

**ANTOLIN T. NAGUIAT, PETITIONER, VS. HONORABLE
INTERMEDIATE APPELLATE COURT, THIRD SPECIAL CASES
DIVISION, TIMOG SILANGAN DEVELOPMENT CORPORATION AND
MANUEL P. LAZATIN, RESPONDENTS.**

G.R. No. 73836. August 18, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

Petition to review on certiorari the decision[*] of the Intermediate Appellate Court, dated 9 October 1985, in AC-G.R. SP No. 06521 and AC-G.R. SP No. 06522, entitled “Manuel P. Lazatin and Timog Silangan Development Corporation versus The Honorable Lourdes K. Tayao-Jaguros, in her capacity as Presiding Judge, Branch LX, Regional Trial Court, Angeles City, and Antolin T. Naguiat,” which set aside the Orders[**] of the Regional Trial Court of Angeles City, Branch LX, dated 20 March 1985 and 29 May 1985, issued in Criminal Case No. 6727 and Civil Case No. 4224.

Timog Silangan Development Corporation (TSDC, for short) is a domestic corporation engaged in the business of developing and selling subdivision lots in “Timog Park,” located in Angeles City, with Manuel P. Lazatin (Lazatin, for short) as its President.

On 7 February 1983, petitioner Antolin T. Naguiat purchased, on installment basis, four (4) lots from TSDC, identified as Lots Nos. 13, 14, 15 and 16, of Block 26 of Timog Park. Each lot consists of 300 square meters. The four (4) lots have a total area of 1,200 square meters, with a price of P60.00 per square meter, as alleged by petitioner. On the same date above mentioned, 7 February 1983, petitioner made a down payment of P7,200.00, representing 10% of the alleged total price of P72,000.00 for the four (4) lots. A corresponding receipt for the down payment was issued by TSDC to the petitioner.[1]

While the Contract to Sell between TSDC and the petitioner stipulated a two-year period within which to pay the total contract price, the latter made substantial payments in the months of June to August 1983. Then on 10 August 1983, he paid the sum of P12,529.30 as his alleged full payment for Lot No. 16, after which, TSDC caused to be issued in the name of the petitioner the title to said lot.[2]

On 7 November 1983, petitioner paid TSDC the amount of P36,067.97, which was allegedly his full payment for the remaining three (3) lots, namely, Lots Nos. 13, 14 and 15. A corresponding receipt for said amount was also issued by TSDC to the petitioner.[3]

Thereafter, from December 1983 up to June 1984, petitioner demanded from TSDC the issuance in his favor of the certificates of title for the three (3) lots, last paid for, but the private respondents (TSDC and Lazatin) refused on the ground that the petitioner had not fully paid for said three (3) lots.

According to private respondents, sometime in January, 1983, TSDC's Board of Directors approved the petitioner's contemplated purchase of the aforesaid lots. To confirm the agreement, respondent Lazatin wrote

petitioner a letter reiterating standard conditions of the sale, which the petitioner allegedly accepted by affixing his conformity to said letter. The conditions for the sale of the lots were among others, “(i) 10% down payment with a commitment to commence construction therefrom (thereon) in one month's time; (ii) said construction to be finished within a period of six (6) months; and, (iii) the effective price was P70 per square meter with a rebate of P10.00 per square meter upon completion of the house in six (6) months.”[4]

But, as alleged by the private respondents, petitioner commenced the construction of a house on one lot but failed to finish it within the stipulated period of six (6) months. And as to the other lots, petitioner allegedly failed altogether to construct houses on them.[5]

Hence, private respondents contend that since petitioner did not comply with the agreement, he was not entitled to the 10% rebate in price, and as a consequence, the previous payments made by petitioner did not amount to full payment as required for all the lots and which would have entitled petitioner to the issuance and delivery of the certificates of title to all the lots.

Thereafter, on 26 July 1984, petitioner filed a complaint for specific performance with damages, with the Regional Trial Court of Angeles City, Branch LX, docketed as Civil Case No. 4224. In his complaint, petitioner prayed, among others, that judgment be rendered ordering private respondents to deliver to him the transfer certificates of title covering the three (3) lots which he had allegedly fully paid for, and which private respondents had refused to do so.

Moreover, the complaint prayed that judgment be rendered ordering the private respondents to jointly and severally pay the petitioner, actual damages equal to P320,000.00, representing unrealized profits; moral damages at the discretion of the court; and, attorney's fees equal to P15,000.00, plus the costs of the action.[6]

Before the civil action was filed, petitioner also filed on 5 June 1984 with the City Fiscal of Angeles City a criminal complaint against herein respondent Manuel Lazatin, for violation of Presidential Decree No. 957, specifically Section 25 thereof, which provides:

"PRESIDENTIAL DECREE NO. 957

REGULATING THE SALE OF SUBDIVISIONS LOTS AND CONDOMINIUMS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF.

