

LUZON DEVELOPMENT BANK, PETITIONER, VS. ANGELES CATHERINE ENRIQUEZ, RESPONDENT.

G.R. No. 168646. January 21, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The protection afforded to a subdivision lot buyer under Presidential Decree (PD) No. 957 or The Subdivision and Condominium Buyer's Protective Decree will not be defeated by someone who is not an innocent purchaser for value. The lofty aspirations of PD 957 should be read in every provision of the statute, in every contract that undermines its objects, in every transaction which threatens its fruition. "For a statute derives its vitality from the purpose for which it is enacted and to construe it in a manner that disregards or defeats such purpose is to nullify or destroy the law." [1]

These cases involve the separate appeals of Luzon Development Bank [2] (BANK) and Delta Development and Management Services, Inc. [3] (DELTA) from the November 30, 2004 Decision of the Court of Appeals (CA), as well as its June 22, 2005 Resolution in CA-G.R. SP No. 81280. The dispositive portion of the assailed Decision reads:

WHEREFORE, premises considered, the Decision dated June 17, 2003 and Resolution dated November 24, 2003 are AFFIRMED with [m]odification in so far as Delta Development and Management Services, Inc. is liable and directed to pay petitioner Luzon Development Bank the value of the subject lot subject matter of the Contract to Sell between Delta Development and Management Services, Inc. and the private respondent [Catherine Angeles Enriquez].

SO ORDERED. [4]

Factual Antecedents

The BANK is a domestic financial corporation that extends loans to subdivision developers/owners. [5]

Petitioner DELTA is a domestic corporation engaged in the business of developing and selling real estate properties, particularly Delta Homes I in Cavite. DELTA is owned by Ricardo De Leon (De Leon), [6] who is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-637183 [7] of the Registry of Deeds of the Province of Cavite, which corresponds to Lot 4 of Delta Homes I. Said Lot 4 is the subject matter of these cases.

On July 3, 1995, De Leon and his spouse obtained a P4 million loan from the BANK for the express purpose of developing Delta Homes I. [8] To secure the loan, the spouses De Leon executed in favor of the BANK a real estate mortgage (REM) on several of their properties, [9] including Lot 4. Subsequently, this REM was amended [10] by increasing the amount of the secured loan from P4 million to P8 million. Both the REM and the amendment were annotated on TCT No. T-637183. [11]

DELTA then obtained a Certificate of Registration [12] and a License to Sell [13] from the Housing and Land Use

Regulatory Board (HLURB).

Sometime in 1997, DELTA executed a Contract to Sell with respondent Angeles Catherine Enriquez (Enriquez)[14] over the house and lot in Lot 4 for the purchase price of P614,950.00. Enriquez made a downpayment of P114,950.00. The Contract to Sell contained the following provisions:

That the vendee/s offered to buy and the Owner agreed to sell the above-described property subject to the following terms and conditions to wit:

x x x x

6. That the (sic) warning shall be served upon the Vendee/s for failure to pay x x x Provided, however, that for failure to pay three (3) successive monthly installment payments, the Owner may consider this Contract to Sell null and void ab initio without further proceedings or court action and all payments shall be forfeited in favor of the Owner as liquidated damages and expenses for documentations. x x x

That upon full payment of the total consideration if payable in cash, the Owner shall execute a final deed of sale in favor of the Vendee/s. However, if the term of the contract is for a certain period of time, only upon full payment of the total consideration that a final deed of sale shall be executed by the Owner in favor of the Vendee/s.[15]

When DELTA defaulted on its loan obligation, the BANK, instead of foreclosing the REM, agreed to a dation in payment or a dacion en pago. The Deed of Assignment in Payment of Debt was executed on September 30, 1998 and stated that DELTA "assigns, transfers, and conveys and sets over [to] the assignee that real estate with the building and improvements existing thereon x x x in payment of the total obligation owing to [the Bank] x x x." [16] Unknown to Enriquez, among the properties assigned to the BANK was the house and lot of Lot 4, [17] which is the subject of her Contract to Sell with DELTA. The records do not bear out and the parties are silent on whether the BANK was able to transfer title to its name. It appears, however, that the dacion en pago was not annotated on the TCT of Lot 4. [18]

On November 18, 1999, Enriquez filed a complaint against DELTA and the BANK before the Region IV Office of the HLURB [19] alleging that DELTA violated the terms of its License to Sell by: (a) selling the house and lots for a price exceeding that prescribed in Batas Pambansa (BP) Bilang 220; [20] and (b) failing to get a clearance for the mortgage from the HLURB. Enriquez sought a full refund of the P301,063.42 that she had already paid to DELTA, award of damages, and the imposition of administrative fines on DELTA and the BANK.

