

## THIRD DIVISION

[ G.R. No. 198745, January 13, 2016 ]

**BANCO DE ORO UNIBANK, INC. (FORMERLY BANCO DE ORO-EPCI, INC.), PETITIONER, VS. SUNNYSIDE HEIGHTS HOMEOWNERS ASSOCIATION, INC., RESPONDENT.**

### DECISION

**REYES, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to annul the Decision<sup>[2]</sup> dated March 11, 2011 of the Court of Appeals (CA) in CA-G.R. SP No. 101740, which affirmed, with modification, the Decision<sup>[3]</sup> dated November 22, 2007 of the Office of the President (OP) in O.P. Case No. 97-E-8033, entitled *Mover Enterprises, Inc. and Philippine Commercial & International Bank (PCIB) v. The Housing and Land Use Regulatory Board (HLURB) and Sunnyside Heights Homeowners Association, Inc.*

#### The Facts

Mover Enterprises, Inc. (Mover) is the owner and developer of the Sunnyside Heights Subdivision located in Batasan Hills, Quezon City. In March 1988, Mover mortgaged Lot 5, Block 10 of Phase I of the said subdivision containing 5,764 square meters to the Philippine Commercial International Bank (PCIB) to secure a loan of P1,700,000.00. Mover failed to pay its loan and PCIB foreclosed on the mortgage. After title was consolidated in PCIB, the Registry of Deeds of Quezon City issued Transfer Certificate of Title (TCT) No. 86389 to the said bank on May 17, 1993.<sup>[4]</sup>

Sometime in mid-1994, PCIB advertised the aforesaid lot for sale in the newspapers. This prompted the Sunnyside Heights Homeowners Association (SHHA) to file before the Housing and Land Use Regulatory Board (ITLURB) a letter-complaint,<sup>[5]</sup> docketed as ITLURB Case No. REM-091594-6077, to declare the mortgage between Mover and PCIB void on the ground that the subject property, originally covered by TCT No. 366219, has been allocated as SHHA's open space pursuant to law. SHHA thus sought reconveyance of the property.<sup>[6]</sup>

In its Answer,<sup>[7]</sup> PCIB maintained that the mortgaged lot is different from the lot referred to in SHHA's complaint, and moreover, the title to the said mortgaged lot bears no annotation that it has been reserved as open space. Claiming to be an innocent mortgagee in good faith and for value, PCIB insisted that under Batas Pambansa Bilang 129<sup>[8]</sup> and Presidential Decree (P.D.) No. 1344,<sup>[9]</sup> the complaint should have been filed with the regular courts.

On August 28, 1995, the ITLURB Arbiter dismissed SHHA's complaint for lack of

cause of action.<sup>[10]</sup> He found that, per the records of the ITLURB, the property claimed by SHHA to be an open space is covered by TCT No. 223475, which is not the same as the property originally covered by TCT No. 366219 in the name of Mover, and now titled to PCIB, viz:

There is no explanation or allegation, much less proof, that TCT [N]o. 366219 registered in the name of respondent Mover and subsequently registered as TCT [N]o. 8638[9] in the name of respondent PCIB, and TCT [N]o. 223475 as identified in the letter of the Technical Services Section of this Office, refer to one and the same property.

From the foregoing, it has therefore not been established that the property of respondent Mover covered by TCT [N]o. 366219 which had been mortgaged and been foreclosed by respondent PCIB, is the very same property identified as Lot 5, Block 10 and covered by TCT No. 223475, that was allocated as open space for Sunnyside Heights Subdivision. The complaint therefore must necessarily fail as it failed to state a cause of action x x x.<sup>[11]</sup>

### **Petition for Review to the HLURB Board of Commissioners**

On petition for review to the HLURB Board of Commissioners,<sup>[12]</sup> SHHA presented a certification from the HLURB Expanded National Capital Region Field Office showing that on May 18, 1987 the HLURB had approved an alteration in the subdivision plan whereby the former Block 10, the subdivision's open space, had been renamed as Block 7, now covered by TCT No. 366219:

Upon review of our records on file, lot 5, block 10 was [an] open space covered by TCT No. 223475; however, in view of the HL[U]RB's grant of Alteration of Plan dated 18 May 1987, on which subject property was involved, the boundaries of above[-]mentioned open space are [sic] modified resulting to be identified as Block 7 of consolidation subdivision plan Pcs-000990 covered by TCT No. 366219. x x x.<sup>[13]</sup>

In its Decision<sup>[14]</sup> dated September 6, 1996, the HLURB Board of Commissioners held that Lot 5, Block 10 (TCT No. 223475), the designated open space in the original subdivision plan, became Block 7 (TCT No. 366219) in the altered plan; that the said new Block 7 was mortgaged to PCIB; that by reason of foreclosure, PCIB became the owner of Block 7 (now covered by TCT No. 86389 in PCIB's name); that TCT Nos. 223475, 366219 and 86389 all refer to one and the same property. Concluding that the subject matter of the mortgage and foreclosure in question was the designated open space of Sunnyside Heights Subdivision,<sup>[15]</sup> it ruled that the said open space, originally covered by TCT No. 366219, and now registered in the name of PCIB, can neither be mortgaged nor foreclosed, being inalienable, non-buildable and beyond the commerce of man. The HLURB Board of Commissioners thus ordered, as follows:

WHEREFORE, the decision of the Office below dated August 28, 1995 is hereby SET ASIDE and a new decision entered as follows:

1. Declaring subject mortgage and foreclosure as null and void;
2. Declaring Block 7 of Phase I, Sunnyside Heights, Batasan Hills, Quezon City as the designated open space of the aforesaid project;
3. Ordering the Register of Deeds of Quezon City to cancel TCT No. 8638[9] in the name of respondent PC IB and to issue a new title in the name of respondent Mover;
4. Ordering respondent Mover to comply with Section 31 of P.D. 957 as amended by Section 2 of P.D. 1216; and
5. Ordering respondent Mover to pay back the amount of P1,700,000.00 to respondent PCIB.

Let a copy of this decision be furnished the Register of Deeds of Quezon City for his/her guidance and appropriate action.

SO ORDERED.[16]

### **Appeal to the Office of the President**

After its motion for reconsideration was denied, PCIB appealed to the OP. Mover did not appeal.[17] In the Decision[18] dated November 22, 2007, the OP found no merit in the appeal, ruling that the HLURB has jurisdiction over matters related to or connected with the complaint for annulment of mortgage, as in this case.

Meanwhile, in 2000 PCIB merged with Equitable Banking Corporation to become the Equitable PCI Bank. In May 2001, it merged with Banco de Oro Universal Bank and became the Banco de Oro-EPCI, Inc.; now it is known as Banco de Oro Unibank, Inc. (BDO).

### **Petition for Review to the CA**

In the petition for review filed with the CA,[19] Banco de Oro-EPCI, Inc. alleged that:

THE [OP] SERIOUSLY ERRED IN DISMISSING THE APPEAL ON THE FOLLOWING GROUNDS:

- I. THE [HLURB] HAS NO JURISDICTION OVER ACTIONS FOR ANNULMENT OF TITLE;
- II. PCIB IS A MORTGAGEE IN GOOD FAITH, THEREFORE, ITS TITLE OVER THE SAID PROPERTY CANNOT BE ANNULLED;

III. NEW EVIDENCE CANNOT BE ADMITTED ON APPEAL, OTHERWISE IT VIOLATES THE RULE ON DUE PROCESS OF LAW; and

IV. OBLIGATION OF [MOVER] THAT IS SECURED BY THE REAL ESTATE MORTGAGE IS MORE THAN THE PRINCIPAL AMOUNT OF Php1,700,000.00.<sup>[20]</sup>

Banco de Oro-EPCI, Inc. alleged in the main that the HLURB has no jurisdiction over SHHA's letter-complaint to annul the mortgage between Mover and PCIB. In the event that the nullification of the mortgage is affirmed, it conceded that it was but fair that the mortgagor be also adjudged to pay interest on the principal loan plus costs incurred.<sup>[21]</sup>

