

THIRD DIVISION

[G.R. No. 146594, June 10, 2002]

**REBECCA T. CABUTIHAN, PETITIONER, VS. LANDCENTER
CONSTRUCTION & DEVELOPMENT CORPORATION, RESPONDENT.**

DECISION

PANGANIBAN, J.:

Breach of contract gives rise to a cause of action for specific performance or for rescission. A suit for such breach is not capable of pecuniary estimation; hence, the assessed value of the real estate, subject of the said action, should not be considered in computing the filing fees. Neither a misjoinder nor a non-joinder of parties is a ground for dismissal of an action, because parties may be dropped or added at any stage of the proceedings.

The Case

Before us is a Petition for Review on Certiorari under Rule 45, assailing the Orders dated September 8, 2000 and November 21, 2000, promulgated by of the Regional Trial Court (RTC) of Pasig City, Branch 263.^[1] The first assailed Order disposed as follows:

"WHEREFORE, foregoing premises considered, this Court hereby resolves to dismiss the instant complaint."^[2]

Reconsideration was denied in the second challenged Order.^[3]

The Facts

Culled from the pleadings, the facts of this case are as follows.

On December 3, 1996, herein respondent – Landcenter Construction & Development Corporation, represented by Wilfredo B. Maghuyop -- entered into an Agreement^[4] with Petitioner Rebecca Cabutihan. The Agreement stipulates:

"WHEREAS, [respondent corporation], x x x is the absolute owner, x x x of a parcel of land situated at Kay-biga, Paranaque, Metro Manila covered under Transfer Certificate of Title No. (S-30409) (partially cancelled by TCT Nos. 110001 to 110239) and particularly described as follows:

'A parcel of land (Plan Psu-80206, Case No. 290, G.L.R.O. Record No. 2291), situated in the Barrio of Kay-biga, Municipality of Paranaque, Province of Rizal. Bounded on the NE., by properties of Eulogio Cruz and Isidro Alano; on the E., by property of Justo Bernardo; on the SE., by properties of Marcelo Nofuente and Lorenzo Molera; on the SW., by

properties of Higino and Pedro P. Lopez; on the W., by property of Odon Rodriguez; and on the NW., by properties of Evaristo de los Santos and Pastor Leonardo.....; containing an area of ONE HUNDRED SEVEN THOUSAND AND FORTY SEVEN (107,047) SQUARE METERS, more or less.'

"WHEREAS, [respondent corporation] decided to engage the assistance of [petitioner] and x x x herein called the FACILITATOR for the purpose of facilitating and arranging the recovery of the property in question, as well as the financing of such undertakings necessary in connection thereto;

"WHEREFORE, premises considered and of the mutual covenants of the parties, they have agreed, as follows:

1. The FACILITATOR undertakes to effect the recovery of the property subject hereof, including the financing of the undertaking, up to the registration of the same in the name of [respondent corporation], except any and all taxes due;
2. The FACILITATOR shall be responsible for whatever arrangements necessary in relation to the squatters presently occupying [a] portion of the property, as well as the legitimate buyers of lots thereof;
3. As compensation for the undertaking of the FACILITATOR, [she] shall be entitled to Twenty [Percent] (20%) of the total area of the property thus recovered for and in behalf of [respondent corporation].

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xxx."[5]

Armed with Board Resolution No. 01, Series of 1997,[6] which had authorized her to represent the corporation, Luz Baylon Ponce entered into a February 11, 1997 Deed of Undertaking with a group composed of petitioner, Wenifredo P. Forro, Nicanor Radan Sr. and Atty. Prospero A. Anave. The Deed states the following:

"WHEREAS, the UNDERTAKER [respondent corporation] solicited, engaged and hereby voluntarily acknowledges the assistance of certain persons, in recovering, arranging and financing the undertaking up to completion/consummation of the same;

"WHEREAS, the UNDERTAKER freely, voluntarily, unconditionally and irrevocably agreed, committed and undertook to compensate x x x said persons, in the manner, specified hereinbelow;

"WHEREFORE, considering the foregoing premises, and the mutual covenants of the parties, the UNDERTAKER hereby unconditionally and irrevocably [c]ommit[s] and [u]ndertake[s], as follows:

"1. To pay or compensate the following persons, based on the gross area

of the afore-described parcel of land or gross proceeds of the sale thereof, as the case may be, to wit:

| | | |
|-------------------------|-------|-------------|
| Rebecca T. Cabutihan | ----- | 20% |
| ----- | | |
| Wenifredo P. Forro | ----- | 10% |
| ----- | | |
| Nicanor Radan, Sr. | ----- | 4% |
| ----- | | |
| Atty. Prospero A. Anave | ----- | <u>2.5%</u> |
| ----- | | |
| TOTAL | ----- | 36.5% |
| ----- | | |

"2. Execute a Deed of Assignment unto and in favor of each of the persons above-mentioned corresponding to their respective shares in the subject parcel of land or in the proceeds thereof;

"3. This Undertaking as well as the Deed of Assignment above-stated shall be effective and binding upon the heirs, successors-in-interest, assigns or designates of the parties herein."^[7]

An action for specific performance with damages was filed by petitioner on October 14, 1999 before the RTC of Pasig City, Branch 263. She alleged:

"[6.] [Petitioner] accomplished her undertakings under the subject Agreement and the Undertaking. So in a letter dated 18 April 1997, x x x, [respondent corporation] was informed accordingly thereof. Simultaneously, [petitioner] demanded upon [respondent corporation] to execute the corresponding Deed of Assignment of the lots in the subject property, as compensation for the services rendered in favor of the [respondent corporation]. The subject letter was duly received and acknowledged receipt, by then Acting Corporate Secretary of the [respondent corporation].

