

UNITED OVERSEAS BANK PHILIPPINES, INC., PETITIONER, VS. SIONY CHING AND TOWNTEC REALTY & DEVELOPMENT CORP., RESPONDENTS.

G.R. NO. 170695. April 07, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review on certiorari assails the September 14, 2005 Decision[1] of the Court of Appeals in CA-G.R. SP No. 81156 affirming the September 10, 2003[2] and the December 2, 2003[3] Orders of the Office of the President, and the November 22, 2005 Resolution[4] denying petitioner's motion for reconsideration.

The instant case arose from a complaint for delivery of title and annulment of real estate mortgage with damages filed by respondent Siony Ching (Ching) against petitioner United Overseas Bank Philippines, Inc. (UOBP) and respondent Towntec Realty and Development Corp. (Towntec) before the Housing and Land Use Regulatory Board (HLURB). Ching claimed that sometime between December 1994 to January 1995, she purchased Condominium Unit 2403 of Empire Plaza from Towntec after paying P200,000.00 as reservation fee and P4,000,000.00 as the purchase price. However, Towntec failed to deliver the condominium certificate of title of the subject unit because the land over which the Empire Plaza was built was mortgaged to UOBP. Consequently, Ching sought the annulment of the mortgage between UOBP and Towntec because it was executed without the prior written approval of the HLURB in violation of Section 18 of Presidential Decree (PD) No. 957 or the Subdivision and Condominium Buyer's Protective Decree.

On December 2, 2001, the Housing and Land Use (HLU) Arbiter found in favor of Ching declaring the real estate mortgage between Towntec and UOBP null and void; ordering Towntec to deliver the condominium certificate of title of unit 2403 to Ching; and ordering Towntec and UOBP to jointly and severally pay damages.

UOBP appealed to the HLURB Board of Commissioners which affirmed the decision of the HLU Arbiter. Its motion for reconsideration having been denied, UOBP filed an appeal with the Office of the President which dismissed the same in an Order dated September 10, 2003 for being filed out of time. UOBP's motion for reconsideration was denied with finality by the Office of the President in its Order dated December 2, 2003.

On appeal, the Court of Appeals affirmed the orders of the Office of the President and denied UOBP's motion for reconsideration.

Hence, this petition for review on the sole ground that the Court of Appeals erred in ruling that the appeal to the Office of the President was not timely filed.

The petition is bereft of merit.

UOBP contends that the period within which to perfect an appeal from the decision of the HLURB Board of Commissioners to the Office of the President is 30 days and not 15 days citing Section 1 of Administrative Order No. 18, series of 1987. It further asserts that the 1996 HLURB Rules of Procedure, the Administrative Code of

1987, PD No. 957 and PD No. 1344,[5] which were the legal bases of the Office of the President for holding that the period of appeal is 15 days, are not special laws which would constitute an exception to the 30-day appeal period provided for under Section 1 of Administrative Order No. 18.

The contention is untenable.

As correctly pointed out by the Office of the President, the period to appeal the decision of the HLURB Board of Commissioners to the Office of the President has long been settled in the case of *SGMC Realty Corporation v. Office of the President*,[6] as reiterated in *Maxima Realty Management and Development Corporation v. Parkway Real Estate Development Corporation*,[7] where we ruled that the period of appeal is 15 days from receipt thereof pursuant to Section 15[8] of PD No. 957 and Section 2[9] of PD No. 1344 which are special laws that provide an exception to Section 1 of Administrative Order No. 18. Thus:

x x x Administrative Order No. 18, series of 1987, issued by public respondent [Office of the President] reads:
"Section 1. Unless otherwise governed by special laws, an appeal to the Office of the President shall be taken within thirty (30) days from receipt by the aggrieved party of the decision/resolution/order complained of or appealed from."

As pointed out by the public respondent, the aforecited administrative order allows aggrieved party to file its appeal with the Office of the President within thirty (30) days from receipt of the decision complained of. Nonetheless, such thirty-day period is subject to the qualification that there are no other statutory periods of appeal applicable. If there are special laws governing particular cases which provide for a shorter or longer reglementary period, the same shall prevail over the thirty-day period provided for in the administrative order. This is in line with the rule in statutory construction that an administrative rule or regulation, in order to be valid, must not contradict but conform to the provisions of the enabling law.

We note that indeed there are special laws that mandate a shorter period of fifteen (15) days within which to appeal a case to public respondent. First, Section 15 of Presidential Decree No. 957 provides that the decisions of the National Housing Authority (NHA) shall become final and executory after the lapse of fifteen (15) days from the date of receipt of the decision. Second, Section 2 of Presidential Decree No. 1344 states that decisions of the National Housing Authority shall become final and executory after the lapse of fifteen (15) days from the date of its receipt. The latter decree provides that the decisions of NHA is appealable only to the Office of the President. Further, we note that the regulatory functions of NHA relating to housing and land development has been transferred to Human Settlements Regulatory Commission, now known as HLURB. Thus, said presidential issuances providing for a reglementary period of appeal of fifteen days apply in this case.[10] (Emphasis supplied)

Consistent with this pronouncement, Section 2, Rule XVIII of the 1996 HLURB Rules of Procedure,[11] which was the rule in force when UOBP appealed to the Office of the President, provided that any party may upon notice to the HLURB and the other party, appeal a decision rendered by the Board of Commissioners en banc or by one of its divisions to the Office of the President within 15 calendar days from receipt thereof in accordance with PD No. 1344 and Administrative Order No. 18, series of 1987. This rule remains unchanged under Section 2,[12] Rule XXI of the 2004 HLURB Rules of Procedure.[13]

In the case at bar, it is not disputed that UOBP received a copy of the decision dated December 17, 2002 issued by the HLURB Board of Commissioners on January 15, 2003. It filed on January 29, 2003, or 14 days later, a motion for reconsideration which was denied by the HLURB Board in a Resolution dated March 28, 2003. A copy of this resolution was received by UOBP on April 9, 2003. Consequently, it had only one day left from the receipt of the resolution or until April 10, 2003 within which to appeal to the Office of the President because the filing of the

motion for reconsideration merely suspended the running of the 15-day appeal period as provided for under Section 1[14] of Administrative Order No. 18. This rule likewise remains unchanged under par. 2,[15] Section 2, Rule XXI of the 2004 HLURB Rules of Procedure. However, UOBP filed its appeal only on April 24, 2003 or 14 days late. Thus, the appeal was filed out of time and the assailed decision of the HLURB Board became final and executory. Considering that the timely perfection of the appeal is a jurisdictional requirement, the Office of the President correctly dismissed UOBP's appeal for want of authority to entertain the same.[16]

WHEREFORE, the petition is DENIED. The September 14, 2005 Decision of the Court of Appeals in CA-G.R. SP No. 81156 affirming the September 10, 2003 and December 2, 2003 Orders of the Office of the President, as well as the November 22, 2005 Resolution denying reconsideration, are AFFIRMED.

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 21-30. Penned by Associate Justice Salvador J. Valdez, Jr. and concurred in by Associate Justices Mariano C. Del Castillo and Magdangal M. De Leon.

[2] Id. at 51-52. Penned by Hon. Manuel B. Gaité, Deputy Executive Secretary for Legal Affairs.

[3] Id. at 59-60. Penned by Hon. Manuel B. Gaité, Deputy Executive Secretary for Legal Affairs.

[4] Id. at 33. Penned by Associate Justice Mariano C. Del Castillo and concurred in by Associate Justices Magdangal M. De Leon and Rebecca De Guia Salvador.

[5] Empowering the National Housing Authority to Issue Writ of Execution in the Enforcement of its Decisions Under Presidential Decree No. 957.

[6] 393 Phil. 697 (2000).

[7] G.R. No. 136492, February 13, 2004, 422 SCRA 572.

[8] Section 15. Decision. - The case shall be decided within thirty (30) days from the time the same is submitted for decision. The Decision may order the revocation of the registration of the subdivision or condominium project, the suspension, cancellation, or revocation of the license to sell and/or forfeiture, in whole or in part, of the performance bond mentioned in Section 6 hereof. In case forfeiture of the bond is ordered, the Decision may direct the provincial or city engineer to undertake or cause the construction of roads and of other requirements for the subdivision or condominium as stipulated in the bond, chargeable to the amount forfeited. Such decision shall be immediately executory and shall become final after the lapse of 15 days from the date of receipt of the Decision. (Emphasis supplied)

[9] Section 2. The decision of the National Housing Authority shall become final and executory after the lapse of fifteen (15) days from the date of its receipt.

It is appealable only to the President of the Philippines, and in the event the appeal is filed and the decision is not reversed and/or amended within a period of thirty (30) days, the decision is deemed affirmed. Proof of the appeal of the decision must be furnished the National Housing Authority.

[10] SGM Realty Corporation v. Office of the President, *supra* note 6 at 703-704.

[11] HLURB Resolution No. R-586, series of 1996, as amended by HLURB Resolution No. R-660, series of 1999.

[12] Section 2. Appeal. - Any party may, upon notice to the Board and the other party, appeal a decision rendered by the Board of Commissioners to the Office of the President within fifteen (15) days from receipt thereof, in accordance with P.D. No. 1344 and A.O. No. 18 Series of 1987 x x x.

[13] HLURB Resolution No. 765, series of 2004.

[14] Section 1. x x x The time during which a motion for reconsideration has been pending with the Ministry/agency concerned shall be deducted from the period for appeal. But where such a motion for reconsideration has been filed during office hours of the last day of the period herein provided, the appeal must be made within the day following receipt of the denial of said motion by the appealing party. (Emphasis supplied)

[15] Section 2. Appeal. - x x x

The pendency of the motion for reconsideration shall suspend the running of the period to appeal to the Office of the President.

[16] SGM Realty Corporation v. Office of the President, *supra* note 6 at 704-705.

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