In his June 1, 2000 Decision, [21] HLURB Arbiter Atty. Raymundo A. Foronda upheld the validity of the purchase price, but ordered DELTA to accept payment of the balance of P108,013.36 from Enriquez, and (upon such payment) to deliver to Enriquez the title to the house and lot free from liens and encumbrances. The dispositive portion reads:

WHEREFORE, premises considered, a decision is hereby rendered as follows:

1. Ordering [DELTA] to accept complainant's payments in the amount of P108,013.36 representing her balance based on the maximum selling price of P375,000.00;
2. Upon full payment, ordering Delta to deliver the title in favor of the complainant free from any liens and encumbrances;
3. Ordering [DELTA] to pay complainant the amount of P50,000.00 as and by way of moral damages;
4. Ordering [DELTA] to pay complainant the amount of P50,000.00 as and by way of exemplary damages;
5. Ordering [DELTA] to pay complainant P10,000.00 as costs of suit; and

6. Respondent DELTA to pay administrative fine of P10,000.00[22] for violation of Section 18 of P.D. 957[23] and another P10,000.00 for violation of Section 22 of P.D. 957.[24]

SO ORDERED.[25]

DELTA appealed the arbiter's Decision to the HLURB Board of Commissioners.[26] DELTA questioned the imposition of an administrative fine for its alleged violation of Section 18 of PD 957. It argued that clearance was not required for mortgages that were constituted on a subdivision project prior to registration. According to DELTA, it did not violate the terms of its license because it did not obtain a new mortgage over the subdivision project. It likewise assailed the award of moral and exemplary damages to Enriquez on the ground that the latter has no cause of action.[27]

Ruling of the Board of Commissioners (Board)[28]

The Board held that all developers should obtain a clearance for mortgage from the HLURB, regardless of the date when the mortgage was secured, because the law does not distinguish. Having violated this legal requirement, DELTA was held liable to pay the administrative fine.

The Board upheld the validity of the contract to sell between DELTA and Enriquez despite the alleged violation of the price ceilings in BP 220. The Board held that DELTA and Enriquez were presumed to have had a meeting of the minds on the object of the sale and the purchase price. Absent any circumstance vitiating Enriquez's consent, she was presumed to have willingly and voluntarily agreed to the higher purchase price; hence, she was bound by the terms of the contract.

The Board, however, deleted the arbiter's award of damages to Enriquez on the ground that the latter was not free from liability herself, given that she was remiss in her monthly amortizations to DELTA.

The dispositive portion of the Board's Decision reads:

Wherefore, in view of the foregoing, the Office below's decision dated June 01, 2000 is hereby modified to read as follows:

1. Ordering [Enriquez] to pay [DELTA] the amount due from the time she suspended payment up to filing of the complaint with 12% interest thereon per annum; thereafter the provisions of the Contract to Sell shall apply until full payment is made;
2. Ordering [DELTA] to pay an [a]dministrative [f]ine of P10,000.00 for violation of its license to sell and for violation of Section 18 of P.D. 957.

So ordered. Quezon City.[29]

Enriquez moved for a reconsideration of the Board's Decision[30] upholding the contractual purchase price. She maintained that the price for Lot 4 should not exceed the price ceiling provided in BP 220.[31]

Finding Enriquez's arguments as having already been passed upon in the decision, the Board denied reconsideration. The board, however, modified its decision, with respect to the period for the imposition of interest payments. The Board's resolution[32] reads:

WHEREFORE, premises considered, to [sic] directive No. 1 of the dispositive portion of the decision of our decision [sic] is MODIFIED as follows:

1. Ordering complainant to pay respondent DELTA the amount due from the time she suspended (sic) at 12% interest per annum, reckoned from finality of this decision[,] thereafter the provisions of the Contract to Sell shall apply until full payment is made.

In all other respects, the decision is AFFIRMED.

SO ORDERED.[33]

Both Enriquez and the BANK appealed to the Office of the President (OP).[34] The BANK disagreed with the ruling upholding Enriquez's Contract to Sell; and insisted on its ownership over Lot 4. It argued that it has become impossible for DELTA to comply with the terms of the contract to sell and to deliver Lot 4's title to Enriquez given that DELTA had already relinquished all its rights to Lot 4 in favor of the BANK[35] via the dacion in payment.

