

## FIRST DIVISION

**[ G.R. No. 169343, August 05, 2015 ]**

**SAN MIGUEL PROPERTIES, INC., PETITIONER, VS. BF HOMES, INC., RESPONDENT.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Assailed in this Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court filed by San Miguel Properties, Inc. (SMPI) are: 1) the Decision<sup>[1]</sup> dated January 31, 2005 of the Court of Appeals in CA-G.R. SP No. 83631, which affirmed with modification the Decision dated January 27, 2004 of the Office of the President (OP), in O.P. Case No. 03-E-203, and remanded the case to the Housing and Land Use Regulatory Board (HLURB) for further proceedings; and 2) the Resolution<sup>[2]</sup> dated August 9, 2005 of the appellate court in the same case, which denied the Motion for Reconsideration of SMPI.

The antecedents of the case are as follows:

BF Homes, Inc. (BF Homes) is the owner of several parcels of land located in the northern portion of BF Homes Parañaque Subdivision, particularly identified as Italia II lots.

BF Homes, represented by Florencio B. Orendain (Orendain), as rehabilitation receiver appointed by the Securities and Exchange Commission (SEC); and SMPI, represented by Federico C. Gonzales, President, entered into three successive Deeds of Absolute Sale whereby the former sold to the latter a total of 130 Italia II lots with a combined area of 44,345 square meters for the aggregate consideration of P106,247,701.00, broken down as follows:

<b>Deed of Absolute Sale</b>	<b>Date of Execution</b>	<b>No. of Lots</b>	<b>Total Area (square meters)</b>	<b>Consideration</b>
First Deed <sup>[3]</sup>	In 1992	76	22,816	P52,134,560.00
Second Deed <sup>[4]</sup>	In 1993	13	5,964	P14,990,514.00
Third Deed <sup>[5]</sup> (Third Sale)	April 1993	41	15,565	P39,122,627.00
Total		130	44,345	P106,247,701.00

SMPI completed the payments for the 130 Italia II lots in December 1995.<sup>[6]</sup> In compliance with Section 3<sup>[7]</sup> of all the three Deeds of Absolute Sale, BF Homes delivered the Transfer Certificates of Title (TCTs) to SMPI but only for 110 of the 130

Italia II lots purchased by SMPI.

SMPI, thru counsel, sent BF Homes a letter on May 20, 1996 demanding the delivery of the remaining 20 TCTs, specifically:

<b>TCT No.</b>	<b>Area</b>
1. (S-41285) 123526-A	538 sq. m.
2. (S-41261) 123522-A	329 sq. m.
3. (S-41279) 123520-A	384 sq. m.
4. (S-41277) 123518-A	380 sq. m.
5. (S-41275) 123516-A	364 sq. m.
6. (S-41271) 123512-A	364 sq. m.
7. (S-41273) 123514-A	364 sq. m.
8. (S-41269) 123510-A	364 sq. m.
9. (S-41267)123508-A	364 sq. m.
10. (S-41265) 123506-A	429 sq. m.
11. (S-41263) 123505-A	329 sq. m.
12. (S-41261) 19477-A	329 sq. m.
13.(S-41258)19476-A	280 sq. m.
14. (S-41257) 23504-A	308 sq. m.
15.(S-41256)23503-A	280 sq. m.
16. (S-41255) 23502-A	308 sq. m.
17. (S-41254)23501-A	280 sq. m.
8. (S-41253) 123500-A	308 sq. m.
19. (S-41557)28372-A	502 sq. m.
20. (S-41279) 123520-A	665 sq. m.

Despite receipt of the afore-mentioned letter, BF Homes failed or refused to heed the demand of SMPI. Consequently, SMPI filed a Complaint<sup>[8]</sup> for specific performance with damages before the HLURB on August 24, 2000 to compel BF Homes to deliver the remaining 20 TCTs to SMPI. The case was docketed as HLURB Case No. REM-082400-11183.

In its Answer (With Counterclaim),<sup>[9]</sup> BF Homes alleged that the Deeds of Absolute Sale executed in 1992 to 1993 were entered into by Orendain in his personal capacity and without authority, as his appointment as rehabilitation receiver was revoked by the SEC in an Order dated May 17, 1989. In support of its counterclaims, BF Homes averred that the consideration paid by SMPI for the 130 Italia II lots was grossly inadequate and disadvantageous to BF Homes; and that the Deeds of Absolute Sale were undated and not notarized. Hence, BF Homes prayed that the HLURB render judgment: 1) dismissing the complaint of SMPI; 2) declaring the sale of the 130 Italia II lots null and void; 3) ordering SMPI to reconvey to BF Homes the titles for the [110] Italia II lots; and 4) ordering SMPI to pay BF Homes exemplary damages, attorney's fees, and cost of suit.

SMPI, in its Reply (Answer with Counterclaim dated October 16, 2000),<sup>[10]</sup> countered that the validity of the three Deeds of Absolute Sale was already upheld by the SEC in its Omnibus Order dated November 7, 1994, and the motion for reconsideration of BF Homes of said Omnibus Order was denied by the SEC in its subsequent Order dated August 22, 1995. Both Orders were deemed final,

executory, and unappealable by the SEC in another Omnibus Order dated July 31, 1996. As a result, the Deeds of Absolute Sale were binding on BF Homes. SMPI further maintained that Orendain was authorized to sign the Deeds of Absolute Sale for and in behalf of FBO Networks Management, Inc. - the receiver which the SEC appointed to replace Orendain, upon the latter's motion to convert his involvement in the receivership from an individual to a corporate capacity. SMPI additionally asserted that absent substantiation, the allegation of BF Homes of inadequate consideration for the sale of the Italia II lots was self-serving; and that despite being undated and not notarized, the Deeds of Absolute Sale were valid since they contained the essential elements of a contract. And even assuming that the Deeds of Absolute Sale may be rescinded, SMPI argued that BF Homes did not offer and was not prepared to return the consideration paid by SMPI, plus interest.

BF Homes filed a Rejoinder (To Complainant's Reply)<sup>[11]</sup> contending that the SEC Omnibus Order dated July 31, 1996 has not yet become final as BF Homes assailed the said Order in a Petition for *Certiorari* before the SEC. In its Decision dated May 8, 1997, the SEC neither confirmed the authority of Orendain nor cleared Orendain/FBO Networks Management, Inc. from any liability for his/its unauthorized acts, but clarified that the final report of the rehabilitation receiver was not yet approved and was merely admitted as part of the records. BF Homes also stated that although the SEC Order dated September 12, 2000 already terminated the rehabilitation proceedings because of the improvement in the solvency status of BF Homes, BF Homes filed a Motion for Clarification and/or Partial Reconsideration of said SEC Order and sought a resolution of the issues relating to the receiver's irregular acts, including the sale of the Italia II lots to SMPI. BF Homes insisted that the transactions entered into by Orendain were anomalous as the latter sold the 130 Italia II lots to SMPI at a price that was inadequate and disadvantageous to BF Homes.

Housing and Land Use Arbiter Rowena C. Balasolla (Arbiter Balasolla) issued an Order dated January 22, 2001<sup>[12]</sup> directing the parties to submit their respective position papers and supporting evidence, as well as their draft decisions. Thereafter, the case was deemed submitted for resolution.

In her Decision<sup>[13]</sup> dated January 25, 2002, Arbiter Balasolla suspended the proceedings in HLURB Case No. REM-082400-11183 for the following reasons:

What clearly is the issue to be resolved is whether or not [BF Homes] is obligated to deliver the title of the remaining twenty (20) lots to [SMPI] notwithstanding that the latter had fully paid the same.

Were this is a simple case of non-delivery of title of the lot or unit to the buyer upon full payment, sans the attendant problems, the answer would readily be in the affirmative. But this is not so in the instant case. This is a case of non-delivery of titles of a sale of 20 lots between two developers, and the lots sold are from an existing subdivision, which was under rehabilitation and made by a receiver which authority had been continuously questioned by the controlling stockholders of a corporation under rehabilitation.

In the light thereof, it becomes imperative to discuss the antecedent facts that would help in arriving at a judicious resolution of the instant complaint.

Sometime in September 1984, respondent [BF Homes] filed with the SEC a petition for rehabilitation and for declaration of suspension of payments. In February 1988, the SEC appointed Florencio Orendain as [BF Homes'] rehabilitation receiver. In May 1989, the SEC revoked the appointment of Mr. Orendain and appointed FBO Networks Management, Inc. (FBO) as receiver of the [BF Homes].

It was during the time 1992-1993 that [SMPI] bought from [BF Homes] the 130 parcels of land located in the northern portion of BF Homes, Paranaque City.

In June 1994, Mr. Orendain, on behalf of FBO, submitted to the SEC the Closing Report on [BF Homes] I of the receivership program covering the period from March 1988 to January 1994. [BF Homes] protested and questioned the said report by filing the corresponding pleadings with the SEC praying that the receivership of FBO represented by Mr. Orendain be suspended due to violations of trust and breach of fiduciary obligation and sought the nullification of the transaction entered into by Mr. Orendain. In November 1994, FBO was relieved of its duties and responsibilities as rehabilitation receiver and a Committee of Receivers was appointed in lieu thereof, to undertake and continue the rehabilitation program of [BF Homes].

In July 1996, the SEC issued an Omnibus Order in regard to rehabilitation case. Subsequently, however, [BF Homes] filed a petition for review for which the SEC rendered a decision in May 1997. In the said decision, the SEC held that the admission of the Receiver's Closing Report is merely for the purpose of receiving and noting them for inclusion in the records of the case and not an admittance (sic) and acceptance of the merits and veracity of the contents thereof.

In September 2000, the SEC issued another Order terminating the rehabilitation proceedings without, however, deciding on the merits and veracity of the contents of the Receiver's Closing Report. Hence, [BF Homes] filed in October 2000 a Motion for Clarification and/or Partial Reconsideration of the said Order which remains pending with the SEC until the present.

Apparently, it is in the context of the foregoing issues that [BF Homes] refused to deliver the remaining twenty (20) titles of the lots sold to [SMPI] as the former claimed, among others, that Mr. Orendain did not have the authority to sell the 130 parcels of land in the first place.

As the peculiar background of this case would tell, it is inevitable that the resolution of the issues raised in the instant complaint would be largely influenced by the outcome of the cases pending in other tribunals which are directly and ineluctably related to the issues brought before this Board.

This Board is cognizant of the fact that respondent had questioned the action of its rehabilitation receiver before the SEC, raising several issues against him, including but not limited, to his authority to sell the subject lots to the complainant the resolution of which is still pending the said body.

Thus, while this Board may have jurisdiction over the instant complaint, the issue on whether or not Mr. Orendain has overstepped his authority which is pending resolution by the SEC, is to our mind a condition *sine qua non*, the final resolution of which by said body is a logical antecedent to the issue involved in the instant complaint and which only the SEC has exclusive jurisdiction to decide.

Under the circumstances, we are inclined to suspend the proceedings before the Board until the SEC shall have resolved with finality on the issue of the authority of Mr. Orendain/FBO Networks Management to enter into such transactions on behalf of [BF Homes].

WHEREFORE, PREMISES CONSIDERED, this Office hereby suspends the proceedings of the instant complaint until the final resolution of the pending incidents before the Securities and Exchange Commission.<sup>[14]</sup>

SMPI filed a Petition for Review (Re: Decision dated January 25, 2002)<sup>[15]</sup> with the HLURB Board of Commissioners, asseverating that: 1) the SEC, in its Orders dated November 7, 1994 and August 22, 1995, had upheld the validity of the Deeds of Absolute Sale and confirmed the authority of the receiver to sell the 130 Italia II lots to SMPI, and said Orders already became final after BF Homes failed to appeal the same before the Court of Appeals, as provided for in Section 3,<sup>[16]</sup> Republic Act No. 5434, the law in force at that time; 2) Orendain and/or FBO Networks Management, Inc. were immune from suit pursuant to Section 9, Rule 9<sup>[17]</sup> of the Interim Rules of Procedure Governing Intra-corporate Controversies and Section 17, Rule 4<sup>[18]</sup> of the Interim Rules of Procedure on Corporate Rehabilitation; 3) BF Homes was estopped from refusing to deliver the remaining 20 titles since it had already received the consideration and benefits from the sale of the Italia II lots to SMPI and delivered 110 out of 130 TCTs to SMPI; 4) the principle of suspending a case due to a prejudicial question only applies to criminal cases; 5) BF Homes was mandated, under pain of criminal sanction under Section 25,<sup>[19]</sup> in relation to Section 39<sup>[20]</sup> of Presidential Decree No. 957,<sup>[21]</sup> also known as "The Subdivision and Condominium Buyer's Protection Decree," to deliver the TCTs of the remaining 20 Italia II lots, which had already been fully paid for by SMPI; 6) assuming that Orendain exceeded his authority as receiver of BF Homes in selling the 130 Italia II lots to SMPI, then Orendain could be held liable for damages but the titles to said lots acquired by SMPI by reason of the sale would be unaffected, absent any action for reconveyance instituted by BF Homes; and 7) the issue regarding Orendain's authority to undertake the sale of the Italia II lots to SMPI was rendered moot and academic by the issuance of SEC Order dated September 12, 2000, terminating the receivership of BF Homes.

After a further exchange of pleadings by the parties, the HLURB Board of