[52] to wit:

SECTION 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 [now HLURB] shall have exclusive jurisdiction to hear and decide cases of the following nature:

- Unsound real estate business practices;
- 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
- 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.

As we previously held, the jurisdiction of the HLURB to hear and decide cases is determined by the nature of the cause of action, the subject matter or property involved and the parties.[53] In this case, the petition for declaratory relief and prohibition did not involve an unsound real estate business practice, or a refund filed by subdivision buyers against the developer, or a specific performance case filed by buyers against the developer. Rather, the petition specifically sought a judicial declaration that petitioners' right to suspend payment to the developer for failure to complete the subdivision also applies to respondents who provided them housing loans and released the proceeds thereof to the developer although the subdivision was not completed. Note also that the buyers (petitioners) are not suing the developer but their creditor-mortgagees[54] (respondents).

WHEREFORE, the petition is DENIED for lack of merit. The assailed Decision and Resolution of the appellate

court are AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Brion, JJ., concur.

[*] The other twenty-three (23) petitioners before the Court of Appeals did not join this petition.

[1] Rollo, pp. 39-47. Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices B.A. Adefuin-De La Cruz and Hakim S. Abdulwahid concurring.

[2] Records, pp. 405-412. Penned by Judge Victorino S. Alvaro.

[3] Rollo, pp. 49-51.

[4] Records, pp. 8-20.

[5] In this petition, Sheriff Alberto A. Castillo is not impleaded.

[6] Records, p. 23.

[7] Id. at 25.

[8] Id. at 74-76.

[9] Id. at 117-118.

[10] Id. at 132-135.

[11] Id. at 144.

[12] Id. at 145.

[13] Id. at 147-150.

[14] Id. at 158-169.

[15] One of the original petitioners/plaintiffs who did not join this petition.

[16] Records, pp. 265-273.

[17] Id. at 412.

[18] AN ACT TO RESCUE THE NATIONAL SHELTER PROGRAM OF THE GOVERNMENT BY CONDONING THE PENALTIES ON ALL OUTSTANDING/DELINQUENT HOUSING LOAN ACCOUNTS WITH ANY OF THE GOVERNMENT INSTITUTIONS AND AGENCIES INVOLVED IN THE NATIONAL SHELTER PROGRAM AND BY AMENDING PRESIDENTIAL DECREE NO. 1752, AS AMENDED, APPROVED ON FEBRUARY 13, 1998.

[19] SEC. 5. Preliminary injunction not granted without notice; exception. - No preliminary injunction shall be granted without hearing and prior notice to the party or person sought to be enjoined. ...

x x x x

[20] Rollo, pp. 11-12.

[21] Id. at 29-30.

[22] Id. at 123-124.

[23] SEC. 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.

[24] THE SUBDIVISION AND CONDOMINIUM BUYERS' PROTECTIVE DECREE, DONE ON JULY 12, 1976.

[25] The records show that only the HDMF initiated the foreclosure proceedings.

[26] SEC. 6. Conversion into ordinary action. - If before the final termination of the case, a breach or violation of an instrument or a statute, executive order or regulation, ordinance, or any other governmental regulation should take place, the action may thereupon be converted into an ordinary action, and the parties shall be allowed to file such pleadings as may be necessary or proper. (Emphasis supplied.)

[27] SECTION 1. Who may file petition. - Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder. (Emphasis supplied.)

x x x x

[28] Records, p. 40.

[29] G.R. No. 144101, September 16, 2005, 470 SCRA 92.

[30] Id. at 96.

[31] Records, pp. 381-391.

[32] Pineda v. Heirs of Eliseo Guevara, G.R. No. 143188, February 14, 2007, 515 SCRA 627, 634.

[33] 198 Phil. 1, 37 (1982).

[34] I F. REGALADO, REMEDIAL LAW COMPENDIUM 771 (9[th] rev. ed., 2005).

[35] RULES OF COURT, RULE 65, Sec. 2.

SEC. 2. Petition for prohibition. - When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

x x x x

[36] CIVIL CODE, Art. 2087. It is also of the essence of these contracts [pledge and mortgage] that when the principal obligation becomes due, the things in which the pledge or mortgage consists may be alienated for the payment to the creditor. *Guanzon v. Argel*, No. L-27706, June 16, 1970, 33 SCRA 474, 478-479; *Caviles v. Seventeenth Division, Court of Appeals*, G.R. No. 126857, September 18, 2002, 389 SCRA 306, 314-315.

[37] *Supra* note 28.

[38] AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL ESTATE MORTGAGES, approved on March 6, 1924.

[39] AN ACT TO AMEND ACT NUMBERED THIRTY-ONE HUNDRED AND THIRTY-FIVE, ENTITLED "AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MORTGAGES," approved on December 7, 1933.

[40] SEC. 2. Condonation Clause. - (a) All unpaid penalties on housing loans from any of the government institutions and agencies involved in the National Shelter Program of the Government, including . . . [HDMF], National Home Mortgage Finance Corporation (NHMFC), . . . are hereby condoned: ...

x x x x

[41] SEC. 3. Amendatory Clause. - . . .

"SEC. 12. Powers of the Board. - . . .

x x x x

(d) To condone, in whole or in part, penalties imposed on loans of members-borrowers of the fund who for justifiable reasons, failed to pay on time any obligation due to the Fund ...

[42] SEC. 4. Applicability on Delinquent Accounts Due to Defective Housing Units. - This Act shall likewise apply to borrowers who failed or refused to pay their monthly amortizations due to structurally defective or substandard housing units and/or subdivisions lacking in basic amenities such as water, light, drainage, good roads and others and as required by law.

[43] Rule and Regulations Implementing Republic Act No. 8501 (Otherwise known as the Housing Loan Condonation Act of 1998), Rule IV, Section 2.

Section 2. Justifiable Reasons. . . .

x x x x

f) Failure or refusal to pay his monthly amortizations due to structurally defective or substandard housing units and/or subdivisions lacking in basic amenities such as water, light, drainage, good roads and others and as required by law;

x x x x

[44] *Id.*

h) Other causes as may be considered as justifiable by the Board of Trustees.

[45] Records, p. 16.

[46] *Id.* at 134.

[47] *Ilano v. Español*, G.R. No. 161756, December 16, 2005, 478 SCRA 365, 373.

[48] Records, p. 144.

[49] Rollo, p. 110.

[50] *Silangan Textile Manufacturing Corporation v. Demetria*, G.R. No. 166719, March 12, 2007, 518 SCRA 160, 168.

[51] Records, pp. 200-223.

[52] EMPOWERING THE NATIONAL HOUSING AUTHORITY TO ISSUE WRIT OF EXECUTION IN THE ENFORCEMENT OF ITS DECISION UNDER PRESIDENTIAL DECREE No. 957, done on April 2, 1978.

[53] *Delos Santos v. Sarmiento*, G.R. No. 154877, >March 27, 2007, 519 SCRA 62, 73.

[54] *Supra* note 28.

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