

SECOND DIVISION

[G.R. No. 145941, December 16, 2008]

**THE MANILA BANKING CORPORATION, PETITIONER, VS.
SPOUSES ALFREDO AND CELESTINA RABINA AND MARENIR
DEVELOPMENT CORPORATION, RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

The Court of Appeals having affirmed^[1] the Order of the Office of the President (OP) dismissing the appeal of the Manila Banking Corporation (petitioner) for belated payment of the requisite appeal fee and belated filing of its appeal memorandum, and holding that the Housing and Land Use Regulatory Board (HLURB) has jurisdiction over it, the present petition for review on certiorari was filed.

Respondent Marenir Development Corporation (MDC), owner/developer of a subdivision project located in Brgy. Bagbag, Quezon City, obtained a loan from petitioner in the amount of P4,560,000, to secure the payment of which it forged on March 15, 1982 a real estate mortgage covering real estate properties including a lot (the lot) which was the subject of a Contract to Sell to one Amante Sibuyan (Sibuyan).

On May 3, 1985, Sibuyan transferred the lot via "Assignment and Transfer of Rights" to respondent Celestina Rabina (Celestina), with the conformity of MDC.^[2] The said document mentioned the Contract to Sell which MDC had executed in favor of Sibuyan.

After Celestina had fully paid the amortization payments for the lot, she asked MDC for the transfer to her of its title. MDC, however, failed, prompting her to institute a complaint, with the assistance of her husband-co-respondent Alfredo, for non-delivery of titles, annulment of mortgage and incomplete development of the subdivision project Reymarville Subdivision, against petitioner and MDC before the Office of Appeals, Adjudication and Legal Affairs (OAALA) of the HLURB.

In the meantime, petitioner was placed under receivership proceedings by the Monetary Board of the Central Bank.

To the complaint of Celestina and her husband, petitioner contended that, *inter alia*, the HLURB has no jurisdiction over it by virtue of Section 29^[3] of Republic Act 265, ^[4] as amended by Executive Order No. 289,^[5] and that its assets are deemed to be in *custodia legis* of the receiver to thus exempt them from garnishment, levy, attachment or execution.

Finding for respondent spouses, Housing and Land Use Arbiter Cesar A. Manuel, by Decision of February 19, 1992, disposed as follows, quoted *verbatim*:

WHEREFORE, premises considered, judgment is hereby rendered:

- "(1) Declaring the mortgage in favor of TMBC valid as a contract of indebtedness as between the parties thereto, but as invalid and ineffective as against the complainant [Celestina] as a lot buyer thereof and the rest of the world;
- (2) Directing respondent TMBC to release the mortgage on the lot subject of this case and, accordingly release the titles thereof to complainant;
- (3) Restraining respondent TMBC from instituting or proceeding with foreclosure proceeding against the lot subject of this case, and other lots similarly situated;
- (4) Directing the Register of Deeds of Quezon City to cancel the aforesaid mortgage on the subject title; and to cancel said title and issue a new one in lieu thereof in favor of complainant;
- (5) Ordering the forfeiture of the performance bond posted by respondent MDC in favor of the HLURB, and directing the bonding company to deliver/surrender the value thereof to this Board;
- (6) Directing the City Engineer of Quezon City to prepare and submit to the Enforcement Office of this Board within thirty (30) days from finality hereof an estimate of the cost of development of the remaining vital features of the project, as well as a proposed program of work for the development and completion of the said project, for approval by the said office; and to undertake the development of said project in accordance with said approved program of work, charging his expenses to the bond confiscated by the Board;
- (7) **Awarding P50,000.00 as moral damages** in favor of the complainant for wounded feelings and serious anxieties that she suffered **as a result of respondent's (Marenir) refusal to comply with its obligation;**
- (8) Awarding the sum of P50,000.00 by way of attorney's fee to the complainant who was constrained to hire a lawyer to protect her right and interest over the property in question;
- (9) Imposing an administrative fine on MDC in the amount of P10,000.00;
- (10) Dismissing the counterclaims of both respondents as they are in pari delicto in entering into the subject mortgage." (Emphasis and underscoring supplied)

MDC did not appeal, rendering the decision final and executory as to it.

On petitioner's appeal, the HLURB Board of Commissioners affirmed the Arbiter's

decision.

Petitioner elevated the case to the OP which directed it, by Order of March 25, 1994, to "remit the sum of Two Hundred Pesos (P200.00) as appeal fee, payable to the "Cashier, Office of the President," and submit its appeal memorandum, copy furnished complainant; otherwise it would decide the case without further notice. Petitioner had up to April 28, 1994 to pay the appeal fee. It, however, filed the appeal fee a day late or on April 29, 1994.

Petitioner filed a motion for extension of 15 days within which to submit its appeal memorandum or until May 13, 1994, which motion the OP granted with the condition that "no further extension shall be granted."

On May 13, 1994, petitioner, however, again moved for an extension of 10 days or until May 23, 1994 to file its appeal memorandum. Without determining whether its motion for a second extension was granted, petitioner filed its appeal memorandum on May 20, 1994.

By Order of May 25, 1998, the OP dismissed petitioner's appeal for "non-payment of appeal fees and failure to comply with the Orders of this Office, dated March 25, 1996 [*sic*] and May 10, 1994."

In its motion for reconsideration, petitioner presented Official Receipt No. 0124273 dated April 29, 1994 issued by the OP showing payment of the docket fees. By Order of December 21, 1998, the OP denied the motion for failure of petitioner to timely submit its appeal memorandum: Undeterred, petitioner filed a motion for reconsideration which the OP denied by Order of October 4, 1999, citing Section 7 of Administrative Order No. 18 (Series of 1987).^[6]

On appeal by petitioner, the Court of Appeals affirmed the Orders of the OP by the herein challenged Decision, holding, *inter alia*, that

Petitioner's plea for a liberal treatment, rather than strict adherence to the technical rules, in order to promote substantial justice is without merit. It has been consistently held that payment in full of docket fees within the prescribed period is mandatory. x x x

... The records of this case reveal that petitioner bank had until April 28, 1994 within which to file its appeal memorandum and pay the appeal fees, but as admitted by petitioner in its petition, it paid the corresponding appeal fee only on April 29, 1994, which is one day late and filed its Appeal Memorandum only on May 20, 1994 or seven days after the lapse of the extended period granted by the Office of the President. Furthermore, when petitioner filed its second motion for extension of time to file the appeal memorandum, it should have verified the action taken thereon, if any. Petitioner has no right whatsoever to presume that it would be granted. x x x (underscoring supplied),

and that contrary to petitioner's contention, the HLURB has jurisdiction over it under Presidential Decree No. 957.^[7]

Hence, the present petition, which oddly impleads MDC as a respondent, faulting the appellate court in:

1. . . . affirming the Decision of the Office of the President dismissing the appeal of TMBC purely on a mere technicality in total disregard and without due consideration of the merits thereof.
2. . . . ruling that the HLURB has jurisdiction over TMBC;
3. . . . affirming the orders of the HLURB.

The petition fails.

A motion for extension of time to file a pleading is not granted as a matter of right. It is addressed to the sound discretion of the court or a government agency, hence, the movant should never take it for granted that it is going to be granted. This especially holds true with respect to a second motion for extension for, as a general rule, it is not granted except for the most compelling reason,^[8] which the Court finds wanting in petitioner's.

Procedural *faux pas* aside, the petition, on the merits, fails.

The jurisdiction of the HLURB is well-defined. Thus, *Arranza v. BF Homes, Inc.* ^[9] holds:

Section 3 of P.D. No. 957 empowered the National Housing Authority (NHA) with the "exclusive jurisdiction to regulate the real estate trade and business." On 2 April 1978, P.D. No. 1344 was issued to expand the jurisdiction of the NHA to include the following:

"Sec. 1. In the exercise of its function 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, broker or salesman.***"

Thereafter, the regulatory and quasi-judicial functions of the NHA were transferred to the Human Settlements Regulatory Commission (HSRC) by virtue of Executive Order No. 648 dated 7 February 1981. Section 8 thereof specifies the functions of the NHA that were transferred to the HSRC including the authority to hear and decide "cases on unsound real