Meanwhile, Enriquez insisted that the Board erred in not applying the ceiling price as prescribed in BP 220.[36]

Ruling of the Office of the President[37]

The OP adopted by reference the findings of fact and conclusions of law of the HLURB Decisions, which it affirmed in toto.

Enriquez filed a motion for reconsideration, insisting that she was entitled to a reduction of the purchase price, in order to conform to the provisions of BP 220.[38] The motion was denied for lack of merit.[39]

Only the BANK appealed the OP's Decision to the CA.[40] The BANK reiterated that DELTA can no longer deliver Lot 4 to Enriquez because DELTA had sold the same to the BANK by virtue of the dacion en pago.[41] As an alternative argument, in case the appellate court should find that DELTA retained ownership over Lot 4 and could convey the same to Enriquez, the BANK prayed that its REM over Lot 4 be respected such that DELTA would have to redeem it first before it could convey the same to Enriquez in accordance with Section 25[42] of PD 957.[43]

The BANK likewise sought an award of exemplary damages and attorney's fees in its favor because of the baseless suit filed by Enriquez against it.[44]

Ruling of the Court of Appeals[45]

The CA ruled against the validity of the dacion en pago executed in favor of the BANK on the ground that DELTA had earlier relinquished its ownership over Lot 4 in favor of Enriquez via the Contract to Sell.[46]

Since the dacion en pago is invalid with respect to Lot 4, the appellate court held that DELTA remained indebted to the BANK to the extent of Lot 4's value. Thus, the CA ordered DELTA to pay the corresponding value of Lot 4 to the BANK.[47]

The CA also rejected the BANK's argument that, before DELTA can deliver the title to Lot 4 to Enriquez, DELTA should first redeem the mortgaged property from the BANK. The CA held that the BANK does not have a first lien on Lot 4 because its real estate mortgage over the same had already been extinguished by the dacion en pago. Without a mortgage, the BANK cannot require DELTA to redeem Lot 4 prior to delivery of title to Enriquez.[48]

The CA denied the BANK's prayer for the award of exemplary damages and attorney's fees for lack of factual and legal basis.[49]

Both DELTA[50] and the BANK[51] moved for a reconsideration of the CA's Decision, but both were denied.[52]

Hence, these separate petitions of the BANK and DELTA.

Petitioner Delta's arguments[53]

DELTA assails the CA Decision for holding that DELTA conveyed its ownership over Lot 4 to Enriquez via the Contract to Sell. DELTA points out that the Contract to Sell contained a condition that ownership shall only be transferred to Enriquez upon the latter's full payment of the purchase price to DELTA. Since Enriquez has yet to comply with this suspensive condition, ownership is retained by DELTA.[54] As the owner of Lot 4, DELTA had every right to enter into a dacion in payment to extinguish its loan obligation to the BANK. The BANK's acceptance of the assignment, without any reservation or exception, resulted in the extinguishment of the entire loan obligation; hence, DELTA has no more obligation to pay the value of Enriquez's house and lot to the BANK.[55]

DELTA prays for the reinstatement of the OP Decision.

The BANK's arguments[56]

Echoing the argument of DELTA, the BANK argues that the Contract to Sell did not involve a conveyance of DELTA's ownership over Lot 4 to Enriquez. The Contract to Sell expressly provides that DELTA retained ownership over Lot 4 until Enriquez paid the full purchase price. Since Enriquez has not yet made such full payment, DELTA retained ownership over Lot 4 and could validly convey the same to the BANK via dacion en pago.[57]

Should the dacion en pago over Lot 4 be invalidated and the property ordered to be delivered to Enriquez, the BANK contends that DELTA should pay the corresponding value of Lot 4 to the BANK. It maintains that the loan obligation extinguished by the dacion en pago only extends to the value of the properties delivered; if Lot 4 cannot be delivered to the BANK, then the loan obligation of DELTA remains to the extent of Lot 4's value.[58]

The BANK prays to be declared the rightful owner of the subject house and lot and asks for an award of exemplary damages and attorney's fees.

