J. TIOSEJO INVESTMENT CORP., PETITIONER, VS. SPOUSES BENJAMIN AND ELEANOR ANG, RESPONDENTS.

G.R. No. 174149. September 08, 2010

Ponente: PEREZ, J.

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PEREZ, J.:

Filed pursuant to Rule 45 of the 1997 Rules of Civil Procedure, the petition for review at bench seeks the reversal of the Resolutions dated 23 May 2006 and 9 August 2006 issued by the Third Division of the Court of Appeals (CA) in CA-G.R. SP No. 93841 which, respectively, dismissed the petition for review of petitioner J. Tiosejo Investment Corp. (JTIC) for having been filed out of time[1] and denied the motion for reconsideration of said dismissal.[2]

The Facts

On 28 December 1995 petitioner entered into a Joint Venture Agreement (JVA) with Primetown Property Group, Inc. (PPGI) for the development of a residential condominium project to be known as The Meditel on the former's 9,502 square meter property along Samat St., Highway Hills, Mandaluyong City.[3] With petitioner contributing the same property to the joint venture and PPGI undertaking to develop the condominium, the JVA provided, among other terms and conditions, that the developed units shall be shared by the former and the latter at a ratio of 17%-83%, respectively.[4] While both parties were allowed, at their own individual responsibility, to pre-sell the units pertaining to them,[5] PPGI further undertook to use all proceeds from the pre-selling of its saleable units for the completion of the Condominium Project." [6]

On 17 June 1996, the Housing and Land Use Regulatory Board (HLURB) issued License to Sell No. 96-06-2854 in favor of petitioner and PPGI as project owners.[7] By virtue of said license, PPGI executed Contract to Sell No. 0212 with Spouses Benjamin and Eleanor Ang on 5 February 1997, over the 35.45-square meter condominium unit denominated as Unit A-1006, for the agreed contract price of P52,597.88 per square meter or a total P2,077,334.25.[8] On the same date PPGI and respondents also executed Contract to Sell No. 0214 over the 12.50 square meter parking space identified as Parking Slot No. 0405, for the stipulated consideration of P26,400.00 square meters or a total of P313,500.00.[9]

On 21 July 1999, respondents filed against petitioner and PPGI the complaint for the rescission of the aforesaid Contracts to Sell docketed before the HLURB as HLURB Case No. REM 072199-10567. Contending that they were assured by petitioner and PPGI that the subject condominium unit and parking space would be available for turn-over and occupancy in December 1998, respondents averred, among other matters, that in view of the non-completion of the project according to said representation, respondents instructed petitioner and PPGI to stop depositing the post-dated checks they issued and to cancel said Contracts to Sell; and, that despite several demands, petitioner and PPGI have failed and refused to refund the P611,519.52 they already paid under the circumstances. Together with the refund of said amount and interests thereon at the rate of 12% per annum, respondents prayed for the grant of their claims for moral and exemplary damages as well as attorney's fees and

the costs.[10]

Specifically denying the material allegations of the foregoing complaint, PPGI filed its 7 September 1999 answer alleging that the delay in the completion of the project was attributable to the economic crisis which affected the country at the time; that the unexpected and unforeseen inflation as well as increase in interest rates and cost of building materials constitute force majeure and were beyond its control; that aware of its responsibilities, it offered several alternatives to its buyers like respondents for a transfer of their investment to its other feasible projects and for the amounts they already paid to be considered as partial payment for the replacement unit/s; and, that the complaint was prematurely filed in view of the on-going negotiations it is undertaking with its buyers and prospective joint venture partners. Aside from the dismissal of the complaint, PPGI sought the readjustment of the contract price and the grant of its counterclaims for attorney's fees and litigation expenses.[11]

Petitioner also specifically denied the material allegations of the complaint in separate answer dated 5 February 2002[12] which it amended on 20 May 2002. Calling attention to the fact that its prestation under the JVA consisted in contributing the property on which The Meditel was to be constructed, petitioner asseverated that, by the terms of the JVA, each party was individually responsible for the marketing and sale of the units pertaining to its share; that not being privy to the Contracts to Sell executed by PPGI and respondents, it did not receive any portion of the payments made by the latter; and, that without any contributory fault and negligence on its part, PPGI breached its undertakings under the JVA by failing to complete the condominium project. In addition to the dismissal of the complaint and the grant of its counterclaims for exemplary damages, attorney's fees, litigation expenses and the costs, petitioner interposed a cross-claim against PPGI for full reimbursement of any sum it may be adjudged liable to pay respondents.[13]

