

FIRST DIVISION

[G.R. No. 124554, December 09, 1997]

**ETERNAL GARDENS MEMORIAL PARK CORPORATION,
PETITIONER, VS. COURT OF APPEALS AND NORTH PHILIPPINE
UNION MISSION OF THE SEVENTH DAY ADVENTISTS,
RESPONDENTS.
D E C I S I O N**

KAPUNAN, J.:

This case is the derivative of G.R. No. 73794, which was decided by the Second Division of this Court on September 19, 1988.^[1]

The antecedents are as follows:^[2]

Petitioner EGMPC and private respondent NPUM entered into a Land Development Agreement dated October 6, 1976. Under the agreement, EGMPC was to develop a parcel of land owned by NPUM into a memorial park subdivided into lots. The parties further agreed -

(d) THAT the FIRST PARTY shall receive forty (40%) percent of the gross collection less Perpetual Care Fees (which in no case shall exceed 10% of the price per lot unless otherwise agreed upon by both parties in writing) or Net Gross Collection (NGC) from this project. This shall be remitted monthly by the SECOND PARTY in the following manner: (i) Forty (40%) percent of the NGC, plus (ii) if it becomes necessary for the FIRST PARTY to vacate the property earlier than two years from the date of this agreement, at the option of the FIRST PARTY, an additional amount equivalent to twenty (20%) percent of the NGC as cash advance for the first four (4) years with interest at twelve (12%) percent per annum which cash advance shall be deductible out of the proceeds from the FIRST PARTY's 40% from the 5th year onward. The SECOND PARTY further agrees that if the FIRST PARTY shall desire to have its projected receivables collected at the 5th year, the SECOND PARTY shall assist in having the same discounted in advance.

The P1.5 million initial payment mentioned in the Deed of Absolute Sale, covering the first phase of the project, shall be deducted out of the proceeds from the FIRST PARTY's 40% at the end of the 5th year. Subsequent payments made by the SECOND PARTY on account of the stated purchase price in said Deed of Absolute Sale shall be charged against what is due to the FIRST PARTY under this LAND DEVELOPMENT AGREEMENT.^[3]

Later, two claimants of the parcel of land surfaced - Maysilo Estate and the heirs of a certain Vicente Singson Encarnacion. EGMPC thus filed an action for interpleader against Maysilo Estate and NPUM, docketed as Civil Case No. 9556 before the Regional Trial Court of Kalookan City, Branch 120. The Singson heirs in turn filed an action for quieting of title against EGMPC and NPUM, docketed as Civil Case No. C-11836 before Branch 122 of the same court.

From these two cases, several proceedings ensued. One such case, from the interpleader action, culminated in the filing and subsequent resolution of G.R. No. 73794. In G.R. No. 73794, EGMPC assailed the appellate court's resolution requiring "petitioner Eternal Gardens [to] deposit whatever amounts are due from it under the Land Development Agreement with a reputable bank to be designated by the respondent court."^[4]

In the Decision of September 19, 1988, the court ruled thus:

PREMISES CONSIDERED, (a) the petition is DISMISSED for lack of merit; (b) this case (together with all the claims of the intervenors on the merits) is REMANDED to the lower court for further proceedings; and (c) the Resolution of the Third Division of this Court of July 8, 1987 requiring the deposit by the petitioner (see footnote 6)^[5] of the amounts contested in a depository bank STANDS (the Motion for Reconsideration thereof being hereby DENIED for reasons already discussed) until after the decision on the merits shall have become final and executory.

Entry of judgment was made on April 24, 1989.^[6]

Sometime thereafter, the trial court rendered decisions in Civil Case Nos. 9556 (interpleader) and C-11836 (quieting of title). These decisions were appealed to the Court of Appeals, and the appeals were consolidated.

The appellate court rendered judgment in the consolidated case on December 17, 1991 as follows: (a.) the trial court's decision in Civil Case No. 9556 was affirmed insofar as it dismissed the claims of the intervenors, including the Maysilo Estate, and the titles of NPUM to the subject parcel of land were declared valid; and (b.) the trial court's decision in Civil Case No. C-11836 in favor of the Singson heirs was reversed and set aside.^[7]

From the consolidated decision, the Singson heirs, Maysilo Estate and EGMPC each filed with this Court their petitions for review on certiorari. The petition filed by the Singson heirs docketed as G.R. No. 103247-48 was denied for failure to comply with Circular No. 28-91,^[8] and entry of judgment made on July 27, 1992. G.R. No. 105159 filed by the Maysilo Estate was denied for failure of petitioner to raise substantial legal issues,^[9] and entry of judgment made on August 19, 1992. G.R. Nos. 103230-31 filed by EGMPC was denied for failure to comply with Circular No. 19-91,^[10] and entry of judgment made on July 20, 1993. EGMPC's other petition, this time under Rule 65, docketed as G.R. Nos. 107646-47 was dismissed for having been filed out of time and for lack of merit.

Following these, the Court, through the Third Division, issued a Resolution dated December 1, 1993 in G.R. No. 73794, thus:

WHEREFORE, considering that the ownership of the property in dispute has now been settled with finality, the Court sees no further legal obstacle in carrying out the respective covenants of the parties to the Land Development Agreement. x x x. In respect to the mutual accounting required to determine the remaining accrued rights and liabilities of said parties, the case is hereby remanded to the Court of Appeals for proper determination and disposition.