Enriquez's waiver

Enriquez did not file comments[59] or memoranda in both cases; instead, she manifested that she will just await the outcome of the case.[60]

Issues

The following are the issues raised by the two petitions:

- Whether the Contract to Sell conveys ownership;
- Whether the dacion en pago extinguished the loan obligation, such that DELTA has no more obligations to the BANK;
- Whether the BANK is entitled to damages and attorney's fees for being compelled to litigate; and
- What is the effect of Enriquez's failure to appeal the OP's Decision regarding her obligation to pay the balance on the purchase price.

Our Ruling

Mortgage contract void

As the HLURB Arbiter and Board of Commissioners both found, DELTA violated Section 18 of PD 957 in mortgaging the properties in Delta Homes I (including Lot 4) to the BANK without prior clearance from the HLURB. This point need not be belabored since the parties have chosen not to appeal the administrative fine imposed on DELTA for violation of Section 18.

This violation of Section 18 renders the mortgage executed by DELTA void. We have held before that "a mortgage contract executed in breach of Section 18 of [PD 957] is null and void." [61] Considering that "PD 957 aims to protect innocent subdivision lot and condominium unit buyers against fraudulent real estate practices," we have construed Section 18 thereof as "prohibitory and acts committed contrary to it are void." [62]

Because of the nullity of the mortgage, neither DELTA nor the BANK could assert any right arising therefrom. The BANK's loan of P8 million to DELTA has effectively become unsecured due to the nullity of the mortgage. The said loan, however, was eventually settled by the two contracting parties via a dation in payment. In the appealed Decision, the CA invalidated this dation in payment on the ground that DELTA, by previously entering into a Contract to Sell, had already conveyed its ownership over Lot 4 to Enriquez and could no longer convey the same to the BANK. This is error, prescinding from a wrong understanding of the nature of a contract to sell.

Contract to sell does not transfer ownership

Both parties are correct in arguing that the Contract to Sell executed by DELTA in favor of Enriquez did not transfer ownership over Lot 4 to Enriquez. A contract to sell is one where the prospective seller reserves the transfer of title to the prospective buyer until the happening of an event, such as full payment of the purchase price. What the seller obliges himself to do is to sell the subject property only when the entire amount of the purchase price has already been delivered to him. "In other words, the full payment of the purchase price partakes of a suspensive condition, the non-fulfillment of which prevents the obligation to sell from arising and thus, ownership is retained by the prospective seller without further remedies by the prospective buyer." [63] It does not, by itself, transfer ownership to the buyer. [64]

In the instant case, there is nothing in the provisions of the contract entered into by DELTA and Enriquez that would exempt it from the general definition of a contract to sell. The terms thereof provide for the reservation of DELTA's ownership until full payment of the purchase price; such that DELTA even reserved the right to unilaterally void the contract should Enriquez fail to pay three successive monthly amortizations.

Since the Contract to Sell did not transfer ownership of Lot 4 to Enriquez, said ownership remained with DELTA. DELTA could then validly transfer such ownership (as it did) to another person (the BANK). However, the transferee BANK is bound by the Contract to Sell and has to respect Enriquez's rights thereunder. This is because the Contract to Sell, involving a subdivision lot, is covered and protected by PD 957. One of the protections afforded by PD 957 to buyers such as Enriquez is the right to have her contract to sell registered with the Register of Deeds in order to make it binding on third parties. Thus, Section 17 of PD 957 provides:

Section 17. Registration. All contracts to sell, deeds of sale, and other similar instruments relative to the sale or conveyance of the subdivision lots and condominium units, whether or not the purchase price is paid in full, shall be registered by the seller in the Office of the Register of Deeds of the province or city where the property is situated.

x x x (Emphasis supplied.)

The purpose of registration is to protect the buyers from any future unscrupulous transactions involving the object of the sale or contract to sell, whether the purchase price therefor has been fully paid or not. Registration of the sale or contract to sell makes it binding on third parties; it serves as a notice to the whole world that the property is subject to the prior right of the buyer of the property (under a contract to sell or an absolute sale), and anyone who wishes to deal with the said property will be held bound by such prior right.

While DELTA, in the instant case, failed to register Enriquez's Contract to Sell with the Register of Deeds, this failure will not prejudice Enriquez or relieve the BANK from its obligation to respect Enriquez's Contract to Sell.