SEC. 25. Issuance of Title. - The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit. No fee, except those required for the registration of the deed of sale in the Registry of Deeds shall be collected for the issuance of such title. In the event a mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, the owner or developer shall redeem the mortgage or the corresponding portion thereof within six months from such issuance in order that the title over any fully paid lot or unit may be secured and delivered to the buyer in accordance herewith.

x x x

SEC. 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, partnership, 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.” (Italics ours)

On 13 September 1984, an information was filed against respondent Lazatin, docketed as Criminal Case No. 6727, and was raffled to Branch LX where Civil Case No. 4224 was docketed earlier.

On the basis of Rule 111, Section 3(a) of the Rules on Criminal Procedure, the petitioner filed on 23 February 1985 a motion to consolidate Civil Case No. 4224 and Criminal Case No. 6727. Despite the objection and opposition of the private respondents, in an Order dated 20 March 1985, the trial court granted the motion and ordered consolidation of the two (2) cases.

On 14 May 1985, at the pre-trial hearing of both cases, petitioners counsel appeared as counsel for the plaintiff in Civil Case No. 4224, and as private prosecutor in Criminal Case No. 6727. Private respondents objected, and filed their motion and Opposition to Appearance of Plaintiff as Private Prosecutor with respect to the trial of the Criminal Case; the opposition was overruled by the trial court, in its Order dated 29 May 1985.

Hence, private respondents filed a petition for certiorari and prohibition with the respondent appellate court, seeking the annulment of the orders of the trial court, dated 20 March 1985 and 29 May 1985. In due course, the respondent appellate court rendered a decision favorable to herein private respondents, the dispositive part of which is quoted hereunder.

“WHEREFORE, the petition for certiorari and prohibition is hereby GRANTED, and the questioned orders dated March 20, 1985 and May 29, 1985 are set aside. The respondent Court is ordered to suspend trial of the civil action until final determination of the criminal case, in line with the spirit of Section 3, Rule 111 (Rules of Court) and not (to) allow the intervention of the private-respondent in the active prosecution of Criminal Case No. 6727. No Costs.”[7]

The decision of the respondent appellate court was received by petitioner’s counsel on 16 October 1985. On 30 October 1985, petitioner’s counsel filed with the respondent appellate court a Motion for Extension of Time to file a motion for reconsideration of aforesaid decision, praying for fifteen (15) days from 31 October 1985, within which to file said motion.

On 15 November 1985, petitioner’s counsel filed a Second Motion for Extension of Time to file a motion for reconsideration, praying for another fifteen (15) days from 15 November 1985, within which to file said motion for reconsideration.

On 18 November 1985, petitioner’s counsel received the resolution of the respondent appellate court dated 12 November 1985, denying the first motion for extension of time, stating among others that the fifteen (15) day period to file a motion for reconsideration is non-extendible.

On 2 December 1985, petitioner’s counsel still filed his motion for reconsideration.

On 16 December 1985, petitioner’s counsel received the resolution of the respondent appellate court, dated 12 December 1985, denying petitioner’s second motion for extension of time to file a motion for reconsideration, thus reiterating its Resolution of 12 November 1985.

On 21 February 1986, petitioner’s counsel received the resolution of the respondent appellate court dated 14

February 1986, denying the motion for reconsideration filed on 2 December 1985.

Hence, this petition for certiorari.

Before going into the merits of the petition, the procedural aspect should first be threshed out and settled.

As admitted by petitioner himself, he filed with the respondent appellate court two (2) motions for extension of time to file motion for reconsideration of the latter court's decision, with the justification that the two (2) motions were timely and properly presented, since they were filed before the expiration of the respective periods sought to be extended.[8]

The case of *Habaluyas Enterprises, Inc. v. Japzon*,[9] has ruled that:

“Beginning one month after the promulgation of this Resolution, the rule shall be strictly enforced that no motion for extension of time to file a motion for new trial or reconsideration may be filed with Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court.”

Based on the aforequoted ruling of the *Habaluyas* case, motions for extension of time to file a motion for new trial or reconsideration may no longer be filed before all courts, lower than the Supreme Court.[10] The rule in *Habaluyas* applies even if the motion is filed before the expiration of the period sought to be extended, because the fifteen (15) day period for filing a motion for new trial or reconsideration with said courts, is non-extendible.

But as resolved also in the *Habaluyas* case, the rule that no motion for extension of time to file a motion for new trial or reconsideration may be filed with the Metropolitan or Municipal Trial Courts, the Regional Trial Courts, and the Intermediate Appellate Court, shall be strictly enforced “beginning one month after the promulgation of this Resolution.” The Court promulgated the *Habaluyas* resolution on 30 May 1986. Thus, the *Habaluyas* ruling became effective, and strictly enforced, only beginning 1 July 1986.

In the case at bar, the petitioner filed his motions for extension of time to file a motion for reconsideration on 30 October 1985 and 15 November 1985, both within the periods sought to be extended. Hence the *Habaluyas* ruling did not yet apply to bar said motions for extension.

Coming now to the merits of the case, petitioner prays for the reversal of the decision of the respondent appellate court, and the reinstatement of the orders of the trial court, allowing the consolidation of the civil and criminal case before said trial court, and the intervention of the petitioner's counsel as private prosecutor in the criminal case.

