

## FIRST DIVISION

[ G.R. NO. 146726, June 16, 2006 ]

**MULTI-REALTY DEVELOPMENT CORPORATION, PETITIONER, VS.  
THE MAKATI TUSCANY CONDOMINIUM CORPORATION,  
RESPONDENT.**

### DECISION

**CALLEJO, SR., J.:**

Before this Court is a petition for review on *certiorari* of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CV No. 44696 dismissing the appeal of Multi-Realty Development Corporation on the ground of prescription.

Multi-Realty is a domestic corporation engaged in the real estate business, and the construction and development of condominiums. It developed, among others, the Ritz Towers Condominium, and the former Galeria de Magallanes, both built in the Municipality (now city) of Makati.

In the 1970s, Multi-Realty constructed a 26-storey condominium at the corner of Ayala Avenue and Fonda Street in Makati City, known as the Makati Tuscany Condominium Building (Makati Tuscany, for short). The building was one of the Philippines' first condominium projects, making it necessary for Multi-Realty and the government agencies concerned with the project, to improve and formulate rules and regulations governing the project as construction progressed.

Makati Tuscany consisted of 160 condominium units, with 156 units from the 2<sup>nd</sup> to the 25<sup>th</sup> floors, and 4 penthouse units in the 26<sup>th</sup> floor. Two hundred seventy (270) parking slots were built therein for apportionment among its unit owners. One hundred sixty-four (164) of the parking slots were so allotted, with each unit at the 2<sup>nd</sup> to the 25<sup>th</sup> floors being allotted one (1) parking slot each, and each penthouse unit with two slots. Eight (8) other parking slots, found on the ground floor of the Makati Tuscany were designated as guest parking slots, while the remaining 98 were to be retained by Multi-Realty for sale to unit owners who would want to have additional slots.

According to Multi-Realty, the intention to allocate only 8 parking slots to the Makati Tuscany's common areas was reflected in its color-coded ground floor plan, upper basement plan and lower basement plan prepared by its architect, C.D. Arguelles and Associates. These plans, which depict common areas as yellow zones and areas reserved for unit owners as red zones, clearly show that, of the 270 parkings slots, 262 were designated red zones, and only 8 first-floor parking slots were designated yellow zones or common areas.

Pursuant to Republic Act No. 4726, otherwise known as the Condominium Act, the Makati Tuscany Condominium Corporation (MATUSCO) was organized and

established to manage the condominium units.

In 1975, Multi-Realty executed a Master Deed and Declaration of Restrictions<sup>[2]</sup> (Master Deed, for short) of the Makati Tuscany. Sections 5 and 7 provide:

SEC. 5. Accessories to Units. - To be considered as part of each unit and reserved for the exclusive use of its owner are the balconies adjacent thereto and the parking lot or lots which are to be assigned to each unit.

x x x x

SEC. 7. The Common Areas. - The common elements or areas of the Makati Tuscany shall comprise of all the parts of the project other than the units, including without limitation the following:

x x x x

(d) All driveways, playgrounds, garden areas and PARKING AREAS OTHER THAN THOSE ASSIGNED TO EACH UNIT UNDER SEC. 5 ABOVE;<sup>[3]</sup>

The Master Deed was filed with the Register of Deeds in 1977. Multi-Realty executed a Deed of Transfer in favor of MATUSCO over these common areas. However, the Master Deed and the Deed of Transfer did not reflect or specify the ownership of the 98 parking slots. Nevertheless, Multi-Realty sold 26 of them in 1977 to 1986 to condominium unit buyers who needed additional parking slots. MATUSCO did not object, and certificates of title were later issued by the Register of Deeds in favor of the buyers. MATUSCO issued Certificates of Management covering the condominium units and parking slots which Multi-Realty had sold.

At a meeting of MATUSCO's Board of Directors on March 13, 1979, a resolution was approved, authorizing its President, Jovencio Cinco, to negotiate terms under which MATUSCO would buy 36 of the unallocated parking slots from Multi-Realty. During another meeting of the Board of Directors on June 14, 1979, Cinco informed the Board members of Multi-Realty's proposal to sell all of the unassigned parking lots at a discounted price of P15,000.00 per lot, or some 50% lower than the then prevailing price of P33,000.00 each. The Board agreed to hold in abeyance any decision on the matter to enable all its members to ponder upon the matter.

In the meantime, the fair market value of the unallocated parking slots reached P250,000.00 each, or a total of P18,000,000.00 for the 72 slots.

In September 1989, Multi-Realty, through its President, Henry Sy, who was also a member of the Board of Directors of MATUSCO, requested that two Multi-Realty executives be allowed to park their cars in two of Makati Tuscany's remaining 72 unallocated parking slots. In a letter, through its counsel, MATUSCO denied the request, asserting, for the first time, that the remaining unallocated parking slots were common areas owned by it. In another letter, MATUSCO offered, by way of goodwill gesture, to allow Multi-Realty to use two unallocated parking slots, which offer was rejected by the latter.

On April 26, 1990, Multi-Realty, as plaintiff, filed a complaint, docketed as Civil Case No. 90-1110, against MATUSCO, as defendant, for Damages and/or Reformation of

Instrument with prayer for temporary restraining order and/or preliminary injunction. The case was raffled to Branch 59 of the Makati RTC.

Multi-Realty alleged therein that it had retained ownership of the 98 unassigned parking slots. Considering, however, that Makati Tuscany was one of its first condominium projects in the Philippines, this was not specified in Section 7(d) of the Master Deed since the documentation and the terms and conditions therein were all of first impression. It was further alleged that the mistake was discovered for the first time when MATUSCO rejected its request to allow its (Multi-Realty's) executives to park their cars in two of the unassigned parking lots.

In its Answer with counterclaim, MATUSCO alleged that Multi-Realty had no cause of action against it for reformation of their contract. By its own admission, Multi-Realty sold various parking slots to third parties despite its knowledge that the parking areas, other than those mentioned in Sec. 5 of the Master Deed, belonged to MATUSCO. MATUSCO prayed that judgment be rendered in its favor dismissing the complaint; and, on its counterclaim, to order the plaintiff to render an accounting of the proceeds of the sale of the parking slots other than those described in Sec. 5 of the Master Deed; to pay actual damages equivalent to the present market value of the parking areas other than those described in Sec. 5 of the Master Deed, amounting to no less than P250,000.00 per slot plus reasonable rentals thereon at no less than P400.00 per slot per month from date of sale until payment by plaintiff to defendant of the market value of these parking areas.

After trial, the RTC rendered a decision, the dispositive portion of which reads:

Premises considered, this case is dismissed. Defendant's counterclaim is, likewise, dismissed, the same not being compulsory and no filing fee having been paid. Plaintiff is, however, ordered to pay defendant attorney's fees in the amount of P50,000.00.

Cost against plaintiff.

SO ORDERED.<sup>[4]</sup>

The trial court ruled that Multi-Realty failed to prove any ground for the reformation of its agreement with MATUSCO relative to the ownership of the common areas. There is no evidence on record to prove that the defendant acted fraudulently or inequitably to the prejudice of the plaintiff, and the latter was estopped, by deed, from claiming that it owned the common areas. It also held that the defendant was not estopped from assailing plaintiff's ownership over the disputed parking slots.

Multi-Realty appealed the decision to the CA via a petition under Rule 41 of the Rules of Court, contending that:

THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT AND DISALLOWING THE PLAINTIFF-APPELLANT FROM REFORMING THE MASTER DEED BECAUSE:

I

THERE IS VALID GROUND FOR REFORMATION OF THE MASTER DEED SINCE THE MASTER DEED DID NOT REFLECT

THE TRUE INTENTION OF THE PARTIES REGARDING THE OWNERSHIP OF THE EXTRA NINETY-EIGHT PARKING [SLOTS] DUE TO MISTAKE.

II

THE REGISTRATION OF THE MASTER DEED WITH THE REGISTER OF DEEDS DID NOT MAKE PLAINTIFF-APPELLANT GUILTY OF ESTOPPEL BY DEED.

