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FIRST DIVISION

[G.R. No. 136492, February 13, 2004]

MAXIMA REALTY MANAGEMENT AND DEVELOPMENT CORPORATION, PETITIONER, VS. PARKWAY REAL ESTATE DEVELOPMENT CORPORATION REPRESENTED BY LUZ LOURDES FERNANDEZ AND SEGOVIA DEVELOPMENT CORPORATION, RESPONDENTS.

D E C I S I O N

YNARES-SATIAGO, J.:

This is a petition for review on certiorari assailing the December 9, 1998 Decision of the Court of Appeals in CA-G.R. SP No. 41866[1] which affirmed *in toto* the June 2, 1998 Order of the Office of the President in O.P. Case No. 5697[2] dismissing petitioner's appeal for having been filed out of time.

The subject of the controversy is Unit #702 of Heart Tower Condominium, covered by Condominium Certificate of Title No. 12152 and located along Valero Street, Salcedo Village, Makati City. Said unit was originally sold by Segovia Development Corporation (Segovia) to Masahiko Morishita, who in turn sold and assigned all his rights thereto in favor of Parkway Real Estate Development Corporation (Parkway) on October 16, 1989.[3]

Sometime in April 1990, Parkway and petitioner Maxima Realty Management and Development Corporation (Maxima) entered into an agreement to buy and sell, on installment basis, Unit #702 in consideration of the amount of 3 Million Pesos.[4] It was further agreed that failure to pay any of the installments on their due dates shall entitle Parkway to forfeit the amounts paid by way of liquidated damages.[5]

Maxima defaulted in the payment of the installments due but was granted several grace periods until it has paid a total of P1,180,000.00, leaving a balance of P1,820,000.00.[6]

Meanwhile on May 10, 1990, Parkway, with the consent of Segovia, executed a Deed of Assignment transferring all its rights in the condominium unit in favor of Maxima. This Deed was intended to enable Maxima to obtain title in its name and use the same as security for P1,820,000.00 loan with Rizal Commercial Banking Corporation (RCBC), which amount will be used by Maxima to pay its obligation to Parkway. On the other hand, Segovia and Maxima agreed to transfer title to the condominium unit directly in Maxima's name subject to the condition that the latter shall pay Segovia the amount of P58,114.00, representing transfer fee, utility expenses, association dues and miscellaneous charges.[7]

On June 5, 1990, RCBC informed Parkway of the approval of Maxima's

P1,820,000.00 loan subject to the submission of, among others, the Condominium Certificate of Title transferred in the name of Maxima and the Certificate of Completion and turn over of unit.[8]

Maxima, however, failed to pay Segovia the amount of P58,114.00 for fees and charges. Thus, Segovia did not transfer the title of the condominium unit to Maxima. Since Parkway was not paid the balance of P1,820,000.00, it cancelled its agreement to buy and sell and Deed of Assignment in favor of Maxima.[9]

On May 2, 1991, Maxima filed with the Office of Appeals, Adjudication and Legal Affairs of the Housing and Land Use Regulatory Board (HLURB), a complaint[10] for specific performance to enforce the agreement to buy and sell Unit #702.

On December 17, 1992, the HLURB Arbiter sustained the nullification of the Deed of Assignment and ordered Parkway to refund to Maxima the amount of P1,180,000.00. Segovia was further ordered to issue the condominium certificate of title over Unit #702 in favor of Parkway upon payment by the latter of the registration fees. The dispositive portion thereof, reads:

> Premises considered, judgment is hereby rendered –
>
> 1. declaring the nullification of the Deed of Assignment between complainant Maxima and Parkway;
>
> 2. ordering respondent Parkway to refund to complainant Maxima the amount of One Million One Hundred Eighty Thousand Pesos (P1,180,000.00);
>
> 3. ordering respondent Segovia to issue the certificate of title in favor of Parkway upon payment by the latter of only the registration fees.
>
> No pronouncement as to costs.[11]

Both Maxima and Parkway appealed to the Board of Commissioners of the HLURB (Board).[12] During the pendency of the appeal, Maxima offered to pay the balance of P1,820,000.00, which was accepted by Parkway. The Board then ordered Maxima to deliver said amount in the form of manager's check to Parkway; and directed Segovia to transfer title over the property to Maxima.[13] The latter, however, failed to make good its offer, which compelled Parkway to file a Manifestation[14] that the appeal be resolved.[15]

On March 14, 1994, the Board rendered judgment modifying the decision of the HLURB Arbiter by forfeiting in favor of Parkway 50% of the total amount paid by Maxima and ordering Segovia to pay Parkway the amount of P10,000.00 as attorney's fees. The decretal portion of the decision, states:

> WHEREFORE, the decision of the Office of Appeals Adjudication and Legal affairs (OAALA) dated December 17, 1992 is hereby affirmed with respect to the following:

1) Declaring the nullification of the Deed of Assignment between complainant and Parkway;

2) Ordering Respondent Segovia to immediately issue the certificate of title in favor of Parkway upon payment by the latter of only the registration expenses. This order for delivery of title in the name of Parkway is now final and immediately executory.

and is modified as follows:

3) Declaring the forfeiture of 50% of the total payments made by the complainant to Parkway by way of damages and penalty, and for Parkway to refund the remaining balance of the said payments to the complainant within thirty (30) days from finality of this decision with legal interest thereon thereafter, for each day said amount remain unpaid; and

4) Ordering Segovia to pay Parkway the sum of P10,000.00 as and by way of attorneys fees.

IT IS SO ORDERED.[16]

On May 10, 1994, Maxima appealed[17] to the Office of the President which dismissed the appeal for having been filed out of time.[18]

Undaunted, Maxima filed a petition for review with the Court of Appeals. On October 1, 1998, Segovia filed its Comment that as the original owner-developer of Unit #702, it had already consummated the sale and transferred title of said property to Parkway.[19]

On December 9, 1998, the Court of Appeals affirmed in toto the Decision of the Office of the President.

Hence, the instant petition on the sole issue of: Was petitioner's appeal before the Office of the President filed within the reglementary period?

In *SGMC Realty Corporation v. Office of the President*[20] it was settled that the period within which to appeal the decision of the Board of Commissioners of HLURB to the Office of the President is fifteen (15) days from receipt of the assailed decision, pursuant to Section 15[21] of Presidential Decree No. 957 (otherwise known as the Subdivision and Condominium Buyer's Protection Decree) and Section 2[22] of Presidential Decree No. 1344.[23] The Court ruled that the thirty (30) day period to appeal to the Office of the President from decisions of the Board as provided in Section 27 of the 1994 HLURB Rules of Procedure,[24] is not applicable, because special laws providing for the remedy of appeal to the Office of the President, such as Presidential Decree No. 597 and Presidential Decree No. 1344, must prevail over the HLURB Rules of Procedure. Thus:

> …[W]e find petitioner's contention bereft of merit, because of its reliance on a literal reading of cited rules without correlating them to current laws as well as presidential decrees on the matter.