

## THIRD DIVISION

[ G.R. NO. 154877, March 27, 2007 ]

**JIN-JIN DELOS SANTOS, PETITIONER, VS. SPOUSES REYNATO D. SARMIENTO AND LENI C. SARMIENTO AND IA-JAN SARMIENTO REALTY, INC., RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the August 20, 2002 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 69902.<sup>[2]</sup>

The facts are of record.

In a Contract to Buy and Sell<sup>[3]</sup> dated March 17, 1995 (contract to sell), Reynato Sarmiento and Leni Sarmiento (Spouses Sarmiento),<sup>[4]</sup> agreed to sell to Jin Jin Delos Santos (Santos) an 82-square meter residential lot identified as Lot 18, Block 2, located at IA-JAN Homes and registered under TCT. No. 95442. The purchase price was set at P824,000.00, P300,000.00 of which was paid by Santos to Spouses Sarmiento at the time of the execution of the contract, with the remaining balance to be paid within 5 years at a monthly amortization rate of P15,074.43.

Before the purchase price could be paid in full, Santos and Spouses Sarmiento entered into a Cancellation of Contract to Buy and Sell<sup>[5]</sup> (cancellation of contract) dated April 19, 1997, by virtue of which Spouses Sarmiento agreed to refund Santos P584,355.10 while the latter agreed to surrender possession of the residential lot to the former.

On July 14, 1999, Santos wrote Spouses Sarmiento, demanding refund of P760,000.00 with interest.<sup>[6]</sup> Spouses Sarmiento wrote back that they intend to refund the amount within 90 days.<sup>[7]</sup>

When Spouses Sarmiento failed to refund Santos, the latter filed with the Housing and Land Use Regulatory Board-Expanded National Capital Region Field Office (HLURB) a Complaint,<sup>[8]</sup> docketed as HLURB Case No. REM-102299-10723,<sup>[9]</sup> to enforce the cancellation of contract and demand payment of the refund plus interest and damages. The case was assigned to Arbiter Atty. Dunstan T. San Vicente (Arbiter San Vicente) who issued an Order<sup>[10]</sup> dated June 7, 2000, declaring respondents therein in default for failure to file an answer despite notice. It is noted, however, that the respondent named in the June 7, 2000 Order is IA-JAN Sarmiento Realty, Inc. (IJSRI), not Spouses Sarmiento.

IJSRI is actually the complainant in a case for specific performance filed against

Santos before HLURB and docketed as REM-102299-10732.<sup>[11]</sup> In said case, IJSRI alleged in its Complaint<sup>[12]</sup> that it was the vendor in the contract to sell with Santos; that it received only 13 payments from Santos (or the total amount of P195,727.12) for which it issued corresponding IJSRI official receipts;<sup>[13]</sup> and that Santos defaulted, leaving an unpaid balance of P2,414,964.58.<sup>[14]</sup> The case was assigned to Arbiter Atty. Joselito Melchor (Arbiter Melchor).

In her Answer to the Complaint in REM-102299-10732,<sup>[15]</sup> Santos admitted that she entered into the contract to sell with IJSRI and that she made payments to the latter for which she received IJSRI official receipts.<sup>[16]</sup> However, Santos insists that, in addition to the 13 payments itemized in the Complaint, she made 7 additional payments, all covered by official

receipts,<sup>[17]</sup> bringing her total payments to P866,602.35. Moreover, Santos argued that her obligations under the contract to sell had been extinguished by the execution of the cancellation of contract.<sup>[18]</sup>

It appears that Santos filed a motion<sup>[19]</sup> for consolidation of REM-102299-10723 and REM-102299-10732. IA-JAN opposed<sup>[20]</sup> the consolidation as improper for the two cases involve different sets of parties, specifically: while in REM-102299-10723 the complainant is Santos and the respondents are Spouses Sarmiento, in REM-102299-10732, the complainant is IA-JAN and the respondent is Santos.<sup>[21]</sup>

In an undated Order, <sup>[22]</sup> Arbiter San Vicente granted Santos's motion and directed that REM-102299-10723 and REM-102299-10732 be resolved in a consolidated judgment. However, Arbiter San Vicente later reversed himself in an Order<sup>[23]</sup> dated June 7, 2000 and directed that REM-102299-10732 be heard separately from REM-102299-10723.

