

FIRST DIVISION

[G.R. No. 171076, August 01, 2012]

GOLDLOOP PROPERTIES INC., PETITIONER. VS. GOVERNMENT SERVICE INSURANCE SYSTEM, RESPONDENT.

D E C I S I O N

DEL CASTILLO, J.:

This protracted legal battle revolves around the unilateral rescission of the parties' contracts.

In this Petition for Review on *Certiorari*, petitioner Goldloop Properties Inc. (Goldloop) assails the September 26, 2005 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 80135 which reversed and set aside the June 23, 2003 Decision^[2] of the Regional Trial Court (RTC) of Pasay City, Branch III in Civil Case No. 00-0149 for Specific Performance and Damages. Likewise assailed is the January 11, 2006 Resolution^[3] of the CA which denied Goldloop's Motion for Reconsideration thereto.

Factual Antecedents

The Government Service Insurance System (GSIS) owns a 2,411-square meter (sq. m.) parcel of land located in ADB Avenue cor. Sapphire St., Ortigas Center, Pasig City as well as the Philcomcen Building standing on a portion thereof. On June 16, 1995, GSIS and Goldloop executed a Memorandum of Agreement (MOA)^[4] whereby Goldloop, at its own expense and account, would renovate the façade of the Philcomcen Building as well as construct a condominium building on the 1,195 sq. m. portion of said land. Goldloop also undertook to pay GSIS the amount of P140,890,000.00 for the portion of the land on which the condominium building shall stand to be remitted in eight installments within the four-year period following the execution of the MOA. Said amount is apart from the guaranteed revenue of P1,428.28 million^[5] that the parties would share when the project is already completed and the condominium units sold. It was further agreed that should the gross sales of the condominium project exceed the said guaranteed revenue, GSIS would be entitled to 9.86% of the amount in excess of P1,428.28 million and Goldloop, to the balance of 90.14%.^[6]

On June 18, 1996, the parties executed an Addendum to the Memorandum of Agreement^[7] (Addendum) to include in the project the relocation of an existing powerhouse and cistern tank within the site of the proposed condominium building. And since by then Goldloop had yet to remit to GSIS the first and second installment payments of the guaranteed amount, the Addendum also contained stipulations relative thereto, to wit:

2. The parties agree that the expense items identified in Annex "C" [8] as A.1, A.2.1, A.2.2., A.2.3., A.3.1., B.1 and B.2 are for the account of GSIS; while expense items A.3.2. and B.3 are for the account of GOLDLOOP.
3. As a gesture of goodwill and in consideration for the waiver by GSIS of the interest due from GOLDLOOP by reason of late payment of the first guaranteed amount under Section 1.1. of the MOA, GOLDLOOP hereby agrees to absorb expense Item C of Annex "C" hereof;
4. GOLDLOOP shall advance the payments of all the expense items due from GSIS which shall, however be credited as full payment of its first guaranteed installment and partial payment of the second guaranteed installment under Section 1.1. of the MOA;
5. As further gesture of goodwill and as additional consideration for the waiver by GSIS of the interest due from GOLDLOOP by reason of late payment of the first guaranteed amount under Section 1.1 of the MOA, GOLDLOOP hereby agrees not to charge the GSIS any interest for the amounts to be advanced by GOLDLOOP in excess of the amount due as its first guaranteed installment;
6. In consideration of the undertakings of GOLDLOOP under Sections 3 and 5 hereof, the GSIS hereby waives in favor of GOLDLOOP the interest due from the latter by reason of its late payment of the first guaranteed amount under Section 1.1 of the MOA[.] [9]

Goldloop then performed the necessary preparatory works.[10] It also formally launched the project[11] and conducted the pre-selling of the condominium units. [12]

Unfortunately, construction could not proceed because Mayor Vicente P. Eusebio (Mayor Eusebio) of Pasig City refused to act on the applications for building permits filed in November 1996[13] and July 1997,[14] claiming that GSIS owed Pasig City P54 million in unpaid real estate taxes. The GSIS, for its part, through its then President and General Manager, Mr. Cesar Sarino (Sarino), claimed that GSIS is exempt from payment thereof by virtue of Republic Act (R.A.) No. 8291.[15] Because of this impasse, Mayor Eusebio opted to hold in abeyance any action on the applications for building permit until the issue on the tax exemption provisions of R.A. No. 8291 shall have been settled by the court through a petition for declaratory relief that Pasig City intended to file.[16]

