

FIFTH DIVISION

[CA-G.R. SP No. 132168, March 15, 2015]

JESUS L. ONG, PETITIONER, VS. LAND BANK OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

LOPEZ, J.:

Sometime in October 1998, Jesus Ong bought from A.M.S. Sanchez Landholding, Inc. (A.M.S. Sanchez) two condominium units^[1] at the Iriga Mansion Condominium in Quezon City. On July 1999, Ong completed payment for the condominium units for which two deeds of absolute sale were executed. A.M.S. Sanchez's President Antonio Sanchez promised to deliver the respective condominium certificates of title to Ong.^[2] However, despite repeated demands, Sanchez failed to comply with his promise.^[3]

Ong soon discovered that the units he purchased were mortgaged by A.M.S. Sanchez to the Land Bank of the Philippines (LBP) and were about to be foreclosed. This prompted Ong to file a complaint for the issuance of title and nullification of mortgage with the Housing and Land Use Regulatory Board (HLURB) against A.M.S. Sanchez and LBP.^[4]

In its Answer,^[5] A.M.S. Sanchez averred that: (1) Ong purchased three condominium units^[6] which were converted into a single dwelling place; (2) while Units T-101 and T-102 were fully paid, Unit T-104 remained unpaid which justified withholding of the certificates of title; and that (3) Ong knew that the units were mortgaged. LBP, on the other hand, alleged that: (1) Ong has no cause of action against it; (2) it has a better right and title as against Ong because the mortgage was executed before the sale to Ong, was approved by the HLURB and recorded with the Registry of Deeds; and that (4) only CCT No. N-22033 covering Unit T-102 is mortgaged with it since CCT No. N-22032 covering Unit T-101 was already released.^[7]

On April 30, 2003, the HLURB rendered a Decision finding that Ong had fully paid Units T-101 and T-102. A.M.S. Sanchez was directed to deliver the certificates of title to Ong free from all liens and encumbrances and to pay LBP the redemption value of Unit T-102. Also, LBP was ordered to release the mortgage on Unit T-102 and was restrained from foreclosing the unit.^[8] The HLURB applied Section 25 of Presidential Decree No. 957^[9] declaring that it is A.M.S. Sanchez' duty to deliver the titles of the condominium units to Ong and that the mortgage between A.M.S. Sanchez and LBP does not excuse the former's failure to deliver the title.^[10]

A.M.S. Sanchez and LBP filed their respective petitions for review before the Board

of Commissioners of the HLURB (the Board) which were denied; hence, the April 30, 2003 HLURB Decision was affirmed.^[11]

Aggrieved, A.M.S. Sanchez and LBP appealed before the Office of the President (OP). On January 19, 2007, the OP modified the HLURB rulings when it sustained LBP's right to foreclose the mortgage over Unit T-102 covered by CCT No. 22033.^[12]

Subsequently, A.M.S. Sanchez and Ong filed separate motions for reconsideration that were resolved in favor of Ong and, reinstated the April 30, 2003 HLURB Decision.^[13] A third motion for reconsideration was filed by LBP reiterating its right to hold and foreclose Unit T-102 as a collateral for the loan.^[14] The OP granted this motion and reinstated its January 19, 2007 Decision.^[15]

Hence, this Petition for Review^[16] faulting the Office of the President in:

I.

XXX TAKING COGNIZANCE OF RESPONDENT'S BANK (sic) APPEAL.

II.

XXX MODIFYING THE DECISION PROMULGATED ON AUGUST 9, 2005 OF THE BOARD OF COMMISSIONER OF THE HOUSING AND LAND USE REGULATORY BOARD.

Ong reiterates his claim for the delivery of the Certificate of Title for Units T-101 and T-102. Ong also avers that the Board's August 9, 2005 Decision has attained immutability against LBP for the latter's failure to timely file an appeal with the Office of the President.^[17]

The petition is devoid of merit.

Prefatorily, it is well-settled that issues not raised in the proceedings below cannot be raised for the first time on appeal.^[18] Here, Ong raised for the first time LBP's failure to timely file its appeal before the OP. The records, however, reveal that while the OP recognized that LBP belatedly filed its appeal, Ong neither manifested his objection to the appeal nor raised the issue of timeliness in his motion for reconsideration. Thus, this Court cannot take cognizance of this issue.

Now, the only matter left for resolution is whether Ong can hold LBP liable to release the mortgage over Unit T-102 and to deliver the certificates of title for the condominium units. We rule in the negative.

It is undisputed that Ong fully paid Units T-101 and T-102 at the Iriga Mansion Condominium to A.M.S. Sanchez while the mortgage over the condominium property to LBP is still outstanding. Under Section 25 of PD No. 957, the owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit. Here, A.M.S. Sanchez failed to deliver CCT Nos. 22032 and 22033 covering the units to Ong despite full payment. The law is clear that it is the owner or developer who is obliged to deliver the title of the condominium units to the

buyer. And, if there is an outstanding mortgage over the property or unit at the time of the issuance of the title to the buyer, the owner or developer is obliged to redeem the property or the corresponding portion within six months from issuance of title.

[19] Thus, it is A.M.S. Sanchez, not LBP, who has the obligation to pay the redemption value of Unit T-102 and to deliver the title to Ong free from all liens and encumbrances.

An owner or developer has the right to mortgage the property for development as long as the agreement is approved by the HLURB and the proceeds of the loan shall be used for the development. Here, the real estate mortgage executed by A.M.S. Sanchez and LBP is valid. It was approved by the HLURB, the proceeds was for the development of the Iriga Mansion Condominium, and it was recorded with the Register of Deeds of Metro Manila District II.[20] Accordingly, the Office of the President correctly held that:

Under section 25 of P.D. No. 957, it is the owner or developer who is mandated to deliver the title of the lot or unit to the buyer upon full payment thereof. **Nowhere in the law is the mortgagee directed to release the title and surrender the same to the buyer upon full payment by the latter of the unit or lot notwithstanding non-payment of the loan secured by the mortgaged property.** As a matter of fact, the same section 25 provides that in the event a mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, the owner or developer shall redeem the mortgage or the corresponding portion thereof within six (6) months from such issuance in order that the title over any fully paid lot or unit may be secured and delivered to the buyer. Clearly[,] **AMS should first redeem the mortgage from LBP and deliver the title to Ong free from all liens and encumbrances.** (Emphasis Ours.)

FOR THE STATED REASONS, the petition is **DENIED.** Accordingly, the September 19, 2013 Resolution of the Office of the President, reinstating its January 19, 2007 Decision, is **AFFIRMED.**

SO ORDERED.

Tijam, N.G., Chairperson and Garcia-Fernandez, JJ., concur.

[1] The condominium units are Unit Nos. T-101 and T-102.

[2] Certificate of Title Nos. 22032 and 22033.

[3] Rollo, pp. 50-55.

[4] Ibid.

[5] Id., pp. 56-61.

[6] The units are: (1) T-101; (2) T-102; and (3) T-104.