474 Phil. 834

SECOND DIVISION

[G.R. No. 149417, June 04, 2004]

GLORIA SANTOS DUEÑAS, PETITIONER, VS. SANTOS SUBDIVISION HOMEOWNERS ASSOCIATION, RESPONDENT.

D E C I S I O N

QUISUMBING, J.:

For review on certiorari is the Decision[1] dated December 29, 2000, of the Court of Appeals in CA-G.R. SP No. 51601, setting aside the Decision[2] of the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. REM-A-980227-0032 which earlier affirmed the Decision[3] of the HLURB-NCR Regional Field Office in HLURB Case No. REM-070297-9821. Said Regional Field Office dismissed the petition of herein respondent Santos Subdivision Homeowners Association (SSHA) seeking to require herein petitioner, Gloria Santos Dueñas, to provide for an open space in the subdivision for recreational and community activities. In its assailed decision, the CA remanded the case to the HLURB for determination of a definitive land area for open space.[4] Petitioner assails also the Court of Appeals' Resolution[5] dated July 31, 2001, denying her motion for reconsideration.

The facts of this case are as follows:

Petitioner Gloria Santos Dueñas is the daughter of the late Cecilio J. Santos who, during his lifetime, owned a parcel of land with a total area of 2.2 hectares located at General T. De Leon, Valenzuela City, Metro Manila. In 1966, Cecilio had the realty subdivided into smaller lots, the whole forming the Cecilio J. Santos Subdivision (for brevity, Santos Subdivision). The then Land Registration Commission (LRC) approved the project and the National Housing Authority (NHA) issued the required Certificate of Registration and License to Sell. At the time of Cecilio's death in 1988, there were already several residents and homeowners in Santos Subdivision.

Sometime in 1997, the members of the SSHA submitted to the petitioner a resolution asking her to provide within the subdivision an open space for recreational and other community activities, in accordance with the provisions of P.D. No. 957,[6] as amended by P.D. No. 1216.[7] Petitioner, however, rejected the request, thus, prompting the members of SSHA to seek redress from the NHA.

On April 25, 1997, the NHA General Manager forwarded the SSHA resolution to Romulo Q. Fabul, Commissioner and Chief Executive Officer of the HLURB in Quezon City.[8]

In a letter dated May 29, 1997, the Regional Director of the Expanded NCR Field Office, HLURB, opined that the open space requirement of P.D. No. 957, as amended by P.D. No. 1216, was not applicable to Santos Subdivision.[9]

SSHA then filed a petition/motion for reconsideration,[10] docketed as HLURB Case No. REM-070297-9821, which averred among others that: (1) P.D. No. 957 should apply retroactively to Santos Subdivision, notwithstanding that the subdivision plans were approved in 1966 and (2) Gloria Santos Dueñas should be bound by the verbal promise made by her late father during his lifetime that an open space would be provided for in Phase III of Santos Subdivision, the lots of which were at that time already for sale.

Petitioner denied any knowledge of the allegations of SSHA. She stressed that she was not a party to the alleged transactions, and had neither participation nor involvement in the development of Santos Subdivision and the sale of the subdivision's lots. As affirmative defenses, she raised the following: (a) It was her late father, Cecilio J. Santos, who owned and developed the subdivision, and she was neither its owner nor developer; (b) that this suit was filed by an unauthorized entity against a non-existent person, as SSHA and Santos Subdivision are not juridical entities, authorized by law to institute or defend against actions; (c) that P.D. No. 957 cannot be given retroactive effect to make it applicable to Santos Subdivision as the law does not expressly provide for its retroactive applicability; and (d) that the present petition is barred by laches.

On January 14, 1998, HLURB-NCR disposed of HLURB Case No. REM-070297-9821 in this wise:

In view of the foregoing, the complaint is hereby dismissed.

It is So Ordered.[11]

In dismissing the case, the HLURB-NCR office ruled that while SSHA failed to present evidence showing that it is an association duly organized under Philippine law with capacity to sue, nonetheless, the suit could still prosper if viewed as a suit filed by all its members who signed and verified the petition. However, the petition failed to show any cause of action against herein petitioner as (1) there is no evidence showing Santos-Dueñas as the owner/developer or successor-in-interest of Cecilio Santos, who was the owner/developer and sole proprietor of Santos Subdivision; (2) the LRC-approved subdivision plan was bereft of any proviso indicating or identifying an open space, as required by P.D. No. 957, as amended, hence there was no legal basis to compel either Cecilio or his daughter Santos-Dueñas, as his purported successor, to provide said space; and (3) the alleged verbal promise of the late Cecilio Santos was inadmissible as evidence under the dead man's statute.[12]

SSHA then appealed the NCR office's ruling to the HLURB Board of Commissioners. The latter body, however, affirmed the action taken by the HLURB-NCR office, concluding thus:

