

SECOND DIVISION

[G.R. No. 153821, February 13, 2008]

FORBES PARK ASSOCIATION, INC., Petitioner, vs. PAGREL, INC., PILAR R. DE LAGDAMEO, ENRIQUE B. LAGDAMEO, ATTY. MILA B. FLORES in her capacity as the Register of Deeds of Makati City, and the Hon. CESAR D. SANTAMARIA in his capacity as Presiding Judge of Branch 145 of the RTC of Makati, Respondents.

DECISION

VELASCO JR., J.:

Forbes Park is an exclusive, plush subdivision in Makati City. The members of petitioner Forbes Park Association, Inc. (FPA) agreed to have a deed of restrictions annotated on their Transfer Certificates of Title (TCTs), the pertinent portions of which read:

DEED OF RESTRICTIONS

Annotated on all Transfer [Certificates of Title]

I. The owner of this lot or his successor in interest is required to be and is automatically a member of the Forbes Park Association and must abide by the rules and restrictions laid down by the Association covering the use and occupancy of the lot.

II. Subject to such amendments and additional restrictions, reservations, servitudes, etc., as the Forbes Park Association may from time to time adopt and prescribe, this lot is subject to the following restrictions:

x x x x

III. The term of the foregoing restrictions is for fifty (50) years from January 1, 1949 and may be extended, amended or cancelled by means of a resolution approved by 2/3 vote of the Forbes Park Association and registered with the Register of Deeds of Rizal.

For a better understanding of the petition before us, we find it necessary to recall the events that transpired prior to December 31, 1998, the expiration date of the restrictions.

On March 25, 1996, FPA, during its annual general meeting, deliberated on the extension of the corporate life of the Association, the extension of the Deed of Restrictions, and the date of the meeting when these matters would be voted on. Consequently, then incumbent FPA President Enrique Lagdameo, herein respondent, called a Special General Meeting on November 26, 1996 and the two items--the extension of the corporate life of FPA and the Deed of Restrictions--were put to a vote. Since the quorum was questioned, another meeting was set for December 8,

1996. With the secretary's certification that there was no quorum during the November 26 meeting, the Board of Governors sent a circular that the matters discussed then were invalid and had no binding effect, including the setting of a meeting for December 8, 1996.

Just the same, on December 8, 1996, Jose Concepcion presided as chairperson of the meeting. The designated commission on elections reported on the attendance and the votes cast during the November 26 and December 8, 1996 meetings.

As a reaction, some FPA members filed separate cases before the Home Insurance Guaranty Corporation (HIGC). In **HIGC Case No. HOA-97-003** entitled *Arturo V. Rocha v. Forbes Park Association, Inc.*, Arturo Rocha sought the annulment of the FPA resolutions passed during the November 26 and December 8, 1996 meetings, extending the corporate life of FPA and the Deed of Restrictions, on the ground of no-quorum. In **HIGC Case No. HOA-97-010** entitled *Jose Concepcion, Jr., Federico V. Borromeo and Jaime Augusto Zobel de Ayala II v. Rosa Caram*, on the other hand, the three (3) complaining homeowners asked HIGC to enjoin Rosa Caram, the FPA secretary, from misrepresenting that the resolutions passed extending the corporate life of FPA and the Deed of Restrictions were vitiated for lack of quorum. The two cases were consolidated.

Meantime, the Board of Governors of the FPA, chaired by Lagdameo, issued several circulars on the guidelines for the nominations and qualifications of candidates, and validation of proxies for the general assembly and election set for March 30, 1997. The Hearing Panel then canceled the scheduled election and directed the holding of one on June 30, 1997. During the June 30, 1997 election, the FPA members voted for the 25-year extension of FPA's corporate life.

Subsequently, Lagdameo instituted another case before the HIGC docketed as **HIGC Case No. HOA-98-111** and entitled *Enrique B. Lagdameo, Jose M. Cabarrus, Antonio C. Cuyegkeng II, et al. v. Forbes Park Association, Inc., Leonardo Siguion-Reyna and the Register of Deeds of Makati City* that was consolidated with HIGC Case Nos. HOA-97-003 and HOA-97-010. Since, however, the latter two cases had already been submitted for resolution, HIGC Case No. HOA-98-111 was separately heard.

On November 5, 1999, the Hearing Panel, in the consolidated cases, HIGC Case Nos. HOA-97-003, HOA-97-010, and HOA-98-111, ruled that the Deed of Restrictions had not been validly extended because only 407 of the 424 members present, or less than the required two-third (2/3) votes of the members, voted affirmatively. It also declared that the proceedings during the December 8, 1996 meeting and the decision to allow additional members to register and vote were not capable of ratification because the meeting was improperly held. But, the Hearing Panel went on to state, however, that it is essential to ascertain the real will of the members considering that based on the November 26 and December 8, 1996 meetings, albeit held under improper circumstances, more than 2/3 of the general membership, 464 out of 489, including the votes of those who were allowed to register and vote during the December 8 meeting, expressed approval for the extension of the Deed of Restrictions. The panel ordered a referendum within 30 days.

On appeal to the HIGC Appeals Board which was docketed as HIGC AB Case No. 99-012, the Board reversed the panel's decision, thus:

WHEREFORE, PREMISES CONSIDERED, the Decision of the Hearing Panel dated November 5, 1999 is hereby REVERSED except insofar as it declared the December 8, 1996 meeting as illegally and improperly held which we hereby affirm.

Therefore, judgment is hereby rendered [declaring as] VALID AND EFFECTIVE the Resolution of the general membership of the Forbes Park Association, Inc. dated June 30, 1997 extending the corporate term of the Association and the Deed of Restrictions of the Forbes Park Subdivision, for another twenty-five (25) years from expiry date.

Unhappy with the outcome, Rocha filed a petition before the Court of Appeals (CA), the recourse docketed as CA-G.R. SP No. 59359. In a Decision dated August 29, 2003, the CA declared the extension of the deed of restrictions and FPA's corporate life for another 25 years to be valid.

Rocha then challenged the CA Decision before this Court in G.R. No. 163869 that was subsequently closed and terminated after his death. The Rocha heirs, on July 8, 2004, manifested that they were no longer interested in pursuing the case.

On August 29, 2003, the Decision of the CA upholding the extension of the Deed of Restrictions and FPA's corporate life became final and executory. Judgment was entered on September 22, 2004.

Forbes Park Association, Inc. v. Register of Deeds of Makati City
(*Lis Pendens* Case), CA-G.R. SP No. 61245
and subsequently G.R. No. 148733

On January 27, 1999, FPA filed an application with the Register of Deeds of Makati City for the registration by FPA of notices of *lis pendens* over certain Forbes Park lots in connection with HIGC Case Nos. HOA-97-003, HOA-97-010, and HOA-98-111. The issue in the above HIGC cases was the extension of the Deed of Restrictions.

On February 5, 1999, the Register of Deeds denied FPA's application on the ground that a notice of *lis pendens* may only be sought in actions to recover possession of real estate, or to quiet title thereto, or to remove clouds upon the title thereof, or to partition the property, and in any other proceedings of any kind in court directly affecting the title to the land or the use or occupation thereof on the building thereon.^[1]

This denial compelled FPA to appeal via a *consulta* with the Land Registration Authority (LRA). This was entitled as *Forbes Park Association, Inc. v. Register of Deeds of Makati City* and docketed as Consulta No. 3038. The principal issue FPA raised before the LRA was whether or not a notice of *lis pendens* can be registered given the circumstances of FPA's application. On August 21, 2000, the LRA issued a resolution denying the appeal filed by FPA and essentially adopting the reasoning of the Register of Deeds.^[2]

The denial of the appeal by the LRA prompted FPA to file a petition for review with the CA, docketed as CA-G.R. SP No. 61245. Attached to the petition was a verification and certification against non-forum shopping signed by one Reynaldo N. Rigor, Village Manager of Forbes Park.

On November 28, 2000, the CA, in a single page resolution, dismissed FPA's petition for review on the sole ground that the person who signed the subject verification and certification was not a duly authorized representative of FPA.^[3] FPA's motion for reconsideration was denied in the CA's June 25, 2001 Resolution.^[4]

On April 25, 2005, FPA filed before the Court a petition for review, docketed as **G.R. No. 148733**, assailing the above resolutions of the CA and praying that the CA be directed to give due course to FPA's petition for review on the issue of registration of the notices of *lis pendens* on certain Forbes Park lots. In this recourse, FPA faulted the CA for ruling against the validity of the verification and certification signed by Rigor.

Subsequently, FPA filed a Manifestation and Motion to Withdraw the Petition dated March 15, 2005,^[5] contending that the *lis pendens* issue in question has been rendered moot by the development in *Arturo V. Rocha v. FPA*, G.R. No. 163869.

In the *Rocha* case, as may be recalled, the CA Decision in CA-G.R. SP No. 59359, which upheld the extension of the Deed of Restrictions and the corporate life of FPA, became final and executory because of the withdrawal by the Rocha heirs of their appeal in G.R. No. 163869. Thus, according to FPA, the issue in G.R. No. 148733, specifically the registration of notices of *lis pendens*, had essentially become moot and academic.

Acting on FPA's manifestation and motion to withdraw the petition, this Court issued a Resolution dated April 25, 2005, stating that G.R. No. 148733 dismissing the petition was deemed closed and terminated.^[6] The entry of judgment in G.R. No. 148733 was made on June 14, 2005.^[7]

**The PAGREL Cases
(LRC Case Nos. M-4150, M-4151 and M-4152 [CA-G.R. SP No. 67263])
are the subject matters of instant G.R. No. 153821**

Earlier, on March 29, 2001, respondent PAGREL, Inc., represented by Gregorio Araneta III, respondent Pilar R. De Lagdameo, and respondent Lagdameo, separately filed *ex parte* petitions with the Makati City Regional Trial Court^[8] (RTC) to cancel the restrictions over their respective lot titles. These were docketed as LRC Case Nos. M-4150, M-4151, and M-4152, respectively (PAGREL cases). They claimed that the Deed of Restrictions had expired and remained so until the time of the filing of their petitions without any extensions or new restrictions registered with the Registry of Deeds of Makati City as of midnight of December 31, 1998. Significantly, FPA was not impleaded as a party in any of the above cases filed with the RTC.

The RTC granted the relief in its April 10, 2001 Order, the *fallo* of which reads:

WHEREFORE, in view of the foregoing, the Court rules to:

1.] Give due course and GRANTS the petition filed by Pagrel Inc. as represented herein by Gregorio Araneta III, through counsel in LRC Case No. M-4150. And as prayed for, the Register of Deeds of Makati City is