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SECOND DIVISION

[G.R. No. 224973, September 27, 2017]

GINA LEFEBRE, JOINED BY HER HUSBAND, DONALD LEFEBRE, PETITIONERS, VS. A BROWN COMPANY, INC., RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated July 8, 2015 and the Resolution[3] dated May 24, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 04582-MIN, which set aside the Decision[4] dated May 10, 2011 of the Housing and Land Use Regulatory Board (HLURB)-Board of Commissioners (BOC) in HLURB Case No. REM-A-110224-01374 and, instead, reinstated the Decision[5] dated January 5, 2011 of the Housing and Land Use (HLU) Arbiter in HLURB Case No. REM-x-33010-001 ordering respondent A Brown Company, Inc. (respondent) to comply with the provisions of Republic Act No. (RA) 6552[6] on the prior payment of cash surrender value before the actual cancellation of the contract to sell subject of this case could be effected.

The Facts

Sometime in 1998, petitioner Gina Lefebre (Lefebre) made a reservation to buy a residential lot in Xavier Estates developed by respondent in view of the latter's representation that a Manresa 18-Hole All Weather Championship Golf Course would be developed. From the original reservation for a 576-square meter parcel of land, Lefebre upgraded her reservation to a 1,107-square meter lot that was priced at P5,313,600.00 as her husband, petitioner Donald Lefebre (collectively, petitioners), a Belgian businessman, plays golf.[7] Thus, a Contract to Sell[8] was executed with the following stipulations: (a) 30% down payment of P1,594,080.00 which included the P10,000.00 reservation fee paid on December 31, 1998; and (b) the balance to be amortized equally in 84 months.[9] However, contrary to respondent's representation, the golf course was not developed and the Contract to Sell was cancelled for failure of Lefebre to pay the remaining balance which the latter offered to settle in a period of six (6) months.[10]

Consequently, Lefebre filed a Complaint[11] for Misleading and Deceptive Advertisement, Annulment of Rescission of Contract to Sell, Damages and Other Relief against respondent before the HLURB, Regional Office No. X. She claimed that she had already paid a total of P8.1 million including interests and surcharges and that her unpaid balance was only P1,345,722.18.[12] Thus, Lefebre prayed that respondent comply with its obligation to develop the golf course or refund in full their payments with interest, among others.[13]

For its part,[14] respondent countered that as early as 2001, Lefebre had already been remiss in her monthly obligations and that despite the grace periods accorded, she still failed to settle the same, prompting respondent to cancel the reservation application and contract to sell. Respondent further claimed that the misleading and deceptive advertisement regarding the golf-course was never raised by Lefebre and was merely brought up as an afterthought to justify her default.[15]

The HLU Arbiter's Ruling

In a Decision[16] dated January 5, 2011, the HLU Arbiter ruled in favor of respondent, holding that the claim of misleading and deceptive advertisement of the promised golf-course was only raised by Lefebre after she failed to settle her obligations, and after several notices of cancellation have been sent. Thus, the HLU Arbiter held that Lefebre cannot find refuge in Section 23 of Presidential Decree No. (PD) 957[17] relative to the nonforfeiture of installment payments since the latter failed to give prior notice of the decision to discontinue payment due to non-development of the golf course. However, the HLU Arbiter stated that Lefebre was entitled to the cash surrender value of the payments made before the Contract to Sell may be actually cancelled pursuant to Section 3 of RA 6552. Lastly, in view of respondent's admission that it had not developed the advertised golf course, the case was indorsed to the Monitoring Section for further investigation and evaluation so that appropriate sanctions, if any, may be imposed.[18]

Dissatisfied, Lefebre filed an appeal.[19]

