

## FIRST DIVISION

**[ G.R. No. 183612, March 15, 2010 ]**

**POLYTECHNIC UNIVERSITY OF THE PHILIPPINES, PETITIONER,  
VS. GOLDEN HORIZON REALTY CORPORATION, RESPONDENT.**

**[G.R. No. 184260]**

**NATIONAL DEVELOPMENT COMPANY, PETITIONER, VS. GOLDEN  
HORIZON REALTY CORPORATION, RESPONDENT.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

The above-titled consolidated petitions filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seek to reverse the Decision<sup>[1]</sup> dated June 25, 2008 and Resolution dated August 22, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 84399 which affirmed the Decision<sup>[2]</sup> dated November 25, 2004 of the Regional Trial Court (RTC) of Makati City, Branch 144 in Civil Case No. 88-2238.

The undisputed facts are as follows:

Petitioner National Development Company (NDC) is a government- owned and controlled corporation, created under Commonwealth Act No. 182, as amended by Com. Act No. 311 and Presidential Decree (P.D.) No. 668. Petitioner Polytechnic University of the Philippines (PUP) is a public, non-sectarian, non-profit educational institution created in 1978 by virtue of P.D. No. 1341.

In the early sixties, NDC had in its disposal a ten (10)-hectare property located along Pureza St., Sta. Mesa, Manila. The estate was popularly known as the NDC Compound and covered by Transfer Certificate of Title Nos. 92885, 110301 and 145470.

On September 7, 1977, NDC entered into a Contract of Lease (C-33-77) with Golden Horizon Realty Corporation (GHRC) over a portion of the property, with an area of 2,407 square meters for a period of ten (10) years, renewable for another ten (10) years with mutual consent of the parties. <sup>[3]</sup>

On May 4, 1978, a second Contract of Lease (C-12-78) was executed between NDC and GHRC covering 3,222.80 square meters, also renewable upon mutual consent after the expiration of the ten (10)-year lease period. In addition, GHRC as lessee was granted the "option to purchase the area leased, the price to be negotiated and determined at the time the option to purchase is exercised." <sup>[4]</sup>

Under the lease agreements, GHRC was obliged to construct at its own expense buildings of strong material at no less than the stipulated cost, and other

improvements which shall automatically belong to the NDC as lessor upon the expiration of the lease period. Accordingly, GHRC introduced permanent improvements and structures as required by the terms of the contract. After the completion of the industrial complex project, for which GHRC spent P5 million, it was leased to various manufacturers, industrialists and other businessmen thereby generating hundreds of jobs. [5]

On June 13, 1988, before the expiration of the ten (10)-year period under the second lease contract, GHRC wrote a letter to NDC indicating its exercise of the option to renew the lease for another ten (10) years. As no response was received from NDC, GHRC sent another letter on August 12, 1988, reiterating its desire to renew the contract and also requesting for priority to negotiate for its purchase should NDC opt to sell the leased premises. [6] NDC still did not reply but continued to accept rental payments from GHRC and allowed the latter to remain in possession of the property.

Sometime after September 1988, GHRC discovered that NDC had decided to secretly dispose the property to a third party. On October 21, 1988, GHRC filed in the RTC a complaint for specific performance, damages with preliminary injunction and temporary restraining order. [7]

In the meantime, then President Corazon C. Aquino issued Memorandum Order No. 214 dated January 6, 1989, ordering the transfer of the whole NDC Compound to the National Government, which in turn would convey the said property in favor of PUP at acquisition cost. The memorandum order cited the serious need of PUP, considered the "Poor Man's University," to expand its campus, which adjoins the NDC Compound, to accommodate its growing student population, and the willingness of PUP to buy and of NDC to sell its property. The order of conveyance of the 10.31-hectare property would automatically result in the cancellation of NDC's total obligation in favor of the National Government in the amount of P57,193,201.64. [8]

On February 20, 1989, the RTC issued a writ of preliminary injunction enjoining NDC and its attorneys, representatives, agents and any other persons assisting it from proceeding with the sale and disposition of the leased premises. [9]

On February 23, 1989, PUP filed a motion to intervene as party defendant, claiming that as a purchaser *pendente lite* of a property subject of litigation it is entitled to intervene in the proceedings. The RTC granted the said motion and directed PUP to file its Answer-in-Intervention. [10]