> WHEREFORE, premises considered, the Petition for Review is hereby DISMISSED and the decision of the Office below is hereby AFFIRMED IN TOTO.
>
> SO ORDERED.[13]

The HLURB Board decreed that there was no basis to compel the petitioner to provide an open space within Santos Subdivision, inasmuch as the subdivision plans approved on July 8, 1966, did not provide for said space and there was no law requiring the same at that time. It further ruled that P.D. No. 957 could not be given retroactive effect in the absence of an express provision in the law. Finally, it found the action time-barred since it was filed nine (9) years after the death of Cecilio. The Board noted that SSHA sought to enforce an alleged oral promise of Cecilio, which should have been done within the six-year prescriptive period provided for under Article 1145[14] of the Civil Code.

Dissatisfied, respondent sought relief from the Court of Appeals via a petition for review under Rule 43 of the 1997 Rules of Civil Procedure. The petition, docketed as CA-G.R. SP No. 51601, was decided by the appellate court in this manner:

> WHEREFORE, the petition is GRANTED--and the decision, dated January 20, 1999, of the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. REM-A-980227-0032 is hereby REVERSED and SET ASIDE. Accordingly, this case is ordered REMANDED to the HLURB for the determination of the definitive land area that shall be used for open space in accordance with law and the rules and standards prescribed by the HLURB. No pronouncement as to costs.
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> SO ORDERED.[15]

In finding for SSHA, the appellate court relied upon *Eugenio v. Exec. Sec. Drilon,*[16] which held that while P.D. No. 957 did not expressly provide for its retroactive application, nonetheless, it can be plainly inferred from its intent that it was to be given retroactive effect so as to extend its coverage even to those contracts executed prior to its effectivity in 1976. The Court of Appeals also held that the action was neither barred by prescription nor laches as the obligation of a subdivision developer to provide an open space is not predicated upon an oral contract, but mandated by law, hence, an action may be brought within ten (10) years from the time the right of action accrues under Article 1144[17] of the Civil Code. Moreover, the equitable principle of laches will not apply when the claim was filed within the reglementary period.

Petitioner duly moved for reconsideration, which the Court of Appeals denied on July 31, 2001.

Hence, this petition grounded on the following assignment of errors:

> I. THE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW BY TAKING COGNIZANCE OF RESPONDENTS' PETITION (WHICH ASSAILS THE DECISION OF THE BOARD OF COMMISSIONERS OF THE HLURB) WHEN JURISDICTION THEREON IS WITH THE OFFICE OF THE PRESIDENT, AS CLEARLY MANDATED BY *SEC. 2, RULE XVIII OF THE 1996 RULES OF PROCEDURE OF THE HOUSING AND LAND USE REGULATORY BOARD.*
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> II. IT WAS GRAVE ERROR FOR THE COURT OF APPEALS TO HAVE ASSUMED JURISDICTION OVER THE PETITION BELOW WHEN RESPONDENTS CLEARLY FAILED TO EXHAUST THE

ADMINISTRATIVE REMEDIES AVAILABLE TO THEM UNDER THE LAW.

III. THE COURT OF APPEALS GRAVELY ERRED IN NOT FINDING THAT RESPONDENT SANTOS SUBDIVISION HOMEOWNERS ASSOCIATION, A NON-REGISTERED ORGANIZATION, LACKED THE LEGAL PERSONALITY TO SUE.

IV. THE COURT OF APPEALS SERIOUSLY ERRED IN NOT HOLDING THAT RESPONDENT SANTOS SUBDIVISION HOMEOWNERS ASSOCIATION HAS NO CAUSE OF ACTION AGAINST PETITIONER; NEITHER WAS SANTOS SUBDIVISION, A NON-ENTITY, POSSESSED WITH CAPACITY TO BE SUED NOR IS PETITIONER GLORIA SANTOS-DUEÑAS A PROPER PARTY TO THE CASE, THE LATTER NOT BEING THE OWNER OR DEVELOPER OF SANTOS SUBDIVISION.

V. THE COURT OF APPEALS SERIOUSLY ERRED IN SUBSTITUTING ITS FINDINGS WITH THAT OF THE ADJUDICATION BOARD AND BOARD OF COMMISSIONERS OF THE HLURB WHEN THEIR DECISION IS BASED ON SUBSTANTIAL EVIDENCE AND NO GRAVE ABUSE OF DISCRETION CAN BE ATTRIBUTED TO THEM.

