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FIRST DIVISION

[G.R. No. 160033, July 01, 2015]

TAGAYTAY REALTY CO., INC., PETITIONER, VS. ARTURO G. GACUTAN, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

The Court reiterates the right of the installment buyer of a subdivision lot to withhold payment of his amortizations for the duration that the subdivision developer has not complied with its contractual undertaking to build the promised amenities in the subdivision.

The Case

On appeal by the subdivision developer is the decision promulgated on May 29, 2003,[1] whereby the Court of Appeals (CA) upheld the ruling in favor of the installment buyer issued on December 6, 2001 by the Office of the President (OP).[2] By such ruling, the OP affirmed the July 14, 1997 decision[3] rendered by the Housing and Land Use Regulatory Board (HLURB) Board of Commissioners adopting the HLURB Arbiter's decision dated March 22, 1995.[4]

Antecedents

On September 6, 1976, the respondent entered into a contract to sell with the petitioner for the purchase on installment of a residential lot with an area of 308 square meters situated in the Foggy Heights Subdivision then being developed by the petitioner.[5] Earlier, on June 30, 1976, the petitioner executed an express undertaking in favor of the respondent, as follows:[6]

> We hereby undertake to complete the development of the roads, curbs, gutters, drainage system, water and electrical systems, as well as all the amenities to be introduced in FOGGY HEIGHTS SUBDIVISION, such as, swimming pool, pelota court, tennis and/or basketball court, bath house, children's playground and a clubhouse within a period of two years from 15 July 1976, on the understanding that failure on their part to complete such development within the stipulated period shall give the VENDEE the option to suspend payment of the monthly amortization on the lot/s he/she purchased until completion of such development without incurring penalty interest.
>
> It is clearly understood, however, that the period or periods during which we cannot pursue said development by reason of any act of God, any act or event constituting force majeure or fortuitous event, or any restriction, regulation, or prohibition by the government or any of its branches or

> instrumentalities, shall suspend the running of said 2-year period and the running thereof shall resume upon the cessation of the cause of the stoppage or suspension of said development.

In his letter dated November 12, 1979,[7] the respondent notified the petitioner that he was suspending his amortizations because the amenities had not been constructed in accordance with the undertaking. Despite receipt of the respondent's other communications requesting updates on the progress of the construction of the amenities so that he could resume his amortization,[8] the petitioner did not reply. Instead, on June 10, 1985, the petitioner sent to him a statement of account demanding the balance of the price, plus interest and penalty.[9] He refused to pay the interest and penalty.

On October 4, 1990, the respondent sued the petitioner for specific performance in the HLURB, praying that the petitioner be ordered to accept his payment of the balance of the contract without interest and penalty, and to deliver to him the title of the property.[10]

In its answer,[11] the petitioner sought to be excused from performing its obligations under the contract, invoking Article 1267 of the *Civil Code* as its basis. It contended that the depreciation of the Philippine Peso since the time of the execution of the contract, the increase in the cost of labor and construction materials, and the increase in the value of the lot in question were valid justifications for its release from the obligation to construct the amenities.

In its positiOn paper,[12] the petitiOner stated that it had purposely suspended the construction of the amenities which would have deteriorated at any rate because its lot buyers had not constructed their houses in the subdivision.

On March 22, 1995, the HLURB Arbiter ruled m favor of the respondent,[13] to wit:

> WHEREFORE, premises considered, respondents are hereby ordered to accept the payment of the balance of the contract price in the amount of Eight Thousand Five Hundred Eighty Seven and 80/100 Pesos (P8,587.80) without regular and penalty interest and, thereafter, to execute and deliver to complainant the absolute deed of sale covering the sale of property subj,ct of this complaint, together with the valid title over the said lot.[14]

The petitioner appealed, but the HLURB Board of Commissioners affirmed the ruling of the HLURB Arbiter on July 14, 1997.[15] Upon the denial of its motion for reconsideration, the petitioner appealed to the OP.[16]

On December 6, 2001, the OP upheld the decision of the HLURB Board of Commissioners.[17] The OP later denied the petitioner's motion for reconsideration.[18]

On appeal, the CA affirmed the OP through the assailed decision promulgated on May 29, 2003,[19] disposing:

WHEREFORE, premises considered and finding no reversible error in the challenged Decision and Order dated December 6, 2001, and July 1, 2002, respectively, of the Office of the President in OP Case No. 98-C-8261 said Decision and Order are **AFFIRMED** and **UPHELD**, and the petition is **DISMISSED** for lack of merit.