PUP also demanded that GHRC vacate the premises, insisting that the latter's lease contract had already expired. Its demand letter unheeded by GHRC, PUP filed an ejectment case (Civil Case No. 134416) before the Metropolitan Trial Court (MeTC) of Manila on January 14, 1991. [11]

Due to this development, GHRC filed an Amended and/or Supplemental Complaint to include as additional defendants PUP, Honorable Executive Secretary Oscar Orbos and Judge Ernesto A. Reyes of the Manila MeTC, and to enjoin the afore-mentioned defendants from prosecuting Civil Case No. 134416 for ejectment. A temporary

restraining order was subsequently issued by the RTC enjoining PUP from prosecuting and Judge Francisco Brillantes, Jr. from proceeding with the ejectment case. [12]

In its Second Amended and/or Supplemental Complaint, GHRC argued that Memorandum Order No. 214 is a nullity, for being violative of the writ of injunction issued by the trial court, apart from being an infringement of the Constitutional prohibition against impairment of obligation of contracts, an encroachment on legislative functions and a bill of attainder. In the alternative, should the trial court adjudge the memorandum order as valid, GHRC contended that its existing right must still be respected by allowing it to purchase the leased premises. [13]

Pre-trial was set but was suspended upon agreement of the parties to await the final resolution of a similar case involving NDC, PUP and another lessee of NDC, Firestone Ceramics, Inc. (Firestone), then pending before the RTC of Pasay City. [14]

On November 14, 2001, this Court rendered a decision in G.R. Nos. 143513 (*Polytechnic University of the Philippines v. Court of Appeals*) and 143590 (*National Development Corporation v. Firestone Ceramics, Inc.*), [15] which declared that the sale to PUP by NDC of the portion leased by Firestone pursuant to Memorandum Order No. 214 violated the right of first refusal granted to Firestone under its third lease contract with NDC. We thus decreed:

WHEREFORE, the petitions in G.R. No. 143513 and G.R. No. 143590 are DENIED. Inasmuch as the first contract of lease fixed the area of the leased premises at 2.90118 hectares while the second contract placed it at 2.60 hectares, let a ground survey of the leased premises be immediately conducted by a duly licensed, registered surveyor at the expense of private respondent FIRESTONE CERAMICS, INC., within two (2) months from the finality of the judgment in this case. Thereafter, private respondent FIRESTONE CERAMICS, INC., shall have six (6) months from receipt of the approved survey within which to exercise its right to purchase the leased property at P1,500.00 per square meter, and petitioner Polytechnic University of the Philippines is ordered to reconvey the property to FIRESTONE CERAMICS, INC., in the exercise of its right of first refusal upon payment of the purchase price thereof.

SO ORDERED. [16]

The RTC resumed the proceedings and when mediation and pre-trial failed to settle the case amicably, trial on the merits ensued. [17]

On November 25, 2004, the RTC rendered its decision upholding the right of first refusal granted to GHRC under its lease contract with NDC and ordering PUP to reconvey the said portion of the property in favor of GHRC. The dispositive portion reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the plaintiff to cause immediate ground survey of the premises subject of the leased contract under Lease Contract No. C-33-77 and C-12-78 measuring 2,407 and 3,222.8 square meters respectively, by a duly licensed and registered surveyor at the expense of the plaintiff within two months from receipt of this Decision and thereafter, the plaintiff shall have six (6) months from receipt of the approved survey within which to exercise its right to purchase the leased property at P554.74 per square meter. And finally, the defendant PUP, in whose name the property is titled, is hereby ordered to reconvey the aforesaid property to the plaintiff in the exercise of its right of its option to buy or first refusal upon payment of the purchase price thereof.

The defendant NDC is hereby further ordered to pay the plaintiff attorney's fees in the amount of P100,000.00.

The case against defendant Executive Secretary is dismissed and this decision shall bind defendant Metropolitan Trial Court, Branch 20 of Manila.

With costs against defendants NDC and PUP.

SO ORDERED. [18]

NDC and PUP separately appealed the decision to the CA. [19] By Decision of June 25, 2008, the CA affirmed *in toto* the decision of the RTC. [20]

Both the RTC and the CA applied this Court's ruling in *Polytechnic University of the Philippines v. Court of Appeals (supra)*, considering that GHRC is similarly situated as a lessee of NDC whose right of first refusal under the lease contract was violated by the sale of the property to PUP without NDC having first offered to sell the same to GHRC despite the latter's request for the renewal of the lease and/or to purchase the leased premises prior to the expiration of the second lease contract. The CA further agreed with the RTC's finding that there was an implied renewal of the lease upon the failure of NDC to act on GHRC's repeated requests for renewal of the lease contract, both verbal and written, and continuing to accept monthly rental payments from GHRC which was allowed to continue in possession of the leased premises.

The CA also rejected the argument of NDC and PUP that even assuming that GHRC had the right of first refusal, said right pertained only to the second lease contract, C-12-78 covering 3,222.80 square meters, and not to the first lease contract, C-33-77 covering 2,407 square meters, which had already expired. It sustained the RTC's finding that the two (2) lease contracts were interrelated because each formed part of GHRC's industrial complex, such that business operations would be rendered useless and inoperative if the first contract were to be detached from the other, as similarly held in the afore-mentioned case of *Polytechnic University of the Philippines v. Court of Appeals*.

Petitioner PUP argues that respondent's right to exercise the option to purchase had

expired with the termination of the original contract of lease and was not carried over to the subsequent implied new lease between respondent and petitioner NDC. As testified to by their witnesses Leticia Cabantog and Atty. Rhoel Mabazza, there was no agreement or document to the effect that respondent's request for extension or renewal of the subject contracts of lease for another ten (10) years was approved by NDC. Hence, respondent can no longer exercise the option to purchase the leased premises when the same were conveyed to PUP pursuant to Memorandum Order No. 214 dated January 6, 1989, long after the expiration of C-33-77 and C-12-78 in September 1988. [21]

Petitioner PUP further contends that while it is conceded that there was an implied new lease between respondent and petitioner NDC after the expiration of the lease contracts, the same did not include the right of first refusal originally granted to respondent. The CA should have applied the ruling in *Dizon v. Magsaysay* [22] that the lessee cannot any more exercise its option to purchase after the lapse of the one (1)-year period of the lease contract. With the implicit renewal of the lease on a monthly basis, the other terms of the original contract of lease which are revived in the implied new lease under Article 1670 of the Civil Code are only those terms which are germane to the lessee's right of continued enjoyment of the property leased. The provision entitling the lessee the option to purchase the leased premises is not deemed incorporated in the impliedly renewed contract because it is alien to the possession of the lessee. Consequently, as in this case, respondent's right of option to purchase the leased premises was not violated despite the impliedly renewed contract of lease with NDC. Respondent cannot favorably invoke the decision in G.R. Nos. 143513 and 143590 (*Polytechnic University of the Philippines v. Court of Appeals*) for the simple reason, among others, that unlike in said cases, the contracts of lease of respondent with NDC were not mutually extended or renewed for another ten (10) years. Thus, when the leased premises were conveyed to PUP, respondent did not any more have any right of first refusal, which incidentally appears only in the second lease contract and not in the first lease contract. [23]

On its part, petitioner NDC assails the CA in holding that the contracts of lease were impliedly renewed for another ten (10)-year period. The provisions of C-33-77 and C-12-78 clearly state that the lessee is granted the option "to renew for another ten (10) years with the mutual consent of both parties." As regards the continued receipt of rentals by NDC and possession by the respondent of the leased premises, the impliedly renewed lease was only month-to-month and not ten (10) years since the rentals are being paid on a monthly basis, as held in *Dizon v. Magsaysay*. [24]

Petitioner NDC further faults the CA in sustaining the RTC's decision which erroneously granted respondent the option to purchase the leased premises at the rate of P554.74 per square meter, the same rate for which NDC sold the property to petitioner PUP and/or the National Government, which is the mere acquisition cost thereof. It must be noted that such consideration or rate was imposed by Memorandum Order No. 214 under the premise that it shall, in effect, be a sale and/or purchase from one (1) government agency to another. It was intended merely as a transfer of one (1) user of the National Government to another, with the beneficiary, PUP in this case, merely returning to the petitioner/transferor the cost of acquisition thereof, as appearing on its accounting books. It does not in any way reflect the true and fair market value of the property, nor was it a price a "willing