Acting on the position papers and draft decisions subsequently submitted by the parties,[14] Housing and Land Use (HLU) Arbiter Dunstan T. San Vicente went on to render the 30 July 2003 decision declaring the subject Contracts to Sell cancelled and rescinded on account of the non-completion of the condominium project. On the ground that the JVA created a partnership liability on their part, petitioner and PPGI, as co-owners of the condominium project, were ordered to pay: (a) respondents' claim for refund of the P611,519.52 they paid, with interest at the rate of 12% per annum from 5 February 1997; (b) damages in the sum of P75,000.00; (c) attorney's fees in the sum of P30,000.00; (d) the costs; and, (e) an administrative fine in the sum of P10,000.00 for violation of Sec. 20 in relation to Sec. 38 of Presidential Decree No. 957. [15] Elevated to the HLURB Board of Commissioners via the petition for review filed by petitioner,[16] the foregoing decision was modified to grant the latter's cross-claim in the 14 September 2004 decision rendered by said administrative body's Second Division in HLURB Case No. REM-A-031007-0240,[17] to wit:

> Wherefore, the petition for review of the respondent Corporation is dismissed. However, the decision of the Office below dated July 30, 2003 is modified, hence, its dispositive portion shall read:
>
> - Declaring the contracts to sell, both dated February 5, 1997, as cancelled and rescinded, and ordering the respondents to immediately pay the complainants the following:
>
> - The amount of P611,519.52, with interest at the legal rate reckoned from February 5, 1997 until fully paid;
>
> - Damages of P75,000.00;
>
> - Attorney's fees equivalent to P30,000.00; and
>
> - The Cost of suit;
>
> - Ordering respondents to pay this Office administrative fine of P10,000.00 for violation of Section 20 in relation to Section 38 of P.D. 957; and

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> - Ordering respondent Primetown to reimburse the entire amount which the respondent Corporation will be constrained to pay the complainants.
>
> So ordered.[18]

With the denial of its motion for reconsideration of the foregoing decision,[19] petitioner filed a Notice of Appeal dated 28 February 2005 which was docketed before the Office of the President (OP) as O.P. Case No. 05-B-072.[20] On 3 March 2005, the OP issued an order directing petitioner to submit its appeal memorandum within 15 days from receipt thereof.[21] Acting on the motion therefor filed, the OP also issued another order on the same date, granting petitioner a period of 15 days from 28 February 2005 or until 15 March 2005 within which to file its appeal memorandum.[22] In view of petitioner's filing of a second motion for extension dated 15 March 2005,[23] the OP issued the 18 March 2005 order granting the former an additional 10 days from 15 March 2005 or until 25 March 2005 within which to file its appeal memorandum, "provided no further extension shall be allowed."[24] Claiming to have received the aforesaid 3 March 2005 order only on 16 March 2005, however, petitioner filed its 31 March 2005 motion seeking yet another extension of 10 days or until 10 April 2005 within which to file its appeal memorandum.[25]

On 7 April 2005, respondents filed their opposition to the 31 March 2005 motion for extension of petitioner[26] which eventually filed its appeal memorandum by registered mail on 11 April 2005 in view of the fact that 10 April 2005 fell on a Sunday.[27] On 25 October 2005, the OP rendered a decision dismissing petitioner's appeal on the ground that the latter's appeal memorandum was filed out of time and that the HLURB Board committed no grave abuse of discretion in rendering the appealed decision.[28] Aggrieved by the denial of its motion for reconsideration of the foregoing decision in the 3 March 2006 order issued by the OP,[29] petitioner filed before the CA its 29 March 2006 motion for an extension of 15 days from 31 March 2006 or until 15 April 2006 within which to file its petition for review.[30] Accordingly, a non-extendible period of 15 days to file its petition for review was granted petitioner in the 31 March 2006 resolution issued by the CA Third Division in CA-G.R, SP No. 93841.[31]

Maintaining that 15 April 2006 fell on a Saturday and that pressures of work prevented its counsel from finalizing its petition for review, petitioner filed a motion on 17 April 2006, seeking for an additional time of 10 days or until 27 April 2006 within which to file said pleading.[32] Although petitioner filed by registered mail a motion to admit its attached petition for review on 19 April 2006,[33] the CA issued the herein assailed 23 May 2006 resolution,[34] disposing of the former's pending motion for extension as well as the petition itself in the following wise:

> We resolve to DENY the second extension motion and rule to DISMISS the petition for being filed late.
>
> Settled is that heavy workload is by no means excusable (Land Bank of the Philippines vs. Natividad, 458 SCRA 441 [2005]). If the failure of the petitioners' counsel to cope up with heavy workload should be considered a valid justification to sidestep the reglementary period, there would be no end to litigations so long as counsel had not been sufficiently diligent or experienced (LTS Philippine Corporation vs. Maliwat, 448 SCRA 254, 259-260 [2005], citing Sublay vs. National Labor Relations Commission, 324 SCRA 188 [2000]).
>
> Moreover, lawyers should not assume that their motion for extension or postponement will be granted the length of time they pray for (Ramos vs. Dajoyag, 378 SCRA 229 [2002]).
>
> SO ORDERED.[35]

Petitioner's motion for reconsideration of the foregoing resolution[36] was denied for lack of merit in the CA's second assailed 9 August 2006 resolution,[37] hence, this petition.

The Issues

Petitioner seeks the reversal of the assailed resolutions on the following grounds, to wit:

> - THE COURT OF APPEALS ERRED IN DISMISSING THE PETITION ON MERE TECHNICALITY;
>
> - THE COURT OF APPEALS ERRED IN REFUSING TO RESOLVE THE PETITION ON THE MERITS THEREBY AFFIRMING THE OFFICE OF THE PRESIDENT'S DECISION (A) DISMISSING JTIC'S APPEAL ON A MERE TECHNICALITY; (B) AFFIRMING THE HLURB BOARD'S DECISION INSOFAR AS IT FOUND JTIC SOLIDARILY LIABLE WITH PRIMETOWN TO PAY SPOUSES ANG DAMAGES, ATTORNEY'S FEES AND THE COST OF THE SUIT; AND (C) AFFIRMING THE HLURB BOARD'S DECISION INSOFAR AS IT FAILED TO AWARD JITC ITS COUNTERCLAIMS AGAINST SPOUSES ANG.[38]

The Court's Ruling

We find the petition bereft of merit.

While the dismissal of an appeal on purely technical grounds is concededly frowned upon,[39] it bears emphasizing that the procedural requirements of the rules on appeal are not harmless and trivial technicalities that litigants can just discard and disregard at will.[40] Neither being a natural right nor a part of due process, the rule is settled that the right to appeal is merely a statutory privilege which may be exercised only in the manner and in accordance with the provisions of the law.[41] The perfection of an appeal in the manner and within the period prescribed by law is, in fact, not only mandatory but jurisdictional.[42] Considering that they are requirements which cannot be trifled with as mere technicality to suit the interest of a party,[43] failure to perfect an appeal in the prescribed manner has the effect of rendering the judgment final and executory.[44]

Fealty to the foregoing principles impels us to discount the error petitioner imputes against the CA for denying its second motion for extension of time for lack of merit and dismissing its petition for review for having been filed out of time. Acting on the 29 March 2006 motion filed for the purpose, after all, the CA had already granted petitioner an inextendible period of 15 days from 31 March 2006 or until 15 April 2006 within which to file its petition for review. Sec. 4, Rule 43 of the 1997 Rules of Civil Procedure provides as follows:

> Sec. 4. Period of appeal. - The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days." (Underscoring supplied)

The record shows that, having been granted the 15-day extension sought in its first motion, petitioner filed a second motion for extension praying for an additional 10 days from 17 April 2006 within which to file its petition for review, on the ground that pressures of work and the demands posed by equally important cases prevented its counsel from finalizing the same. As correctly ruled by the CA, however, heavy workload cannot be considered as a valid justification to sidestep the reglementary period[45] since to do so would only serve to encourage needless delays and interminable litigations. Indeed, rules prescribing the time for doing specific acts or for taking certain proceedings are considered absolutely indispensable to prevent needless delays and to orderly and promptly discharge judicial business.[46] Corollary to the principle that the allowance or denial of a motion for extension of time is addressed to the sound discretion of the court,[47] moreover, lawyers cannot expect that their motions for

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extension or postponement will be granted[48] as a matter of course.

Although technical rules of procedure are not ends in themselves, they are necessary for an effective and expeditious administration of justice and cannot, for said reason, be discarded with the mere expediency of claiming substantial merit.[49] This holds particularly true in the case at bench where, prior to the filing of its petition for review before the CA, petitioner's appeal before the OP was likewise dismissed in view of its failure to file its appeal memorandum within the extensions of time it had been granted by said office. After being granted an initial extension of 15 days to do the same, the records disclose that petitioner was granted by the OP a second extension of 10 days from 15 March 2005 or until 25 March 2005 within which to file its appeal memorandum, on the condition that no further extensions shall be allowed. Aside from not heeding said proviso, petitioner had, consequently, no more time to extend when it filed its 31 March 2005 motion seeking yet another extension of 10 days or until 10 April 2005 within which to file its appeal memorandum.

With the foregoing procedural antecedents, the initial 15-day extension granted by the CA and the injunction under Sec. 4, Rule 43 of the 1997 Rules of Civil Procedure against further extensions "except for the most compelling reason", it was clearly inexcusable for petitioner to expediently plead its counsel's heavy workload as ground for seeking an additional extension of 10 days within which to file its petition for review. To our mind, petitioner would do well to remember that, rather than the low gate to which parties are unreasonably required to stoop, procedural rules are designed for the orderly conduct of proceedings and expeditious settlement of cases in the courts of law. Like all rules, they are required to be followed[50] and utter disregard of the same cannot be expediently rationalized by harping on the policy of liberal construction[51] which was never intended as an unfettered license to disregard the letter of the law or, for that matter, a convenient excuse to substitute substantial compliance for regular adherence thereto. When it comes to compliance with time rules, the Court cannot afford inexcusable delay.[52]

Even prescinding from the foregoing procedural considerations, we also find that the HLURB Arbiter and Board correctly held petitioner liable alongside PPGI for respondents' claims and the P10,000.00 administrative fine imposed pursuant to Section 20 in relation to Section 38 of P.D. 957. By the express terms of the JVA, it appears that petitioner not only retained ownership of the property pending completion of the condominium project[53] but had also bound itself to answer liabilities proceeding from contracts entered into by PPGI with third parties. Article VIII, Section 1 of the JVA distinctly provides as follows:

> "Sec. 1. Rescission and damages. Non-performance by either party of its obligations under this Agreement shall be excused when the same is due to Force Majeure. In such cases, the defaulting party must exercise due diligence to minimize the breach and to remedy the same at the soonest possible time. In the event that either party defaults or breaches any of the provisions of this Agreement other than by reason of Force Majeure, the other party shall have the right to terminate this Agreement by giving notice to the defaulting party, without prejudice to the filing of a civil case for damages arising from the breach of the defaulting party.
>
> In the event that the Developer shall be rendered unable to complete the Condominium Project, and such failure is directly and solely attributable to the Developer, the Owner shall send written notice to the Developer to cause the completion of the Condominium Project. If the developer fails to comply within One Hundred Eighty (180) days from such notice or, within such time, indicates its incapacity to complete the Project, the Owner shall have the right to take over the construction and cause the completion thereof. If the Owner exercises its right to complete the Condominium Project under these circumstances, this Agreement shall be automatically rescinded upon written notice to the Developer and the latter shall hold the former free and harmless from any and all liabilities to third persons arising from such rescission. In any case, the Owner shall respect and strictly comply with any covenant entered into by the Developer and third parties with respect to any of its units in the Condominium Project. To enable the owner to comply with this contingent liability, the

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> Developer shall furnish the Owner with a copy of its contracts with the said buyers on a month-to-month basis. Finally, in case the Owner would be constrained to assume the obligations of the Developer to its own buyers, the Developer shall lose its right to ask for indemnity for whatever it may have spent in the Development of the Project.
>
> Nevertheless, with respect to the buyers of the Developer for the First Phase, the area intended for the Second Phase shall not be bound and/or subjected to the said covenants and/or any other liability incurred by the Developer in connection with the development of the first phase." (Underscoring supplied)

Viewed in the light of the foregoing provision of the JVA, petitioner cannot avoid liability by claiming that it was not in any way privy to the Contracts to Sell executed by PPGI and respondents. As correctly argued by the latter, moreover, a joint venture is considered in this jurisdiction as a form of partnership and is, accordingly, governed by the law of partnerships.[54] Under Article 1824 of the Civil Code of the Philippines, all partners are solidarily liable with the partnership for everything chargeable to the partnership, including loss or injury caused to a third person or penalties incurred due to any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his co-partners.[55] Whether innocent or guilty, all the partners are solidarily liable with the partnership itself.[56]

WHEREFORE, premises considered, the petition for review is DENIED for lack of merit.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Mendoza,[*] JJ., concur.

