

MS. EMILY YU FAJARDO, SPOUSES SALVADOR AND ENGRACIA GIANAN, SPOUSES RENE AND BEVERLY RODELAS, SPOUSES JULIAN AND TERESITA CUIZON, MS. TERESITA RIVERA AND RICARDO VILLANUEVA, PET...

G.R. Nos. 102193-97. May 10, 1994

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

This is a special civil action for certiorari which seeks to annul the 4 September 1991 Order of the respondent Judge dismissing the complaints of the petitioners for lack of jurisdiction, and the 20 September 1991 Order denying the petitioners' motion for reconsideration. The respondent Judge had ruled that jurisdiction over the cases pertained to the Housing and Land Use Regulatory Board (HLRB) and not the Regional Trial Court. The petitioners asseverate that the RTC has jurisdiction over the cases.

The pleadings of the parties disclose the following facts:

Private respondents Isabelo Jareño and Purita Jareño (hereinafter JAREÑOS) are the owners and developers of a subdivision known as the Calamba Central Compound. On various dates, they as SELLERS, and the petitioners as BUYERS signed separate contracts, each designated as a CONTRACT TO SELL, under which, for the considerations therein stated, they bound themselves to sell to the petitioners the lots subject thereof, and after the latter shall have paid the purchase price and interest, to execute in favor of the petitioners the corresponding deeds of transfer of title, free from any lien or encumbrance except those expressly provided for in the Contract to Sell. The Contracts to Sell are herein described:

Petitioners-Buyers

Lot subject of contract to sell

Date of execution of contract to sell

1) Spouses Julian and Teresita Cuizon

a) Lot No. 9, Block No. 3, covered by TCT No. T-66231

25 January 1979[1]

b) Lot No. 11, Block No. 1.[2]

24 April 1979[3]

2) Teresita Rivera and Ricardo Villanueva

Lot No. 12, Block No. 3, covered by TCT No. 7-62229

5 December 1985[4]

3) Spouses Rene and Beverly Rodelas

Lot No. 14, Block No. 3, covered by TCT No. T-66231

17 December 1985[5]

4) Spouses Salvador and Engracia Gianan

Lot No. 9, Block No. 2, covered by TCT No. T-66273"

17 March 1988[6]

On the other hand, private respondent Fernando Realty and Development Corporation (hereinafter FERNANDO) as SELLER, and petitioner Emily Yu Fajardo as BUYER signed on 22 February 1985 a CONTRACT TO SELL[7] under which for the considerations therein stated, FERNANDO agreed to sell to Fajardo Lot No. 10, Block No. 3, also located at the Calamba Central Compound Subdivision,[8] and upon full payment of the agreed price and interest thereon, to execute a deed of absolute sale in favor of Fajardo.

It appears, however, that on 18 October 1986, the JAREÑOS sold the aforesaid lots subject of the different contracts to sell to private respondent Ruben Habacon (hereinafter HABACON) under separate documents denominated as "Kasulatan ng Bilihan." [9] On 18 February 1991, HABACON caused the cancellation of the certificates of title covering the said lots and the issuance of new ones in his name.[10]

When the petitioners learned of these, they filed on 21 June 1991 separate complaints with the court a quo for annulment of the sales in favor of HABACON and of the new certificates of title issued to him, for reinstatement of the certificates of title cancelled by those issued to HABACON, and for accounting and damages. They prayed in their complaints for a judgment (a) declaring the "Kasulatan na Bilihan" executed in favor of HABACON as an equitable mortgage; (b) annulling the new certificates of title issued to HABACON and reinstating those previously cancelled by the new certificates of title; (c) ordering HABACON and the JAREÑOS to respect the Contracts to Sell; (d) ordering the JAREÑOS to determine the unpaid balance of the purchase price under the Contracts to Sell, to accept payments thereof, and to execute the deeds of absolute sale in favor of the petitioners; and (e) ordering the defendants to pay actual and exemplary damages and attorney's fees specified therein, as well as the costs.

The complaints were docketed as Civil Cases Nos. 1683-91-C,[11] 1684-91-C,[12] 1685-91-C,[13] 1686-91-C,[14] and 1688-91-C[15] and were assigned to Branch 37 of the Regional Trial Court of Calamba.