On March 11, 2011, the CA rendered the assailed judgment ruling that "[t]he jurisdiction of the HLURB to regulate the real estate trade is broad enough to include jurisdiction over complaints for annulment of mortgage."<sup>[22]</sup> The CA further noted Banco de Oro-EPCI, Inc.'s argument that Mover's obligation was more than the principal amount of P1,700,000.00. While the CA could not give credence to Banco de Oro-EPCI, Inc.'s allegations of expenses it incurred, it acknowledged that Mover was indebted to Banco de Oro-EPCI, Inc. in the amount of P1,700,000.00 as pointed out in the decision of the HLURB Board of Commissioners. Inasmuch as the amount represents a loan, Mover must also be held liable for the payment of interest at the rate stipulated in the mortgage contract. In the absence thereof, the legal rate of 12% per annum in accordance with *Eastern Shipping Lines, Inc. v. CA*<sup>[23]</sup> shall be imposed.<sup>[24]</sup>

Accordingly, the *fallo* reads as follows:

**WHEREFORE**, the Petition is DENIED. The *Decision*, dated November 22, 2007, of the Office of the President in O.P. Case No. 97-E-8033 is hereby **AFFIRMED**, with the modification that Mover Enterprises, Inc. is held liable to pay the corresponding interest o[n] its mortgage indebtedness to Petitioner Banco de Oro-EPCI Inc., in addition to its payment of the principal amount of Php 1,700,000.00 to Banco de Oro-EPCI Inc.

**SO ORDERED.**<sup>[25]</sup>

Banco de Oro-EPCI, Inc. moved for reconsideration,<sup>[26]</sup> but the same was denied on September 23, 2011.<sup>[27]</sup>

### **Petition for Review to the Supreme Court**

Now in this petition, BDO raises the following grounds, to wit:

I.

THE [CA] HAS SO FAR DEPARTED FROM THE USUAL COURSE OF

JUDICIAL PROCEEDINGS IN ITS QUESTIONED *DECISION* AND *RESOLUTION* WHEN IT AFFIRMED THE *DECISIONS* OF THE [OP] AND HLURB BOARD DESPITE THE UNDISPUTED FACT THAT THE LATTER WAS BASED ON NEW EVIDENCE RAISED FOR THE FIRST TIME BY [SHHA] ON APPEAL IN VIOLATION OF THE RIGHT OF [BDO] TO DUE PROCESS OF LAW.

II.

THE [CA] COMMITTED SERIOUS AND REVERSIBLE ERROR AND DECIDED A MATTER OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LAW AND WITH APPLICABLE DECISIONS OF THE HONORABLE COURT WHEN IT DID NOT HOLD THAT [BDO] IS A MORTGAGEE IN GOOD FAITH AS IT HAD THE RIGHT TO RELY ON THE TITLE PRESENTED TO IT; THUS, ITS TITLE OVER THE SUBJECT PROPERTY CANNOT BE ANNULLED.

III.

THE [CA] HAS SO FAR DEPARTED FROM THE USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN ITS QUESTIONED *DECISION* AND *RESOLUTION* DENIED [EDO'S] *PETITION FOR REVIEW* DESPITE THE FACT THAT THE HLURB DOES NOT HAVE JURISDICTION OVER THE INSTANT CASE.<sup>[28]</sup>

The Court finds no merit in the petition.

Importantly, BDO has interposed a continuing objection concerning the HLURB's jurisdiction over what it claims to be the exclusive province of the regular courts. Corollarily, BDO insists that no evidence was presented before the HLURB Arbiter to establish that the property covered by TCT No. 223475, claimed by SHFIA as a subdivision open space, is in any way related to TCT No. 366219 registered in the name of Mover and now covered by TCT No. 86389 in the name of BDO (then PCIB).

Section 3 of P.D. No. 957<sup>[29]</sup> granted to the National Housing Authority (NHA) exclusive jurisdiction to regulate the real estate trade and business in order to curb swindling and fraudulent manipulations by unscrupulous subdivision and condominium sellers and operators, such as failure to deliver titles to the buyers or titles free from liens and encumbrances, or to pay real estate taxes, and fraudulent sales of the same subdivision lots to different innocent purchasers for value. P.D. No. 1344 in turn expanded the jurisdiction of the NHA to include the following:

SECTION 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