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[*] Per raffle dated 1 March 2010, Associate Justice Jose Catral Mendoza is designated as additional member in place of Associate Justice Mariano C. Del Castillo, who was a signatory in the questioned Resolution dated 23 May 2006.

[1] Record, CA-G.R. SP No. 93841, pp. 818-819.

[2] Id. at 859-860.

[3] Record, HLURB Case No. REM-A-031007-0240/REM-072199-10567, pp. 246-255.

[4] Id. at 251-252.

[5] Id. at 249-250.

[6] Id. at 253.

[7] Id. at 2.

[8] Id. at 6-8.

[9] Id. at 3-5.

[10] Id. at 9-12.

[11] Id. at 23-29.

[12] Id. at 101-110.

[13] Id. at 133-147.

[14] Id. at 41-54; 56-77; 157-175; 178-210.

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[15] Id. at 211-214.

[16] Id. at 263-274.

[17] Id. at 396-399.

[18] Id. at 396.

[19] Id. at 401-408; 413-414.

[20] Rollo, 263-264.

[21] Record, HLURB Case No. REM-A-031007-0240/REM-072199-10567, at 424-425.

[22] Id. at 423.

[23] Rollo, pp. 270-271.

[24] Id. at 274.

[25] Id. at 278-279.

[26] Id. at 378-381.

[27] Id. at 282-296.

[28] Id. at 405-409.

[29] Id. at 410-416; 420.

[30] Record, CA-G.R. SP No. 93841, pp. 2-3.

[31] Id. at 7.

[32] Id. at 8-10.

[33] Id. at 415-421; 422-452.

[34] Id. at 818-819.

[35] Id. at 819.

[36] Id. at 820-841.

[37] Id. at 859-860.

[38] Rollo, pp. 25-26.

[39] Ace Navigation Co., Inc. v. Court of Appeals, 392 Phil. 606, 613 (2000).

[40] Casim v. Flordeliza, 425 Phil. 210, 220 (2002).

[41] Producer's Bank of the Philippines v. Court of Appeals, 430 Phil. 812, 828 (2002).

[42] Dayrit v. Philippine Bank of Communication, 435 Phil. 120, 128-129 (2002).

[43] Cuevas v. Bais Steel Corporation, 439 Phil. 793, 806 (2002).

[44] Heirs of Teofilo Gaudiano v. Benemerito, G.R. No. 174247, 21 February 2007, 516 SCRA 416, 424.

[45] LTS Philippines. Corp. v. Maliwat, 489 Phil. 230, 235 (2005).

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[46] Laguna Metts Corporation v. Court of Appeals, G.R. No. 185220, July 27, 2009, 594 SCRA 139,143.

[47] Videogram Regulatory Board v. Court of Appeals, 332 Phil. 820, 830 (1996).

[48] R. Transport Corporation v. Philhino Sales Corporation, G.R. No. 148150, 12 July 2006, 494 SCRA 630, 639.

[49] Sy v. ALC Industries, Inc. G.R. No. 168339, 10 October 2008, 568 SCRA 367, 375.

[50] Republic v. Kenrick Development Corporation, G.R. No. 149576, 8 August 2006, 498 SCRA 220, 231.

[51] Digital Microwave Corporation v. Court of Appeals, 384 Phil. 842, 848 (2000).

[52] Moneytrend Lending Corporation v. Court of Appeals, G.R. No. 165580, 20 February 2006, 482 SCRA 705, 713.

[53] Art. I. Sec. 6. Pending the completion of the Condominium Project, the ownership of the Property shall remain with the Owner. Upon the organization of the condominium corporation for the Condominium Project, the Owner shall transfer the ownership over the Property to the said corporation, shall cause the registration of the transfer with the appropriate Registry of Deeds and issuance of a new torrens title in the name of the said corporation.

[54] Primelink Properties and Development Corporation v. Lazatin-Magat, G.R. No. 167379, 27 June 2006, 493 SCRA 444, 467; Aurbach v. Sanitary Wares Manufacturing Corporation, 259 Phil. 606, 624 (1989).

[55] Art. 1822. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with authority of his co-partners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act.

[56] Muñasque vs. Court of Appeals, 224 Phil. 79, 90 (1985).

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