

THIRD DIVISION

[G.R. NO. 154684, September 08, 2005]

FRANCEL REALTY CORPORATION, PETITIONER, VS. RICARDO T. SYCIP, RESPONDENT.

DECISION

PANGANIBAN, ACTING CJ:

In general, lack of jurisdiction over the subject matter may be raised at any stage of the proceeding, even on appeal. This defense may be determined from the factual allegations of the complaint, regardless of the answer or even before the answer is filed.

The Case

Before us is a Petition for Review on Certiorari^[1] under Rule 45 of the Rules of Court, assailing the February 2, 2001 Decision^[2] and August 14, 2002 Resolution^[3] of the Court of Appeals in CA-GR CV No. 55127. The CA disposed as follows:

"It is not disputed that [petitioner] filed an illegal detainer case against [respondent] docketed as Civil Case No. 1310 before the Municipal Trial Court [MTC] of Bacoor, Cavite, which was accordingly dismissed by the MTC (See answer, p. 28, record). The filing of the instant case is another blatant attempt by [petitioner] to circumvent the law. For it is well-settled that where a complaint arises from the failure of a buyer [of real property] on installment basis to pay based on a right to stop monthly amortizations under Presidential Decree No. 957, as in the case at bench, the determinative question is exclusively cognizable by the Housing and Land Use Regulatory Board (HLURB) (Francel Realty Corp. v. Court of Appeals, 252 SCRA 127 [1996]).

"**WHEREFORE**, premises considered, the decision appealed from is hereby **AFFIRMED** in toto."^[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The Facts

The CA narrated the facts as follows:

"x x x [I]n November, 1989, [petitioner] and [respondent] entered into a contract to sell a house and lot covered by TCT No. T-281788. Upon execution of the contract to sell, [respondent] made a down payment of P119,700.00, which was considered as monthly rentals at the rate of P2,686.00 per month. On March 16, 1990, the townhouse subject of the contract to sell was transferred in the name of [respondent] as evidenced

by TCT No. T-281788. Despite the transfer of the title in the name of [respondent], the latter refused to pay the balance of P250,000.00. By applying the down payment of P119,700.00 to defendant's monthly rental starting from December 1989, said amount has been reduced to nothing. Despite several demands made by [petitioner] to [respondent], including the demand dated December 12, 1991 made by [petitioner's] counsel, the [respondent] refused to reconvey the subject property to [petitioner]. The [petitioner] suffered actual damages in the form of repairs amounting to not less than P100,000.00 as well as moral and exemplary damages, attorney's fees and litigation expenses. x x x.

"The [respondent] filed a motion to dismiss on the ground of lack of jurisdiction but the court below denied the motion stating that the ground relied upon by [respondent] did not appear to be] indubitable.

"Denying the material allegations of the complaint, the [respondent] again invoked the court's lack of jurisdiction over the subject matter of the case. Further, there is a pending case between the same parties and involving the same townhouse before the Housing and Land Use Regulatory Board for unsound real estate business practices. Likewise, the [respondent] justified his refusal to pay the amortizations alleging that the [petitioner] sold and delivered to him a defective townhouse unit under Sec. 3 of Presidential Decree No. [957].

"After trial, the court below dismissed the case for lack of jurisdiction."^[5]

Ruling of the Court of Appeals

Agreeing with the trial court, the CA held that the case involved not just reconveyance and damages, but also a determination of the rights and obligations of the parties to a sale of real estate under PD 957; hence, the case fell exclusively under the jurisdiction of the HLURB. The appellate court observed that respondent and other buyers of the townhouses had notified petitioner of their intention to stop paying amortizations because of defective structures and materials used in the construction; they had in fact filed other cases, also before the HLURB, against petitioner for unsound real estate business practice.

Noting that petitioner's illegal detainer case against respondent had been dismissed by the MTC, the appellate court concluded that the filing of the instant case was another blatant attempt to circumvent the law.

