SAN LORENZO RUIZ BUILDERS AND DEVELOPERS GROUP, INC. AND OSCAR VIOLAGO, PETITIONERS, VS. MA. CRISTINA F. BAYANG, RESPONDENT.

G.R. No. 194702. April 20, 2015

Ponente: BRION, J.

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BRION, J.:

This is a petition for review on certiorari assailing the July 23, 2010 decision[1] and the December 2, 2010 resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 100332. The CA affirmed the resolutions dated November 17, 2006 and July 26, 2007 of the Office of President in O.P. Case No. 06-D-160, which dismissed the appeal of petitioners San Lorenzo Ruiz Builders and Developers Group, Inc. (SLR Builders) and Oscar Violago for having been filed out of time.

Facts

On April 15, 2000, petitioner SLR Builders (then known as Violago Builders, Inc), as seller, and respondent Ma. Cristina F. Bayang (Cristina), as buyer, entered into a "contract to sell" of a sixty (60)-square meter lot in Violago Homes Parkwoods Subdivision, located in Barangay Payatas, Quezon City.

Upon full payment of the monthly amortizations on the purchased lot, Cristina demanded from SLR Builders the execution of the deed of absolute sale and the lot's certificate of title but the latter failed to deliver, prompting Cristina to file a complaint for specific performance and damages against SLR Builders and its President, Oscar Violago (petitioners) before the Housing and Land Use Regulatory Board (HLURB).

In a decision[3] dated February 16, 2004, Housing and Land Use Arbiter Atty. Joselito F. Melchor ruled in Cristina's favor, to wit:

> WHEREFORE, premises considered, judgment is hereby rendered as follows:
>
> - Ordering the respondents (referring to the petitioners) to execute the Deed of Absolute Sale of the subject property in the name of the complainant (referring to the respondent) and deliver the title thereof free from all liens and encumbrances;
>
> - In the alternative, in case of legal and physical impossibility of the respondents to perform the aforementioned acts in the preceding paragraph, respondent San Lorenzo Ruiz Builders and Developers Group, Incorporated is hereby ordered to reimburse to the complainant the amount of THREE HUNDRED TWENTY FOUR THOUSAND EIGHT HUNDRED SIXTY FIVE PESOS & 16/100 (P324,865.16) with legal interest of twelve percent (12%) per annum to be computed from the filing of the complaint on November 04, 2002 until fully paid; and
>
> - Ordering respondent San Lorenzo Ruiz Builders and Developers Group, Incorporated to pay the following sums:

- FIVE THOUSAND PESOS (P5,000.00) as moral damages;

- FIVE THOUSAND PESOS (P5,000.00) as exemplary damages;

- FIVE THOUSAND PESOS (P5,000.00) as attorney's fees;

- An administrative fine of TEN THOUSAND PESOS (P10,000.00) payable to this Office fifteen (15) days upon receipt of this decision, for violation of Section 18 in relation to Section 38 of PD 957.

SO ORDERED.[4]

The petitioners appealed Arbiter Melchor's decision to the HLURB Board of Commissioners. The Board dismissed[5] and denied,[6] respectively, the petitioners' appeal and subsequent motion for reconsideration. The petitioners then brought their case to the Office of the President (OP), which was docketed as O.P. Case No. 06-D-160.

In a resolution[7] dated November 17, 2006, the OP dismissed the petitioners' appeal for having been filed out of time. The OP's resolution stated:

> A review of the records shows that the HLURB Decision affirming the Arbiter's decision was received by the respondents/appellants (referring to the petitioners) on July 27, 2005. On that date, the 15-day prescriptive period within which to file an appeal began to run. Instead of preparing an appeal, respondents-appellants opted to file a Motion for Reconsideration on August 10, 2005. Their filing of the said motion interrupted the period of appeal by that time, however, fourteen (14) days had already elapsed.
>
> On April 17, 2006, respondents-appellants received the Resolution denying their Motion for Reconsideration. Following the above rules, respondents-appellants have only one (1) day left, or until April 18, 2006, within which to file their notice of appeal to this Office. Unfortunately, they were able to do so only on April 27, 2006, or nine (9) days late[8] (Emphasis supplied.)

The petitioners moved to reconsider and argued that the "fresh period rule" enunciated in the case of Domingo Neypes, et at. v. Court of Appeals, et al.[9] should be applied to their case.

The OP, in a resolution[10] dated July 26, 2007, denied the petitioners' motion with finality, stating that the "fresh period rule" applies only to judicial appeals and not to administrative appeals, such as in petitioners' case. The petitioners then appealed to the CA via petition for review under Rule 43 of the Rules of Court.

In its assailed decision, the CA denied the petitioners' petition for review. The CA, likewise, denied the petitioners' motion for reconsideration; hence, the filing of the present petition for review on certiorari with this Court.

Issue
Whether the "fresh period rule" in Neypes applies to administrative appeals, such as an appeal filed from a decision of the HLURB Board of Commissioners to the Office to the President.

Our Ruling
We DENY the petition. It is settled that the "fresh period rule" in Neypes applies only to judicial appeals and not to administrative appeals.

In Panolino v. Tajala,[11] the Court was confronted with a similar issue of whether the "fresh period rule" applies to an appeal filed from the decision or order of the DENR regional office to the DENR Secretary, an appeal which is administrative in nature. We held in Panolino that the "fresh period rule" only covers judicial proceedings under the 1997 Rules of Civil Procedure:

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> The "fresh period rule" in Neypes declares:
> To standardize the appeal periods provided in the Rules and to afford litigants fair opportunity to appeal their cases, the Court deems it practical to allow a fresh period of 15 days within which to file the notice of appeal in the Regional Trial Court, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.
>
> Henceforth, this "fresh period rule" shall also apply to Rule 40 governing appeals from the Municipal Trial Courts to the Regional Trial Courts; Rule 42 on petitions for review from the Regional Trial Courts to the Court of Appeals; Rule 43 on appeals from quasi-judicial agencies to the Court of Appeals; and Rule 45 governing appeals by certiorari to the Supreme Court. The new rule aims to regiment or make the appeal period uniform, to be counted from receipt of the order denying the motion for new trial, motion for reconsideration (whether full or partial) or any final order or resolution.
>
> x x x x x x x x x
> As reflected in the above-quoted portion of the decision in Neypes, the "fresh period rule" shall apply to Rule 40_(appeals from the Municipal Trial Courts to the Regional Trial Courts); Rule 41 (appeals from the Regional Trial Courts to the Court of Appeals or Supreme Court); Rule 42 (appeals from the Regional Trial Courts to the Court of Appeals); Rule 43 (appeals from quasi-judicial agencies to the Court of Appeals); and Rule 45 (appeals by certiorari to the Supreme Court). Obviously, these Rules cover judicial proceedings under the 1997 Rules of Civil Procedure.
>
> Petitioner's present case is administrative in nature involving an appeal from the decision or order of the DENR regional office to the DENR Secretary. Such appeal is indeed governed by Section 1 of Administrative Order No. 87, Series of 1990. As earlier quoted, Section 1 clearly provides that if the motion for reconsideration is denied, the movant shall perfect his appeal "during the remainder of the period of appeal, reckoned from receipt of the resolution of denial;" whereas if the decision is reversed, the adverse party has a fresh 15-day period to perfect his appeal. (Emphasis supplied.)

In this case, the subject appeal, i.e., appeal from a decision of the HLURB Board of Commissioners to the OP, is not judicial but administrative in nature; thus, the "fresh period rule" in Neypes does not apply.

As aptly pointed out by the OP, the rules and regulations governing appeals from decisions of the HLURB Board of Commissioners to the OP are Section 2, Rule XXI of HLURB Resolution No. 765, series of 2004, in relation to Paragraph 2, Section 1 of Administrative Order No. 18, series of 1987:

> Section 2, Rule XXI of the HLURB Resolution No. 765, series of 2004, prescribing the rules and regulations governing appeals from decisions of the Board of Commissioners to the Office of the President, pertinently reads:
> 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.
>
> The pendency of the motion for reconsideration shall suspend the running of the period of appeal to the Office of the President.

Corollary thereto, paragraph 2, Section 1 of Administrative Order No. 18, series of 1987, provides that in case the aggrieved party files a motion for reconsideration from an adverse decision of any agency/office, the said party has the only remaining balance of the prescriptive period within which to appeal, reckoned from receipt of notice of the decision denying his/her motion for reconsideration.[12] (Emphasis supplied.)

Thus, in applying the above-mentioned rules to the present case, we find that the CA correctly affirmed the OP in dismissing the petitioners' appeal for having been filed out of time.

WHEREFORE, we DENY the present petition for review on certiorari and AFFIRM the decision dated July 23, 2010 and resolution dated December 2, 2010 of the Court of Appeals in CA-G.R. SP No. 100332.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Mendoza, and Leonen, JJ., concur.

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[1] Penned by Associate Justice Antonio L. Villamor, with Associate Justices Jose C. Reyes, Jr. and Ruben C. Ayson, concurring; rollo, pp. 128-136.

[2] Id. at 148-149.

[3] Id. at 64-67.

[4] Id.

[5] In a decision dated June 27, 2005, id. at 88-90.

[6] In a resolution dated March 30, 2006, id. at 97-98.

[7] Id. at 110-111.

[8] Id.

[9] 469 SCRA 633.

[10] Rollo, pp. 112-114.

[11] G.R. No. 183616, June 29, 2010.

[12] Rollo, p. 110.

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