

VICTORIA P. CABRAL, PETITIONER, VS. JACINTO UY, MICHAEL UY, MARILYN O. UY, RICHARD O. UY, REY IGNACIO DIAZ, JOSE PO AND JUANITO MALTO, RESPONDENTS.

G.R. No. 174584. January 22, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about the power of courts to hear criminal violations of the law that protects subdivision buyers against developers selling lots before they are issued licenses to sell and the effect of the subsequent issuance of such licenses to sales that land developers make before the issuance of their licenses.

The Facts and the Case

Respondent Jacinto Uy (Uy) is the chairman of Moldex Realty, Inc. (Moldex); the other respondents are its officers and directors. Uy entered into a joint venture agreement with Quintin Bernardo for the inclusion into Moldex's residential subdivision project in Bulacan of two parcels of land, totaling 20,954 square meters, that Bernardo held under two emancipation patents.[1]

On June 21, 2001 Moldex applied for a license to sell subdivision lots in the project mentioned with the Housing and Land Use Regulatory Board (HLURB)[2] but the latter denied the application for failure to comply with the requirements.[3]

On July 2, 2002 petitioner Victoria P. Cabral filed a criminal complaint[4] against respondents Uy, et al. for violation of Section 5 of Presidential Decree (P.D.) 957, alleging that she was the registered owner of the lots subject of Bernardo's emancipation patents. She said that prior to the transaction between Bernardo and respondent Uy, the latter offered to acquire the lots from her but she refused because of the pending case for cancellation of the patents that she filed against Bernardo with the Department of Agrarian Reform Adjudication Board.

On April 28, 2003 the public prosecutor's office filed a criminal information before the Regional Trial Court of Quezon City[5] in Criminal Case Q-03-116823 against respondent Uy and the other Moldex officers, namely, respondents Michael Uy, Marilyn O. Uy, Richard O. Uy, Rey Ignacio Diaz, Jose Po, and Juanito Malto for selling subdivision lots to a certain Josefa C. Yanga without a license from the HLURB.[6]

Subsequently, however, or on September 17, 2003 the HLURB issued Moldex the license to sell that it needed.[7]

Respondents Uy, et al. filed a motion to quash the information and motion for judicial determination of probable cause[8] claiming that the office of the prosecutor and the trial court had no jurisdiction over violations of P.D. 957, such jurisdiction being with the HLURB alone and, granting that they could take cognizance of the case, respondents Uy, et al. could not be held criminally liable because the HLURB subsequently issued them a license to sell.[9]

On May 20, 2004 the trial court denied the motions of respondents Uy, et al.[10] On June 15, 2005 it also denied their motion for reconsideration,[11] prompting them to appeal to the Court of Appeals (CA) in CA-G.R. SP 90468, which court granted their prayer for the issuance of a temporary restraining order.[12] On June 2, 2006 the latter court rendered a decision,[13] upholding the trial court's jurisdiction over the subject case but ordaining its dismissal, given that the subsequent issuance of a license to sell extinguished respondents Uy, et al.'s criminal liability. Petitioner Cabral filed a motion for reconsideration but the appeals court denied[14] it, hence, this petition.

Required to comment on the petition, the Office of the Solicitor General joined the petitioner in asking this Court to reverse the CA's decision.

The Issues Presented

The issues presented in this case[15] are:

1. Whether or not the office of the public prosecutor and the trial court have jurisdiction over criminal actions for violation of P.D. 957; and
2. Whether or not HLURB's subsequent issuance to Moldex of a license to sell extinguished respondents Uy, et al.'s criminal liability for selling subdivision lots prior to the issuance of such license.

The Court's Rulings

First. Conformably with what this Court ruled in *Sia v. People*,[16] the CA correctly upheld the public prosecutor's authority to file the criminal information for violation of P.D. 957 and the trial court's power to hear and adjudicate the action, the penalty being a P20,000.00 fine and imprisonment of not exceeding 10 years or both such fine and imprisonment. This penalty brings the offense within the jurisdiction of that court.