III

THE TRIAL COURT ERRED IN FINDING THAT DEFENDANT-APPELLEE IS NOT ESTOPPED FROM QUESTIONING THE OWNERSHIP OF PLAINTIFF-APPELLANT OVER THE DISPUTED PARKING LOTS.<sup>[5]</sup>

In support of its appeal, Multi-Realty reiterated its contentions in the trial court, insisting that it had adduced evidence to prove all the requisites for the reformation of Section 7(d) of the Master Deed under Article 1359 of the New Civil Code. It was never its intention to designate the 98 unassigned parking slots as common areas, and, as shown by the evidence on record, this was known to MATUSCO. Under Article 1364 of the New Civil Code, an instrument may be reformed if, due to lack of skill on the part of the drafter, the deed fails to express the true agreement or intention of the parties therein. Since MATUSCO knew that it (Multi-Realty) owned the 98 parking slots when the Master Deed was executed, its registration did not make Multi-Realty guilty of estoppel by deed. In fact, MATUSCO failed to object to the sale of some of the parking slots to third parties. It was also pointed out that Multi-Realty remained in possession thereof.

Multi-Realty further claimed that the trial court erred in not declaring that MATUSCO was estopped from assailing the ownership over the parking slots, as it not only conformed to the sale of some of the unassigned parking slots but likewise failed to assail the ownership thereon for a period of 11 years. It insisted that the sale of the said parking slots was made in accord with law, morals and public order, and that MATUSCO's claim of ownership of the unassigned parking slots was merely an afterthought.

MATUSCO, for its part, appealed the trial court's dismissal of its counterclaim.

On Multi-Realty's appeal, MATUSCO countered that the 270 parking slots were to be apportioned as follows:

1	parking lot for each ordinary unit	-	156
2.	parking lots for each of the 4 Penthouse Apartment Units	-	8

of the remaining 106 parking lots, 34 parking lots were designated and allocated as part of "common areas" which would be allocated purely for

visitors, while the remaining 72 units would become part of the Condominium Corporation's income-earning "common areas"

- 106  
- - - -  
270<sup>[6]</sup>  
=====

It was further averred that Multi-Realty, through Henry Sy, executed the Master Deed in July 1975 and the Deed of Transfer in 1977, in which the ownership of the common areas was unconditionally transferred to MATUSCO; Multi-Realty sold 26 of the 34 parking slots in bad faith, which had been allocated purposely for visitors of unit owners, amounting to millions of pesos; the action for reformation has no legal basis because the transfer of the 106 unassigned parking slots which form part of the common areas is contrary to Section 16<sup>[7]</sup> of the Condominium Act.

MATUSCO further pointed out that the unassigned parking slots could be transferred only by the affirmative votes of all the members of Multi-Realty, and that the Master Deed and the Deed of Transfer were prepared by the latter with the assistance of its renowned lawyers. If there was a mistake in the drafting of the Master Deed in 1975, the deed should have been corrected in 1977 upon the execution of the Deed of Transfer. With the social and economic status of Henry Sy, Multi-Realty's President, it is incredible that the Master Deed and the Deed of Transfer failed to reflect the true agreement of the parties. MATUSCO went on to state that Multi-Realty failed to adduce a preponderance of evidence to prove the essential requirements for reformation of the questioned documents. Even if there was a mistake in drafting the deeds, reformation could not be given due course absent evidence that defendant-appellee acted fraudulently or inequitably.

On its claim of ownership over the unassigned parking slots, MATUSCO averred that it is not estopped to do so because the sales thereof were illegal, and it had no knowledge that Multi-Realty had been selling the same. Having acted fraudulently and illegally, Multi-Realty cannot invoke estoppel against it.

On the RTC decision dismissing its counterclaim, MATUSCO averred that said decision is erroneous, as it had adduced evidence to prove its entitlement to said counterclaim.

In reply, Multi-Realty averred that MATUSCO's counterclaim had already prescribed because it was filed only in 1990, long after the period therefor had elapsed in 1981.

On August 21, 2000, the CA rendered its decision dismissing Multi-Realty's appeal on the ground that its action below had already prescribed. The dispositive portion of the decision reads:

WHEREFORE, foregoing premises considered, the appeal having no merit in fact and in law, is hereby ORDERED DISMISSED, and the judgment of the trial court is MODIFIED by deleting the award of attorney's fees not having been justified but AFFIRMED as to its Order dismissing both the main complaint of plaintiff-appellant and the counterclaim of defendant-appellant. With costs against both parties.<sup>[8]</sup>