VI. THE COURT OF APPEALS DEVIATED FROM THE EXISTING LAW AND JURISPRUDENCE WHEN IT RULED THAT P.D. 957 HAS RETROACTIVE APPLICATION -- WHEN THE LAW ITSELF DOES NOT PROVIDE FOR ITS RETROACTIVITY AND THE EXISTING JURISPRUDENCE THEREON CLEARLY PRONOUNCED THAT IT HAS NO RETROACTIVE APPLICATION. TO PROVIDE RETROACTIVITY TO P.D. 957 WOULD CAUSE IMPAIRMENT OF VESTED RIGHTS.

VII. WHILE AS A GENERAL RULE, THE FACTUAL FINDINGS OF THE COURT OF APPEALS IS BINDING ON THE SUPREME COURT, THE SAME IS NOT TRUE WHEN THE FORMER'S CONCLUSION IS BASED ON SPECULATION, SURMISES AND CONJECTURES, THE INFERENCE MADE IS MANIFESTLY MISTAKEN OR ABSURD, THERE IS GRAVE ABUSE OF DISCRETION, JUDGMENT IS BASED ON MISAPPREHENSION OF FACTS CONTRARY TO THOSE OF THE ADMINISTRATIVE AGENCY CONCERNED, AND IT WENT BEYOND THE ISSUES OF THE CASE AND THE SAME IS CONTRARY TO THE ADMISSIONS OF BOTH PARTIES.[18]

To our mind, the foregoing may be reduced into the following issues: (1) the applicability of the doctrine of non-exhaustion of administrative remedies; (2) the legal capacity of respondent to sue the petitioner herein; and (3) the retroactivity of P.D. No. 957, as amended by P.D. No. 1216.

On the *first* issue, the petitioner contends that the filing of CA-G.R. SP No. 51601 was premature as SSHA failed to exhaust all administrative remedies. Petitioner submits that since Section 1,[19] Rule 43 of the 1997 Rule of Civil Procedure does not mention the HLURB, the respondent should have appealed the decision of the HLURB Board in HLURB Case No. REM-A-980227-0032 to the Office of the President prior to seeking judicial relief. In other words, it is the decision of the Office of the

President,[20] and not that of the HLURB Board, which the Court of Appeals may review.

We find petitioner's contentions bereft of merit. The principle of non-exhaustion of administrative remedies is, under the factual circumstances of this case, inapplicable. While this Court has held that before a party is allowed to seek intervention of the courts, it is a pre condition that he avail himself of all administrative processes afforded him,[21] nonetheless, said rule is not without exceptions.[22] The doctrine is a relative one and is flexible depending on the peculiarity and uniqueness of the factual and circumstantial settings of each case. [23]

In the instant case, the questions posed are purely legal, namely: (1) whether the respondent had any right to demand an open space and the petitioner had any legal obligation to provide said open space within Santos Subdivision under P.D. No. 957, as amended by P.D. No. 1216, and (2) whether the action had already prescribed under Article 1145 of the Civil Code. Moreover, the Court of Appeals found that SSHA had sought relief from the Office of the President, but the latter forwarded the case to the HLURB. In view of the foregoing, we find that in this particular case, there was no need for SSHA to exhaust all administrative remedies before seeking judicial relief.

On the *second* issue, the petitioner claims that respondent SSHA failed to present any evidence showing that it is a legally organized juridical entity, authorized by law to sue or be sued in its own name. Thus, pursuant to Section 1, Rule 3[24] of the 1997 Rules of Civil Procedure, it has no legal capacity to file this suit before the HLURB and the Court of Appeals.

SSHA counters that it has the capacity to sue as an association, since it is a member of the Federation of Valenzuela Homeowners Association, Inc., which is registered with the Securities and Exchange Commission. In the alternative, the individual members of SSHA who signed both the resolution and the complaint in this case may, as natural persons, pursue the action.

There is merit in petitioner's contention. Under Section 1, Rule 3 of the Revised Rules of Court, only natural or juridical persons, or entities authorized by law may be parties in a civil action. Article 44[25] of the Civil Code enumerates the various classes of juridical persons. Under said Article, an association is considered a juridical person if the law grants it a personality separate and distinct from that of its members.[26] The records of the present case are bare of any showing by SSHA that it is an association duly organized under Philippine law. It was thus an error for the HLURB-NCR Office to give due course to the complaint in HLURB Case No. REM-070297-9821, given the SSHA's lack of capacity to sue in its own name. Nor was it proper for said agency to treat the complaint as a suit by all the parties who signed and verified the complaint. The members cannot represent their association in any suit without valid and legal authority. Neither can their signatures confer on the association any legal capacity to sue. Nor will the fact that SSHA belongs to the Federation of Valenzuela Homeowners Association, Inc., suffice to endow SSHA with the personality and capacity to sue. Mere allegations of membership in a federation are insufficient and inconsequential. The federation itself has a separate juridical personality and was not impleaded as a party in HLURB Case No. REM-070297-9821