Second. P.D. 957 has been enacted to regulate for the public good the sale of subdivision lots and condominiums. Its Section 5 prohibits such sale without the prior issuance of an HLURB license[17] and punishes those who engage in such selling.[18] The crime is regarded as *malum prohibitum* since P.D. 957 is a special law designed to protect the welfare of society and ensure the carrying on of the purposes of civil life.[19] It is the commission of that act as defined by law, not its character or effect that determines whether or not its provision has been violated. Malice or criminal intent is immaterial in such crime.[20] In crimes that are *mala prohibita*, the forbidden acts might not be inherently immoral. Still they are punished because the law says they are forbidden. With these crimes, the sole issue is whether the law has been violated.[21]

Since the Information in this case sufficiently alleged that Moldex sold a subdivision lot when it did not yet have a license to do so, the crime was done. Assuming the allegations to be true, the subsequent issuance of the license and the invocation of good faith cannot reach back to erase the offense and extinguish respondents Uy, et al.'s criminal liability.

In ruling that respondents' criminal liability has been extinguished, the CA relied on *Co Chien v. Sta. Lucia Realty and Development, Inc.*[22] But *Co Chien* is a case for refund of down payment and nullification of the contract of sale between the buyer and the developer whose license was issued only after the execution of the contract. This Court refused to void the transaction in the case because the absence of the license was not in itself sufficient to invalidate the contract. And while there was no fraud on the part of the developer, the HLURB directed it to pay an administrative fine of P20,000.00 for selling the lot without the necessary license. This only shows that the subsequent issuance of a license, as in this case, will not extinguish the liability of the developer for violation of Section 5 of P.D. 957.

WHEREFORE, the Court GRANTS the petition and REVERSES and SETS ASIDE the June 2, 2006 Decision and the August 22, 2006 Resolution of the Court of Appeals in CA-G.R. SP 90468. The Court REINSTATES the May 20, 2004 Order of the Regional Trial Court of Quezon City in Criminal Case Q-03-116823, which denied respondents' omnibus motion to quash and motion for judicial determination of probable cause.

SO ORDERED.

Carpio, Brion, Del Castillo, and Perez, JJ., concur.

[1] Emancipation Patent No. 446684, rollo, p. 287; and Emancipation Patent No. 446685, id. at 283.

[2] Id. at 298.

[3] May 2, 2002 Certification of the HLURB; id. at 323.

[4] Id. at 111.

[5] Branch 83.

[6] Rollo, p. 360.

[7] Id. at 300.

[8] Id. at 132.

[9] Id. at 300.

[10] Id. at 105. Issued by Judge Estrella T. Estrada.

[11] Id. at 108. The Order was issued by Judge Ramon A. Cruz.

[12] CA rollo, p. 265.

[13] Rollo, p. 42, penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Marina L. Buzon and Aurora Santiago-Lagman.

[14] Resolution dated August 22, 2006, id. at 43.

[15] The issue of whether or not petitioner has the personality to question the dismissal of the criminal case has been rendered moot because the Solicitor General, in representation of the people, joined the cause of the petitioner, as in the case of *Merciales v. Court of Appeals* (429 Phil. 70, 77 [2002]), thus fulfilling the requirement that all criminal actions shall be prosecuted under the direction and control of the public prosecutor.

[16] G.R. No. 159659, October 12, 2006, 504 SCRA 507, 517.

[17] Sec. 5. License to Sell. - Such owner or dealer to whom has been issued a registration certificate shall not, however, be authorized to sell any subdivision lot or condominium unit in the registered project unless he shall have first obtained a license to sell the project within two weeks from the registration of such project.

The Authority, upon proper application therefor, shall issue to such owner or dealer of a registered project a license to sell the project if, after an examination of the registration statement filed by said owner or dealer and all the pertinent documents attached thereto, he is convinced that the owner or dealer is of good repute, that his business is financially stable, and that the proposed sale of the subdivision lots or condominium units to the public would not be fraudulent.

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

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

[19] Bouvier's Law Dictionary, Rawle's Third Revision, p. 2066.

[20] Go v. The Fifth Division of Sandiganbayan, G.R. No. 172602, September 3, 2007, 532 SCRA 130, 136.

[21] Garcia v. Court of Appeals, G.R. No. 157171, March 14, 2006, 484 SCRA 617, 622.

[22] G.R. No. 162090, January 31, 2007, 513 SCRA 570.

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