

THIRTEENTH DIVISION

[C.A.-G.R. SP No. 120586, March 31, 2014]

**FIL-ESTATE PROPERTIES, INC., PETITIONER, VS. RUDOLPH
CHARLES LL. TAMULA, RESPONDENTS.**

D E C I S I O N

YBAÑEZ, J.:

This Petition for Review under Rule 43 of the 1997 Rules of Court seeks to set aside and reverse the 8 February 2011 Decision of the Office of the President^[1] (hereinafter referred to as OP) rendered in O.P Case No. 08-F-212 (HLURB Case No. REM-A-040401-0052) the *fallo* of which reads:

"WHEREFORE, based on the foregoing, the instant appeal is hereby **DENIED** due to lack of merit and the subject Decision of the HLURB is hereby **AFFIRMED** *in toto*.

SO ORDERED."

The consequent motion for reconsideration of the petitioner was likewise denied by the OP in its 27 June 2011 Resolution.^[2]

The Antecedents

The undisputed facts show that petitioner Fil-Estate Properties, Inc. (hereinafter referred to as FEPI) is the project developer of the Mountain Meadows Residential & Golf Estates (Mountain Meadows for brevity) located at Gusa, Cagayan de Oro City. Sometime in 1998, respondent Rudolph Charles Ll. Tamula (Tamula) bought on installment basis Lot 4, Block 2B of the subdivision and made partial payments in the total amount of Eight Hundred Sixty-One Thousand One Hundred Ten Pesos (P861,110.00). Tamula later suspended further payments when he received information that FEPI was having problems continuing the development of the project.^[3]

When FEPI failed to develop the Mountain Meadows project, Tamula demanded a refund of all the payments he had made from the former but FEPI failed to accede to the demands. This prompted Tamula to file a case for rescission of contract and refund of payments before the Housing and Land Use Regulatory Board (HLURB likewise for brevity) Regional Field Office 10^[4] in July 2003. FEPI alleged in its defense that it is not true that there is non-development in Mountain Meadows and that it still continues to construct the project albeit in a scaled down manner because of the economic crisis and the presence of squatters which are occurrences beyond its control.^[5]

In the HLURB decision of 12 February 2004,^[6] Housing and Land Use Arbiter Gonzalo Ch. Tumulak ruled, viz:

"WHEREFORE, premises considered, judgment is hereby rendered DECLARING subject contract involving Lot No. 4 of Block 2B of the Mountain Meadows Residential and Golf Club as RESCINDED/CANCELLED and ORDERING respondent Fil-Estate Properties, Inc. to pay/refund the complainant the amount of EIGHT HUNDRED SIXTY-ONE THOUSAND ONE HUNDRED TEN PESOS (PhP861,110.00), in Philippine currency, within thirty (30) days from receipt thereof with interest thereon at the legal rate from the date of the filing of this complaint on July 8, 2003 until fully paid.

Likewise, within the same period of time and in the same currency, respondent Fil-Estate is also ORDERED to pay the complainant TWELVE THOUSAND PESOS (PhP12,000.00) in attorney's and appearance fees, FIVE THOUSAND PESOS (PhP5,000.00) in litigation expenses and SIX THOUSAND FOUR HUNDRED SIXTY-NINE PESOS & 60/100 CENTAVOS (PhP6,469.60) as the costs of this suit in the form of the filing fees.

All other claims are hereby DISMISSED for lack of merit.

Let a copy of this Decision be furnished each the parties herein.

IT IS SO ORDERED.^[7]"

FEPI filed a petition for review^[8] of the above decision before the HLURB Board of Commissioners which on 23 April 2008 rendered its Decision^[9] as follows:

"WHEREFORE, the respondent's appeal is DENIED and the decision of the Regional Office dated February 2004 is AFFIRMED with clarification that the legal interest on the refundable amount of P861,110.00 is 6% per annum reckoned from August 6, 2002, the date of extrajudicial demand until fully paid.