When Mr. Federico C. Pascual (Pascual) was subsequently appointed as the new President and General Manager of GSIS, Goldloop's President, Mr. Emmanuel R. Zapanta (Zapanta), apprised him of the situation. Later, however, Goldloop received from GSIS a letter dated November 23, 1998 informing it of a recommendation[17] to rescind the MOA.[18] Zapanta thus wrote GSIS on December 2, 1998 and reiterated that the work stoppage due to non-issuance of permit was not Goldloop's

fault. Assuring GSIS that it would commence the project as soon as the issue on building permits is resolved, Zapanta urged GSIS to reconsider its position.^[19] Despite this, GSIS still sent Goldloop a notice of rescission^[20] dated February 23, 2000 stating that 30 days from the latter's receipt thereof, the MOA shall be deemed rescinded for Goldloop's breach of its obligations and commitments thereunder, specifically for failure to pay the guaranteed amount of P140,890,000.00 under Section 1.1 and pursuant to Sections 1.3 and 2.4 of the MOA, viz:

In view of your failure to abide by the provisions of the Memorandum of Agreement, please be informed that effective upon the expiration of thirty (30) days from receipt of this notice, the aforesaid Agreement is deemed rescinded and terminated for breach of obligations and commitments pursuant to the following provisions of the Contract:

Section 1.1 That GOLDLOOP PROPERTIES, INC. will pay the GSIS a guaranteed amount of ONE HUNDRED FORTY MILLION EIGHT HUNDRED NINETY THOUSAND PESOS (P140,890,000.00) as payment for the 1,195 sq. m. portion of the lot on which the second tower will stand in accordance with the following schedule:

<u>Period from signing of the Agreement</u>	<u>Percentage of Total Amount</u>	<u>Amount to be Remitted</u>
Six Months	10%	P 14,089,000.00
Twelve Months	15%	21,133,500.00
Eighteen Months	15%	21,133,500.00
Twenty-four Months	15%	21,133,500.00
Thirty Months	15%	21,133,500.00
Thirty-Six Months	10%	14,089,000.00
Forty-Two Months	10%	14,089,000.00
Forty-Eight Months	10%	_____
	100%	<u>14,089,000.00</u> P 140,890,000.00

Section 1.3 Payment to GSIS of the amounts provided for in the preceding paragraphs

shall be remitted by GOLDLOOP within the periods stated therein without need of prior demand; and failure to so pay within said periods shall entitle the GSIS to an interest of 18% per annum, compounded monthly, *without prejudice to the other rights and remedies of the GSIS under this Agreement and under applicable laws.*

x x x x

Section 2.4. Should GOLDLOOP fail to start the construction works within thirty (30)

working days from the date all the relevant permits and licenses from the concerned agencies are obtained, or within six (6) months from the date of the execution of this Agreement, whichever is earlier, or at any given time abandon the same or otherwise commit any breach of their obligations and commitments under this Agreement. this agreement shall be deemed terminated and cancelled without need of judicial action by giving thirty (30) days written notice to that effect to GOLDLOOP [which] hereby agrees to abide by the decision of the GSIS.^[21] (Underscoring and Emphasis in the original.)

Subsequently, GSIS sent Goldloop a letter^[22] dated April 27, 2000 informing it that the MOA was already officially rescinded. It thus ordered Goldloop to vacate the premises and clear the same of all debris, machineries and equipment within five days from receipt thereof. Failing which, GSIS warned that it would undertake the same on Goldloop's account without responsibility on its part for any resulting loss or damage. Because of this, Goldloop filed on May 17, 2000 a Complaint^[23] for Specific Performance with Damages before the RTC of Pasay City against GSIS. The case was docketed as Civil Case No. 00-0149 and raffled to Branch 111 of said court.

