

## THIRD DIVISION

[ G.R. No. 183349, September 14, 2011 ]

**F&E DE CASTRO CORPORATION, ELISA DE CASTRO AND  
FEDERICO DE CASTRO, PETITIONERS, VS. ERNESTO G. OLASO  
AND AMPARO M. OLASO, RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

Challenged in this petition for review on certiorari is the October 22, 2007 Decision<sup>[[1]]</sup> of the Court of Appeals (CA), which annulled and set aside the January 5, 2006 Order of the Regional Trial Court, Branch 93, San Pedro, Laguna (RTC), suspending the proceedings in Civil Case No. SPL-0991 pending the final outcome of Civil Case No. SPL-0356, and its June 10, 2008 Resolution<sup>[[2]]</sup> denying petitioners' motion for the reconsideration thereof.

**The Facts**

Forfom Development Corporation (*Forfom*) is the registered owner of the 114-hectare Villa Olympia Subdivision in Barrio San Vicente, San Pedro, Laguna. On August 25, 1985, Forfom entered into a Subdivision Project Agreement with petitioner F&E De Castro Corporation (*F&E Corporation*) by which agreement the latter undertook to finance the development of Villa Olympia Subdivision into a first class residential subdivision. As consideration for the transaction, it was agreed that F&E Corporation would be entitled to 40% of the developed saleable subdivision lots while the remaining 60% would remain with Forfom.

On August 23, 1989, a Supplemental Agreement was further concluded between the parties whereby F&E Corporation undertook to complete the development of Phase I and I-A of the project within 120 days, in accordance with the original plan and amendments approved by the Housing and Land Use Regulatory Board (*HLURB*). With the development of said phases still ongoing, Forfom entered into yet another contract with F&E Corporation, this time for the development of Phase II of the same project. As F&E Corporation incurred delays in the completion of said phases of the project, Forfom decided to rescind the Subdivision Project Agreement, the Supplemental Agreement and the contract relative to the development of Phase II of the same subdivision project.

On March 22, 1990, at the instance of F&E Corporation, HLURB ordered Forfom, in a cease and desist order, from further selling the lots/units within the subdivision project until and unless expressly permitted to do so. Pending the investigation of the conflict between the parties, however, Forfom was able to secure an order dated June 6, 1990 from the Enforcement Office of the HLURB directing F&E Corporation to cease and desist from further developing the subject subdivision project. Over the

vigorous opposition interposed by F&E Corporation, Forfom eventually took over the development and completion of Phases I, I-A and II of the Villa Olympia Subdivision.

In view of said developments, F&E Corporation demanded payment from Forfom for the expenses it purportedly incurred in the development of the subdivision project, including its 40% share in the price of the 407 developed lots already sold as well as 37 more lots as its share in the remaining 94 lots then unsold. Charging that Forfom refused to heed its demands, F&E Corporation instituted an action for "Delivery of Lot Titles, Sum of Money and Damages" which was docketed as Civil Case No. SPL-0356.

During the pendency of the case, Elisa De Castro, F&E Corporation's Vice-President and Treasurer, requested the Register of Deeds of Laguna for the annotation of an Affidavit of Adverse Claim as well as a notice of *lis pendens* on the certificates of title covering subdivision lots which were still registered in Forfom's name. Forfom sought the lifting of the notice of *lis pendens* but it was denied. Similar efforts for the cancellation of said encumbrances were exerted by individual lot buyers, among them respondents Ernesto and Amparo Olaso (*Olasos*), but they were opposed by F&E Corporation and rejected by the Register of Deeds of Laguna.

On November 18, 2003, as buyers of Lot 10, Block 30, Phase IV of the Villa Olympia Subdivision which had already been registered in their names under Transfer Certificate of Title No. 164843, the Olasos filed a complaint for "Damages, Cancellation of Lis Pendens and Writ of Preliminary Injunction" against F&E Corporation, Elisa De Castro and her husband, Federico De Castro, as well as the Register of Deeds of Calamba, Laguna, which was docketed as Civil Case No. SPL-0991.

F&E Corporation filed a motion to dismiss for non-exhaustion of administrative remedies, failure to implead Forfom as an indispensable party to the controversy, forum shopping, and *litis pendentia* in view of the pendency of Civil Case No. SPL-0356.

Citing the pendency of Civil Case No. SPL-0356, F&E Corporation moved for the suspension of the proceedings in Civil Case No. SPL-0991 on the ground that the issues in the former case partook the nature of a "prejudicial question" and are determinative of those proffered in the latter.

### **Decision of the RTC**

On January 5, 2006, the RTC issued the assailed order<sup>[3]</sup> granting F&E Corporation's motion to suspend proceedings in Civil Case No. SPL-0991. The pertinent portion of its order reads:

The actions involved in this case and Civil Case No. SPL-0356 being civil in nature, it is quite apparent that technically, there is no prejudicial question to speak of. Equally apparent, however, is the intimate correlation between the said two civil actions as indeed, the right of herein plaintiffs to the cancellation of the *lis pendens* or any lien or encumbrance of any kind annotated in TCT No. T-166472 depends primarily on the resolution of SPL-0356. The Court is of the view that

where the rights of plaintiffs in this case cannot be properly determined until the questions raised in Civil Case No. SPL-0356 are settled, the more prudent course is to hold the instant case in abeyance until after a determination of SPL-0356. Indeed, in the interest of good order, the Court can very well suspend on one case pending the final outcome of another case closely interrelated or linked to the first. It cannot be denied that SPL-0356 is closely interrelated or linked to the instant case considering that the outcome in SPL-0356 will definitely affect the proceedings in this case.

Consequently, the Court hereby orders the suspension of the proceedings in the instant case pending the final outcome of Civil Case No. SPL-0356.

SO ORDERED.

### **Decision of the CA**

On October 22, 2007, the CA rendered its decision nullifying and setting aside the assailed order of the RTC. The CA ruled, among others, that the issues litigated in Civil Case No. SPL-0356 had no bearing on Civil Case No. SPL-0991 as to warrant the RTC's suspension of the proceedings in the latter. The CA ruled that, in Civil Case No. SPL-0991, the Olasos sought the cancellation of the notice of *lis pendens* annotated on their certificate of title over the parcel of land denominated as Lot 10, Block 30, Phase IV of the Villa Olympia Subdivision which they bought from F&E Corporation.

The CA stated that although F&E Corporation earlier sued the subdivision owner, Forfom, the RTC lost sight of the fact that, in addition to the collection of sum of money and damages, the cause of action in Civil Case No. SPL-0356 was for the delivery of the certificates of title over 37 lots situated in Phases I and I-A of the same subdivision project. Therefore, it would appear that the matter of cancellation of the notice of *lis pendens* on the title of the Olasos can proceed independently of Civil Case No. SPL-0356.

It added that in primarily seeking to collect its 40% share in the sold and unsold lots in Phases I and I-A of the Villa Olympia Subdivision, F&E Corporation clearly did not assert a claim of possession or ownership over the same in Civil Case No. SPL-0356. Said action was clearly a personal action that only incidentally affected the 37 lot titles on which the corresponding notices of *lis pendens* were annotated. Hence, it would logically follow that any judgment rendered in Civil Case No. 0356 would bind Forfom but not necessarily the Olasos. The RTC's suspension of the proceedings for the cancellation of the annotation of the notice of *lis pendens* on the Olasos' title was derogatory to the purpose for which Presidential Decree (*P.D.*) No. 957, otherwise known as "Subdivision and Condominium Buyers' Protective Decree" had been issued.

F&E Corporation's motion for reconsideration was denied prompting the latter to file this petition anchored on the following

### **GROUND**