Despite the non-registration, the BANK cannot be considered, under the circumstances, an innocent purchaser for value of Lot 4 when it accepted the latter (together with other assigned properties) as payment for DELTA's obligation. The BANK was well aware that the assigned properties, including Lot 4, were subdivision lots and therefore within the purview of PD 957. It knew that the loaned amounts were to be used for the development of DELTA's subdivision project, for this was indicated in the corresponding promissory notes. The technical description of Lot 4 indicates its location, which can easily be determined as included within the subdivision development. Under these circumstances, the BANK knew or should have known of the possibility and risk that the assigned properties were already covered by existing contracts to sell in favor of subdivision lot buyers. As observed by the Court in another case involving a bank regarding a subdivision lot that was already subject of a contract to sell with a third party:

[The Bank] should have considered that it was dealing with a property subject of a real estate development project. A reasonable person, particularly a financial institution x x x, should have been aware that, to finance the project, funds other than those obtained from the loan could have been used to serve the purpose, albeit partially. Hence, there was a need to verify whether any part of the property was already intended to be the subject of any other contract involving buyers or potential buyers. In granting the loan, [the Bank] should not have been content merely with a clean title, considering the presence of circumstances indicating the need for a thorough investigation of the existence of buyers x x x. Wanting in care and prudence, the [Bank] cannot be deemed to be an innocent mortgagee. x x x[65]

Further, as an entity engaged in the banking business, the BANK is required to observe more care and prudence when dealing with registered properties. The Court cannot accept that the BANK was unaware of the Contract to Sell existing in favor of Enriquez. In *Keppel Bank Philippines, Inc. v. Adao*,^[66] we held that a bank dealing with a property that is already subject of a contract to sell and is protected by the provisions of PD 957, is bound by the contract to sell (even if the contract to sell in that case was not registered). In the Court's words:

It is true that persons dealing with registered property can rely solely on the certificate of title and need not go beyond it. However, x x x, this rule does not apply to banks. Banks are required to exercise more care and prudence than private individuals in dealing even with registered properties for their business is affected with public interest. As master of its business, petitioner should have sent its representatives to check the assigned properties before signing the compromise agreement and it would have discovered that respondent was already occupying one of the condominium units and that a contract to sell existed between [the vendee] and [the developer]. In our view, petitioner was not a purchaser in good faith and we are constrained to rule that petitioner is bound by the contract to sell.^[67]

Bound by the terms of the Contract to Sell, the BANK is obliged to respect the same and honor the payments already made by Enriquez for the purchase price of Lot 4. Thus, the BANK can only collect the balance of the purchase price from Enriquez and has the obligation, upon full payment, to deliver to Enriquez a clean title over the subject property.^[68]

Dacion en pago extinguished the loan obligation

The BANK then posits that, if title to Lot 4 is ordered delivered to Enriquez, DELTA has the obligation to pay the BANK the corresponding value of Lot 4. According to the BANK, the dation in payment extinguished the loan only to the extent of the value of the thing delivered. Since Lot 4 would have no value to the BANK if it will be delivered to Enriquez, DELTA would remain indebted to that extent.

We are not persuaded. Like in all contracts, the intention of the parties to the dation in payment is paramount and controlling. The contractual intention determines whether the property subject of the dation will be considered as the full equivalent of the debt and will therefore serve as full satisfaction for the debt. "The dation in payment

extinguishes the obligation to the extent of the value of the thing delivered, either as agreed upon by the parties or as may be proved, unless the parties by agreement, express or implied, or by their silence, consider the thing as equivalent to the obligation, in which case the obligation is totally extinguished." [69]

In the case at bar, the Dacion en Pago executed by DELTA and the BANK indicates a clear intention by the parties that the assigned properties would serve as full payment for DELTA's entire obligation:

KNOW ALL MEN BY THESE PRESENTS:

This instrument, made and executed by and between:

x x x x

THAT, the ASSIGNOR acknowledges to be justly indebted to the ASSIGNEE in the sum of ELEVEN MILLION EIGHT HUNDRED SEVENTY-EIGHT THOUSAND EIGHT HUNDRED PESOS (P11,878,800.00), Philippine Currency as of August 25, 1998. Therefore, by virtue of this instrument, ASSIGNOR hereby ASSIGNS, TRANSFERS, and CONVEYS AND SETS OVER [TO] the ASSIGNEE that real estate with the building and improvements existing thereon, more particularly described as follows:

x x x x

of which the ASSIGNOR is the registered owner being evidenced by TCT No. x x x issued by the Registry of Deeds of Trece Martires City.