On 9 August 1991, HABACON filed a motion to dismiss the complaints on the ground that the plaintiffs (petitioners herein) have no legal capacity to sue because they were not parties to the "BILIHAN." [16]

In its Order of 12 August 1991,[17] the trial court, through the respondent Judge, directed the plaintiffs to show cause why their complaints should not be dismissed for lack of jurisdiction pursuant to P.D. No. 957 (Subdivision and Condominium Buyers' Protective Decree), as amended by P.D. No. 1344, and the doctrine laid down by this Court in *Solid Homes, Inc. vs. Payawal*. [18]

In their compliance[19] with the show cause order, the petitioners maintained that it is the trial court, and not the HLRB, which has jurisdiction over the complaint. They contend that *Solid Homes, Inc. vs. Payawal* is inapplicable because in their cases: (1) the title of the developers, the JAREÑOS, had already passed to a third person, HABACON; (2) their action is for the annulment of the title of a third person; (3) HABACON is not a developer; and (4) Section 19(1) of B.P. Blg. 129 vests upon the Regional Trial Court the jurisdiction to hear and

decide all civil actions which involve title to or possession of any real property or any interest therein, except actions for unlawful detainer and forcible entry.

In its Order of 4 September 1991,[20] the trial court dismissed the aforesaid civil cases for lack of jurisdiction. It held:

"The Court does not agree with the plaintiffs. PD No. 957 as amended by P.D. No. 1344 gives the National Housing Authority now the Human Settlement Regulatory Commission (HSRC)[21] inclusive [sic] jurisdiction to hear and, decide cases of 'unsound real estate business practices' (Sec. 1(a), P.D. 1344). This authority is broad enough to include all kinds of real estate transactions involving subdivision lot or condominium, wherein either the subdivision lot or condominium buyer, project owner, developer, dealer, broker or salesman is involved."

The petitioners filed a motion for the reconsideration of the order, but the trial court denied this in its Order of 20 September 1991.[22] It ruled that while HABACON may not be the developer, the JAREÑOS are, and by selling the same lots to HABACON after they were previously sold to different parties, the JAREÑOS may have committed an "unsound business practice." Moreover, it ruled that Section 19(2) of B.P. Blg. 129, being a general law, should yield to P.D. No. 957, as amended by P.D. No. 1344, which is a special law.

On 24 October 1991, the petitioners filed the instant special civil action for certiorari to annul the 4 September 1991 and 20 September 1991 Orders of the trial court on the ground that the judge acted with grave abuse of discretion amounting to lack of jurisdiction in dismissing their complaints and that they have no other plain, speedy, and adequate remedy in the ordinary course of law. The petitioners maintain that the trial court has jurisdiction over their complaints.

In the Resolution of 18 November 1991,[23] we required the respondents to comment on the petition. Private respondent HABACON filed his comment and opposition on 27 August 1992[24] while public respondent Cesar S. Reyes filed his comment on 24 August 1993.[25] Both respondents rely on our pronouncement in *Solid Homes, Inc. vs. Payawal* and echo the ruling of the trial court in the questioned orders. The copy of the resolution sent to the JAREÑOS was returned unserved and in the Resolution of 21 July 1993, we considered it as served on them.[26] As required, the petitioners filed a reply to the comment.[27] On 8 November 1993, we resolved to give due course to the petition and required the parties to submit their memoranda, which the petitioners complied with on 29 December 1993[28] and the private respondents, on 28 March 1994.[29]

The core issue in this case is whether the trial court gravely abused its discretion in dismissing, for lack of jurisdiction, the complaints filed by the petitioners. Before resolving this issue, a procedural matter must first be considered. Generally, an order of dismissal, whether right or wrong, is a final order, and hence a proper subject of appeal, not certiorari.[30] The remedies of appeal and certiorari are mutually exclusive and not alternative or successive.[31] Accordingly, although the special civil action of certiorari is not proper when an ordinary appeal is available, it may be granted where it is shown that the appeal would be inadequate, slow, insufficient, and will not promptly relieve a party from the injurious effects of the order complained of, or where appeal is inadequate and ineffectual.[32] Nevertheless, certiorari cannot be a substitute for the lost or lapsed remedy of appeal,[33] where such loss is occasioned by the petitioner's own neglect or error in the choice of remedies.[34]

The petitioners admit that they received a copy of the trial court's order dismissing their complaints on 4 October 1991.[35] The instant petition was filed on 24 October 1991 or beyond the 15-day period to appeal from the order. The petitioners have not even attempted to explain why they were unable to appeal from the challenged order within the reglementary period. This civil action then was resorted to as a substitute for the lost or lapsed remedy of appeal, and since none of the exceptions to the rigid rule barring substitution of remedies was alleged to exist in

this petition, or even indicated by the pleadings, this petition must be dismissed.

