690 Phil. 321

SECOND DIVISION

[G.R. No. 189755, July 04, 2012]

EMETERIA LIWAG, PETITIONER, VS. HAPPY GLEN LOOP HOMEOWNERS ASSOCIATION, INC., RESPONDENT.

D E C I S I O N

SERENO, J.:

This Rule 45 Petition assails the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-GR SP No. 100454. The CA affirmed with modification the Decision[3] and Order[4] of the Office of the President (O.P.) in OP Case No. 05-G-224, which had set aside the Decision[5] of the Board of Commissioners of the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. REM-A-041210-0261 and affirmed the Decision[6] of the Housing and Land Use Arbiter in HLURB Case No. REM-030904-12609.

The controversy stems from a water facility in Happy Glen Loop Subdivision (the Subdivision), which is situated in Deparo, Caloocan City.

Sometime in 1978, F.G.R. Sales, the original developer of Happy Glen Loop, obtained a loan from Ernesto Marcelo (Marcelo), the owner of T.P. Marcelo Realty Corporation. To settle its debt after failing to pay its obligation, F.G.R. Sales assigned to Marcelo all its rights over several parcels of land in the Subdivision, as well as receivables from the lots already sold.[7]

As the successor-in-interest of the original developer, Marcelo represented to subdivision lot buyers, the National Housing Authority (NHA) and the Human Settlement Regulatory Commission (HSRC) that a water facility was available in the Subdivision.[8]

For almost 30 years, the residents of the Subdivision relied on this facility as their only source of water.[9] This fact was acknowledged by Marcelo and Hermogenes Liwag (Hermogenes), petitioner's late husband who was then the president of respondent Happy Glen Loop Homeowners Association (Association).[10]

Sometime in September 1995, Marcelo sold Lot 11, Block No. 5 to Hermogenes. As a result, Transfer Certificate of Title (TCT) No. C-350099

was issued to him. When Hermogenes died in 2003, petitioner Emeteria P. Liwag subsequently wrote a letter to respondent Association, demanding the removal of the overhead water tank from the subject parcel of land.[11]

Refusing to comply with petitioner's demand, respondent Association filed before the

HLURB an action for specific performance; confirmation, maintenance and donation of water facilities; annulment of sale; and cancellation of TCT No. 350099 against T.P. Marcelo Realty Corporation (the owner and developer of the Subdivision), petitioner Emeteria, and the other surviving heirs of Hermogenes.

After the parties submitted their respective position papers, Housing and Land Use Arbiter Joselito Melchor (Arbiter Melchor) ruled in favor of the Association. He invalidated the transfer of the parcel of land in favor of Hermogenes in a Decision dated 5 October 2004, the dispositive portion of which reads:[12]

> **WHEREFORE, *premises considered***, judgment is hereby rendered as follows:
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> 1. Confirming the existence of an easement for water system/facility or open space on Lot 11, Block 5 of TCT No. C-350099 wherein the deep well and overhead tank are situated,
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> 2. Making the Temporary Restraining Order dated 01 April 2004 permanent so as to allow the continuous use and maintenance of the said water facility, *i.e.*, deep well and over head water tank, on the subject lot, by the complainant's members and residents of the subject project, and restraining all the respondents from committing the acts complained of and as described in the complaint,
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> 3. Declaring as void ab initio the deed of sale dated 26 February 2001, involving Lot 11, Block 5 in favor of spouses Liwag, and TCT No. C-350099 in the name of same respondents without prejudice to complainant's right to institute a criminal action in coordination with the prosecuting arms of the government against respondents Marcelo and Liwag, and furthermore, with recourse by Liwag against T.P. and/or Marcelo to ask for replacement for controverted lot with a new one within the subject project; and
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> 4. Ordering respondents, jointly and severally, to pay complainant the amount of P10,000.00 as attorney's fees and the amount of P20,000.00 as damages in favor of the complainant's members.
>
> **SO ORDERED.**

On appeal before the HLURB Board of Commissioners, the Board found that Lot 11, Block 5 was not an open space. Moreover, it ruled that Marcelo had complied with the requirements of Presidential Decree No. (P.D.) 1216 with the donation of 9,047 square meters of open space and road lots. It further stated that there was no proof that Marcelo or the original subdivision owner or developer had at any time represented that Lot 11, Block 5 was an open space. It therefore concluded that the use of the lot as site of the water tank was merely tolerated.[13]