THAT, the ASSIGNEE does hereby accept this ASSIGNMENT IN PAYMENT OF THE TOTAL OBLIGATION owing to him by the ASSIGNOR as above-stated; [70]

Without any reservation or condition, the Dacion stated that the assigned properties served as full payment of DELTA's "total obligation" to the BANK. The BANK accepted said properties as equivalent of the loaned amount and as full satisfaction of DELTA's debt. The BANK cannot complain if, as it turned out, some of those assigned properties (such as Lot 4) are covered by existing contracts to sell. As noted earlier, the BANK knew that the assigned properties were subdivision lots and covered by PD 957. It was aware of the nature of DELTA's business, of the location of the assigned properties within DELTA's subdivision development, and the possibility that some of the properties may be subjects of existing contracts to sell which enjoy protection under PD 957. Banks dealing with subdivision properties are expected to conduct a thorough due diligence review to discover the status of the properties they deal with. It may thus be said that the BANK, in accepting the assigned properties as full payment of DELTA's "total obligation," has assumed the risk that some of the assigned properties (such as Lot 4) are covered by contracts to sell which it is bound to honor under PD 957.

A dacion en pago is governed by the law of sales. [71] Contracts of sale come with warranties, either express (if explicitly stipulated by the parties) or implied (under Article 1547 et seq. of the Civil Code). In this case, however, the BANK does not even point to any breach of warranty by DELTA in connection with the Dacion in Payment. To be sure, the Dacion in Payment has no express warranties relating to existing contracts to sell over the assigned properties. As to the implied warranty in case of eviction, it is waivable [72] and cannot be invoked if the buyer knew of the risks or danger of eviction and assumed its consequences. [73] As we have noted earlier, the BANK, in accepting the assigned properties as full payment of DELTA's "total obligation," has assumed the risk that some of the assigned properties are covered by contracts to sell which must be honored under PD 957.

Award of damages

There is nothing on record that warrants the award of exemplary damages [74] as well as attorney's fees [75] in favor of the BANK.

Balance to be paid by Enriquez

As already mentioned, the Contract to Sell in favor of Enriquez must be respected by the BANK. Upon Enriquez's full payment of the balance of the purchase price, the BANK is bound to deliver the title over Lot 4 to her. As to the amount of the balance which Enriquez must pay, we adopt the OP's ruling thereon which sustained the amount stipulated in the Contract to Sell. We will not review Enriquez's initial claims about the supposed violation of the price ceiling in BP 220, since this issue was no longer pursued by the parties, not even by Enriquez, who chose not to file the required pleadings^[76] before the Court. The parties were informed in the Court's September 5, 2007 Resolution that issues that are not included in their memoranda shall be deemed waived or abandoned. Since Enriquez did not file a memorandum in either petition, she is deemed to have waived the said issue.

WHEREFORE, premises considered, the appealed November 30, 2004 Decision of the Court of Appeals, as well as its June 22, 2005 Resolution in CA-G.R. SP No. 81280 are hereby AFFIRMED with the MODIFICATIONS that Delta Development and Management Services, Inc. is NOT LIABLE TO PAY Luzon Development Bank the value of the subject lot; and respondent Angeles Catherine Enriquez is ordered to PAY the balance of the purchase price and the interests accruing thereon, as decreed by the Court of Appeals, to the Luzon Development Bank, instead of Delta Development and Management Services, Inc., within thirty (30) days from finality of this Decision. The Luzon Development Bank is ordered to DELIVER a CLEAN TITLE to Angeles Catherine Enriquez upon the latter's full payment of the balance of the purchase price and the accrued interests.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] *Pilipinas Kao, Inc. v. Court of Appeals*, 423 Phil. 834, 858 (2001).

[2] Rollo of G.R. No. 168646, pp. 3-27.

[3] Rollo of G.R. No. 168666, pp. 3-16.

[4] CA Decision, pp. 9-10; *id.* at 125-126.

[5] Petition in G.R. No. 168646, p. 3; rollo of G.R. No. 168646, p. 5.

[6] *Id.* at 3-4; *id.* at 5-6.

[7] *Id.* at 60.

[8] The loan contract itself was not attached to the parties' pleadings; only the promissory notes covering the said loan were attached. The promissory notes contained the condition that the loan proceeds shall be used only for the purpose of subdivision development, particularly the development of Delta Homes I, Aniban, Bacoar, Cavite (CA rollo, pp. 50-55).

[9] *Id.* at 57-59.

[10] *Id.* at 70. The amendment to the real estate mortgage was dated November 8, 1995.