The HLURB BOC Ruling

In a Decision[20] dated May 10, 2011, the HLURB BOC set aside the HLU Arbiter's decision.[21] It ruled that the Contract to Sell was not validly cancelled for failure of the respondent to tender the cash surrender value of the payments made, and therefore, still subsists. With the contract still in effect, Lefebre had the right to continue with it.[22] However, since respondent already averred that it no longer intends to develop the promised golf course, Lefebre is entitled to a full refund of the payments made in the amount of P8.1 Million with interest, less penalties or surcharges. Respondent was further ordered to pay P20,000.00 each as moral damages and attorney's fees, plus the cost of suit, as well as the administrative fine of P10,000.00 for failure to provide the said amenity.[23]

Respondent moved for reconsideration,[24] which was, however, denied in a Resolution[25] dated August 26, 2011. Hence, respondent filed a petition for *certiorari*[26] under Rule 65 of the Rules of Court before the CA.

The Proceedings Before the CA

In a Resolution[27] dated February 6, 2012, the CA dismissed the *certiorari* petition for failure of respondent to exhaust the available administrative remedy,[28] i.e., an appeal to the Office of the President, among other procedural grounds. On motion for reconsideration,[29] the dismissal of the petition was vacated, holding that the doctrine of exhaustion of administrative remedies was not ironclad and may be

dispensed with when such requirement would be unreasonable and given that there were circumstances indicating the urgency of judicial intervention.[30]

In a Decision[31] dated July 8, 2015, the CA set aside the HLURB BOC's decision and reinstated the HLU Arbiter's decision.[32] It held that while respondent did not tender the cash surrender value of the payments made in view of the post-cancellation negotiations initiated by Lefebre, the rescission of the Contract to Sell was not invalid *per se* considering that Lefebre's failure to settle her outstanding obligations was a valid ground to rescind the Contract to Sell. Moreover, the CA opined that Lefebre was estopped from claiming that the non-payment of her amortizations was due to the failed golf-course given that from 2001 to 2008, Lefebre never informed respondent that she was withholding payment unless the golf course be developed. Thus, it ruled that Lefebre was only entitled to the cash surrender value provided under Section 3 of RA 6552.[33]

Aggrieved, Lefebre filed a motion for reconsideration,[34] which was, however, denied in a Resolution[35] dated May 24, 2016; hence, the instant petition.

The Issues Before the Court

The essential issue for the Court's resolution is whether or not the CA's reinstatement of the HLU Arbiter's Decision was proper, despite respondent's direct filing of a petition for *certiorari* before the CA.

The Court's Ruling

The petition is meritorious.

Section 60 (b), Rule 17 of the 2011 Revised Rules of Procedure of the HLURB[36] (HLURB Rules) provides that the decision or resolution of the HLURB BOC shall become final and executory within 15 days after receipt thereof unless an appeal has been filed:

Rule 17
FINALITY OF JUDGMENT

> Section 60. *Finality of Judgment*. - Decisions or orders of the Arbiter and the Board of Commissioners shall be deemed final and executory in accordance with the following:
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> x x x x
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> (b) Decisions, resolutions or orders of the Board of Commissioners shall become final and executory fifteen (15) days after the receipt thereof by the parties and no appeal has been filed within the said period.

In this relation, Section 2, Rule XXI of HLURB Resolution No. 765, Series of 2004 prescribes that the decisions of the HLURB-BOC may be appealed to the Office of the President:

> Section 2. Appeal. - Any party may, upon notice to the Board and the other party, appeal a decision rendered by the Board of Commissioners to the Office of the President within fifteen (15) days from receipt thereof, in accordance with P.D. No. 1344 and A.O. No. 18 Series of 1987.[37]

In this case, it is undisputed that respondent did not interpose an appeal before the Office of the President as it proceeded to file a petition for *certiorari* before the CA; hence, respondent clearly violated the doctrine of exhaustion of administrative remedies. In *Teotico v. Baer*,[38] the Court upheld the dismissal of therein petitioner's appeal on the ground of failure to exhaust the same administrative remedy before the HLURB:

> The HLURB is the sole regulatory body for housing and land development. It is charged with encouraging greater private sector participation in low-cost housing through liberalization of development standards, simplification of regulations and decentralization of approvals for permits and licenses. The HLURB has established rules of procedure in the adjudication of the cases before it. Any party who is aggrieved by its decision "may file with the Regional Office a verified petition for review of the arbiter's decision within 30 calendar days from receipt thereof." The regional officer shall then elevate the records to the Board of Commissioners together with the summary of proceedings before the arbiter within 10 calendar days from receipt of the petition. If the party is still dissatisfied with the decision of the Board, he may appeal to the Office of the President within 15 calendar days from receipt of the decision.
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> Under the doctrine of exhaustion of administrative remedies, recourse through court action cannot prosper until after all such administrative remedies have first been exhausted. If remedy is available within the administrative machinery, this should be resorted to before resort can be made to courts. It is settled that non-observance of the doctrine of exhaustion of administrative remedies results in lack of cause of action, which is one of the grounds in the Rules of Court justifying the dismissal of the complaint.
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> Here, **petitioner failed to exhaust her administrative remedies when she directly elevated to the CA the HLURB arbiter's decision without appealing it first to the Board and then later, the Office of the President**. She has failed to convince us that her case is one of those exempted from the application of the doctrine of exhaustion of administrative remedies. Her petition must necessarily fall.[39] (Emphasis and underscoring supplied)

Notably, while there are exceptions to the above-discussed doctrine, respondent's motion for reconsideration before the CA did not raise any of the same. Thus, the CA erred in considering two of these exceptions[40] upon respondent's mere general invocation of the doctrine of equity jurisdiction, which should not even apply in this case.

The doctrine states that "where strong considerations of substantive justice are manifest in the petition, the strict application of the rules of procedure may be

relaxed, in the exercise of its equity jurisdiction."[41] As a general rule therefore, "[t]he rules of procedure must be faithfully followed, **except only when, for persuasive reasons, they may be relaxed to relieve a litigant of an injustice commensurate with his failure to comply within the prescribed procedure**."[42] However, case law states that "**[c]oncomitant to a liberal interpretation of the rules of procedure should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules**."[43]

In this case, not only did respondent fail to adequately explain its failure to abide by the rules; more significantly, there is also no palpable persuasive reason to relax the rules of procedure considering that the HLURB-BOC actually rendered a correct ruling in this case.

As the HLURB-BOC aptly pointed out, the Contract to Sell between the parties remained valid and subsisting in view of respondent's failure to observe the proper procedure in cancelling the said contract, particularly on the full payment of the cash surrender value to Lefebre as prescribed under Section 3 (b) of RA 6552, which reads:

> Section 3. In all transactions or contracts involving the sale or financing of real estate on installment payments, including residential condominium apartments but excluding industrial lots, commercial buildings and sales to tenants under Republic Act Numbered Thirty-eight hundred forty-four, as amended by Republic Act Numbered Sixty-three hundred eighty-nine, where the buyer has paid at least two years of installments, the buyer is entitled to the following rights in case he defaults in the payment of succeeding installments:
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> > x x x x
> >
> > (b) *If the contract is canceled, the seller shall refund to the buyer the cash surrender value of the payments on the property equivalent to fifty per cent of the total payments made and, after five years of installments, an additional five per cent every year but not to exceed ninety per cent of the total payments made:**Provided*, **That the actual cancellation of the contract shall take place after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act and upon full payment of the cash surrender value to the buyer.**
>
> Down payments, deposits or options on the contract shall be included in the computation of the total number of instalment payments made.

In *Active Realty & Development Corp. v. Daroya*,[44] the Court held that the failure to cancel the contract in accordance with the provisions of Section 3 of RA 6552 renders the contract to sell between the parties valid and subsisting. The Court emphasized that the mandatory requirements of notice of cancellation and payment of cash surrender value is needed for a "valid and effective cancellation" under the law.[45] In *Leano v. CA*,[46] it was ruled that there is no actual cancellation of the contract to sell between the parties as the seller did not give to the buyer the cash