

FIRST DIVISION

[G.R. No. 192649, March 09, 2011]

HOME GUARANTY CORPORATION, PETITIONER, VS. R-II BUILDERS INC., AND NATIONAL HOUSING AUTHORITY, RESPONDENTS.

D E C I S I O N

PEREZ, J.:

Primarily assailed in this petition for review filed pursuant to Rule 45 of the *1997 Rules of Civil Procedure*, is the Decision dated 21 January 2010 rendered by the Former Fifteenth Division of the Court of Appeals (CA) in CA-G.R. SP No. 111153,^[1] the dispositive portion of which states as follows:

WHEREFORE, the petition for certiorari and prohibition is hereby DENIED.

The assailed *Orders*, dated March 3, 2009 and September 29, 2009, of the Regional Trial Court of Manila, Branch 22 are hereby AFFIRMED.

Consequently, the injunction earlier issued on December 4, 2009, restraining the proceedings in *Civil Case No. 05-113407*, is hereby DISSOLVED.^[2]

The Facts

On 19 March 1993, a *Joint Venture Agreement* (JVA) was entered into between respondents National Housing Authority (NHA) and R-II Builders, Inc. (R-II Builders) for the implementation of the Smokey Mountain Development and Reclamation Project (SMDRP). Amended and restated on 21 February 1994^[3] and 11 August 1994,^[4] the JVA was aimed at implementing a two-phase conversion of the Smokey Mountain Dumpsite "into a habitable housing project inclusive of the reclamation of the area across Radial Road 10 (R-10)".^[5] By the terms of the JVA, R-II Builders, as *developer*, was entitled to own 79 hectares of reclaimed land and the 2.3 hectare commercial area at the Smokey Mountain. As *landowner/implementing agency*, NHA, on the other hand, was entitled to own the 2,992 temporary housing units agreed to be built in the premises, the cleared and fenced incinerator site consisting of 5 hectares, 3,520 units of permanent housing to be awarded to qualified on site residents, the industrial area consisting of 3.2 hectares and the open spaces, roads and facilities within the Smokey Mountain Area.^[6]

On 26 September 1994, NHA and R-II Builders, alongside petitioner Housing Guaranty Corporation (HGC) as *guarantor* and the Philippine National Bank (PNB) as *trustee*, entered into an *Asset Pool Formation Trust Agreement* which provided the

mechanics for the implementation of the project.^[7] To back the project, an *Asset Pool* was created composed of the following assets: (a) the 21.2 hectare Smokey Mountain Site in Tondo, Manila; (b) the 79-hectare Manila Bay foreshore property in the name of the NHA; (c) the Smokey Mountain Project Participation Certificates (SMPPCs) to be issued, or their money proceeds; (d) disposable assets due to R-II Builders and/or its proceeds as defined in the JVA; (e) the resulting values inputted by R-II Builders for pre-implementation activities and some start-up works amounting to P300,000,000.00; (f) the 2,992 temporary housing facilities/units to be constructed by R-II Builders; and, (g) all pertinent documents and records of the project.^[8]

On the same date, the parties likewise executed a *Contract of Guaranty* whereby HGC, upon the call made by PNB and conditions therein specified, undertook to redeem the regular SMPPCs upon maturity and to pay the simple interest thereon to the extent of 8.5% per annum.^[9] The foregoing agreements led to the securitization of the project through the issuance of 5,216 SMPPCs upon the *Asset Pool*, with a par value of 1 Million each, classified and to be redeemed by the trustee or, in case of call on its guaranty, by HGC, in the following order of priority:

- a) *Regular SMPPCs* worth P2.519 Billion, issued for value to the general public at specified interests and maturity dates. These were to be redeemed by the PNB which was obliged to exhaust all liquid assets of the Asset Pool before calling on the HGC guarantee;
- b) *Special SMPPCs* worth P1.403 Billion, issued exclusively to the NHA for conveyance of the Smokey Mountain Site and Manila Bay foreshore property to the Asset Pool, redeemable upon turnover of the developed project; and
- c) *Subordinated SMPPCs* worth P1.294 Billion, issued exclusively to R-II Builders for its rights and interests in the JVA, redeemable with the turnover of all residual values, assets and properties remaining in the Asset Pool after both the Regular and Special SMPPCs are redeemed and all the obligations of the Asset Pool are settled.^[10]

Subsequent to R-II Builders' infusion of P300 Million into the project, the issuance of the SMPPCs and the termination of PNB's services on 29 January 2001, NHA, R-II Builders and HGC agreed on the institution of Planters Development Bank (PDB) as *trustee* on 29 January 2001.^[11] By 24 October 2002, however, all the Regular SMPPCs issued had reached maturity and, unredeemed, already amounted to an aggregate face value of P2.513 Billion. The lack of liquid assets with which to effect redemption of the regular SMPPCs prompted PDB to make a call on HGC's guaranty and to execute in the latter's favor a *Deed of Assignment and Conveyance* (DAC) of the entire *Asset Pool*, consisting of: (a) 105 parcels of land comprising the Smokey Mountain Site and the Reclamation Area, with a total area of 539,471.47 square meters, and all the buildings and improvements thereon; (b) shares of stock of Harbour Centre Port Terminal, Inc. (HCPTI); and, (c) other documents.^[12]

On 1 September 2005, R-II Builders filed the complaint against HGC and NHA which

was docketed as Civil Case No. 05-113407 before Branch 24 of the Manila Regional Trial Court, a Special Commercial Court (SCC). Contending that HGC's failure to redeem the outstanding regular SMPPCs despite obtaining possession of the *Asset Pool* ballooned the stipulated interests and materially prejudiced its stake on the residual values of the *Asset Pool*, R-II Builders alleged, among other matters, that the DAC should be rescinded since PDB exceeded its authority in executing the same prior to HGC's redemption and payment of the guaranteed SMPPCs; that while the estimated value of *Asset Pool* amounted to P5,919,716,618.62 as of 30 June 2005, its total liabilities was estimated at P2,796,019,890.41; and, that with the cessation of PDB's functions as a *trustee* and HGC's intention to use the *Asset Pool* to settle its obligations to the Social Security System (SSS), it was best qualified to be appointed as new *trustee* in the event of the resolution of the DAC. Assessed docket fees corresponding to an action incapable of pecuniary estimation, the complaint sought the grant of the following reliefs: (a) a temporary restraining order/preliminary and permanent injunction, enjoining disposition/s of the properties in the *Asset Pool*; (b) the resolution or, in the alternative, the nullification of the DAC; (c) R-II Builders' appointment as *trustee* pursuant to Rule 98 of the *Rules of Court*; (d) HGC's rendition of an accounting of the assets and the conveyance thereof in favor of R-II Builders; and, (e) P500,000.00 in attorney's fees.^[13]

On 26 October 2005, Branch 24 of the Manila RTC issued the writ of preliminary injunction sought by R-II Builders which, upon the challenge thereto interposed by HGC, was later affirmed by the CA in the 17 December 2007 decision rendered in CA-G.R. SP No. 98953.^[14] Having filed its answer to the complaint, in the meantime, HGC went on to move for the conduct of a preliminary hearing on its affirmative defenses which included such grounds as lack of jurisdiction, improper venue and the then pendency before this Court of G.R. No. 164537, entitled *Francisco Chavez vs. National Housing Authority, et al.*, a case which challenged, among other matters, the validity of the JVA and its subsequent amendments.^[15]

On 2 August 2007, R-II Builders, in turn, filed a motion to admit^[16] its *Amended and Supplemental Complaint* which deleted the prayer for resolution of the DAC initially prayed for in its original complaint. In lieu thereof, said pleading introduced causes of action for conveyance of title to and/or possession of the entire *Asset Pool*, for NHA to pay the *Asset Pool* the sum of P1,803,729,757.88 representing the cost of the changes and additional works on the project and for an increased indemnity for attorney's fees in the sum of P2,000,000.00.^[17]

Consistent with its joint order dated 2 January 2008 which held that R-II Builders' complaint was an ordinary civil action and not an intra-corporate controversy,^[18] Branch 24 of the Manila RTC issued a clarificatory order dated 1 February 2008 to the effect, among other matters, that it did not have the authority to hear the case.^[19] As a consequence, the case was re-raffled to respondent Branch 22 of the Manila RTC (respondent RTC) which subsequently issued the 19 May 2008 order which, having determined that the case is a real action, admitted the aforesaid *Amended and Supplemental Complaint*, subject to R-II Builders' payment of the "correct and appropriate" docket fees.^[20] On 15 August 2008, however, R-II Builders filed a motion to admit its *Second Amended Complaint*, on the ground that its previous *Amended and Supplemental Complaint* had not yet been admitted in view of the non-payment of the correct docket fees therefor.^[21] Said *Second*

Amended Complaint notably resurrected R-II Builders' cause of action for resolution of the DAC, deleted its causes of action for accounting and conveyance of title to and/or possession of the entire *Asset Pool*, reduced the claim for attorney's fees to P500,000.00, sought its appointment as Receiver pursuant to Rule 59 of the *Rules of Court* and, after an inventory in said capacity, prayed for approval of the liquidation and distribution of the *Asset Pool* in accordance with the parties' agreements.^[22]

On 2 September 2008, HGC filed its opposition to the admission of R-II Builders' *Second Amended Complaint* on the ground that respondent RTC had no jurisdiction to act on the case until payment of the correct docket fees and that said pleading was intended for delay and introduced a new theory inconsistent with the original complaint and the *Amended and Supplemental Complaint*. Claiming that R-II Builders had defied respondent court's 19 May 2008 order by refusing to pay the correct docket fees, HGC additionally moved for the dismissal of the case pursuant to Section 3, Rule 17 of the *1997 Rules of Civil Procedure*.^[23] On 24 November 2008, R-II Builders also filed an *Urgent Ex-Parte Motion for Annotation of Lis Pendens* on the titles of the properties in the *Asset Pool*, on the ground that HGC had sold and/or was intending to dispose of portions thereof, in violation of the writ of preliminary injunction issued in the premises.^[24] Finding that jurisdiction over the case was already acquired upon payment of the docket fees for the original complaint and that the *Second Amended Complaint* was neither intended for delay nor inconsistent with R-II Builders' previous pleadings, respondent RTC issued its first assailed order dated 3 March 2009 which: (a) denied HGC's motion to dismiss; (b) granted R-II Builders' motion to admit its *Second Amended Complaint*; and, (c) noted R-II Builders' *Urgent Ex-Parte Motion for Annotation of Lis Pendens*, to which the attention of the Manila Register of Deeds was additionally called.^[25]

Undaunted, HGC filed its 22 March 2009 motion for reconsideration of the foregoing order, arguing that: (a) the case is real action and the docket fees paid by R-II Builders were grossly insufficient because the estimated value of properties in the *Asset Pool* exceeds P5,000,000,000.00; (b) a complaint cannot be amended to confer jurisdiction when the court had none; (c) the RTC should have simply denied the *Urgent Ex-Parte Motion for Annotation of Lis Pendens* instead of rendering an advisory opinion thereon. In addition, HGC faulted R-II Builders with forum shopping, in view of its 10 September 2008 filing of the complaint docketed as Civil Case No. 08-63416 before Branch 91 of the Quezon City RTC, involving a claim for receivables from the NHA.^[26] In turn, R-II Builders opposed the foregoing motion^[27] and, on the theory that the *Asset Pool* was still in danger of dissipation, filed an urgent motion to resolve its application for the appointment of a receiver and submitted its nominees for said position.^[28]

On 29 September 2009, respondent RTC issued its second assailed order which (a) denied HGC's motion for reconsideration; (b) granted R-II Builders' application for appointment of receiver and, for said purpose: [i] appointed Atty. Danilo Concepcion as Receiver and, [ii] directed R-II Builders to post a bond in the sum of P10,000,000.00.^[29] Imputing grave abuse of discretion against the RTC for not dismissing the case and for granting R-II Builders' application for receivership, HGC filed the Rule 65 petition for certiorari and prohibition docketed as CA-G.R. SP No. 111153 before the CA^[30] which, thru its Former Special Fifteenth Division, rendered

the herein assailed 21 January 2010 decision,^[31] upon the following findings and conclusions:

- a) Irrespective of whether it is real or one incapable of pecuniary estimation, the action commenced by R-II Builders indubitably falls squarely within the jurisdiction of respondent RTC;
- b) From the allegations of R-II Builders' original complaint and amended complaint the character of the relief primarily sought, *i.e.*, the declaration of nullity of the DAC, the action before respondent RTC is one where the subject matter is incapable of pecuniary estimation;
- c) R-II Builders need not pay any deficiency in the docket fees considering its withdrawal of its *Amended and Supplemental Complaint*;
- d) A receiver may be appointed without formal hearing, particularly when it is within the interest of both parties and does not result in the delay of any government infrastructure projects or economic development efforts;
- e) Respondent RTC's act of calling the attention of the Manila Registrar of Deeds to R-II Builders' *Urgent Ex-Parte Motion for Annotation of Lis Pendens* is well-within its residual power to act on matters before it; and
- f) The withdrawal of R-II Builders' *Amended and Supplemental Complaint* discounted the forum shopping imputed against it by HGC.^[32]

HGC's motion for reconsideration of the foregoing decision^[33] was denied for lack of merit in the CA's resolution dated 21 June 2010, hence, this petition.

The Issues

HGC urges the affirmative of the following issues in urging the grant of its petition, to wit:

"Did the Honorable Court of Appeals Seriously Err When It Failed to Rule That:

I. The Regional Trial Court *a quo* had no jurisdiction to proceed with the case considering that:

(1) the original court was without authority to hear the case and;

(2) despite an unequivocal order from the trial court *a quo*, Private Respondent (R-II Builders) failed and refused to pay the correct and proper docket fees, whether it be for a real or personal action, based on the values of the properties or claims subject of the complaints.