Respondent Association interposed an appeal to the OP, which set aside the Decision of the HLURB Board of Commissioners and affirmed that of the Housing and Land

Use Arbiter.[14]

The OP ruled that Lot 11, Block 5 was an open space, because it was the site of the water installation of the Subdivision, per Marcelo's official representation on file with the HLURB National Capital Region Field Office. The OP further ruled that the open space required under P.D. 957 excluded road lots; and, thus, the Subdivision's open space was still short of that required by law. Finally, it ruled that petitioner Liwag was aware of the representations made by Marcelo and his predecessors-in-interest, because he had acknowledged the existence of a water installation system as per his Affidavit of 10 August 1982.[15]

Petitioner Liwag unsuccessfully moved for reconsideration,[16] then filed a Rule 43 Petition for Review before the CA.[17]

The CA affirmed that the HLURB possessed jurisdiction to invalidate the sale of the subject parcel of land to Hermogenes and to invalidate the issuance of TCT No. C-350099 pursuant thereto.[18] The appellate court agreed with the OP that an easement for water facility existed on the subject parcel of land and formed part of the open space required to be reserved by the subdivision developer under P.D. 957.[19] However, it ruled that Arbiter Melchor should not have recommended the filing of a criminal action against petitioner, as she was not involved in the development of the Subdivision or the sale of its lots to buyers.[20] The CA likewise deleted the award of attorney's fees and damages in favor of respondent.[21]

Aggrieved, petitioner filed the instant Petition before this Court.

The Court's Ruling

We affirm the ruling of the appellate court.

I
The HLURB has exclusive jurisdiction over the case at bar

The jurisdiction of the HLURB is outlined in P.D. 1344, "Empowering the National Housing Authority to Issue Writ of Execution in the Enforcement of its Decision under Presidential Decree No. 957," *viz*:

> Sec. 1. In the exercise of its functions to regulate real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have the exclusive jurisdiction to hear and decide cases of the following nature.
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> A. Unsound real estate business practices;
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> 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, broker or salesman.

When respondent Association filed its Complaint before the HLURB, it alleged that Marcelo's sale of Lot 11, Block 5 to Hermogenes was done in violation of P.D. 957 in the following manner:

> 12. Through fraudulent acts and connivance of [T.P. and Ernesto Marcelo] and the late Liwag and without the knowledge and consent of the complainants all in violation of P.D. 957 and its implementing regulations, respondents T.P. and ***Ernesto Marcelo*** transferred the same lot where the deep well is located which is covered by TCT No. C-41785 in favor of spouses ***Hermogenes Liwag*** and ***Emeteria Liwag*** to the great damage and prejudice of complainants x x x.[22] (Empasis in the original)

We find that this statement sufficiently alleges that the subdivision owner and developer fraudulently sold to Hermogenes the lot where the water facility was located. Subdivisions are mandated to maintain and provide adequate water facilities for their communities.[23] Without a provision for an alternative water source, the subdivision developer's alleged sale of the lot where the community's sole water source was located constituted a violation of this obligation. Thus, this allegation makes out a case for an unsound real estate business practice of the subdivision owner and developer. Clearly, the case at bar falls within the exclusive jurisdiction of the HLURB.

It is worthy to note that the HLURB has exclusive jurisdiction over complaints arising from contracts between the subdivision developer and the lot buyer, or those aimed at compelling the subdivision developer to comply with its contractual and statutory obligations to make the Subdivision a better place to live in.[24] This interpretation is in line with one of P.D. 957's "Whereas clauses," which provides:

> WHEREAS, numerous reports reveal that many real estate subdivision owners, developers, operators, and/or sellers have reneged on their representations and obligations to provide and maintain properly subdivision roads, drainage, sewerage, water systems, lighting systems, and other similar basic requirements, thus endangering the health and safety of home and lot buyers. x x x.

P.D. 957 was promulgated to closely regulate real estate subdivision and condominium businesses.[25] Its provisions were intended to encompass all questions regarding subdivisions and condominiums.[26] The decree aimed to provide for an appropriate government agency, the HLURB, to which aggrieved parties in transactions involving subdivisions and condominiums may take recourse.[27]