As a ground for the consolidation of the criminal and civil cases, petitioner invokes Rule 111, Sec. 3(a), Rules of Court, which provides:

“Sec. 3. Other civil actions arising from offenses.- Whenever the offended party shall have instituted the civil action to enforce the civil liability arising from the offense, as contemplated in the first paragraph of Section 1 hereof, the following rules shall be observed:

(a) ‘After a criminal action has been commenced, the pending civil action arising from the same offense shall be suspended, in whatever stage it may be found until final judgment in the criminal proceeding has been

rendered. However, if no final judgment has been rendered by the trial court in the civil action, the same may be consolidated with the criminal action upon application with the court trying the criminal action. If the application is granted, the evidence presented and admitted in the civil action shall be deemed automatically reproduced in the criminal action, without prejudiced to the admission of additional evidence that any party may wish to present. (*Italics supplied*)

xxx xxx xxx ”

Under the aforequoted provision, the civil action that may be consolidated with a criminal action, is one for the recovery of civil liability arising from the criminal offense, or *ex delicto*. In the case at bar, the civil action filed by the petitioner was for specific performance with damages. The main relief sought in the latter case, i.e., the delivery of the certificates of title to the lots which petitioner had allegedly fully paid for, was grounded on the Contract to Sell between the petitioner and the private respondent. Hence the civil action filed by the petitioner was for the enforcement of an obligation arising from a contract, or *ex contractu*, and not one for the recovery of civil liability arising from an offense, hence, the law invoked by the petitioner is inapplicable.

But, as held in *Canos v. Peralta*,^[11] the consolidation of a criminal action with a civil action arising not *ex delicto*, may still be done, based upon the express authority of Section 1, Rule 31 of the Rules of Court, which provides:

"Section 1. Consolidation. - When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay."

In *Canos v. Peralta*, where the Court sustained the order of a trial court to consolidate a civil action (an action for the recovery of wage differential, overtime and termination pay, plus damages) with a criminal action (for violation of the Minimum Wage Law), it was held that:

"A court may order several actions pending before it to be tried together where they arise from the same act, event or transaction, involve the same or like issues, and depend largely or substantially on the same evidence, provided that the court has jurisdiction over the cases to be consolidated and that a joint trial will not give one party an undue advantage or prejudice the substantial rights of any of the parties, x x x

The obvious purpose of the above rule is to avoid multiplicity of suits, to guard against oppression and abuse, to prevent delays, to clear congested dockets, to simplify the work of the trial court; in short the attainment of justice with the least expense and vexation to the parties litigants."^[12]

In the cases at bar, the nature of the issues involved, at least, the factual issues in the civil and criminal actions are almost identical, i.e., whether or not petitioner had fully paid for the lots he purchased from the private respondents, so as to entitle him to the delivery of the certificates of title to said lots. The evidence in both cases, likewise, would virtually be the same, which are, the Contract to Sell, the letter which contains the conditions for the purchase of the lots and, to which petitioner allegedly affixed his conformity, the official receipts for the alleged payments made by the petitioner, and other related documents.

Based on the foregoing, and considering that the criminal action filed is one for violation of a special law where, irrespective of the motives, mere commission of the act prohibited by said special law, constitutes the offense, then the intervention of the petitioner's counsel, as private prosecutor in the criminal action, will not prejudice the substantial rights of the accused.

The consolidation of the two (2) cases in question, where petitioner's counsel may act as counsel for the plaintiff in the civil case and private prosecutor in the criminal case, will instead be conducive to the early termination of the two (2) cases, and will redound to the benefit and convenience of the parties; as well as to the speedy administration of justice.

WHEREFORE, the petition is GRANTED. The decision of the respondent appellate court, dated 9 October 1985, is SET ASIDE. The Orders of the trial court, in Civil Case No. 4224 and Criminal Case No. 6727, dated 20 March 1985 and 29 May 1985 are REINSTATED.

SO ORDERED.

Melencio-Herrera (Chairman), Paras, and Sarmiento, JJ., concur.

[*] Penned by Justice Alfredo M. Lazaro, with the concurrence of Justices Juan A. Sison and Jose A. Melo.

[**] Issued by Judge Lourdes Tayao-Jaguros.

[1] Petition, p. 4

[2] Petition, p. 5

[3] Id.

[4] Rollo, p. 63

[5] Id.

[6] Decision of the Court of Appeals, pp. 1-2

[7] Decision of the Court of Appeals, p.8.

[8] Petition, p. 16.

[9] G.R. No. 70895, 30 May 1986, 142 SCRA 208 as reiterated in Lacsamana, et al v. IAC, G.R. Nos. 73146-53, 26 August 1986, 143 SCRA 643.

[10] In the Supreme Court itself, "as a matter of policy, no motion for extension of time to file a motion for reconsideration shall be granted after the Court has rendered its judgment ..." (res. dated 28 January 1988).

[11] G.R. No. L-38352, 19 August 1982, 115 SCRA 843

[12] id.

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