

## FIRST DIVISION

[ A.C. No. 7437, August 17, 2016 ]

**AVIDA LAND CORPORATION (FORMERLY LAGUNA PROPERTIES HOLDINGS, INC.), COMPLAINANT, VS. ATTY. AL C. ARGOSINO, RESPONDENT.**

### DECISION

**SERENO, C.J.:**

The only issue before Us is whether respondent's act of filing numerous pleadings, that caused delay in the execution of a final judgment, constitutes professional misconduct in violation of the Code of Professional Responsibility and the Lawyer's Oath.

In its questioned Resolution<sup>[1]</sup>, the Board of Governors (Board) of the Integrated Bar of the Philippines (IBP) adopted and approved the Report and Recommendation<sup>[2]</sup> of the Investigating Commissioner,<sup>[3]</sup> who found respondent guilty of violating Canon 12, Rule 12.04<sup>[4]</sup> of the Code of Professional Responsibility for delaying the enforcement of a writ of execution, and recommended that the latter be reprimanded or censured with a stern warning that a repetition of the same behavior in the future shall merit a harsher penalty.<sup>[5]</sup>

### ANTECEDENT FACTS

Complainant is a Philippine corporation engaged in the development and sale of subdivision houses and lots.<sup>[6]</sup> Respondent was counsel for Rodman Construction & Development Corporation (Rodman).<sup>[7]</sup>

Complainant entered into a Contract to Sell with Rodman,<sup>[8]</sup> under which the latter was to acquire from the former a subdivision house and lot in Santa Rosa, Laguna through bank financing. In the event that such financing would be disapproved, Rodman was supposed to pay the full contract price of P4,412,254.00, less the downpayment of P1,323,676.20, within 15 days from its receipt of the loan disapproval.<sup>[9]</sup>

After settling the downpayment, Rodman took possession of the property.<sup>[10]</sup>

In three separate letters<sup>[11]</sup>, complainant demanded that Rodman pay the outstanding balance of P3,088,577.80.<sup>[12]</sup> Both parties agreed that the amount would be paid on a deferred basis within 18 months.<sup>[13]</sup>

Rodman made a partial payment of P404,782.56 on 22 March 1999. It also claimed to have made other payments amounting to P1,458,765.06 from March 1999 to July

1999, which complainant disputed.<sup>[14]</sup>

Consequently, complainant rescinded the Contract to Sell by notarial act, and demanded that Rodman vacate the subject property.<sup>[15]</sup>

As Rodman remained in possession of the property,<sup>[16]</sup> complainant filed an unlawful detainer case against the former before the Municipal Trial Court (MTC) of Makati City.<sup>[17]</sup>

Soon after, Rodman filed a Complaint before the Housing and Land Use Regulatory Board (HLURB) seeking the nullification of the rescission of the Contract to Sell. It also prayed for the accounting of payments and the fixing of the period upon which the balance of the purchase price should be paid.<sup>[18]</sup>

The MTC took cognizance of Rodman's HLURB Complaint, and dismissed the unlawful detainer case on the ground of lack of jurisdiction.<sup>[19]</sup>

HLURB Regional Office No. IV (HLURB Regional Office), through its arbiter Atty. Ma. Perpetua Y. Aquino, similarly dismissed Rodman's Complaint and ordered it to pay damages and attorney's fees.<sup>[20]</sup> Rodman appealed the ruling to the HLURB Board of Commissioners (HLURB Board).<sup>[21]</sup>

In its subsequent Decision,<sup>[22]</sup> the HLURB Board modified the arbiter's ruling, directing Rodman "to immediately pay its outstanding balance failing in which respondent shall have the right to rescind the contract subject to a refund of all the sums paid by complainant less deductions as may be stipulated in the contract and less monthly compensation for the use of the premises at the rate of 1% of the contract price per month."<sup>[23]</sup>

Complainant filed a Motion for Reconsideration<sup>[24]</sup> of the HLURB Board's Decision, questioning the order to refund the sums paid by Rodman less deductions in case of a rescission of the contract. Rodman filed a Comment/Opposition<sup>[25]</sup> to complainant's motion and sought a clarification of certain aspects of the Decision,<sup>[26]</sup> but did not move for reconsideration.