Even if we were to accept this petition in the broader interest of justice, it must still fail for the trial court correctly ruled that it has no jurisdiction over the subject matter in Civil Cases Nos. 1683-91-C, 1684-91-C, 1685-91-C, 1686-91-C, and 1688-91-C. Jurisdiction thereon was originally vested in the National Housing Authority (NHA) under P.D. No. 957, as amended by P.D. No. 1344. Under E.O. No. 648 of 7 February 1981, this jurisdiction was transferred to the Human Settlements Regulatory Commission (HSRC) which, pursuant to E.O. No. 90 of 17 December 1986, was renamed as the Housing and Land Use Regulatory Board.

We agree with the trial court that the complaints do involve unsound real estate business practices on the part of the owners and developers of the subdivision who entered into Contracts to Sell with the petitioners. By virtue of Section 1 of P.D. No. 1344 and our decision in *Solid Homes, Inc. vs. Payawal*, the NHA, now HLRB, has the exclusive jurisdiction to hear and decide the matter. In addition to involving unsound real estate business practices, the complaints also involve specific performance of the contractual and statutory obligations of the owners or developers of the subdivision. The claims for annulment of the "Kasulatan ng Bilihan" in favor of HABACON and the certificates of title issued to him and for damages are merely incidental.

Section 1 of P.D. No. 1344, promulgated on 2 April 1978, provides as follows:

"SEC. 1. In the exercise of its functions to regulate the real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have exclusive jurisdiction to hear and decide cases of the following nature:

- A. Unsound real estate business practices;
- B. Claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and
- C. Cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lots or condominium units against the owner, developer, dealer, broker or salesman." (Emphasis supplied)

Conformably with this section, we had earlier upheld the jurisdiction of the NHA to determine the rights of the parties under a contract to sell a subdivision lot in *Antipolo Realty Corp. vs. National Housing Authority*[36] and struck down the exercise of jurisdiction by the Regional Trial Court over a case instituted by a lot buyer for delivery of title against the subdivision owner in *Solid Homes, Inc. vs. Payawal*. We also sustained the jurisdiction of the HLRB over complaints for (a) the refund of reservation fees for the purchase of a subdivision lot,[37] (b) specific performance filed by a lot buyer against the seller of a subdivision lot,[38] (c) annulment of the mortgage constituted by the project owner without the buyer's consent, the mortgage foreclosure sale, and the condominium certificate of title issued to the highest bidder at the said foreclosure sale,[39] and (d) collection of the balance of the unpaid purchase price of a subdivision lot filed by the developer of a subdivision against the lot buyer.[40]

In *CT Torres Enterprises, Inc. vs. Hibionada*,[41] we further declared that incidental claims for damages may be resolved by the HLRB. Thus:

"It is clear from Section 1(c) of the above quoted PD No. 1344 that the complaint for specific performance with damages filed by Diongon with the Regional Trial Court of Negros Occidental comes under the jurisdiction of the Housing and Land Use Regulatory Board. Diongon is a buyer of a subdivision lot seeking specific performance of the seller's obligation to deliver to him the corresponding certificate of title.

The argument that only courts of justice can adjudicate claims resolvable under the provisions of the Civil Code is out of step with the fast-changing times. There are hundreds of administrative bodies now performing this

function by virtue of a valid authorization from the legislature. This quasi-judicial function, as it is called, is exercised by them as an incident of the principal power entrusted to them of regulating certain activities falling under their particular expertise.

In the *Solid Homes* case for example the Court affirmed the competence of the Housing and Land Use Regulatory Board to award damages although this is an essentially judicial power exercisable ordinarily only by the courts of justice. This departure from the traditional allocation of governmental powers is justified by expediency, or the need of the government to respond swiftly and competently to the pressing problems of the modern world."

