

FIRST DIVISION

[G.R. No. 131903, June 26, 2008]

**OSCAR R. BADILLO, GIOVANNI C. ONG, EDGAR A. RAGASA
REPRESENTED BY HEIRS CYNTHIA G. RAGASA, AND THEIR
CHILDREN JOSEPH, CATHERINE AND CHARMAINE ALL
SURNAMED RAGASA, ROLANDO SANCADA, AND DIONISIO
UMBALIN, PETITIONERS, VS. COURT OF APPEALS, REGISTER OF
DEEDS OF QUEZON CITY, GOLDKEY DEVELOPMENT
CORPORATION, JOSEFA CONEJERO, IGNACIO D. SONORON,
PEDRO DEL ROSARIO, AND DOWAL REALTY AND MANAGEMENT
SYSTEM COMPANY, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This petition for certiorari^[1] assails the 17 September 1997 Decision^[2] of the Court of Appeals in CA-G.R. CV No. 50035. The Court of Appeals dismissed the appeal filed by petitioners Oscar R. Badillo, Giovanni C. Ong, Edgar A. Ragasa, Rolando Sancada, and Dionisio Umbalin (petitioners) questioning the 5 June 1995 Order^[3] of Branch 222 of the Regional Trial Court of Quezon City in Civil Case No. Q-91-10510 for Annulment of Documents with Prayer for Issuance of Prohibitory and Mandatory Injunction and Damages.

The Facts

Petitioners alleged that they are the registered owners of several lots adjoining a road lot known as Lot 369-A-29 or Apollo Street of subdivision plan Psd-37971 (road lot). The road lot is a short access road which connects petitioners' properties to the main road known as Road 20. The road lot is covered by Transfer Certificate of Title (TCT) No. RT-20895 (22682) and registered in the name of respondent Pedro del Rosario (del Rosario). Annotated at the back of TCT No. RT-20895 is a court-ordered Entry No. 605/T-22655 which reads as follows: "It is hereby made of record that as per order of the Court, the street lot covered by this title shall not be closed or disposed of by the registered owner without previous approval of the court."^[4]

Petitioners alleged that in gross violation of the court order, del Rosario sold an unsegregated portion of the road lot to his co-respondents Josefa Conejero (Conejero) and Ignacio Sonoron (Sonoron) without obtaining prior court approval. Del Rosario, Conejero, and Sonoron then entered into a partition agreement to divide the road lot into four lots which resulted in the partial cancellation of TCT No. RT-20895 and the subsequent issuance of TCT Nos. 35899 and 35100 in the name of Conejero, TCT No. 35101 in the name of del Rosario, and TCT No. 35102 in the name of Sonoron.^[5]

Petitioners stated that del Rosario sold TCT No. 35101 to Goldkey Development Corporation (Goldkey).^[6]

Petitioners alleged that the Register of Deeds violated the court order when it allowed the registration of the sales and the subsequent issuance of new titles without first obtaining judicial approval. Petitioners claimed that Goldkey had built cement fences on the lot, thus blocking the ingress and egress of petitioners.^[7]

Petitioners prayed that the sales made in favor of Conejero, Sonoron, and Goldkey and the partition of the road lot be declared void.^[8]

In its Comment, Goldkey alleged that the Housing and Land Use Regulatory Board (HLURB) has exclusive jurisdiction over the cases mentioned in Section 1 of Presidential Decree No. (PD) 1344.^[9] Goldkey argued that the Court of Appeals correctly dismissed petitioners' appeal because petitioners merely assigned an error involving a pure question of law. Goldkey added that petitioners are using the present petition as a substitute for an already lost appeal since petitioners' counsel had received the decision on 17 October 1997 and the present petition was posted only on 16 December 1997.^[10]

In May 1991, petitioners filed an initial complaint with the Office of the Building Official (building official) of Quezon City, docketed as Building Case No. R-10-91-006 entitled Giovanni C. Ong, et al. v. Manuel Chua (building case).^[11] Petitioners, who initiated the building case when Goldkey started putting up fences in some portions of the property, claimed that the parcel of land was a road lot.^[12]

On 10 September 1991, the HLURB issued a Development Permit to Goldkey allowing it to develop the land into residential townhouse units. The permit also mentioned that the project is classified as "Residential Townhouse Subdivision" and, as evaluated, the same is "in accordance with the Zoning Ordinance of Quezon City."^[13]

On 4 November 1991,^[14] petitioners filed a case for Annulment of Title and Damages^[15] with the Regional Trial Court of Quezon City.

Subsequently, the building official of Quezon City resolved the building case against petitioners and this decision became final and executory.^[16] The ruling held that the property is not a road lot but a residential lot.^[17]

On 5 June 1995, Branch 222 of the Regional Trial Court (trial court) of Quezon City issued an order dismissing the case for lack of jurisdiction over the subject matter.

The Ruling of the Trial Court

The trial court dismissed petitioners' case for lack of jurisdiction over the subject matter. The trial court pointed out that there was a decision rendered by the building official of Quezon City declaring the disputed property a residential lot and not a road lot; hence, the building official issued a building permit. The HLURB also issued a permit for the development of the land into a townhouse project.

Petitioners did not appeal both rulings. The trial court stated that petitioners' contention that the property is a road lot had been rendered moot by the finding of the building official which made the contrary declaration. If petitioners had any objection to the ruling, they should have appealed the same to the Secretary of Public Works and Highways as provided in Section 307 of Executive Order No. (EO) 1096. The findings of administrative agencies which have expertise are generally accorded not only respect but even finality.

The trial court also stated that the property had been approved by the HLURB for development into a townhouse project. The subject land was therefore removed from the jurisdiction of the regular courts. The HLURB's decision was also not appealed to the Office of the President as provided in Section 4 of PD 1344 which gave the HLURB quasi-judicial powers.

The Ruling of the Appellate Court

On 17 September 1997, the Court of Appeals dismissed the appeal on the ground that it has no jurisdiction to entertain the same. The appellate court stated that the original and amended complaints filed by petitioners were both premised on the claim that the subject parcels of land were subdivision road lots that were illegally converted into residential lots and thereafter disposed by del Rosario, the subdivision developer. Therefore, petitioners' complaints were filed for the purpose of enforcing a contractual and statutory obligation of del Rosario to preserve a subdivision road lot for street purposes. As such, the agency with jurisdiction is the HLURB, pursuant to the provisions of PD 957, 1216, and 1344, EO 648 dated 7 February 1981 and EO 90 dated 17 December 1986.

Further, the appellate court ruled that the error assigned by petitioners involves the issue on what law will apply to determine the jurisdiction of a tribunal over the subject matter of the complaints. Petitioners' assigned error involves a pure question of law; hence, petitioners appealed to the wrong forum. Petitioners should have elevated their appeal to the Supreme Court and not to the Court of Appeals by way of a simple appeal.

Hence, this petition.

The Issues

Petitioners raise three issues in this petition:

1. Whether the appellate court acted without or in excess of jurisdiction or with grave abuse of discretion by dismissing petitioners' appeal on the ground that jurisdiction does not lie with the regular courts but with the HLURB;
2. Whether the Court of Appeals acted without or in excess of jurisdiction or grave abuse of discretion by dismissing petitioners' appeal on the ground that petitioners did not assign any error of fact; and
3. Whether a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is the proper remedy for petitioners.

The Ruling of the Court

The petition lacks merit.

The HLURB is the sole regulatory body for housing and land development.^[18] The extent to which an administrative agency may exercise its powers depends on the provisions of the statute creating such agency.^[19] Courts will not determine a controversy where the issues for resolution demand the exercise of sound administrative discretion.^[20]

Jurisdiction Lies with the HLURB

PD 957,^[21] otherwise known as "The Subdivision and Condominium Buyers' Protective Decree," granted the National Housing Authority (NHA) the exclusive jurisdiction to regulate the real estate business. The scope of the regulatory authority lodged in the NHA is indicated in the second whereas clause which states:

"WHEREAS, numerous reports reveal that many real estate subdivision owners, developers, operators, and/or sellers have **reneged on their representations and obligations to provide and maintain properly subdivision roads**, drainage, sewerage, water systems, lighting systems, and other similar basic requirements, thus endangering the health and safety of home and lot buyers," (Emphasis supplied)

Thus, Section 22 of PD 957 provides:

Sec. 22. *Alteration of Plans.* - **No owner or developer shall change or alter the roads**, open spaces, infrastructures, facilities for public use and/or other form of subdivision development as contained in the approved subdivision plan and/or represented in its advertisements, **without the permission of the Authority and the written conformity or consent of the duly organized homeowners association**, or in the absence of the latter, by the majority of the lot buyers in the subdivision. (Emphasis supplied)

PD 1344^[22] amended PD 957 by empowering the NHA to issue writs of execution in the enforcement of its decisions. Section 1 of PD 1344 states:

Section 1. In the exercise of its functions to regulate the real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have **exclusive jurisdiction to hear and decide cases** of the following nature:

- a. Unsound real estate business practices;
- b. Claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and
- c. **Cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman.** (Emphasis supplied)

Under EO 648,^[23] the NHA's functions were transferred to the Human Settlement Regulatory Commission. Section 8 of EO 648 provides:

Section 8. Transfer of Functions. - The regulatory functions of the National Housing Authority pursuant to Presidential Decrees No. 957, 1216, 1344 and other related laws are hereby transferred to the Commission, together with such applicable personnel, appropriation, records, equipment and property necessary for the enforcement and implementation of such functions. Among these regulatory functions are: (1) Regulation of the real estate trade and business; (2) Registration of subdivision lots and condominium projects; (3) Issuance of license to sell subdivision lots and condominium units in the registered units; (4) Approval of performance bond and the suspension of license to sell; (5) Registration of dealers, brokers and salesmen engaged in the business of selling subdivision lots or condominium units; (6) Revocation of registration of dealers, brokers and salesmen; (7) Approval or mortgage on any subdivision lot or condominium unit made by the owner or developer; (8) Granting of permits for the alteration of plans and the extension of period for completion of subdivision or condominium projects; (9) **Approval of the conversion to other purposes of roads and open spaces found within the project** which have been donated to the city or municipality concerned; (10) Regulation of the relationship between lessors and lessees; and (11) **Hear and decide** cases on unsound real estate business practices; claims involving refund filed against project owners, developers, dealers, brokers or salesmen and **cases of specific performance**. (Emphasis supplied)

EO 90^[24] renamed the Human Settlement Regulatory Commission the Housing and Land Use Regulatory Board. The HLURB retained the regulatory and adjudicatory functions of the NHA.

Clearly, the scope and limitation of the HLURB's jurisdiction are well-defined. The HLURB's jurisdiction to hear and decide cases is determined by the nature of the cause of action, the subject matter or property involved, and the parties.^[25] In the present case, petitioners are the registered owners of several lots adjoining a subdivision road lot connecting their properties to the main road. Petitioners allege that the subdivision lot owners sold the road lot to a developer who is now constructing cement fences, thus blocking the passageway from their lots to the main road. In sum, petitioners are enforcing their statutory and contractual rights against the subdivision owners. This is a specific performance case which falls under the HLURB's exclusive jurisdiction.

In *Osea v. Ambrosio*,^[26] the Court held that the provisions of PD 957 were intended to encompass all questions relating to subdivisions. This intention was aimed to provide for an appropriate government agency, which is the HLURB, to which all parties aggrieved in the implementation of provisions and the enforcement of contractual rights with respect to said category of real estate may take recourse.

Petitioners claim that respondents violated the annotation at the back of TCT No. RT-20895 by selling an unsegregated portion of the lot without obtaining prior court approval. The date of entry of this annotation is 18 August 1953. When PD 957, PD 1344, and EO 648 were enacted in 1976, 1978, and 1981, respectively, this