The HLURB Board thereafter issued a Resolution<sup>[27]</sup> modifying its earlier Decision. Thus:

xxx [T]he complainant (Rodman) is directed to immediately pay to the respondent (herein complainant) its outstanding balance of P1,814,513.27, including interests and penalties which may have accrued in the meantime, failing in which, the respondent shall have the right to rescind the contract subject to a refund of all the sums paid by the complainant less deductions as may be stipulated in the contract and less monthly compensation for the use of the premises at the rate of 1% of the contract price per month.

As neither of the parties appealed the judgment within the period allowed, it became final and executory.

The parties thereafter attempted to arrive at a settlement on the judgment, but their efforts were in vain.<sup>[28]</sup> With the judgment award still not satisfied after the lapse of six months, complainant filed a motion for writs of execution and possession<sup>[29]</sup> before the HLURB Board.

Respondent filed an Opposition/Comment on the motion and subsequently a Rejoinder<sup>[30]</sup> to complainant's Reply.<sup>[31]</sup>

In an Order<sup>[32]</sup> dated 10 August 2006, the HLURB Board granted complainant's motion and remanded the case records to the HLURB Regional Office for proceedings on the execution of the judgment and/or other appropriate disposition.

Respondent moved for reconsideration of the Order dated 10 August 2006,<sup>[33]</sup> raising issues on the computation of interests. Complainant filed an Opposition<sup>[34]</sup> and Rejoinder,<sup>[35]</sup> to which respondent filed a Reply<sup>[36]</sup> and Surrejoinder.<sup>[37]</sup>

On 17 January 2007, the HLURB Board issued an Order<sup>[38]</sup> denying Rodman's Motion for Reconsideration. It said that the computation of interests and penalties, as well as other matters concerning the implementation of the final and executory Decision, shall be dealt with in the execution proceedings before the Regional Office. It furthermore enjoined the parties from filing any pleading in the guise of an appeal on collateral issues or questions already passed upon.<sup>[39]</sup>

On 5 March 2007, respondent filed a Motion for Computation of Interest<sup>[40]</sup> before the HLURB Regional Office, citing the disagreement between the parties as to the reckoning date of the accrual of interest. Complainant filed its Opposition with Motion for Issuance of Writ of Execution and Possession.<sup>[41]</sup>

In its Order<sup>[42]</sup> dated 31 July 2007, the HLURB Regional Office accordingly computed the interest due, arriving at the total amount of P2,685,479.64 as payment due to complainant. It also directed the issuance of a Writ of Execution implementing the HLURB Board's earlier Resolution.<sup>[43]</sup>

Instead however of complying with the Order and the Writ of Execution,<sup>[44]</sup> respondent, on behalf of Rodman, filed a Motion (1) to Quash the Writ of Execution; (2) for Clarification; and (3) to Set the Case for Conference.<sup>[45]</sup> The said motion injected new issues and claims and demanded the inclusion in the Order of a "provision that upon actual receipt of the amount of P2,685,479.64, [complainant] should simultaneously turn-over the duplicate original title to Rodman." (Emphasis omitted)

Respondent also filed a Petition<sup>[46]</sup> to Cite Complainant in Contempt for issuing a demand letter to Rodman despite the pendency of the latter's Motion to Quash the Writ of Execution.

On 7 November 2007, the HLURB Regional Office summoned the parties to a conference to thresh out the problems with the execution of the writ. The conference, however, failed to serve its purpose.

Respondent thereafter moved for the inhibition of Atty. Aquino as arbiter of the case and for the setting of a hearing on the Petition to Cite Complainant in Contempt.<sup>[47]</sup> The motion alleged that Arbiter Aquino had shown bias in favor of complainant, and that she had failed to set the Petition for hearing.<sup>[48]</sup>

In an Order dated 23 April 2008,<sup>[49]</sup> the HLURB Regional Office (1) denied the motion for inhibition; (2) granted complainant's Motion for Issuance of Alias Writ of Execution and Writ of Possession; and (3) directed complainant to comment on the Petition citing the latter for contempt.