Hence this Petition.^[6]

Issues

In its Memorandum, petitioner raises the following issues:

"A. Whether or not the lower court can dismiss, after full blown trial, Civil Case No. BCV-94-2 of the RTC, Imus, Cavite, on the ground of lack of jurisdiction.

"B. Whether or not the lower court can dismiss this case in spite of the

indisputable fact that respondent never secured HLURB authority or clearance to stop payment of monthly rentals."^[7]

The Court's Ruling

The Petition lacks merit.

First Issue: **Dismissal for Lack of Jurisdiction**

Before going into the jurisdictional question, we must at the outset point out that, contrary to petitioner's assignment of errors, the trial court's Decision is not the proper subject of this Rule 45 Petition. Rather, it is the Decision of the CA that is up for review by this Court. This mistake in stating the issues could have been fatal to petitioner's case, had it not correctly restated them in its arguments and discussion.

^[8] That said, we now proceed to the main issues.

Petitioner argues that the CA's affirmation of the trial court's dismissal of its case was erroneous, considering that a full-blown trial had already been conducted. In effect, it contends that lack of jurisdiction could no longer be used as a ground for dismissal after trial had ensued and ended.

The above argument is anchored on estoppel by laches, which has been used quite successfully in a number of cases to thwart dismissals based on lack of jurisdiction.

Tijam v. Sibonghanoy,^[9] in which this doctrine was espoused, held that a party may be barred from questioning a court's jurisdiction after being invoked to secure affirmative relief against its opponent. In fine, laches prevents the issue of lack of jurisdiction from being raised for the first time on appeal by a litigant whose purpose is to annul everything done in a trial in which it has actively participated.^[10]

Laches is defined as the "failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it."^[11]

The ruling in *Sibonghanoy* on the matter of jurisdiction is, however, the exception rather than the rule.^[12] Estoppel by laches may be invoked to bar the issue of lack of jurisdiction only in cases in which the factual milieu is analogous to that in the cited case. In such controversies, laches should be clearly present; that is, lack of jurisdiction must have been raised so belatedly as to warrant the presumption that the party entitled to assert it had abandoned or declined to assert it. ^[13] That *Sibonghanoy* applies only to exceptional circumstances is clarified in *Calimlim v. Ramirez*,^[14] which we quote:

"A rule that had been settled by unquestioned acceptance and upheld in decisions so numerous to cite is that the jurisdiction of a court over the subject-matter of the action is a matter of law and may not be conferred by consent or agreement of the parties. *The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal.* This doctrine has been qualified by recent pronouncements which

stemmed principally from the ruling in the cited case of *Sibonghanoy*. *It is to be regretted, however, that the holding in said case had been applied to situations which were obviously not contemplated therein.* The exceptional circumstance involved in *Sibonghanoy* which justified the departure from the accepted concept of non-waivability of objection to jurisdiction has been ignored and, instead a blanket doctrine had been repeatedly upheld that rendered the supposed ruling in *Sibonghanoy* not as the exception, but rather the general rule, virtually overthrowing altogether the time-honored principle that the issue of jurisdiction is not lost by waiver or by *estoppel*."^[15]

Indeed, the general rule remains: a court's lack of jurisdiction may be raised at any stage of the proceedings, even on appeal.^[16] The reason is that jurisdiction is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.^[17] Moreover, jurisdiction is determined by the averments of the complaint, not by the defenses contained in the answer.^[18]

From the very beginning, the present respondent has been challenging the jurisdiction of the trial court and asserting that the HLURB is the entity that has proper jurisdiction over the case. Consonant with Section 1 of Rule 16 of the Rules of Court, he had raised the issue of lack of jurisdiction in his Motion to Dismiss. Even when the Motion was denied, he continuously invoked lack of jurisdiction in his Answer with affirmative defenses, his subsequent pleadings, and verbally during the trial. This consistent and continuing objection to the trial court's jurisdiction defeats petitioner's contention that raising other grounds in a Motion to Dismiss is considered a submission to the jurisdiction of the court.^[19]

We stress that Rule 9 of the Rules of Court requires that all defenses and objections -- except lack of jurisdiction over the subject matter, *litis pendentia*, bar by prior judgment and/or prescription -- must be pleaded in a motion to dismiss or in an answer; otherwise, they are deemed waived.^[20] As to the excepted grounds, the court may dismiss a claim or a case at any time "when it appears from the pleadings or the evidence on record" that any of those grounds exists.