SO ORDERED.^[10]"

Unconvinced, FEPI appealed before the OP which on 8 February 2011 issued its assailed Decision and Resolution denying the appeal and the subsequent motion for reconsideration filed by petitioner.

Aggrieved, the instant petition was filed with the following assignment of errors submitted for resolution:

Assignment of Errors

I

THE OP ERRED IN AFFIRMING THE DECISION OF THE HLURB BOARD DECLARING THE CONTRACT INVOLVING BLOCK 2B, LOT 4 OF MOUNTAIN MEADOWS AS RESCINDED/CANCELLED, AND ORDERING FEPI TO PAY/REFUND TO (COMPLAINANT TAMULA THE AMOUNT OF P861,110.00 WITH LEGAL INTEREST AT 6% PER ANNUM RECKONED FROM AUGUST 6, 2002 UNTIL FULLY PAID;

II

ASSUMING REFUND IS PROPER AND INTEREST IS DUE, THE OP ERRED IN AFFIRMING THE HLURB BOARD IN AWARDING INTEREST FROM AUGUST 6, 2002;

III

THE OP ERRED IN AFFIRMING THE HLURB IN AWARDING ATTORNEY'S FEES, LITIGATION EXPENSES AND COSTS OF SUIT IN FAVOR OF TAMULA.^[11]

The Ruling of This Court

The petition is devoid of merit.

On the first assigned error, petitioner contends that the award of refund of payments to respondent Tamula must be recalled for his failure to attach to his complaint filed before the HLURB the contract to sell between the parties sought to be rescinded in violation of Section 7 of Rule 9 of the 1997 Rules of Court. Since Tamula's claim for refund is sourced from an actionable document, petitioner was deprived of its right to examine or utilize such document to intelligently raise a defense. Petitioner also accuses respondent of having desisted from further payment of the purchase price of the subject lot without due notice of his intention to the owner or developer as required under Section 23 of Presidential Decree No. 957. The petitioner further claims that it was physically and legally prevented from fully developing the subject lot because of squatter problems and the writ of injunction issued by the court. This left petitioner with no choice but to halt development in contested areas of Mountain Meadows.^[12] According to petitioner, its woes were compounded by the 1997 financial crisis that completely crippled the real estate industry and then followed by

the political upheavals in 2000. These circumstances and events were beyond its control and therefore FEPI must be exculpated from liability to Tamula and constitute just causes for it to be given a reasonable period within which to perform its obligation instead of rescinding the contract with respondent.^[13]

These arguments fail to persuade.

The basic issue here is whether the respondent is entitled to reimbursement of the amount he had paid, plus interest and attorney's fees which this Court answers in the affirmative.

With respect to petitioner's claim that respondent desisted from further paying the purchase price of the subject lot without due notice of his intention to the owner or developer as required under Section 23 of Presidential Decree No. 957, the record will bear that respondent sent a demand letter dated 9 July 2001^[14] to FEPI which reads:

"Dear Mr. Bayanin:

We would like to ask for a refund of our hard-earned money which we have invested in your company through the purchase of BLOCK # 2b LOT # 4 at Mountain Meadows Residential & Golf Estate, Cagayan de Oro.

Many years have passed and we have waited for so long but still no development has been made. It is due to your non-compliance of the facilities and amenities as advertised by your company which brought us to this decision.

We hope for a favorable action to this request for refund.

Very truly yours,
(Sgd.)
RUDOLPH CHARLES LL. TAMULA"

This was followed by another demand letter dated 6 August 2002^[15] sent by respondent's counsel apparently after petitioner ignored the earlier letter. Thus, respondent actually made his demand in writing for the refund of the principal while the second letter was with the express notice that legal remedies available will be taken to protect the interests of the respondent. Clearly, respondent has more than complied with the requirement concerning notice to the petitioner.

Section 23 of Presidential Decree No. 957, otherwise known as The Subdivision and Condominium Buyers' Protective Decree, is clear on this point: