

FIRST DIVISION

[G.R. No. 126260, December 16, 2004]

**SOUTH PACHEM DEVELOPMENT, INC., PETITIONER, VS.
HONORABLE COURT OF APPEALS AND MAKATI COMMERCIAL
ESTATE ASSOCIATION, INC., RESPONDENTS.**

DECISION

AZCUNA, J.:

This is a petition for review on *certiorari* of the decision^[1] of the Court of Appeals dated August 30, 1996 which affirmed *in toto* the decision^[2] of the Regional Trial Court of Makati, Branch 60, dated November 5, 1990.

Private respondent Makati Commercial Estate Association, Inc. (formerly Ayala Commercial Estate Association) is an association of all real estate owners and long-term lessees of parcels of land located in the Makati commercial area. Pursuant to its Articles of Incorporation, the members of private respondent are assessed association dues annually, subject to penalty and interest in case of default. On July 25, 1973, by virtue of two duly notarized deeds of absolute sale, petitioner South Pachem Development, Inc. purchased from Ayala Corporation two adjoining parcels of land, designated as Lots Nos. 7 and 8, Block No. 5, located at Legaspi Village, Makati. Subparagraph (1) of paragraph (A) of the deed restrictions, which was duly annotated in the titles of the property and annexed to the two deeds, provides that:

1. The owner of this lot or his successor-in-interest is required to be and is automatically a member of the [Makati Commercial Estate Association, Inc.] or any other Association which may be formed or to which the area may be affiliated for the purpose, and must abide by the rules and regulations laid down by the Association in the interest of security, maintenance, beautification and the general welfare of the area. The Association will also provide for and collect assessments which will constitute a lien on the property, junior only to liens of the Government for taxes and to voluntary mortgages for sufficient consideration entered into in good faith, PROVIDED that SCHOOLS, CHURCHES, other RELIGIOUS institutions and buildings for public use are exempt from the payment of Association dues.^[3]

In 1984, petitioner stopped paying its association dues, including the interest and penalty, to private respondent. According to petitioner, it realized that private respondent was not really performing the services it promised to perform, *e.g.*, collection of garbage and the maintenance of roads and ensuring the peace and order situation of the area, which are being undertaken by the city government of Makati. It claimed that the payment of association fees for forty seven (47) years amounts to a perpetual imposition upon a member of private respondent (as an association) which therefore makes it illegal.

On June 16, 1988, private respondent filed a complaint against petitioner in the Regional Trial Court of Makati, Branch 60, for collection of a sum of money arising from the latter's non-payment of association dues. In its answer, the petitioner admitted that it was aware of the provisions in the deed restrictions, but questioned its legality for being contrary to morals, public policy, good customs, and the Constitution, as these constituted a perpetual burden on the property and the purchaser would be deprived of the use of the property without due process of law.

Meanwhile, on May 10, 1989, petitioner sought leave of court to file a third party complaint against China Banking Corporation allegedly for having assumed the liability of petitioner by virtue of a compromise agreement, dated May 27, 1988, in a separate civil case which was executed a month prior to the filing of the civil case. The trial court denied the motion. On November 5, 1990, the trial court rendered a decision in favor of the private respondent. The dispositive portion thereof reads:

WHEREFORE, the Court hereby renders judgment as follows:

The defendant SOUTH PACHEM DEVELOPMENT, INC. is ordered to pay the plaintiff MAKATI COMMERCIAL ESTATE ASSOCIATION, INC. the following:

P165,031.00 – The defendant's unpaid dues and interest thereon from 1984 to 1988.

Six (6) percent of P165,031.00 – Annually from June 16, 1988 until the principal amount is fully paid, as damages.

Three (3) percent of P165,031.00 compounded monthly from January 1, 1989 until the amount is fully paid – As interest and penalty charges pursuant to Exh. E.

P19,755.00 – Annually from January 1, 1989 until it ceases to be a member of the plaintiff as annual dues.

The unpaid annual dues from January 1, 1989 shall bear an interest of three (3) percent per month; this interest is compounded monthly.

P10,000.00 – As attorney's fees.

The counterclaim is DISMISSED; and

Cost is taxed against the defendant.^[4]

On appeal, the Court of Appeals affirmed the decision of the trial court. Hence, this petition.

Petitioner challenges the validity of the stipulation in the deed restrictions, as annexed to the two deeds of absolute sale, which states that the buyer of a property shall pay the association dues for a period of 47 years commencing from the date of purchase. It maintains that the period of 47 years constitutes a restriction on its right to enjoy and dispose of the property under Article 428 of the Civil Code as the non-payment of the association dues would constitute a lien on the subject property.

Petitioner also mentions that under paragraph (D) of the deed restrictions, in the event of a breach of any of the special conditions, private respondent shall have the right to rescind the sale without the necessity of giving notice to the petitioner; return the payments it received less whatever expenses incurred; and dispose of the property to any other person.

Thus,

D. RESCISSION AND CANCELLATION: The breach of any of the herein special conditions, terms, restrictions, reservations and stipulations of sale by the VENDEE shall cause the cancellation and rescission of this sale without necessity of notice to the VENDEE or of any judicial declaration to that effect, and any amount paid on account of the lot shall be reimbursed to the VENDEE by the VENDOR minus expenses, if any, of the execution and registration of the corresponding instrument of rescission, real estate broker's commission, if any, and any unpaid charges on the property, and the VENDEE shall remove within SIXTY DAYS any and all improvements placed or introduced in the lot to dispose of and sell said parcel of land to any other person in the same manner as if this contract had never been executed or entered into.^[5]

Private respondent, on the other hand, contends that the deed restrictions is a valid limitation on petitioner's right of ownership. It adds that even assuming that the deed restrictions amounted to a limitation on petitioner's use and enjoyment over the subject properties, the same was voluntarily entered into with petitioner's consent.

The petition has no merit.

To begin with, it is undisputed that petitioner South Pachem Development, Inc. purchased from Ayala Corporation two adjoining parcels of land, designated as Lots Nos. 7 and 8, Block No. 5, located in Legaspi Village, Makati. The deed restrictions, duly annotated on the titles, was incorporated in the contract of sale. The deed restrictions provided, among others, that a buyer or his successor-in interest automatically becomes a member of the private respondent as an association and enjoined compliance with its rules and regulations for the security, maintenance, beautification, and general welfare of the land owners. Assessments collected by the private respondent would constitute a lien on the subject property. The deed restrictions is a valid agreement freely and voluntarily agreed upon between the petitioner and private respondent. When an agreement between the parties has been forged, such contract becomes the law between the parties and each one is bound to comply therewith.

This Court emphasizes that under the principle of estoppel, petitioner is precluded from denying the validity of the transaction it had earlier freely and voluntarily entered into with private respondent. It shall not be allowed to disavow or repudiate a valid agreement at this late stage with regard to the provisions of the deed restrictions after having paid its association dues from 1973 to 1984. As the Court of Appeals rightly stated, the petitioner is guilty of "estoppel by acquiescence." Petitioner's inaction for the past 11 years effectively forecloses its right to question the perceived infirmity in an agreement which it had mutually entered into with the private respondent. In this regard, petitioner's acceptance of the terms of the