[11] Rollo of G.R. No. 168646, p. 60.

[12] CA rollo, p. 81. Pertinent portions of the registration certificate dated September 22, 1995 read as follows:

BE IT KNOWN:

That DELTA HOMES I x x x is hereby REGISTERED pursuant to Section 21 of BP 220 and its rules and regulations.

THAT any misrepresentation or material falsehood made in connection with the application for this registration or the forgery or falsification of any of the supporting documents thereof and other legal grounds provided by law shall be a valid cause for the revocation of this Registration.

x x x x

AND THAT the project owner(s), RICARDO S. DE LEON and the developer(s) DELTA DEVELOPMENT AND MANAGEMENT SERVICES, INC. take the solidary responsibilities of complying with the law and the rules and regulations for the issuance for this CERTIFICATE and the License to Sell, if any.

[13] Id. at 82. The License to Sell was dated September 19, 1995.

[14] Rollo of G.R. No. 168646, pp. 61-64.

[15] Id. at 61-62.

[16] CA rollo, pp. 71-80.

[17] Id. at 76.

[18] Rollo of G.R. No. 168646, p. 60.

[19] Docketed as R-106-111899-117-5; id. at 65-70.

[20] An Act Authorizing the Ministry of Human Settlements to Establish and Promulgate Different Levels of Standards and Technical Requirements for Economic and Socialized Housing Projects in Urban and Rural Areas from those provided under Presidential Decrees Numbered Nine Hundred Fifty-Seven, Twelve Hundred Sixteen, Ten Hundred Ninety-Six and Eleven Hundred Eighty-Five.

[21] HLURB Decision, p. 1; CA rollo, p. 26. A copy of the HLURB Arbiter's decision itself was not included in the available records of the case.

[22] Section 38. Administrative Fines. The [HLURB] may prescribe and impose fines not exceeding ten thousand pesos for violations of the provisions of this Decree or of any rule or regulation thereunder. Fines shall be payable to the [HLURB] and enforceable through writs of execution in accordance with the provisions of the Rules of Court. (PD 957, as amended)

[23] Section 18. Mortgages. No mortgage on any unit or lot shall be made by the owner or developer without prior written approval of the [HLURB]. 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 thereto. [Emphasis supplied.]

[24] Section 22. Alteration of Plans. No owner or developer shall change or alter the roads, open spaces, infrastructures, facilities for public use and/or other form of subdivision development as contained in the approved

subdivision plan and/or represented in its advertisements, without the permission of the [HLURB] and the written conformity or consent of the duly organized homeowners association, or in the absence of the latter, by the majority of the lot buyers in the subdivision.

[25] CA rollo, p. 26.

[26] Id. The appeal was docketed as HLURB Case No. REM-A-000918-183.

[27] Id. at 27.

[28] Id. at 26-28. Decided by Deinrado Simon D. Dimalibot (HUDCC Deputy Secretary General), Francisco L. Dagñalan (Commissioner), and Elias F. Fernandez, Jr. (DILG representative).

[29] Id. at 28.

[30] Id. at 46.

[31] Id. at 47.

[32] Id. at 46-48.

[33] Id. at 47-48.

[34] Id. at 23. The case was docketed as OP Case No. 02-E-234. The decision was signed by Undersecretary Enrique D. Perez, by authority of the President.

[35] CA Decision, p. 5; id. at 121.

[36] Id.; id.

[37] CA rollo, p. 23.

[38] CA Decision, p. 6; CA rollo, p. 122.

[39] CA rollo, p. 25. The Resolution was signed by Senior Deputy Executive Secretary Waldo Q. Flores, by authority of the President.

[40] Id. at 2-22. The petition was initially dismissed in the CA's January 29, 2004 Resolution for failure of the petition to state the material dates and to attach a proof of the signatory's authority to sign the verification against forum-shopping (Id. at 85-86). Upon the Bank's motion for reconsideration (Id. at 87-108), the petition was reinstated and given due course in the CA's May 25, 2004 Resolution (Id. at 110-111).

[41] Petition in CA-G.R. SP No. 81280, pp. 11-14; id. at 12-15.

[42] Section 25. Issuance of Title. The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit. No fee, except those required for the registration of the deed of sale in the Registry of Deeds, shall be collected for the issuance of such title. In the event a mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, the owner or developer shall redeem the mortgage or the corresponding portion thereof within six months from such issuance in order that the title over any fully paid lot or unit may be secured and delivered to the buyer in accordance herewith.

