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SECOND DIVISION

[G.R. No. 149734, November 19, 2004]

DR. DANIEL VAZQUEZ AND MA. LUIZA M. VAZQUEZ, PETITIONERS VS. AYALA CORPORATION, RESPONDENT.

D E C I S I O N

TINGA, J,:

The rise in value of four lots in one of the country's prime residential developments, Ayala Alabang Village in Muntinlupa City, over a period of six (6) years only, represents big money. The huge price difference lies at the heart of the present controversy. Petitioners insist that the lots should be sold to them at 1984 prices while respondent maintains that the prevailing market price in 1990 should be the selling price.

Dr. Daniel Vazquez and Ma. Luisa Vazquez[1] filed this *Petition for Review on Certiorari*[2] dated October 11, 2001 assailing the *Decision*[3] of the Court of Appeals dated September 6, 2001 which reversed the *Decision*[4] of the Regional Trial Court (RTC) and dismissed their complaint for specific performance and damages against Ayala Corporation.

Despite their disparate rulings, the RTC and the appellate court agree on the following antecedents:[5]

> On April 23, 1981, spouses Daniel Vasquez and Ma. Luisa M. Vasquez (hereafter, Vasquez spouses) entered into a Memorandum of Agreement (MOA) with Ayala Corporation (hereafter, AYALA) with AYALA buying from the Vazquez spouses, all of the latter's shares of stock in Conduit Development, Inc. (hereafter, Conduit). The main asset of Conduit was a 49.9 hectare property in Ayala Alabang, Muntinlupa, which was then being developed by Conduit under a development plan where the land was divided into Villages 1, 2 and 3 of the "Don Vicente Village." The development was then being undertaken for Conduit by G.P. Construction and Development Corp. (hereafter, GP Construction).
>
> Under the MOA, Ayala was to develop the entire property, less what was defined as the "Retained Area" consisting of 18,736 square meters. This "Retained Area" was to be retained by the Vazquez spouses. The area to be developed by Ayala was called the "Remaining Area". In this "Remaining Area" were 4 lots adjacent to the "Retained Area" and Ayala agreed to offer these lots for sale to the Vazquez spouses at the prevailing price at the time of purchase. The relevant provisions of the MOA on this point are:

"5.7. The BUYER hereby commits that it will develop the 'Remaining Property' into a first class residential subdivision of the same class as its New Alabang Subdivision, and that it intends to complete the first phase under its amended development plan within three (3) years from the date of this Agreement. x x x"

5.15. The BUYER agrees to give the SELLERS a first option to purchase four developed lots next to the "Retained Area" at the prevailing market price at the time of the purchase."

The parties are agreed that the development plan referred to in paragraph 5.7 is not Conduit's development plan, but Ayala's amended development plan which was still to be formulated as of the time of the MOA. While in the Conduit plan, the 4 lots to be offered for sale to the Vasquez Spouses were in the first phase thereof or Village 1, in the Ayala plan which was formulated a year later, it was in the <u>third</u> phase, or Phase II-c.

Under the MOA, the Vasquez spouses made several express warranties, as follows:

"3.1. The SELLERS shall deliver to the BUYER:

xxx

3.1.2. The true and complete list, certified by the Secretary and Treasurer of the Company showing:

xxx

D. A list of all persons and/or entities with whom the Company has pending contracts, if any.

xxx

3.1.5. Audited financial statements of the Company as at Closing date.

4. <u>Conditions Precedent</u>

All obligations of the BUYER under this Agreement are subject to fulfillment prior to or at the Closing, of the following conditions:

4.1. **The representations and warranties by the SELLERS contained in this Agreement shall be true and correct at the time of Closing as though such representations and warranties were made at such time;** and

xxx

6. Representation and Warranties by the SELLERS

The SELLERS jointly and severally represent and warrant to the BUYER that at the time of the execution of this Agreement and at the Closing:

xxx

6.2.3. There are no actions, suits or proceedings pending, or to the knowledge of the SELLERS, threatened against or affecting the SELLERS with respect to the Shares or the Property; and

7. Additional Warranties by the SELLERS

7.1. With respect to the Audited Financial Statements required to be submitted at Closing in accordance with Par. 3.1.5 above, the SELLER jointly and severally warrant to the BUYER that:

7.1.1 The said Audited Financial Statements shall show that on the day of Closing, the Company shall own the "Remaining Property", free from all liens and encumbrances and that **the Company shall have no obligation to any party except for billings payable to GP Construction & Development Corporation and advances made by Daniel Vazquez for which BUYER shall be responsible in accordance with Par. 2 of this Agreement**.

7.1.2 **Except to the extent reflected or reserved in the Audited Financial Statements of the Company as of Closing, and those disclosed to BUYER, the Company as of the date thereof, has no liabilities of any nature whether accrued, absolute, contingent or otherwise,** including, without limitation, tax liabilities due or to become due and whether incurred in respect of or measured in respect of the Company's income prior to Closing or arising out of transactions or state of facts existing prior thereto.

7.2 **SELLERS do not know or have no reasonable ground to know of any basis for any assertion against the Company as at closing or any liability of any nature and in any amount not fully reflected or reserved against such Audited Financial Statements referred to above, and those disclosed to BUYER.**

xxx xxx xxx

7.6.3 **Except as otherwise disclosed to the BUYER in writing on or before the Closing, the Company is not engaged in or a party to, or to the best of the knowledge of the SELLERS, threatened with, any legal action or other proceedings before any court or**

administrative body, nor do the SELLERS know or have reasonable grounds to know of any basis for any such action or proceeding or of any governmental investigation relative to the Company.

7.6.4 To the knowledge of the SELLERS, **no default or breach exists in the due performance and observance by the Company of any term, covenant or condition of any instrument or agreement to which the company is a party or by which it is bound, and no condition exists which, with notice or lapse of time or both, will constitute such default or breach."**

After the execution of the MOA, Ayala caused the suspension of work on Village 1 of the Don Vicente Project. Ayala then received a letter from one Maximo Del Rosario of Lancer General Builder Corporation informing Ayala that he was claiming the amount of P1,509,558.80 as the subcontractor of G.P. Construction...

G.P. Construction not being able to reach an amicable settlement with Lancer, on March 22, 1982, Lancer sued G.P. Construction, Conduit and Ayala in the then Court of First Instance of Manila in Civil Case No. 82-8598. G.P. Construction in turn filed a cross-claim against Ayala. G.P. Construction and Lancer both tried to enjoin Ayala from undertaking the development of the property. The suit was terminated only on February 19, 1987, when it was dismissed with prejudice after Ayala paid both Lancer and GP Construction the total of P4,686,113.39.

Taking the position that Ayala was obligated to sell the 4 lots adjacent to the "Retained Area" within 3 years from the date of the MOA, the Vasquez spouses sent several "reminder" letters of the approaching so-called deadline. However, no demand after April 23, 1984, was ever made by the Vasquez spouses for Ayala to sell the 4 lots. On the contrary, one of the letters signed by their authorized agent, Engr. Eduardo Turla, categorically stated that they expected "development of Phase 1 to be completed by February 19, 1990, three years from the settlement of the legal problems with the previous contractor."

By early 1990 Ayala finished the development of the vicinity of the 4 lots to be offered for sale. The four lots were then offered to be sold to the Vasquez spouses at the prevailing price in 1990. This was rejected by the Vasquez spouses who wanted to pay at 1984 prices, thereby leading to the suit below.

After trial, the court a quo rendered its decision, the dispositive portion of which states:

> "THEREFORE, judgment is hereby rendered in favor of plaintiffs and against defendant, ordering defendant to sell to plaintiffs the relevant lots described in the Complaint in the Ayala Alabang Village at the price of P460.00 per square meter amounting to P1,349,540.00; ordering defendant to reimburse to plaintiffs attorney's fees in the sum of P200,000.00 and to pay the cost of the suit."

In its decision, the court *a quo* concluded that the Vasquez spouses were not obligated to disclose the potential claims of GP Construction, Lancer and Del Rosario; Ayala's accountants should have opened the records of Conduit to find out all claims; the warranty against suit is with respect to "the shares of the Property" and the Lancer suit does not affect the shares of stock sold to Ayala; Ayala was obligated to develop within 3 years; to say that Ayala was under no obligation to follow a time frame was to put the Vasquezes at Ayala's mercy; Ayala did not develop because of a slump in the real estate market; the MOA was drafted and prepared by the AYALA who should suffer its ambiguities; the option to purchase the 4 lots is valid because it was supported by consideration as the option is incorporated in the MOA where the parties had prestations to each other. [Emphasis supplied]

Ayala Corporation filed an appeal, alleging that the trial court erred in holding that petitioners did not breach their warranties under the MOA[6] dated April 23, 1981; that it was obliged to develop the land where the four (4) lots subject of the option to purchase are located within three (3) years from the date of the MOA; that it was in delay; and that the option to purchase was valid because it was incorporated in the MOA and the consideration therefor was the commitment by Ayala Corporation to petitioners embodied in the MOA.

As previously mentioned, the Court of Appeals reversed the RTC *Decision*. According to the appellate court, Ayala Corporation was never informed beforehand of the existence of the Lancer claim. In fact, Ayala Corporation got a copy of the Lancer subcontract only on May 29, 1981 from G.P. Construction's lawyers. The Court of Appeals thus held that petitioners violated their warranties under the MOA when they failed to disclose Lancer's claims. Hence, even conceding that Ayala Corporation was obliged to develop and sell the four (4) lots in question within three (3) years from the date of the MOA, the obligation was suspended during the pendency of the case filed by Lancer.

Interpreting the MOA's paragraph 5.7 above-quoted, the appellate court held that Ayala Corporation committed to develop the first phase of its own amended development plan and not Conduit's development plan. Nowhere does the MOA provide that Ayala Corporation shall follow Conduit's development plan nor is Ayala Corporation prohibited from changing the sequence of the phases of the property it will develop.

Anent the question of delay, the Court of Appeals ruled that there was no delay as petitioners never made a demand for Ayala Corporation to sell the subject lots to them. According to the appellate court, what petitioners sent were mere reminder letters the last of which was dated prior to April 23, 1984 when the obligation was not yet demandable. At any rate, the Court of Appeals found that petitioners in fact