Respondent moved for reconsideration of the aforementioned Order, reiterating that Arbiter Aquino should inhibit herself from the case because of her bias. Arbiter Aquino eventually yielded and ordered the re-raffle of the case, which went to Arbiter Raymundo A. Foronda.

When complainant filed an Urgent *Ex-Parte* Motion to Resolve Pending Motion for the Issuance of an Alias Writ of Execution, respondent submitted his vehement Opposition. He insisted that his Motion to be Furnished with Notice of Re-raffle should be acted upon first and argued that "the merits of the instant case as well as the motions filed in relation thereto must be re-evaluated by the new handling arbiter after the re-raffling x x x."

On 5 January 2009, respondent filed a Manifestation on the Notice of Conference issued by Arbiter Foronda. The Manifestation stated that Rodman would be attending the conference, not to submit itself to the jurisdiction of Arbiter Foronda, but to facilitate the re-raffling of the case.

On 16 January 2009, respondent filed a Motion for Inhibition against Arbiter Foronda, claiming that his designation violated due process. He said the re-raffle was questionable because he was not notified of its conduct despite his earlier Motion to be Furnished with Notice of Re-raffle.

Thereafter, the parties submitted various pleadings on the issue of whether or not Arbiter Foronda could rule on the pending motions.

In a Resolution dated 22 September 2009, Arbiter Foronda held that (1) the notice of re-raffle was not an indispensable prerequisite for a substitute arbiter to have jurisdiction over a case at the execution stage; (2) the claim of Rodman that its Motion for Reconsideration of the 23 April 2008 Order had remained unresolved was rendered moot by Arbiter Aquino's eventual inhibition from the case; and (3) Rodman's prayer for the summary dismissal of complainant's motions to resolve the Motion for the Issuance of an Alias Writ of Execution was denied.

The 22 September 2009 Resolution put an end to the long-drawn-out dispute, as respondent did not file any more pleadings.

### **ADMINISTRATIVE COMPLAINT AGAINST RESPONDENT**

On 21 February 2007, in the midst of the squabble over the HLURB case, complainant - through its vice president for project development Steven J. Dy - filed a Complaint-Affidavit<sup>[50]</sup> against respondent for alleged professional misconduct and

violation of the Lawyer's Oath. The Complaint alleged that respondent's conduct in relation to the HLURB case manifested a disregard of the following tenets:[51]

1. Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.
2. Canon 10 - A lawyer owes candor, fairness, and good faith to the court.
3. Rule 10.03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.
4. Canon 12 - A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.
5. Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse court processes.

In his Comment,[52] respondent claimed that what primarily caused the delays in the HLURB case were the legal blunders of complainant's counsel, to wit:

1. It took complainant's counsel a period of six months to file a Motion for Writ of Execution of the HLURB Board's Decision dated 22 June 2005.[53]
2. The Motion for Writ of Execution was filed before the HLURB Board, which as an appellate body had no jurisdiction to issue the writ.[54]

Respondent also raised the issue of complainant's counsel's erroneous acts of notarial rescission and filing of an ejectment suit before the trial court. These acts allegedly contributed to the delay in the resolution of the dispute.[55]

Further, respondent argued that he could not have possibly caused delays in the execution of the Decision dated 22 June 2005 at the time the instant Complaint was filed on 21 February 2007, as complainant filed its Motion for Writ of Execution before the HLURB Regional Office only in April 2007.[56]

Lastly, respondent asserted that he merely followed his legal oath by defending the cause of his client with utmost dedication, diligence, and good faith.[57]

As respondent allegedly continued performing dilatory and frivolous tactics, complainant filed Supplemental Complaints[58] against him.

The Court referred this case to the IBP for investigation, report, and recommendation.[59]

On 22 June 2013, the IBP issued a Resolution adopting and approving the Investigating Commissioner's Report and Recommendation on the Complaint.[60] Neither party filed a motion for reconsideration or a petition within the period allowed.[61]

## **THE RULING OF THE COURT**