SO ORDERED.[20]

The CA denied the petitioner's motion for reconsideration.[21]

Issues

In this appeal by petition for review on *certiorari*, the petitioner contends that the CA erred in affirming the incorrect findings of the OP in a way probably not in accord with law; and in declaring that the respondent was not guilty of laches.

The petitioner submits that the CA, by observing that the petitioner did not fulfill its obligation to finish the subdivision project and that it had itself admitted not having finished the project, did not consider that it must be discharged because extraordinary and unforeseeable circumstances had rendered its duty to perform its obligation so onerous that to insist on the performance would have resulted in its economic ruin; that the Court should consider the practical circumstances surrounding the construction of the luxurious amenities of the project; that the luxurious amenities of the project would only be exposed to the elements, resulting in wastage and loss of resources, because none of the lot buyers had constructed any house in the subdivision; that delaying the construction for that reason was reasonable on its part considering that no one would have benefited from the amenities anyway, and was also a sound business practice because the construction would be at great cost to it as the developer; that another justification for the non-construction was its having suffered extreme economic hardships during the political and economic turmoil of the 1980s that the parties did not foresee at the time they entered into their contract; that under Article 1267 of the *Civil Code*, equity demanded a certain economic equilibrium between the prestation and the counter-prestation, and did not permit the unlimited impoverishment of one party for the benefit of the other by the excessive rigidity of the principle of the obligatory force of contracts; that as the debtor, it should be partially excused or altogether released from its obligations due to the extraordinary obstacles to the prestation, which could be overcome only by a sacrifice that would be absolutely disproportionate, or with very grave risks, or by violating some important duties; and that the CA thereby erred in closing its eyes to the realities, and in opting not to apply the principles of equity in favor of applying the terms of the agreement even if doing so would cause the economic ruin of one of the parties.

The petitioner further submits that the CA erred in declaring that it was apparent that there was no "unreasonable failure" on the part of the respondent because he had made timely written demands on November 12, 1979, February 11, 1983, March 20, 1984, June 24, 1985 and November 16, 1988. It urges that the CA's error consisted in its confusing laches as the failure to assert a right, notwithstanding that jurisprudence has considered laches to be the unreasonable failure to assert a claim that, by exercising due diligence, could or should be done earlier; that laches was not, in legal significance, mere delay, but a delay that worked a disadvantage to another; that the letters of the respondent could hardly be construed as motivated

by prudence and good faith; that the economy had worsened between 1979 and 1988, and such worsening became a factor that raised the cost of real estate development by leaps and bounds; and that the respondent, whose actuations smacked of bad faith and opportunism at its expense, had then appeared out of nowhere to seize the opportunity presented by the real estate boom of the early 1990s, despite having been silent and having failed to act for a long time, evincing his belief of not having any right at all.

