

THIRD DIVISION

[G.R. No. 166462, October 24, 2012]

**P. L. UY REALTY CORPORATION, PETITIONER, VS. ALS
MANAGEMENT AND DEVELOPMENT CORPORATION AND
ANTONIO K. LITONJUA, RESPONDENTS.**

RESOLUTION

VELASCO JR., J.:

For consideration of the Court is a Petition for Review on Certiorari dated February 2005 filed under Rule 45 by petitioner P. L. Uy Realty Corporation (PLU). In the petition, PLU seeks the reversal of the Decision dated August 21, 2002^[1] and Resolution dated December 22, 2004^[2] issued by the Court of Appeals (CA) in CA-G.R. CV No. 44377 entitled *P. L. Uy Realty Corporation v. ASL^[3] Management and Development Corporation, et al.* The CA Decision affirmed the Decision dated November 17, 1993^[4] of the Regional Trial Court of Pasig City, Branch 156, in Civil Case No. 60221 which dismissed, on the ground of prematurity, the complaint filed by PLU for foreclosure of mortgage against ALS Management and Development Corporation (ALS) and Antonio S. Litonjua.^[5]

The antecedent facts of the case are as follows:

On September 3, 1980, PLU, as vendor, and ALS, as vendee, executed a Deed of Absolute Sale with Mortgage^[6] covering a parcel of land, registered under Transfer Certificate of Title (TCT) No. 16721, in the name of petitioner and located at F. Blumentritt Street, Mandaluyong, Metro Manila. The purchase price for the land was set at PhP 8,166,705 payable, as follows:

- | | |
|---|---------------|
| a. Upon execution of the Contract | - P |
| | 500,000.00 |
| b. Within 100 days thereafter, a downpayment equivalent | - |
| to 24% (P1,960,000.00) of the principal amount less the advance of P500,000.00 | 1,460,009.20 |
| c. The balance of P6,206,695.80 together with interest of 12% per annum (estimated interest included) on the diminishing balance shall be payable over a period of four (4) years on or before the month and day of the first downpayment as follows: | |
| 2nd Payment (24%) | P1,960,009.20 |
| Interest | 744,803.49 |
| | 2,704,812.69 |

3rd Payment (24%)	1,960,009.20	
Interest	509,602.39	2,469,611.59
4th Payment (24%)	1,960,009.20	
Interest	274,401.28	2,234,410.48
5th Payment (24%)	326,668.20	
Interest	19,600.09	346,268.29 ^[7]

Notably, the parties stipulated in paragraph 4.a of the Deed of Absolute Sale with Mortgage on the eviction of informal settlers, as follows:

4. a. It is understood that the VENDOR shall have the property clear of any existing occupants/squatters, the removal of which shall be for the sole expenses & responsibilities of the VENDOR & that the VENDEE is authorized to withhold payment of the 1st 24% installment unless the above-undertaking is done and completed to the satisfaction of the VENDEE;^[8]

Section 6 of the deed, on the other hand, provided that "realty taxes during the validity of this mortgage, shall be for the account of the VENDEE [ALS]."^[9]

Thereafter, the parties entered into an Agreement dated December 23, 1980,^[10] paragraph 3 of which reads:

3. That all accruals of interest as provided for in paragraph 2-c of the Deed of Sale With Mortgage will be deferred and the subsequent payments of installments will correspondingly [sic] extended to the date the occupants/squatters will vacate the subject property.^[11]

The succeeding paragraph 4 provided that in the event the informal settlers do not leave the property, PLU would reimburse ALS the following amounts:

4. That in the event the occupants/squatters will refuse to vacate the premises despite the amicable payments being offered by the FIRST PARTY (PLU) and paid by the SECOND PARTY (ALS) for the account of the FIRST PARTY, the following amount [sic] will be refunded by the FIRST PARTY to the SECOND PARTY:

- a. All payments made, including the downpayment
- b. All costs of temporary/permanent improvements introduced by the SECOND PARTY in the subject property
- c. All damages suffered by the SECOND PARTY due to the refusal of the occupants/squatters to vacate the premises.^[12]

On January 26, 1981, TCT No. 16721 was canceled and a new one, TCT No. 26048, issued in the name of ALS.^[13]

Subsequently, the parties executed a Partial Release of Mortgage dated April 3, 1981^[14] attesting to the payment by ALS of the first installment indicated in the underlying deed. The relevant portion of the Partial Release of Mortgage reads:

1. Upon the execution of this document, the SECOND PARTY shall pay the net sum of THREE HUNDRED NINETY FIVE THOUSAND PESOS (P395,000.00) after deducting expenses, covered by UCPB Check No. 078993 dated April 2, 1981 to complete the full payment of the first 24% installment.

2. The FIRST PARTY hereby executes a partial release of the mortgage to the extent of TWENTY THOUSAND SQUARE METERS (20,000 sq.m.) in consideration of the advance payment which would now amount to a total of P1,960,009.20, of a portion of the said property indicated in the attached subdivision plan herewith x x x.^[15]

ALS, however, failed to pay the 2nd payment despite demands.