Proceedings in the Regional Trial Court

In its complaint, Goldloop belied GSIS's claim that it has not paid the guaranteed amount. It asserted that aside from the amount it expended for the preparatory works undertaken, it already paid GSIS the sum of P24,824,683.00 in terms of charges on change order items. This amount was advanced by Goldloop in favor of GSIS, with the understanding, per the Addendum, that the same shall be credited as full payment of the first installment and as partial payment of the second installment of the guaranteed amount. Goldloop also claimed to have spent a total of P44,075,910.70 for design, marketing fees, project launching, title annotation, waiver, advances of contractors and other expenses. All in all, Goldloop already shelled out the amount of P68,890,593.70.^[24]

Goldloop also averred that it was ready, willing and able to perform all of its obligations under the MOA as shown by the preparatory works it had undertaken. However, because of the non-issuance of building permits by Mayor Eusebio, the project could not push thru. Goldloop further alleged that GSIS made assurances that it would secure the necessary permits but GSIS still failed to obtain the same. Goldloop also alleged that GSIS delayed the issuance of notice to proceed despite repeated reminders from Goldloop.

Goldloop also claimed that during Zapanta's courtesy call to Pascual, the latter allegedly advised the former to just wait for the resolution of the problem and even remarked that "*at any rate the real estate market is still depressed in view of the Asian financial crisis.*" On the same day, Zapanta even handed to Pascual a letter^[25] dated July 20, 1998 which also spoke of the same problem.

Hence, Goldloop asserted that the rescission was without basis and clearly made in bad faith. It therefore asked the RTC to declare the same as null and void, to direct

GSIS to comply with the provisions of the MOA and the Addendum, and to secure all the necessary permits from Pasig City. It also prayed for actual damages of still undetermined amount due to its alleged continuing character, exemplary damages of P10 million, attorney's fees of P500,000.00 and costs of suit.

On June 15, 2000, Goldloop applied for the issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction.^[26] This was on account of its receipt of a letter^[27] dated May 29, 2000 from GSIS wherein it was given a final notice to vacate the premises and to clear it from all debris, machineries and equipment within five days from receipt thereof, otherwise, GSIS would undertake the same on Goldloop's account. Goldloop also alleged that

GSIS had already leased the premises to the Department of Interior and Local Government without its knowledge and consent.^[28] Claiming lawful possession and occupancy of the premises on the strength of the MOA as well as grave and irreparable damage to it should GSIS take over the property, Goldloop prayed that GSIS be restrained from disturbing or interfering with its possession and occupancy of the premises.

Notwithstanding GSIS's opposition,^[29] the RTC granted Goldloop's application for TRO and accordingly ordered GSIS to cease and desist from doing acts which would in any manner tend to disturb Goldloop's peaceful possession and occupation of the subject premises.^[30] Upon the expiration of the said TRO, Goldloop applied for the issuance of a writ of preliminary injunction^[31] which was likewise granted by the trial court.^[32] GSIS moved for reconsideration^[33] but was denied by the RTC.^[34]

In its Answer with Affirmative Defenses and Compulsory Counterclaims,^[35] GSIS contested Goldloop's claim that it had already advanced P24,824,683.00 in expense items supposed to be for GSIS's account. It averred that if at all, the amount should only be P21,225,521.08 per the agreed valuation of said expense items as listed in Annex "C" of the Addendum and provided further that the works for which said items were intended were indeed completed. GSIS likewise denied for lack of knowledge and information Goldloop's allegation that it incurred P44,075,910.70 for other expenses; that it delayed the issuance of the notice to proceed with the construction; and that Goldloop apprised Pascual of the situation, both personally and in writing.

Regarding the issue on tax liability, GSIS denied that it acted in bad faith in not informing Goldloop of the same as it was within its right to invoke tax exemption pursuant to its charter.

In gist, GSIS insisted that the rescission of the MOA and the Addendum was a valid and legitimate exercise of its right under the provisions thereof; hence, the complaint against it must be dismissed.

By way of compulsory counterclaims, GSIS prayed for Goldloop to pay it actual damages for lost income/unrealized revenues in the amount of P68,922,360.73, P10 million exemplary damages, and P1 million attorney's fees.

Ruling of the Regional Trial Court