In his comment, the respondent asserts that the submissions of the petitioner did not warrant the non-construction of the amemt1es; that Article 1159 of the *Civil Code* provides that obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith; that neither party could unilaterally and upon his own exclusive volition escape his obligations under the contract unless for causes sufficient in law and pronounced adequate by a competent tribunal; that correlative to Article 1159 is Article 1308 of the *Civil Code* which holds that the validity or compliance of a contract cannot be left to the will of one party; that a party could not revoke or renounce a contract without the consent of the other, nor could a party have a contract set aside on the ground that he had made a bad bargain; that he was not liable for the interest because it was not expressly stipulated in the contract pursuant to Article 1956 of the *Civil Code*; that no penalty should be imposed on him by virtue of the undertaking clearly stating that the two-year period for the completion of the amenities would be suspended only if the development could not be pursued "by reason of any act God, any act or event constituting force majeure or fortuitous event; or any restriction, regulation, or prohibition by the government or any of its branches or instrumentalities;" that the reason given by the petitioner that "the contemplated amenities could not be constructed as they would have only been left exposed to the elements and would have come to naught on account of the fact that there are no persons residing thereat" did not justify or excuse the non construction of the amenities; that the petitioner could not seek refuge in Article 1267 of the *Civil Code* by merely alleging inflation without laying down the legal and factual basis to justify the release from its obligation; that his written extrajudicial demands negated the defense of laches; that he did not fail to assert his right, or abandon it; and that his written extrajudicial demands wiped out the period that had already lapsed and started the prescriptive period anew.

In short, was the petitioner released from its obligation to construct the amenities in the Foggy Heights Subdivision?

Ruling of the Court

The appeal is partly meritorious.

1.

Petitioner was not relieved from its statutory and contractual obligations to complete the amenities

The arguments of the petitioner to be released from its obligation to construct the amenities lack persuasion.

To start with, the law is not on the side of the petitioner.

Under Section 20 of Presidential Decree No. 957, all developers, including the petitioner, are mandated to complete their subdivision projects, including the amenities, within one year from the issuance of their licenses. The provision reads:

> Section 20. Time of Completion. - Every owner or developer shall construct and provide the facilities, improvements, infrastructures and other forms of development, including water supply and lighting facilities, which are offered and indicated in the approved subdivision or condominium plans, brochures, prospectus, printed matters, letters or in any form of advertisement, within one year from the date of the issuance of the license for the subdivision or condominium project or such other period of time as maybe fixed by the Authority.

Pursuant to Section 30 of Presidential Decree No. 957,[22] the amenities, once constructed, are to be maintained by the developer like the petitioner until a homeowners' association has been organized to manage the amenities.

There is no question that the petitioner did not comply with its legal obligation to complete the construction of the subdivision project, including the amenities, within one year from the issuance of the license. Instead, it unilaterally opted to suspend the construction of the amenities to avoid incurring maintenance expenses. In so opting, it was not driven by any extremely difficult situation that would place it at any disadvantage, but by its desire to benefit from cost savings. Such cost-saving strategy dissuaded the lot buyers from constructing their houses in the subdivision, and from residing therein.

Considering that the petitioner's unilateral suspension of the construction of the amenities was intended to save itself from costs, its plea for relief from its contractual obligations was properly rejected because it would thereby gain a position of advantage at the expense of the lot owners like the respondent. Its invocation of Article 1267 of the *Civil Code*, which provides that "(w)hen the service has become so difficult as to be manifestly beyond the contemplation of the parties, the obligor may also be released therefrom in whole or in part," was factually unfounded. For Article 1267 to apply, the following conditions should concur, namely: (*a*) the event or change in circumstances could not have been foreseen at the time of the execution of the contract; (*b*) it makes the performance of the contract extremely difficult but not impossible; (*c*) it must not be due to the act of any of the parties; and (*d*) the contract is for a future prestation.[23] The requisites did not concur herein because the difficulty of performance under Article 1267 of the *Civil Code* should be such that one party would be placed at a disadvantage by the unforeseen event.[24] Mere inconvenience, or unexepected impediments, or increased expenses did not suffice to relieve the debtor from a bad bargain.[25]

And, secondly, the unilateral suspension of the construction had preceded the worsening of economic conditions in 1983; hence, the latter could not reasonably justify the petitioner's plea for release from its statutory and contractual obligations to its lot buyers, particularly the respondent. Besides, the petitioner had the legal obligation to complete the amenities within one year from the issuance of the license (under Section 20 of Presidential Decree No. 957), or within two years from July 15, 1976 (under the express undertaking of the petitioner). Hence, it should have complied with its obligation by July 15, 1978 at the latest, long before the