"[7.] [Respondent corporation] failed and refused to act on x x x said demand of [petitioner]. Hence, [she] sent a letter dated May 8, 1997, to the Register of Deeds for Paranaque, to inform x x x said Office of x x x [her] claim x x x;

"[8.] x x x [T]he subject property was already transferred to and registered in the name of [respondent corporation] under Transfer Certificate of Title No. -123917-, of the Registry of Deeds for Paranaque City x x x;

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"[10.] With x x x said title of the property now in the possession of the [respondent corporation], [petitioner] is apprehensive that the more that [she] will not be able to obtain from [respondent corporation], compliance with the afore-stated Agreement and Undertaking, to the

extreme detriment and prejudice of [petitioner] and her group, x x x;

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"[12.] Then in a letter,^[8] dated 10 September 1999, [petitioner] through counsel sent to [respondent corporation] a Formal Demand, to comply with its obligation x x x but x x x [respondent corporation] did not heed the demand. x x x."^[9]

Petitioner prayed, *inter alia*, that respondent corporation be ordered to execute the appropriate document assigning, conveying, transferring and delivering the particular lots in her favor. The lots represented compensation for the undertakings she performed and accomplished, as embodied in the Agreement.

Respondent then filed a Motion to Dismiss, alleging the following:

"5. Because of the troubled situation obtaining at the management level of [respondent corporation], the sale between [respondent corporation] and PCIB regarding the Fourth Estate Subdivision was not registered with the Register of Deeds office, although [respondent corporation] continued holding the deed of sale over the Fourth Estate Subdivision.

"6. A group of persons led by one Wilfredo Maghuyop, including herein [petitioner], Wenifredo Forro, Nicanor Radan, and others, taking advantage of the management mess at [respondent corporation], tried to grab ownership of the [respondent corporation], and with use of fraud, cheat, misrepresentation and theft of vital documents from the office of [respondent corporation], succeeded in filing with the Securities and Exchange Commission false papers and documents purporting to show that the Articles of Incorporation of [respondent corporation] had been amended, installing Maghuyop as president of [respondent corporation]. It was on these occasions that [petitioner] and her companions x x x, with use of fraud, stealth, tricks, deceit and cheat succeeded in letting Luz Baylon Ponce sign a so-called 'Deed of Undertaking' by virtue of which [respondent corporation] is duty-bound to give to [petitioner], Forro, Radan and Atty. Prospero Anave 36.5% of the land area of the Fourth Estate Subdivision as compensation for alleged services and expenses made by these people in favor of [respondent corporation]. They also caused said x x x Maghuyop to sign an 'Agreement' with [petitioner] expressing an obligation on the part of [respondent corporation] to give a big part of the land x x x to [petitioner]. These 'Agreement' and 'Deed of Undertaking' are being made by herein [petitioner] as her causes of action in the present case.

"Wilfredo Maghuyop was a stranger to [respondent corporation], and he was an impostor used by [petitioner] and her companions to barge into the management of [respondent corporation] for the purpose of stealing and creating an obligation against [respondent corporation] in their favor.

"7. But Luz Baylon Ponce, whose signature appears on the instrument denominated as 'Deed of Undertaking,' vehemently denies that she signed said instrument freely and voluntarily. She says that Wenifredo

Forro and Nicanor Radan were once real estate agents of [respondent corporation] who promised to help sell lots from her project Villaluz II Subdivision located [in] Malibay, Pasay City. According to Luz Baylon Ponce, the Board of Directors of [respondent corporation] negotiated with Forro and Radan for the latter to sell units/lots of Villaluz II Subdivision, and to help obtain a financier who would finance for the expenses for the reconstitution of the lost title of the Fourth Estate Subdivision situated [in] Sucat, Paranaque City. Shortly thereafter, these two men resigned from [respondent corporation] as agents, after they manipulated the signing of x x x said 'Deed of Undertaking' by Luz Baylon Ponce on February 11, 1997. The latter is an old woman 80 years of age. She is weak, has x x x poor sight, and is feeble in her mental ability. Forro and Radan inserted the 'Deed of Undertaking' among the papers intended for application for reconstitution of [respondent corporation's] title which these men caused Luz Baylon Ponce to sign, and she unknowingly signed the 'Deed of Undertaking.' x x x."^[10]

In the Motion, respondent sought the dismissal of the Complaint on the grounds of (1) improper venue, (2) lack of jurisdiction over the subject matter, and (3) nonpayment of the proper docket fees. Specifically, it contended:

"8. That venue is improperly laid

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"(b) In other words, the present case filed by [petitioner] is for her recovery (and for her companions) of 36.5% of [respondent corporation's] land (Fourth Estate Subdivision) or her interest therein. x x x therefore, x x x the present case filed x x x is a real action or an action in rem.

"(c) x x x [Following] Section 1, Rule 4 of the Rules of Court, as amended x x x the present case should have been filed by [petitioner] with the proper court in Paranaque City which has jurisdiction over the x x x Fourth Estate Subdivision because said subdivision is situated in Paranaque City. Since [petitioner] filed the present case with this x x x [c]ourt in Pasig City, she chose a wrong venue x x x.

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"9. That the [c]ourt has no jurisdiction over the subject matter of the claim

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"(c) x x x Wenifredo P. Forro, Nicanor Radan, Sr. and Atty. Prospero A. Anave are not named as plaintiffs in the complaint. [Petitioner] x x x is not named as representative of Forro, Radan and Anave by virtue of a Special Power of Attorney or other formal written authority. According to the Rules, where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary