

## THIRD DIVISION

[ G.R. No. 207133, March 09, 2015 ]

**SWIRE REALTY DEVELOPMENT CORPORATION, PETITIONER, VS.  
JAYNE YU, RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse and set aside the Decision <sup>[1]</sup> dated January 24, 2013 and Resolution <sup>[2]</sup> dated April 30, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 121175.

The facts follow.

Respondent Jayne Yu and petitioner Swire Realty Development Corporation entered into a Contract to Sell on July 25, 1995 covering one residential condominium unit, specifically Unit 3007 of the Palace of Makati, located at P. Burgos corner Caceres Sts., Makati City, with an area of 137.30 square meters for the total contract price of P7,519,371.80, payable in equal monthly installments until September 24, 1997. Respondent likewise purchased a parking slot in the same condominium building for P600,000.00.

On September 24, 1997, respondent paid the full purchase price of P7,519,371.80 for the unit while making a down payment of P20,000.00 for the parking lot. However, notwithstanding full payment of the contract price, petitioner failed to complete and deliver the subject unit on time. This prompted respondent to file a Complaint for Rescission of Contract with Damages before the Housing and Land Use Regulatory Board (HLURB) Expanded National Capital Region Field Office (ENCRFO).

On October 19, 2004, the HLURB ENCRFO rendered a Decision <sup>[3]</sup> dismissing respondent's complaint. It ruled that rescission is not permitted for slight or casual breach of the contract but only for such breaches as are substantial and fundamental as to defeat the object of the parties in making the agreement. It disposed of the case as follows:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered ordering [petitioner] the following:

1. To finish the subject unit as pointed out in the inspection Report
2. To pay [respondent] the following:

- a. the amount of P100,000 as compensatory damages for the minor irreversible defects in her unit [respondent], or, in the alternative, conduct the necessary repairs on the subject unit to conform to the intended specifications;
- b. moral damages of P20,000.00
- c. Attorney's fees of P20,000.00

On the other hand, [respondent] is hereby directed to immediately update her account insofar as the parking slot is concerned, without interest, surcharges or penalties charged therein.

All other claims and counterclaims are hereby dismissed for lack of merit.

IT IS SO ORDERED. [4]

Respondent then elevated the matter to the HLURB Board of Commissioners.

In a Decision [5] dated March 30, 2006, the HLURB Board of Commissioners reversed and set aside the ruling of the HLURB ENCRFO and ordered the rescission of the Contract to Sell, ratiocinating:

We find merit in the appeal. The report on the ocular inspection conducted on the subject condominium project and subject unit shows that the amenities under the approved plan have not yet been provided as of May 3, 2002, and that the subject unit has not been delivered to [respondent] as of August 28, 2002, which is beyond the period of development of December 1999 under the license to sell. The delay in the completion of the project as well as of the delay in the delivery of the unit are breaches of statutory and contractual obligations which entitles [respondent] to rescind the contract, demand a refund and payment of damages.

The delay in the completion of the project in accordance with the license to sell also renders [petitioner] liable for the payment of administrative fine.

Wherefore, the decision of the Office below is set aside and a new decision is rendered as follows:

1. Declaring the contract to sell as rescinded and directing [petitioner] to refund to [respondent] the amount of P7,519,371.80 at 6% per annum from the time of extrajudicial demand on January 05, 2001: subject to computation and payment of the correct filing fee;
2. Directing [petitioner] to pay respondent attorney's fees in the amount of P20,000.00;
3. Directing [petitioner] to pay an administrative fine of P10,000.00 for violation of Section 20, in relation to Section 38 of P.D. 957:

SO ORDERED. [6]

Petitioner moved for reconsideration, but the same was denied by the HLURB Board of Commissioners in a Resolution [7] dated June 14, 2007.

Unfazed, petitioner appealed to the Office of the President (OP) on August 7, 2007.

In a Decision [8] dated November 21, 2007, the OP, through then Deputy Executive Secretary Manuel Gaite, dismissed petitioner's appeal on the ground that it failed to promptly file its appeal before the OP. It held:

Records show that [petitioner] received its copy of the 30 March 2006 HLURB Decision on 17 April 2006 and instead of filing an appeal, it opted first to file a Motion for Reconsideration on 28 April 2006 or eleven (11) days thereafter. The said motion interrupted the 15-day period to appeal.

On 23 July 2007, [petitioner] received the HLURB Resolution dated 14 June 2007 denying the Motion for Reconsideration.

Based on the ruling in **United Overseas Bank Philippines, Inc. v. Ching** (486 SCRA 655), the period to appeal decisions of the HLURB Board of Commissioners to the Office of the President is 15 days from receipt thereof pursuant to Section 15 of P.D. No. 957 and Section 2 of P.D. No. 1344 which are special laws that provide an exception to Section 1 of Administrative Order No. 18.