Accordingly, the trial court committed no grave abuse of discretion in dismissing the complaints of the petitioners.

WHEREFORE, the due course Resolution of 8 November 1993 is RECALLED and, for lack of merit, the instant petition is DISMISSED with costs against the petitioners.

SO ORDERED.

Cruz, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

[1] Rollo, 70-71 (Annex "A," Complaint, Civil Case No. 1686-91-C).

[2] Subsequently exchange with another lot (*Id.*, 63).

[3] *Id.*, 72-73 (Annex "B," Complaint, Civil Case No. 1686-91-C).

[4] *Id.*, 79 (Paragraph 2, Amended Complaint, Civil Case No. 1688-91-C).

[5] *Id.*, 56-58 (Annex "A," Complaint, Civil Case No. 1685-91-C).

[6] Rollo, 38-40 (Annex "A," Complaint, Civil Case No. 1684-91-C).

[7] *Id.*, 24-25 (Annex "A," Complaint, Civil Case No. 1683-91-C).

[8] The relationship between FERNANDO and the JAREÑOS, who represented themselves as the owners and developers of the Calamba Central Compound Subdivision, is not disclosed by the pleadings.

[9] Rollo, *op. cit.*, 27-29 (Annex "B," Complaint, Civil Case No. 1683-91-C); 41-42 (Annex "B," Complaint, Civil Case No. 1684-91-C); 59-60 (Annex "B," Complaint, Civil Case No. 1685-91-C); 76-77 (Annex "D," Complaint, Civil Case No. 1686-91-C); 84-85 (Annex "B," Amended Complaint, Civil Case No. 1688-91-C).

[10] *Id.*, 19, 32, 50, 64, 79.

[11] Entitled "*Emily Yu Fajardo vs. Fernando Realty and Development Corp., et al.*"; Rollo, 17-23.

[12] Entitled "*Salvador Gianan, et al., vs. Sps. Isabelo Jareño and Purita Jareño, et al.*"; *Id.*, 30-37.

[13] Entitled "*Rene Rodelas, et al. vs. Sps. Isabelo Jareño, et al.*"; *Id.*, 49-55.

[14] Entitled "*Julian Cuizon, et al. vs. Sps. Isabelo Jareño, et al.*"; *Id.*, 62-69.

[15] Entitled "*Teresita Rivera, et al. vs. Sps. Isabelo Jareño, et al.*"; *Id.*, 78-83.

[16] *Id.*, 87-91.

[17] Rollo, 92-93.

[18] 177 SCRA 72 [1989].

- [19] Rollo, op: cit., 96-98.
- [20] Annex "A" of Petition; Id., 13-14.
- [21] Should be HLRB.
- [22] Annex "B" of Petition; Rollo, 15-16.
- [23] Id., 106.
- [24] Id., 118-124.
- [25] Id., 143-148.
- [26] Rollo, 140.
- [27] Id., 156-158.
- [28] Id., 161-169.
- [29] Id., 235-242.
- [30] Marahay vs. Melicor, 181 SCRA 811 [1990].
- [31] Manila Electric Company vs. Court of Appeals, 187 SCRA 200 [1990].
- [32] Hualam Construction and Development Corp. vs. Court of Appeals, 214 SCRA 612 [1992].
- [33] Sy vs. Romero, 214 SCRA 187 [1992]; Aqualyn Corp. vs. Court of Appeals, 214 SCRA 307 [1992].
- [34] Federation of Free Workers vs. Inciong, 208 SCRA 157 [1992].
- [35] Paragraph 9, Petition; Rollo, 8.

[36] 153 SCRA 399 [1987].

- [37] Tejada vs. Homestead Property Corp., 178 SCRA 164 [1989].
- [38] CT Torres Enterprises, Inc. vs. Hibionada, 191 SCRA 268 [1990].
- [39] Union Bank of the Philippines vs. Housing and Land Use Regulatory Board; 210 SCRA 558 [1992].
- [40] Estate Developers and Investors Corp. vs. Court of Appeals, 213 SCRA 353 [1992].
- [41] Supra note 38.

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