Yet, in a Decision dated February 26, 2001, Arbiter Melchor treated REM-102299-10723 and REM-102299-10732 as still consolidated<sup>[24]</sup> and held:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the respondent and ordering the complainant to pay to respondent as follows:

- a) The amount of FIVE HUNDRED EIGHTY FOUR THOUSAND THREE HUNDRED FIFTY FIVE PESOS & 10/100 (P584,255.10) with eighteen percent (18%) per annum to be computed from the complainant's delay of payment dated October 15, 1997 until fully paid, and
- b) The amount of FIFTY THOUSAND PESOS (P50,000.00) as damages and attorney's fees plus the costs of litigation.

SO ORDERED. <sup>[25]</sup>

HLURB Regional Director Octavio DG. Canta (Director Canta) approved the foregoing Decision.<sup>[26]</sup>

IJSRI filed a Petition for Review<sup>[27]</sup> with the HLURB Board of Commissioners (HLURB Board) but Arbiter Melchor, in an Order<sup>[28]</sup> dated February 26, 2002, dismissed the Petition for failure of IJSRI to attach an appeal bond. Director Canta approved the Order.

Upon a Petition for *Certiorari* and *Mandamus*<sup>[29]</sup> filed by IJSRI, the CA rendered the August 20, 2002 Decision assailed herein, the dispositive portion of which reads:

WHEREFORE, finding grave abuse of discretion on the part of public respondents Arbiter Melchor and Regional Director Obligation of the HLURB, the assailed Decision dated February 26, 2001 and Order dated February 26, 2002 are hereby VACATED and SET ASIDE. Accordingly, public respondents are hereby DIRECTED to dispose the cases REM 102999-10732 entitled "IA-JAN SARMIENTO REALTY, INCORPORATED, Complainant versus JIN-JIN DELOS SANTOS, Respondent" separately and independently, in keeping with the Order dated June 7, 2000 of Arbiter Dunstan San Vicente.

Without filing a motion for reconsideration from the CA Decision, petitioner Santos took the present recourse on three grounds:

1. The Court of Appeals erred when it made a legal conclusion given the undisputed facts, that there was grave abuse of discretion when Arbiter Melchor rendered a consolidated decision on the two cases of Jin-Jin Delos Santos vs. Sps. Reynato D. Sarmiento/Leni C. Sarmiento and IA-JAN Sarmiento Realty vs. Jin-Jin Delos Santos, even when the cases involved the same parties, same matters (contract to buy and sell, cancellation of contract, townhouse/lot and official receipts) and intimately related issues.
2. The Court of Appeals erred when, in ruling to remand the consolidated cases for a separate and independent resolution, it made the legal conclusion, in clear disregard of the principle of "piercing the veil of corporate fiction". That the Spouses Sarmiento and their Sarmiento Realty Inc. have separate and distinct personalities, even when the undisputed fact is that the two respondents never considered themselves as independent and separate entities in their dealings with petitioner-"purchaser".
3. The Court of Appeals erred when it made a legal conclusion given the admitted facts, that there was grave abuse of discretion when Arbiter Melchor dismissed the Petition for Review of respondent IA-JAN Sarmiento Realty, Inc. even when there was failure to attach the required appeal bond and which failure is a ground for such dismissal.<sup>[30]</sup>

Before we even begin to consider the foregoing issues, the Court takes cognizance of a pivotal question of lack of jurisdiction over the subject matter, a deficiency patent on the face of the records. We resolve this issue *motu proprio*, even if it was not raised by the parties nor threshed out in their pleadings,<sup>[31]</sup> for to let it pass would result in the conferment of jurisdiction to the HLURB by the mere oversight of the parties, the agency concerned and the CA.<sup>[32]</sup>

The scope and limitation of the jurisdiction of the HLURB is well-defined. Its precursor, the National Housing Authority (NHA), was vested under Presidential

Decree (P.D.) No. 957<sup>[33]</sup> with exclusive jurisdiction to

regulate the real estate trade and business,<sup>[34]</sup> specifically the registration of subdivision or condominium projects<sup>[35]</sup> and dealers, brokers and salesmen of subdivision lots or condominium units;<sup>[36]</sup> issuance<sup>[37]</sup> and suspension<sup>[38]</sup> of license to sell; and revocation of registration certificate<sup>[39]</sup> and license to sell.<sup>[40]</sup> Its jurisdiction was later expanded under Presidential Decree (P.D.) No. 1344<sup>[41]</sup> of April 2, 1978, to include adjudication of the following cases:

Sec. 1. In the exercise of its function to regulate the real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have exclusive jurisdiction to hear and decide cases of the following nature:

- A. Unsound real estate business practices;
- 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 lot or condominium unit against the owner, developer, broker or salesman.*** (Emphasis ours.)