Corollary thereto, par. 2, Section 1 of Administrative Order No. 18, Series of 1987 provides that:

The time during which a motion for reconsideration has been pending with the Ministry/Agency concerned shall be **deducted** from the period of appeal. But where such a motion for reconsideration has been filed during office hours of the last day of the period herein provided, the appeal must be made within the day following receipt of the denial of said motion by the appealing party. (Underscoring supplied)

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Accordingly, the [petitioner] had only four (4) days from receipt on 23 July 2007 of HLURB Resolution dated 14 June 2007, or until 27 July 2007 to file the Notice of Appeal before this Office. However, [petitioner] filed its appeal only on 7 August 2007 or eleven (11) days late.

Thus, this Office need not delve on the merits of the appeal filed as the records clearly show that the said appeal was filed out of time.

**WHEREFORE**, premises considered, [petitioner]'s appeal is hereby **DISMISSED**, and the HLURB Decision dated 30 March 2006 and HLURB Resolution dated 14 June 2007 are hereby **AFFIRMED**.

**SO ORDERED.** [9]

Immediately thereafter, petitioner filed a motion for reconsideration against said decision.

In a Resolution [10] dated February 17, 2009, the OP, through then Executive Secretary Eduardo Ermita, granted petitioner's motion and set aside Deputy Executive Secretary Gaite's decision. It held that after a careful and thorough evaluation and study of the records of the case, the OP was more inclined to agree with the earlier decision of the HLURB ENCRFO as it was more in accord with facts, law and jurisprudence relevant to the case. Thus:

**WHEREFORE**, premises considered, the instant Motion for Reconsideration is hereby **GRANTED**. The Decision and Resolution of the HLURB Third Division Board of Commissioners, dated March 30, 2006 and June 14, 2007, respectively, are hereby **SET ASIDE**, and the **HLURB ENCRFO** Decision dated October 19, 2004 is hereby REINSTATED.

**SO ORDERED.** [11]

Respondent sought reconsideration of said resolution, however, the same was denied by the OP in a Resolution [12] dated August 18, 2011.

Consequently, respondent filed an appeal to the CA.

In a Decision dated January 24, 2013, the CA granted respondent's appeal and reversed and set aside the Order of the OP. The *fallo* of its decision reads:

**WHEREFORE**, the Petition is hereby **GRANTED**. The assailed *Resolution* dated 17 February 2009 and *Order* dated 18 August 2011 of the Office of the President, in O.P. Case No. 07-H-283, are hereby **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated 30 March 2006 and *Resolution* dated 14 June 2007 of the HLURB Board of Commissioners in HLURB Case No. REM-A-050127-0014, are **REINSTATED**.

**SO ORDERED.** [13]

Petitioner moved for reconsideration, however, the CA denied the same in a Resolution dated April 30, 2013.

Hence, the present petition wherein petitioner raises the following grounds to support its petition:

THE COURT OF APPEALS GRAVELY ERRED IN IGNORING THE LEGAL PRECEPTS THAT:

1. TECHNICAL RULES ARE NOT BINDING UPON ADMINISTRATIVE AGENCIES; and
2. RESCISSION WILL BE ORDERED ONLY WHERE THE BREACH COMPLAINED OF IS SUBSTANTIAL AS TO DEFEAT THE OBJECT OF THE PARTIES IN ENTERING INTO THE AGREEMENT. [14]

In essence, the issues are: (1) whether petitioner's appeal was timely filed before the OP; and (2) whether rescission of the contract is proper in the instant case.

We shall resolve the issues *in seriatim*.

First, the period to appeal the decision of the HLURB Board of Commissioners to the Office of the President has long been settled in the case of *SGMC Realty Corporation v. Office of the President*, [15] as reiterated in the cases of *Maxima Realty Management and Development Corporation v. Parkway Real Estate Development Corporation* [16] and *United Overseas Bank Philippines, Inc. v. Ching*. [17]

In the aforementioned cases, we ruled that the period to appeal decisions of the HLURB Board of Commissioners is fifteen (15) days from receipt thereof pursuant to Section 15 [18] of PD No. 957 [19] and Section 2 [20] of PD No. 1344 [21] which are special laws that provide an exception to Section 1 of Administrative Order No. 18. Thus, in the *SGMC Realty Corporation v. Office of the President* case, the Court explained:

As pointed out by public respondent, the aforecited administrative order allows aggrieved party to file its appeal with the Office of the President within thirty (30) days from receipt of the decision complained of. Nonetheless, such thirty-day period is subject to the qualification that there are no other statutory periods of appeal applicable. If there are special laws governing particular cases which provide for a shorter or longer reglementary period, the same shall prevail over the thirty-day period provided for in the administrative order. This is in line with the rule in statutory construction that an administrative rule or regulation, in order to be valid, must not contradict but conform to the provisions of the enabling law.

We note that indeed there are special laws that mandate a shorter period of fifteen (15) days within which to appeal a case to public respondent. First, Section 15 of Presidential Decree No. 957 provides that the decisions of the National Housing Authority (NHA) shall become final and executory after the lapse of fifteen (15) days from the date of receipt of the decision. Second, Section 2 of Presidential Decree No. 1344 states that decisions of the National Housing Authority shall become final and executory after the lapse of fifteen (15) days from the date of its receipt. The latter decree provides that the decisions of the NHA is appealable only to the Office of the President. Further, we note that the regulatory functions of NHA relating to housing and land development has been