All other incidental motions involving G.R. No. 73794, still pending with this Court, are hereby, declared MOOT and are NOTED WITHOUT ACTION.^[11]

In compliance with the Supreme Court resolution, the Court of Appeals proceeded with the disposition of the case, docketed therein as CA G.R. SP No. 04869, and required the parties to appear at a scheduled hearing on June 16, 1994, "with counsel and accountants, as well as books of accounts and related records," to determine the remaining accrued rights and liabilities of said parties."^[12]

Citing the following provision of the land development agreement:

(e) THAT the SECOND PARTY shall keep proper books and accounting records of all transactions affecting the sale of said memorial lots, which records shall be open for inspection by the FIRST PARTY at any time during usual office hours. The SECOND PARTY shall also render to the FIRST PARTY a monthly accounting report of all sales and cash collections effected the preceding month. It is also understood that all financial statements shall be subject to annual audit by a reputable external accounting firm which should be acceptable to the FIRST PARTY.^[13]

the appellate court required EGMPC to produce at the scheduled hearings the following documents:

(a) statements of monthly gross income from the year 1981, supported by copies of the contracts/agreements of the sale of lots to buyers/customers; and

(b) summary statements, by month, of the forty per cent (40%) share in the "net gross" income under the land development agreement between the parties.^[14]

The accounting of the parties' respective obligations was referred to the Court's Accountant, Ms. Carmencita Angelo, with the concurrence of the parties, to whom the documents were to be submitted. ^[15]

NPUM prepared and submitted a Summary of Sales and Total Amounts Due based on the following documents it likewise submitted to the court:^[16]

A-1 Land Development Agreement executed between NPUM and EGMPC on October 6, 1976.

A-2 Submittal of requirements filed by EGMPC to the Securities and Exchange Commission dated July 26, 1976 re: its application to develop, sell and maintain a first class private cemetery part situated in Baesa,

Kalookan City on the 23 has. property of PUC of NPUM. EGMPC's application calls for the development of 31,326 lawn type memorial lots for underground and above ground interment, and 20,808 garden and family/estates memorial lots for above ground interment, or a total of 52,134 memorial lots.

A-3 EGMPC Daily Sales Report which shows that from 1978, 1979, 1980 and 1981 EGMPC has sold 19,237 memorial lots with gross sales amounting to P52,421,879.70.

A-3a Machine copy of EGMPC Daily Sales Report dated December 29, 1979 showing that in 1978 it sold 2,805 memorial lots valued at P5591,716.40 and in 1979 it sold 5,503 memorial lots valued at P11,943,631.00.

A-3a-1 Weekly Sales Report of EGMPC corresponding to the period December 26 to 31, 1979, showing cumulatively as of said date it has sold a total of 5,503 memorial lots from January 1 to December 29, 1979.

A-3a-2 Sales Report of EGMPC for the period February 12 to 18, 1980.

A-3a-4 Letter of Gabriel O. Vida, Executive Vice President and General Manager of EGMPC, dated April 9, 1980, to Pastor Bienvenido Capuli stating among others that for the year 1978, EGMPC has sold 2,805 memorial lots and in the first quarter of 1980 from January 1 to April 2, it has sold 2,418 memorial lots, for a total gross sales of 10,730 memorial lots.

A-3b EGMPC Daily Sales Report which show that from 1978 up to December 9, 1980 it has sold a total of 15,253 memorial lots with sales value of P38,085,299.40.

A-3b-1 Are supporting sales records and/or weekly sales reports of

A-3b-2 EGMPC in relation to Exhibit 'A-3b.'

A-3b-3

A-3b-4

A-3b-5

A-3b-6

A-3b-7

A-4 Audited Financial Statement of EGMPC for 1985 which it filed with the Securities and Exchange Commission on April 16, 1986 pursuant to the reportorial requirements of the SEC, with accompanying balance sheet and statement of income and expenses, consisting of five (5) pages.

A-5 Actual Gross Profit Rate of EGMPC for the year 1985 which shows that it sold 3,623 memorial lots valued at P25,299,601.20.

A-6 Machine copy of Assumptions to Projected Cash Flow and Income Statements prepared by EGMPC with assumptions that the 52,000 memorial lots would be sold and that 15% of total sales per year are cash sales and 85% are on installment and that installment sales are payable over a period of 60 months at 12% interest per annum.

A-7 Formula for Computation of Interest Income for Lots Sold on Installment.

A-8 Sales Price Analysis based on Lawn Class Memorial Lots for the period 1978 to 1988, inclusive.

A-8a Price list issued by EGMPC effective December 1, 1977.

A-9 Computation of interest due for use of NPUM share.

A-9a Letter dated April 11, 1983 of Alfonso P. Roda, President of PUC of NPUM showing summary of gross collections from memorial lots sales starting January 1978 up to June 1982, inclusive, per computation given to PUC by EGMPC.

A-9b Are validating documents consisting of accounting ledgers

A-9c in support of the computations given by EGMPC to PUC

A-9d as mentioned in Dr. Roda's Letter dated April 11, 1983.

A-10 Promissory Note of EGMPC dated April 6, 1976 issued to NPUM for a loan of P720,000 for which EGMPC agreed to pay 12% interest per annum.

B Price List of Memorial Lots of HIMLAYANG PILIPINO,

B-1 INC. effective February 3, 1981.

C Price List of Memorial Lots of HIMLAYANG PILIPINO,

C-1 INC. effective March 15, 1982.

C-2

D Price List of Memorial Lots of HIMLAYANG PILIPINO,

D-1 INC. effective February 18, 1983.

D-2

E Price List of Memorial Lots of HIMLAYANG PILIPINO,