

**GOVERNMENT SERVICE INSURANCE SYSTEM, PETITIONER, VS.
BOARD OF COMMISSIONERS (2ND DIVISION), BOARD OF
COMMISSIONERS OF THE HOUSING AND LAND USE REGULATORY
BOARD (HLURB) HLURB NAT...**

G.R. No. 180062. May 05, 2010

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-180062/>

CARPIO MORALES, J.:

New San Jose Builders, Inc. (NSJBI) mortgaged on December 10, 1997 three parcels of land together with the existing improvements, 366 lots with existing low cost houses, and 102 condominium units located on Scout Rallos Street, Quezon City to the Government Service Insurance System (GSIS) to secure the payment of a loan amounting to Six Hundred Million (P600,000,000) Pesos. The mortgaged properties included Condominium Unit 312 (the condominium unit) which was later sold by NSJBI to respondent spouses Marcelino and Alma De los Reyes (spouses De los Reyes) by Deed of Absolute Sale dated May 28, 2001.

NSJBI defaulted in its loan obligation, hence, the GSIS foreclosed the mortgage and purchased the properties covered thereby on June 17, 2003. The Certificate of Sale, dated June 20, 2003, issued to GSIS was registered with the Registry of Deeds of Quezon City on September 19, 2003.

The spouses De los Reyes later discovered the mortgage and eventual sale of the condominium unit to GSIS, hence, they filed on June 15, 2004, a complaint against herein respondents NSJBI, et al. with the Housing and Land Use Regulatory Board (HLURB), docketed as REM - 061504-12726,[1] praying as follows:

- Ordering the revocation of the Certificate of Registration and License to Sell of the respondent corporation, New San Jose Builders, Inc. (NSJBI);
- Ordering the respondent corporation New San Jose Builders, Inc. (NSJBI) and the individual respondents Rey L. Vergara and Carol B. Ros to immediately cause the release and delivery to herein complainants of the Condominium Certificate of Title No. N-18117 covering Unit 312 of Saint John Condominium, free from all liens and encumbrances;
- Ordering the respondent Government Service Insurance System to release the mortgage on Condominium Certificate of Title No. N-18117 covering Unit 312 of Saint John Condominium;
- Ordering the respondent corporation New San Jose Builders, Inc. (NSJBI) and individual respondents President Rey L. Vergara and AVP for Marketing Carol B. Ros to indemnify the complainants, jointly and severally, the following amounts . . .

x x x x[2]

In its Answer, GSIS claimed that the spouses De los Reyes had no cause of action against it as the mortgage was executed prior to the sale of the condominium unit[3] to which sale it (GSIS) was not a party.

Before the expiration of the redemption period or on September 20, 2004, the spouses De los Reyes filed an Urgent Motion for Issuance of a Writ of Preliminary Injunction with Prayer for a Temporary Restraining Order to restrain GSIS from consolidating its title to the condominium unit.

GSIS opposed the motion, alleging that Presidential Decree (PD) No. 385,[4] in relation to Letter of Instruction No. 411, prohibits the issuance of a restraining order against any government financial institution in any action taken by it in compliance with the mandatory foreclosure under said PD.[5]

By Order of November 16, 2004,[6] House and Land Use Arbiter Rowena C. Balasolla granted the spouses De los Reyes's motion and issued a Cease and Desist Order (CDO) restraining GSIS from consolidating ownership of the condominium unit.

On the appeal of GSIS, the HLURB Second Division, by Decision of June 23, 2005, affirmed the Arbiter's ruling, it holding that PD No. 385 applies only to on-going foreclosure proceedings. Besides, it noted that

. . . an examination of the project's technical docket shows that no mortgage clearance was secured beforehand. Thus, said respondents violated Section 18 of P.D. No. 957 which provides that no mortgage on any unit or lot shall be made by the owner or developer without prior written approval of this Board. This being so, the said mortgage and the incidents which transpired subsequent thereto are void.[7] (emphasis and underscoring supplied)

GSIS's motion for reconsideration, filed before the Board En Banc, was denied by the Second Division by Resolution of October 21, 2005, prompting it to file a petition for certiorari before the Court of Appeals.

In addition to its arguments proffered before the HLURB, GSIS alleged that the HLURB acted without jurisdiction, for only three members, instead of the nine-man Board of Commissioners, entertained the appeal, contrary to the mandate of Sections 5 and 6(a) of Executive Order (E.O.) No. 648 (1981), as amended.[8]

The Court of Appeals, by Decision of June 28, 2007,[9] dismissed GSIS's petition and accordingly ordered the Arbiter to proceed with dispatch in the disposition of the spouses De los Reyes's complaint.

In dismissing GSIS's petition, the appellate court held that the HLURB Second Division did not abuse its discretion in taking jurisdiction over GSIS's motion for reconsideration-appeal, for 2004, the HLURB Revised Rules of Procedure provides that appeals shall be decided by the Board of Commissioners sitting en banc or by division in accordance with the internal rules of the Board.[10]

On the merits, the Court of Appeals ratiocinated that the requisites for the issuance of a writ of preliminary injunction were present; and since the act sought to be enjoined pertains to the consolidation process, it is outside the intended ambit of PD No. 385.

GSIS's motion for reconsideration having been denied by the appellate court by Resolution of October 10, 2007, the present petition for review was filed.

GSIS argues in the main that the HLURB Revised Rules of Procedure did not vest authority in the Board's Second Division to entertain appeals.

The Court is not persuaded.

Section 5 of E.O. No. 648 specifically mandates the HLURB Board of Commissioners to adopt rules of procedure for the conduct of its business and perform such functions necessary for the effective discharge thereof. Such grant of power necessary to carry out its functions has been held to be an adequate source of authority to delegate a particular function, unless, by express provision of the Act or by implication, it has been withheld.[11]

The present composition of the Board of Commissioners,[12] wherein five out of its nine members sit in ex-officio capacity while the remaining four serve as full time commissioners, practicality necessitates the establishment of a procedure whereby a case on appeal may be decided by members of a division.

Since the 2004 HLURB Rules of Procedure provides that a motion for reconsideration shall be assigned to the Division from which the decision, order or ruling originated,[13] the questioned cognizance by the HLURB Second Division of GSIS's motion for reconsideration is in order.

Respecting GSIS's argument that PD No. 385 prohibits the issuance of a CDO, the pertinent provisions of the decree read:

Section 1. It shall be mandatory for government financial institutions, after the lapse of sixty (60) days from the issuance of this Decree, to foreclose the collaterals and/or securities for any loan, credit, accommodation, and/or guarantees granted by them whenever the arrearages on such account, including accrued interest and other charges, amount to at least twenty percent (20%) of the total outstanding obligations, including interest and other charges, as appearing in the books of account and/or related records of the financial institution concerned. This shall be without prejudice to the exercise by the government financial institutions of such rights and/or remedies available to them under their respective contracts with their debtors, including the right to foreclose on loans, credits, accommodations and/or guarantees on which the arrearages are less than twenty percent (20%).

Section 2. No restraining order, temporary or permanent injunction shall be issued by the court against any government financial institution in any action taken by such institution in compliance with the mandatory foreclosure provided in Section 1 hereof, whether such restraining order, temporary or permanent injunction is sought by the borrower(s) or any third party or parties, except after due hearing in which it is established by the borrower and admitted by the government financial institution concerned that twenty percent (20%) of the outstanding arrearages has been paid after the filing of foreclosure proceedings.

In case a restraining order or injunction is issued, the borrower shall nevertheless be legally obligated to liquidate the remaining balance of the arrearages outstanding as of the time of foreclosure, plus interest and other charges, on every succeeding thirtieth (30th) day after the issuance of such restraining order or injunction until the entire arrearages have been liquidated. These shall be in addition to the payment of amortization currently maturing. The restraining order or injunction shall automatically be dissolved should the borrower fail to make any of the above-mentioned payments on due dates, and no restraining order or injunction shall be issued thereafter. This shall be without prejudice to the exercise by the government financial institutions of such rights and/or remedies available to them under their respective charters and their respective contracts with their debtors, nor should this provision be construed as restricting the government financial institutions concerned from approving, solely at its own discretion, any restructuring, recapitalization, or any other arrangement that would place the entire account on a current basis, provided, however, that at least twenty percent (20%) of the arrearages outstanding at the time of the foreclosure is paid.

All restraining orders and injunctions existing as of the date of this Decree on foreclosure proceedings filed by said government financial institutions shall be considered lifted unless finally resolved by the court within sixty (60) days from date hereof. (underscoring supplied)

The act subject of the CDO was the intended consolidation by the GSIS of ownership of the condominium unit, not the mandatory foreclosure of the mortgage. At any rate, the second paragraph of the above-quoted Section 2 of PD No. 385 in fact recognizes the eventuality that an injunction may be issued against a government financial institution, hence, it obliges the borrower to liquidate the arrearages due in order to safeguard the interests of the government financial institution-lender.

Undoubtedly, the jurisdiction of the HLURB to regulate the real estate business is broad enough to include

jurisdiction over a complaint for annulment of foreclosure sale and mortgage and the grant of incidental reliefs such as a CDO. [14] Even Presidential Decree No. 957, "The Subdivision and Condominium Buyers Protective Decree," authorizes the HLURB as successor of the National Housing Authority to issue CDOs in relevant cases, viz:

SECTION 16. Cease and Desist Order. -- Whenever it shall appear to the Authority that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of the provisions of this Decree, or of any rule or regulation thereunder, it may, upon due notice and hearing as provided in Section 13 hereof, issue a cease and desist order to enjoin such act or practices.

WHEREFORE, the challenged Court of Appeals Decision of June 28, 2007 is **AFFIRMED**. The Housing and Land Use Arbiter is **ORDERED** to proceed with dispatch with private respondent spouses De los Reyes's complaint.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] HLURB records, Vol. 1, pp. 1-16 (documents are paginated in reverse order).

[2] Id. at 11-12.

[3] Rollo, pp. 55-56.

[4] Entitled, "Requiring Government Financial Institutions to Foreclose Mandatorily All Loans with Arrearages, including Interest and Charges amounting to at least Twenty Percent (20%) of the Total Outstanding Obligation."

[5] Section 1. It shall be mandatory for government financial institutions, after the lapse of sixty (60) days from the issuance of this Decree, to foreclose the collaterals and/or securities for any loan, credit, accommodation, and/or guarantees granted by them whenever the arrearages on such account, including accrued interest and other charges, amount to at least twenty percent (20%) of the total outstanding obligations, including interest and other charges, as appearing in the books of account and/or related records of the financial institution concerned. This shall be without prejudice to the exercise by the government financial institutions of such rights and/or remedies available to them under their respective contracts with their debtors, including the right to foreclose on loans, credits, accommodations and/or guarantees on which the arrearages are less than twenty percent (20%).

[6] Rollo, pp. 74-75.

[7] Id. at 95.

[8] Reorganizing The Human Settlements Regulatory Commission (Predecessor of The Hlurb), Enacted on February 7, 1981.

[9] Penned by Associate Justice Marlene Gonzales-Sison, with the concurrence of Associate Justices Juan Q. Enriquez, Jr. and Vicente S.E. Veloso, rollo pp.136-150.

[10] Section 2, Rule XX, 2004 HLURB Revised Rules of Procedure.

[11] Realty Exchange Venture Corporation and/or Magdiwang Realty Corporation v. Lucina S. Sendino and the Office of the Executive Secretary, G.R. No. 109703, July 5, 1994, 233 SCRA 665 citing American Tobacco Co. v. Director of Patents, 67 SCRA 287, 292 (1975).

[12] Under Section 5(J), Article IV of E.O. No. 648, Series of 1981, as amended by E.O. No. 90, Series of 1986, the recent rules of procedure promulgated by the Board in Resolution No. R-538, Series of 1994, enumerate the composition of the HLURB Board of Commissioners as follows:

"Sec. 1.-- Membership

"The Board of Commissioners shall be composed of the following:

"1. The Chairman, Housing and Urban Development Coordinating Council (HUDCC), as Ex-Officio Chairman;

"2. The Four Full-Time Commissioners;

"3. The Ex-Officio Commissioners referred to in Executive Order 648, representing . . . :

'a. The Department of Justice

'b. The Department of the National Economic and Development Authority;

'c. The Department of Local Government; and

'd. The Department of Public Works and Highways, (1a)'"

[13] 2004 HLURB Rules of Procedure, Rule XXI, Section 1.

[14] Home Bankers Savings & Trust Co. v. Court of Appeals, G.R. No. 128354, April 26, 2005, 457 SCRA 167.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.