In the present case, the trial court at first denied the Motion to Dismiss filed by respondent, because the grounds he had relied upon did not appear to be indubitable. The ruling was made under the pre-1997 Rules of Civil Procedure, which then provided that the court, "after hearing x x x may deny or grant the motion or allow amendment of pleading, or may defer the hearing and determination of the motion until the trial if the ground alleged therein does not appear to be indubitable."^[21] Moreover, the factual allegations of the Complaint^[22] that petitioner filed below for reconveyance and damages sufficiently conformed to the jurisdictional requisites for the exercise of the MTC's authority. Thus, in accord with the procedures then prescribed, the court conducted trial to allow all arguments and evidence to surface.

Significantly, petitioner has previously sued respondent's brother and co-complainant before the HLURB over the same subdivision project. In *Francel Realty v. Court of Appeals and Francisco Sycip*,^[23] petitioner's Complaint for unlawful

detainer was premised on the failure of respondent's brother to pay monthly amortizations on the basis of his right to stop paying them under PD 957. In that case, the Court had ruled that the issue involved a "determinative question x x x exclusively cognizable by the HLURB"; that is, a "determination of the rights and obligations of parties in a sale of real estate under P.D. 957."^[24]

Because an earlier Complaint had been filed by Sycip before the HLURB against Francel Realty Corporation for unsound real estate business practices, the Court dismissed petitioner's cause of action. The reason for the dismissal was that the Complaint should "instead be filed as a counterclaim in [the] HLURB [case] in accordance with Rule 6, Section 6 of the Rules of Court x x x."^[25] For the same reason, this Court has ruled that a suit to collect on a promissory note issued by a subdivision lot buyer involves the "sales of lots in commercial subdivisions"; and that jurisdiction over such case lies with the HLURB, not with the courts.^[26]

Further, the rules governing counterclaims^[27] and the prohibition on the splitting of causes of action (grounded on the policy against a multiplicity of suits)^[28] should effectively bar the Complaint for reconveyance and damages filed by petitioner. Its Complaint came at the heels of its unlawful detainer suit that had previously been dismissed by the MTC of Imus, Cavite, and of the litigation filed by respondent against Francel Realty before the HLURB. Petitioner avers that the present controversy is not cognizable by the HLURB, because it was filed by the developer rather than by the buyer, as provided under PD No. 1344.^[29] Such pretension flies in the face of the ruling of the Court in *Francel Realty Corp. v. Court of Appeals and Francisco Sycip*,^[30] which we quote:

"x x x. In the case of *Estate Developers and Investors Corporation v. Antonio Sarte and Erlinda Sarte* the developer filed a complaint to collect the balance of the price of a lot bought on installment basis, but its complaint was dismissed by the Regional Trial Court for lack of jurisdiction. It appealed the order to this Court. In dismissing the appeal, we held:

'The action here is not a simple action to collect on a promissory note; it is a complaint to collect amortization payments arising from or in connection with a sale of a subdivision lot under P.D. Nos. 957 and 1344, and accordingly falls within the exclusive original jurisdiction of the HLURB to regulate the real estate trade and industry, and to hear and decide cases of unsound real estate business practices. Although the case involving Antonio Sarte is still pending resolution before the HLURB Arbiter, and there is as yet no order from the HLURB authorizing suspension of payments on account of the failure of plaintiff developer to make good its warranties, there is no question to Our mind that the matter of collecting amortizations for the sale of the subdivision lot is necessarily tied up to the complaint against the plaintiff and it affects the rights and correlative duties of the buyer of a subdivision lot as regulated by NHA pursuant to P.D. 957 as amended. It must accordingly fall within the exclusive original jurisdiction of the said Board, and We find that the motion to