

THIRD DIVISION

[G.R. NO. 146987, October 19, 2005]

**METRO PROPERTIES, INC., PETITIONER, VS. MAGALLANES
VILLAGE ASSOCIATION, INC., RESPONDENTS.**

DECISION

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[1] dated June 13, 2000 and Resolution^[2] dated January 31, 2001 rendered by the Court of Appeals in CA-G.R. SP No. 32624, entitled "*Metro Properties, Inc. vs. Home Insurance and Guaranty Corp. and Magallanes Village Association, Inc.*."

The factual antecedents as borne by the records are:

On September 9, 1993, Magallanes Village Association, Inc., *respondent*, filed with the Home Insurance and Guaranty Corporation (HIGC) a complaint for injunction and damages with prayer for issuance of a temporary restraining order (TRO) and/or preliminary injunction against Metro Properties, Inc., *petitioner*, docketed as HIGC Case No. HOA-93-046.

The complaint alleges that Makati Development Corporation sold to petitioner two (2) lots situated at No. 244 EDSA corner Victoria Street, Magallanes Village, Makati City, covered by Transfer Certificates of Title (TCT) No. 160184 and 160185 of the Registry of Deeds, same city. A Deed of Restrictions,^[3] annotated on both titles, provides that "the owner of these lots or his successors in interest is required to be and is automatically a member of the Magallanes Village Association, and must abide by such rules and regulation laid down by the Association in the interest of the sanitation, security and the general welfare of the community." It also provides that "buildings shall not be higher than nine (9) meters, measured from the highest level of the grade of the lot at the time of acquisition"; and that "all building plans must be approved by the Association before construction begins."

On April 2, 1993, petitioner filed with respondent an application for major renovation/repair permit with a detailed plan of renovation/repair work which includes the installation of a proposed roof with a 1.50 meter maximum height or elevation from the building's roof deck. Respondent approved petitioner's application.

Subsequently or on August 25, 1993, respondent's Manager and Head of Security conducted an inspection and found that petitioner violated the approved renovation/repair plan by surreptitiously increasing the roof's maximum height or elevation from 1.50 to 3.705 meters. As a consequence, respondent sent a notice to petitioner demanding that the construction be discontinued since it poses a serious

danger to the residents of Magallanes Village considering that the structure exceeded the allowable height of nine (9) meters pursuant to the Deed of Restrictions. However, despite such demand, petitioner refused to discontinue its renovation/repair work, prompting respondent to file with the HIGC a complaint for injunction and damages with prayer for issuance of a TRO and/or preliminary injunction.

Acting thereon, the HIGC, on September 17, 1993, issued a TRO and then set on September 23, 1993 the hearing of respondent's application for the issuance of a writ of preliminary injunction.

On September 27, 1993, petitioner filed an answer to respondent's complaint, denying specifically the allegations therein, coupled with a motion for preliminary hearing of the following affirmative defenses: (1) that the HIGC has no jurisdiction over the case; (2) that the complaint fails to state respondent's legal personality to sue and/or enforce the Deed of Restrictions; (3) that the Deed of Restrictions is unenforceable since it was not annotated on TCT Nos. 160184 and 160185; and (4) that no certification against forum shopping has been attached to the complaint, in violation of Supreme Court Circular 28-91. Petitioner prayed that the complaint be dismissed.

In a Resolution dated October 7, 1993, the HIGC ruled that under Executive Order No. 535, a controversy between a homeowner association and its member falls within its exclusive jurisdiction. The HIGC also held that "the other special defenses, as to the personality of the complainant to institute the case, the unenforceability of the alleged restrictions, not being annotated, and the violation of the Supreme Court Circular No. 28-91" are "insufficient to warrant the summary dismissal of the complaint."

On November 18, 1993, petitioner filed with the Court of Appeals a petition for certiorari and prohibition (with prayer for issuance of a temporary restraining order and/or writ of preliminary injunction) alleging that in ruling that it has jurisdiction over the case, the HIGC acted with grave abuse of discretion amounting to lack of jurisdiction.

On June 13, 2000, the Appellate Court rendered a Decision dismissing the petition. In finding that the HIGC did not commit grave abuse of discretion in assuming jurisdiction over the case, the Court of Appeals ratiocinated as follows:

"The petition is unmeritorious.

x x x

x x x

SECOND. Public respondent exhaustively explained its authority and jurisdiction over homeowners associations' controversies, viz:

"To recollect, Presidential Decree No. 902-A, a law reorganizing the Securities and Exchange Commission, was promulgated on March 11, 1976, vesting it with additional powers, to wit:

"Sec. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

x x x

x x x

b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity

x x x

x x x

"On May 3, 1979, the then President of the Philippines issued Executive Order No. 535, renaming the Home Financing Commission as Home Financing Corporation and enlarging its powers, among others:

a) To require submission of and register articles of incorporation of homeowners associations and issue certificates of incorporation/registration, upon compliance by the registering associations with the duly promulgated rules and regulations thereon; maintain a registry thereof; and exercise all the powers, authorities and responsibilities that are vested on the Securities and Exchange Commission with respect to homeowners association, the provision of Act 1459, as amended by P.D. 902-A to the contrary notwithstanding;

b) To regulate and supervise the activities and operations of all homeowners association registered in accordance therewith;

x x x

"On December 17, 1986, President Corazon Aquino issued Executive Order No. 90 renaming Home Financing Corporation as the Home Insurance and Guaranty Corporation and identifying it as one of the primary implementors of the national shelter program of the government.

Since the dispute at bar is an intra-corporate that has arisen between Mae, a FVVHA member, and the homeowner's