

## SECOND DIVISION

[ G.R. No. 174584, January 22, 2010 ]

**VICTORIA P. CABRAL, PETITIONER, VS. JACINTO UY, MICHAEL UY, MARILYN O. UY, RICHARD O. UY, REY IGNACIO DIAZ, JOSE PO AND JUANITO MALTO, RESPONDENTS.**

### D E C I S I O N

**ABAD, J.:**

This case is about the power of courts to hear criminal violations of the law that protects subdivision buyers against developers selling lots before they are issued licenses to sell and the effect of the subsequent issuance of such licenses to sales that land developers make before the issuance of their licenses.

#### The Facts and the Case

Respondent Jacinto Uy (Uy) is the chairman of Moldex Realty, Inc. (Moldex); the other respondents are its officers and directors. Uy entered into a joint venture agreement with Quintin Bernardo for the inclusion into Moldex's residential subdivision project in Bulacan of two parcels of land, totaling 20,954 square meters, that Bernardo held under two emancipation patents.<sup>[1]</sup>

On June 21, 2001 Moldex applied for a license to sell subdivision lots in the project mentioned with the Housing and Land Use Regulatory Board (HLURB)<sup>[2]</sup> but the latter denied the application for failure to comply with the requirements.<sup>[3]</sup>

On July 2, 2002 petitioner Victoria P. Cabral filed a criminal complaint<sup>[4]</sup> against respondents Uy, *et al.* for violation of Section 5 of Presidential Decree (P.D.) 957, alleging that she was the registered owner of the lots subject of Bernardo's emancipation patents. She said that prior to the transaction between Bernardo and respondent Uy, the latter offered to acquire the lots from her but she refused because of the pending case for cancellation of the patents that she filed against Bernardo with the Department of Agrarian Reform Adjudication Board.

On April 28, 2003 the public prosecutor's office filed a criminal information before the Regional Trial Court of Quezon City<sup>[5]</sup> in Criminal Case Q-03-116823 against respondent Uy and the other Moldex officers, namely, respondents Michael Uy, Marilyn O. Uy, Richard O. Uy, Rey Ignacio Diaz, Jose Po, and Juanito Malto for selling subdivision lots to a certain Josefa C. Yanga without a license from the HLURB.<sup>[6]</sup>

Subsequently, however, or on September 17, 2003 the HLURB issued Moldex the license to sell that it needed.<sup>[7]</sup>

Respondents Uy, *et al.* filed a motion to quash the information and motion for judicial determination of probable cause<sup>[8]</sup> claiming that the office of the prosecutor and the trial court had no jurisdiction over violations of P.D. 957, such jurisdiction being with the HLURB alone and, granting that they could take cognizance of the case, respondents Uy, *et al.* could not be held criminally liable because the HLURB subsequently issued them a license to sell.<sup>[9]</sup>

On May 20, 2004 the trial court denied the motions of respondents Uy, *et al.*<sup>[10]</sup> On June 15, 2005 it also denied their motion for reconsideration,<sup>[11]</sup> prompting them to appeal to the Court of Appeals (CA) in CA-G.R. SP 90468, which court granted their prayer for the issuance of a temporary restraining order.<sup>[12]</sup> On June 2, 2006 the latter court rendered a decision,<sup>[13]</sup> upholding the trial court's jurisdiction over the subject case but ordaining its dismissal, given that the subsequent issuance of a license to sell extinguished respondents Uy, *et al.*'s criminal liability. Petitioner Cabral filed a motion for reconsideration but the appeals court denied<sup>[14]</sup> it, hence, this petition.

Required to comment on the petition, the Office of the Solicitor General joined the petitioner in asking this Court to reverse the CA's decision.

### **The Issues Presented**

The issues presented in this case<sup>[15]</sup> are:

1. Whether or not the office of the public prosecutor and the trial court have jurisdiction over criminal actions for violation of P.D. 957; and
2. Whether or not HLURB's subsequent issuance to Moldex of a license to sell extinguished respondents Uy, *et al.*'s criminal liability for selling subdivision lots prior to the issuance of such license.

### **The Court's Rulings**

**First.** Conformably with what this Court ruled in *Sia v. People*,<sup>[16]</sup> the CA correctly upheld the public prosecutor's authority to file the criminal information for violation of P.D. 957 and the trial court's power to hear and adjudicate the action, the penalty being a P20,000.00 fine and imprisonment of not exceeding 10 years or both such fine and imprisonment. This penalty brings the offense within the jurisdiction of that court.

**Second.** P.D. 957 has been enacted to regulate for the public good the sale of subdivision lots and condominiums. Its Section 5 prohibits such sale without the prior issuance of an HLURB license<sup>[17]</sup> and punishes those who engage in such selling.<sup>[18]</sup> The crime is regarded as *malum prohibitum* since P.D. 957 is a special law designed to protect the welfare of society and ensure the carrying on of the purposes of civil life.<sup>[19]</sup> It is the commission of that act as defined by law, not its character or effect that determines whether or not its provision has been violated.