Thus, on August 25, 1982, PLU filed a Complaint^[16] against ALS for Foreclosure of Mortgage and Annulment of Documents. The case was initially raffled to the Court of First Instance (CFI) of Rizal, but eventually re-raffled to the Regional Trial Court, Branch 137 in Makati City (Makati RTC) thereat docketed as Civil Case No. 47438 entitled *PLU Realty Corporation v. ALS (or ASL) Management and Development Corporation*.^[17] In the complaint, PLU alleged having had entered into an oral agreement with ALS whereby the latter "[agreed to] take over the task of ejecting the squatters/occupants from the property covered by TCT No. 26048 issued in its name,"^[18] adding that, through the efforts of ALS, the property was already 90% clear of informal settlers.^[19] Notably, PLU's prayer for relief states:

WHEREFORE, plaintiff respectfully prays that judgment be rendered:

(1) Declaring null and void the documents attached to, and made an integral part of this complaint as Annexes "D" and "G";

(2) Sentencing the defendant to pay the plaintiff the sum of Six Million Two Hundred Six Thousand Six hundred Ninety-Five Pesos & 60/100 (P6,206,695.80), with interest thereon as provided in sub-paragraph (c), paragraph 2 of the Deed of Sale with Mortgage and paragraph 6 of the same Deed, plus interests at the legal rate from the date of filing of this complaint;

(3) Sentencing the defendant to pay the plaintiff the actual damages and attorney's fees it has suffered, as above alleged, in the total sum of Four Hundred Fifty Thousand Pesos (P450,000.00);

(4) Providing that, in the event defendant refuses or fails to pay all the above-mentioned amounts after the decision of this Hon. Court has become final and executory, the corresponding order is issued for the sale, in the corresponding Foreclosure sale of the mortgaged property described in the Deed of Sale with Mortgage, to satisfy the judgment rendered by this Hon. Court, plus costs of suit.

Plaintiff prays for such further reliefs as this Hon. Court may deem just and proper in the premises.^[20]

On May 9, 1986, the Makati RTC rendered a Decision^[21] ruling that the obligation of PLU to clear the property of informal settlers was superseded by an oral agreement between the parties whereby ALS assumed the responsibility of ejecting said informal settlers. The Makati RTC, however, declared that the removal of the informal settlers on the property is still a subsisting and valid condition.^[22] In this regard, the trial court, citing a CA case entitled *Jacinto v. Chua Leng* (45 O.G. 2915), ruled:

In the case at bar, the fulfillment of the conditional obligation to pay the subsequent installments does not depend upon the sole will or exclusive will of the defendant-buyer. In the first place, although the defendant-buyer has shown an apparent lack of interest in compelling the squatters to vacate the premises, as it agreed to do, there is nothing either in the contract or in law that would bar the plaintiff-seller from taking the necessary action to eject the squatters and thus compel the defendant-buyer to pay the balance of the purchase price. In the second place, should the squatters vacate the premises, for reasons of convenience or otherwise, and despite defendant's lack of diligence, the latter's obligation to pay the balance of the purchase price would arise unavoidably and inevitably. x x x Moreover, considering that the squatters' right of possession to the premises is involved in Civil Case No. 40078 of this Court, defendant's obligation to pay the balance of the purchase price would necessarily be dependent upon a final judgment of the Court ordering the squatters to vacate the premises.

The trial court further ruled that because informal settlers still occupied 28% of the property, the condition, as to their eviction, had not yet been complied with.^[23] For this reason, the Makati RTC found the obligation of ALS to pay the balance of the purchase price has not yet fallen due and demandable; thus, it dismissed the case for being premature. The dispositive portion of the Makati RTC Decision reads:

WHEREFORE, judgment is hereby rendered dismissing the instant action for foreclosure of mortgage, as the same is premature. Likewise the counterclaim is hereby ordered dismissed, for lack of sufficient merit. No pronouncement as to costs.

SO ORDERED.^[24]

Therefrom, both parties appealed to the CA which eventually affirmed the ruling of the trial court in a Decision dated August 30, 1989^[25] in CA-G.R. CV No. 12663 entitled *PLU Realty Corporation v. ALS (or ASL) Management and Development Corporation*. The dispositive portion of the Decision states:

WHEREFORE, premises considered, the decision of the trial court is AFFIRMED *in toto*.

No costs.

SO ORDERED.^[26]

ALS appealed the case to this Court primarily questioning the finding of the Makati RTC that it had assumed the responsibility of ejecting the informal settlers on the property. On February 7, 1990, in G.R. No. 91656, entitled *ALS Management and Development Corporation v. Court of Appeals and PLU Realty*, the Court issued a Resolution^[27] affirming the rulings of the CA and the Makati RTC. The resolution became final and executory on February 7, 1990.^[28]

Sometime thereafter, PLU again filed a Complaint dated November 12, 1990^[29] against ALS for Judicial Foreclosure of Real Estate Mortgage under Rule 68, before the RTC, Branch 156 in Pasig City (Pasig RTC), docketed as Civil Case No. 60221 and entitled *P. L. Uy Realty Corporation v. ASL Management and Development Corporation and Antonio S. Litonjua*. In the complaint, PLU claimed that ALS had not yet completed the agreed 1st payment obligation despite numerous demands. The complaint's prayer reads:

WHEREFORE, it is most respectfully prayed that after hearing judgment be rendered directing the defendants to pay within ninety (90) days from receipt of an order the following amount:

1. The outstanding balance of the purchase price amounting to P6,206,695.80 plus 12% interest per annum from January, 1981 until full payment thereof has been made;
2. The sum equivalent to 10% of the total outstanding obligations as and for attorney's fee;
3. The sum of P100,000.00 as and for moral damages; and,
4. The sum of P50,000.00 as and for exemplary damages, plus costs;

and in case of default to order the sale of the properties to satisfy the aforestated obligations pursuant to the provisions of Rule 68 of the Revised Rules of Court.

Plaintiff also prays for such other just and equitable reliefs in the premises.

In defense, ALS claims that the installment payments for the balance of the