[43] Petition in CA-GR SP No. 81280, pp. 14-16; CA rollo, pp. 15-17.

[44] Id. at 16-18; id. at 17-19.

[45] CA rollo, pp. 117-126; penned by Associate Justice Bienvenido L. Reyes and concurred in by Associate

Justices Eugenio S. Labitoria and Rosalinda Asuncion-Vicente.

[46] CA Decision, pp. 7-8; CA rollo, pp. 123-124.

[47] Id. at 8; id. at 124.

[48] Id. at 8-9; id. at 124-125.

[49] Id. at 9; id. at 125.

[50] CA rollo, pp. 127-134.

[51] Id. at 135-144.

[52] Id. at 156-158.

[53] Delta's Memorandum in G.R. No. 168646, pp. 113-122; Delta's Memorandum in G.R. No. 168666, pp. 98-107.

[54] Id. at 116-118; id. at 101-103.

[55] Id. at 118-199; id. at 103-104.

[56] Memorandum in G.R. No. 168646, pp. 165-195; Memorandum in G.R. No. 168666, pp. 146-176.

[57] Bank's Memorandum in G.R. No. 168646, pp. 178-186; Bank's Memorandum in G.R. No. 168666, pp. 159-167.

[58] Id. at 190-192; id. at 171-173.

[59] Compliance and Comment in G.R. No. 168646, pp. 77-78; Compliance and Comment in G.R. No. 168666, pp. 65-66.

[60] Manifestation in G.R. No. 168646, p. 193; Manifestation in G.R. No. 168666, p. 177.

[61] Metropolitan Bank and Trust Company, Inc. v. SLGT Holdings, Inc., G.R. Nos. 175181-175182, 175354 & 175387-175388, September 14, 2007, 533 SCRA 516, 526.

[62] Id.

[63] Coronel v. Court of Appeals, 331 Phil. 294, 309 (1996); Spouses Ramos v. Spouses Huelala, 509 Phil. 658, 664-667 (2005).

[64] See China Banking Corporation v. Lozada, G.R. No. 164919, July 4, 2008, 557 SCRA 177, 204.

[65] Development Bank of the Philippines v. Capulong, G.R. No. 181790, January 30, 2009, 577 SCRA 582, 587-588.

[66] 510 Phil. 158 (2005).

[67] Id. at 165-166.

[68] See Home Bankers Savings & Trust Co. v. Court of Appeals, 496 Phil. 637, 655 (2005).

[69] Tolentino, Commentaries on the Civil Code (1987), Vol. IV, p. 294, citing Manresa.

[70] CA rollo, pp. 71-79.

[71] Article 1245. Dation in payment, whereby property is alienated to the creditor in satisfaction of a debt in

money, shall be governed by the law of sales.

[72] Article 1548. Eviction shall take place whenever by a final judgment based on a right prior to the sale or an act imputable to the vendor, the vendee is deprived of the whole or of a part of the thing purchased.

The vendor shall answer for the eviction even though nothing has been said in the contract on the subject.

The contracting parties, however, may increase, diminish, or suppress this legal obligation of the vendor. (Civil Code)

[73] *Andaya v. Manansala*, 107 Phil. 1151, 1154-1155 (1960); *J.M. Tuason & Co., Inc. v. Court of Appeals*, 183 Phil. 105, 113-114 (1979).

[74] Article 2231. In quasi-delicts, exemplary damages may be granted if the defendant acted with gross negligence.

Article 2232. In contracts and quasi-contracts, the court may award exemplary damages if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner.

Article 2233. Exemplary damages cannot be recovered as a matter of right; the court will decide whether or not they should be adjudicated. (Civil Code)

[75] Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third person or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable. (Civil Code)

[76] Enriquez made a reservation in her comment to the two petitions, in this wise:

3. It may be recalled that respondent Enriquez was not able to succeed in her position to pay a lesser amount on the consideration of [sic] buying a house and lot. She did not pursue anymore her case but the petitioners herein raised matters which would directly affect them. By way of comment therefore to the said petitions, respondent

Enriquez asserts that she will take appropriate remedies after this Honorable Court resolves the issues raised by the petitioners Luzon Development Bank and Delta Development and Management Services, Inc. against each other. But she insists that she is liable to pay to either of the petitioners based on lesser amount she previously claimed. (Rollo of G.R. No. 168646, p. 78; rollo of G.R. No. 168666, p. 66)

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