

SECOND DIVISION

[G.R. No. 183324, June 19, 2019]

SPOUSES JOSE AND CORAZON RODRIGUEZ, PETITIONERS, V. HOUSING AND LAND USE REGULATORY BOARD (HLURB), SPS. JOHN SANTIAGO AND HELEN KING, IMELDA ROGANO AND SPS. BONIE GAMBOA AND NANCY GAMBOA, REPRESENTED BY JOHN SANTIAGO, RESPONDENTS.

[G.R. No. 209748, June 19, 2019]

SPOUSES DR. AMELITO S. NICOLAS AND EDNA B. NICOLAS, PETITIONERS, V. SPOUSES JOSE AND CORAZON RODRIGUEZ AND EDJIE[*] MANLULU, RESPONDENTS.

D E C I S I O N

CAGUIOA, J:

Before the Court are two consolidated petitions. In **G.R. No. 183324**, the Spouses Jose and Corazon Rodriguez (Sps. Rodriguez) filed a Petition for Review on *Certiorari*^[1] (Petition) under Rule 45 against the Housing and Land Use Regulatory Board (HLURB), the Spouses John Santiago and Helen King (Sps. Santiago), Imelda Rogano (Rogano), and the Spouses Bonie and Nancy Gamboa (Sps. Gamboa), assailing the Resolutions dated January 7, 2008^[2] (first assailed Resolution) and May 6, 2008^[3] (second assailed Resolution) rendered by the Court of Appeals (CA) in CA-G.R. SP No. 101644.

In **G.R. No. 209748**, the Spouses Dr. Amelito S. Nicolas and Edna B. Nicolas (Sps. Nicolas) filed a Petition for Indirect Contempt^[4] dated November 22, 2013 against the Spouses Rodriguez and Edjie Manlulu (Manlulu).

The Facts and Antecedent Proceedings

As culled from the records of the instant case, the pertinent facts and antecedent proceedings are as follows:

A verified Complaint^[5] dated October 20, 2004 was filed by the Spouses Rustico and Erlinda Balbino (Sps. Balbino) and the Sps. Nicolas against the Sps. Rodriguez before the Regional Field Office III (RFO III) of the HLURB. The complainants therein filed an Amended Complaint^[6] on November 4, 2004. An Order^[7] dated November 19, 2004 was issued by the HLURB-RFO III issuing a Writ of Preliminary Injunction/Cease and Desist Order against the Sps. Rodriguez.

Another Complaint^[8] involving the same issues was filed by the Sps. Santiago, Rogano and the Sps. Gamboa on November 23, 2004 before the HLURB-RFO III. An Order^[9] dated November 23, 2004 was issued by the HLURB-RFO III issuing a

Temporary Restraining Order against the Sps. Rodriguez. Eventually, the two Complaints, *i.e.*, HLURB Case No. REM-03-04-0051 and HLURB Case No. REM-03-04-0055, were consolidated by the HLURB-RFO III.

The aforementioned Complaints deal with the Ruben San Gabriel Subdivision (subject subdivision), which is located at Barangay Wakas, Bocaue, Bulacan. The subject subdivision consists of two (2) blocks with a total of twenty (20) residential lots and **one (1) road lot (subject road lot)** which served as an access of the inner lots to the MacArthur Highway. In 1978, Ruben San Gabriel (San Gabriel), the owner of the subdivision, sold nine (9) lots to one Renato Mendoza (Mendoza). Sometime in 1995, the Sps. Rodriguez acquired these nine (9) lots from Mendoza. All in all, the Sps. Rodriguez acquired thirteen (13) lots from San Gabriel and Mendoza.^[10]

On May 24, 1996, San Gabriel and Mendoza executed an Assignment of Right,^[11] wherein the latter's interest in the subdivision road lot was assigned and transferred in favor of the Sps. Rodriguez. Subsequently, the Sps. Rodriguez applied for and was granted an approval for Alteration of Plan^[12] that consolidated all their titles on January 21, 1998. On the basis of this, the Land Management Services of the Department of Environment and Natural Resources (DENR) subsequently approved the consolidation plan on February 2, 1998. Consequently, the separate titles of the lots, including that of the subject road lot, were cancelled and in lieu thereof, Transfer Certificate of Title (TCT) No. 336132 covering an area of 4,865 square meters was issued in the name of the Sps. Rodriguez.^[13]

It was alleged by the complainants that they are residents of the subject subdivision. They asserted that the subject road lot being claimed by the Sps. Rodriguez as their own property cannot be closed or conveyed without the prior approval of the court because it is an existing road lot subject to the provisions of Republic Act No. 440. The complainants alleged that the Sps. Rodriguez are taking control and possession of the subject road lot by introducing diggings, construction for fencing, and closing the said road lot for the exclusive use of the Sps. Rodriguez. The complainants prayed for the issuance of a permanent cease and desist order preventing the Sps. Rodriguez from developing and fencing the subject road lot, and for declaring the Assignment of Rights executed by San Gabriel null and void with respect to the subject road lot.^[14]

The Ruling of the HLURB-RFO III

In its Consolidated Decision^[15] dated October 3, 2005, the HLURB-RFO III found merit in the Complaint and held that "[t]here can be no consolidation of the road lot with the other properties of the [Sps. Rodriguez]."^[16]

The HLURB-RFO III held that:

Prior to its sale of subdivision lots to the prospective residents of the subdivision and in keeping with the provisions of PD 957, the developer had represented to the former what areas are available for residential lots and what open areas are reserved for parks, roads, etc. It was also represented that there would be a major thoroughfare or road lot with an area of 634.00 square meters. Acting upon the strength of the subdivision plan, the prospective residents (herein complainants) chose

which lot they preferred to occupy, bearing in mind the access to the open areas and to their lots. The owners of a subdivision (*sic*) include all costs, such as the setting aside of road spaces and open areas for parks, and possibly the construction of curbs and gutters, underground drainage, an adequate water supply, and whatever improvements it may have published to entice lot buyers, in computing the value at which all the lots shall be sold. If the subdivision owner/developer reneges on any of its commitments, as exemplified in this case, the lot buyers are short-changed. They are made to pay more for less than what was agreed upon. They are, in the whole context of the issues presented, parties in interest.

Subdivision owners are mandated to set aside such open spaces before their proposed subdivision plans may be approved by this Office and other the (*sic*) government authorities, and that such open spaces shall be devoted exclusively for the use of the **general public** and the subdivision owner need not be compensated for the same. A subdivision owner must comply with such requirement before the subdivision plan is approved and the authority to sell is issued. That said, it can be easily inferred that road lots, which are part and parcel of the open space, are for public use, non-buildable and are, therefore[,] beyond the commerce of men.^[17]

The dispositive portion of the Consolidated Decision reads:

Wherefore, above premises considered, this Board **ORDERS** the [Sps. Rodriguez] to cease and desist from further including the road lot in the consolidation of their title. This Board **ORDERS** and makes permanent the cease and desist (*sic*) of the development of the road lot.

Cost against the respondent.

SO ORDERED.^[18]

The Sps. Rodriguez appealed the Consolidated Decision rendered by the HLURB-RFO III before the HLURB, Board of Commissioners, First Division (Board).

The Ruling of the HLURB Board

In its Decision^[19] dated October 10, 2006, the HLURB Board overturned the HLURB-RFO III's Consolidated Decision. The HLURB Board held that "the closure of a road lot in a subdivision is not absolutely prohibited. When the same is done with or pursuant to an Alteration Plan approved by this Board as required under Section 22 [of PD 957], the same is allowable."^[20]

The complainants filed a reconsideration of the aforesaid Decision.

On January 17, 2007, the HLURB Board issued a Resolution^[21] granting the complainants' motion for reconsideration, reinstating HLURB-RFO III's Consolidated Decision dated October 3, 2005.

In reversing itself, the HLURB Board held that "until a valid alteration permit for the road lot's conversion into a regular lot is obtained, said road lot shall remain as such and may not be appropriated, consolidated with regular lots or closed."^[22] The

HLURB Board explained that it previously "ruled that the closure of the road lot was allowable but this conclusion was based on the premise that the alteration approval covered the road lot. While we maintain that the alteration permit was validly issued, a closer scrutiny thereof discloses that the approval did not include the conversion of the road lot into a regular lot and hence, its consolidation with the properties of [the Sps. Rodriguez] into one title was bereft of basis."^[23]

The Sps. Rodriguez filed their Motion for Reconsideration^[24] dated January 28, 2007, which was denied by the HLURB Board in its Resolution^[25] dated August 10, 2007.

Without filing an appeal before the Office of the President (OP), the Sps. Rodriguez filed a Petition for *Certiorari*, Prohibition, and Mandamus^[26] (Rule 65 Petition) dated December 12, 2007 under Rule 65 of the Rules of Court before the CA against the HLURB, the Sps. Santiago, Rogano, and the Sps. Gamboa.

The Ruling of the CA

In its first assailed Resolution, the CA dismissed outright the Sps. Rodriguez' Rule 65 Petition for failing to exhaust available administrative remedies, as well as for not being accompanied with the pertinent pleadings. The dispositive portion of the first assailed Resolution reads:

IN VIEW THEREOF, the petition is hereby **DISMISSED** outright.

SO ORDERED.^[27]

The Sps. Rodriguez filed their Motion for Reconsideration^[28] dated January 28, 2008, which was denied by the CA in its second assailed Resolution.

Hence, the instant Petition in G.R. No. 183324.

The respondents filed their Comment^[29] to the Petition on October 28, 2008, to which the Sps. Rodriguez responded with their Reply,^[30] which was filed on July 15, 2009.

G.R. No. 209748 - Petition for Indirect Contempt

On November 22, 2013, the Sps. Nicolas filed a Petition for Indirect Contempt against the Sps. Rodriguez and Manlulu, alleging that "despite vigorous protestation on the part of the [Sps. Nicolas], and after having been warned of the existence of the Cease and Desist Order [issued by the HLURB], [the Sps. Rodriguez], in complete defiance of the injunction issued by the HLURB continuously, maliciously and feloniously dump[ed] filling materials that [would] ultimately block the road lot leading to the inner lots of the subdivision."^[31]

On April 1, 2014, the Court issued a Resolution^[32] consolidating G.R. Nos. 183324 and 209748.

On October 13, 2014, the Sps. Rodriguez and Manlulu filed their Comment^[33] to the Petition for Indirect Contempt, to which the Sps. Nicolas responded by filing their Reply to Comment^[34] on March 25, 2015.