By virtue of Executive Order No. 648,<sup>[42]</sup> the Human Settlements Regulatory Commission (HSRC) was created to regulate zoning and land use and development<sup>[43]</sup> and to assume the regulatory and adjudicatory functions of NHA.<sup>[44]</sup> HSRC was later renamed HLURB under Executive Order No. 90.<sup>[45]</sup>

At present, therefore, it is clear that the jurisdiction of the HLURB to hear and decide cases is determined by the nature of the cause of action, the subject matter or property involved and the parties.

The cases over which HLURB has jurisdiction are those arising from either unsound real estate business practices, or claims for refund or other claims filed by subdivision lot or condominium unit buyers against the project owner, developer, dealer, broker or salesman, or demands for specific performance of contractual and statutory obligations filed by buyers of subdivision lots or condominium units against the owner, developer,

broker or salesman.<sup>[46]</sup>

In addition, these cases must involve a subdivision project, subdivision lot, condominium project or condominium unit. A subdivision project or subdivision lot is defined under Sec. 2 of P.D. No. 957, thus:

Section 2 x x x

- d) Subdivision project - "Subdivision project" shall mean a tract or a parcel of land registered under Act No. 496 which is partitioned primarily

for residential purposes into individual lots with or without improvements thereon, and offered to the public for sale, in cash or in installment terms. It shall include all residential, commercial, industrial and recreational areas as well as open spaces and other community and public areas in the project.

e) Subdivision lot. - "Subdivision lot" shall mean any of the lots, whether residential, commercial, industrial, or recreational, in a subdivision project.

In quite a number of cases, we declared the HLURB without jurisdiction where the complaint filed did not allege that the property involved is a subdivision or condominium project or a subdivision lot or condominium unit.<sup>[47]</sup> In fact, in *Javellana v. Presiding Judge*,<sup>[48]</sup> we were not satisfied with a mere reference in the contract to sell to the property as a "regular subdivision project." We observed:

A reading of the complaint does not show that the subject lot was a subdivision lot which would fall under the jurisdiction of the HLURB. The complaint clearly described the subject lot as Lot No. 44, Plan 15 with an area of 139.4 sq. meters situated in the District of Sampaloc covered by Transfer Certificate of Title No. 131305 of the Registry of Deeds of Manila. We note that such description was used when referring to the subject lot. What appears from the complaint was the fact that the subject lot was sold to petitioners in an ordinary sale of a lot on installment basis; that petitioners allegedly defaulted in the payment of their monthly installments for which reason respondent seeks to recover possession thereof. Thus, the trial court has jurisdiction over the case.

Going back to the jurisdictional requirements, it is also important that, with reference to cases arising from a claim for refund or specific performance, said cases must be filed by the subdivision lot or condominium unit buyer or owner against the subdivision or condominium project owner, developer, broker or salesman. Cases filed by buyers or owners of property which is not alleged to be a subdivision or condominium property do not fall within the jurisdiction of the HLURB for the complainants in said cases are treated as ordinary real estate buyers or owners, not subdivision or condominium buyers or owners.<sup>[49]</sup>

What about cases filed by subdivision or condominium project owners or developers against their buyers? The rules on this matter differ.

The general rule is stated in *Pilar Development Corporation v. Villar*<sup>[50]</sup> and *Suntay v. Gocolay*<sup>[51]</sup> where we held that the HLURB has no jurisdiction over cases filed by subdivision or condominium owners or developers against subdivision lot or condominium unit buyers or owners. The rationale behind this can be found in the wordings of Sec. 1, P.D. No. 1344, which expressly qualifies that the cases cognizable by the HLURB are those instituted by subdivision or condominium buyers or owners against the project developer or owner. This rationale is also expressed in the preambles of P.D. No. 957 and P.D. No. 1344 which state that the policy of the law is to curb unscrupulous practices in real estate trade and business.<sup>[52]</sup>

The only instance that HLURB may take cognizance of a case filed by the developer