

## FIFTH DIVISION

[ CA-G.R. CV NO. 96007, March 13, 2015 ]

**MR. & MRS. CAMILO O. MORENO, CONSUELO ARLENE S. MORENO, CESAR SERIL, MR. & MRS. DANIEL RIVERO, JOANNE R. RIVERO, PLAINTIFFS-APPELLANTS, VS. THE NATIONAL HOME MORTGAGE AND FINANCE CORPORATION, DEFENDANT-APPELLEE.**

### DECISION

#### **GARCIA-FERNANDEZ, J.:**

This is an appeal from the decision of the Regional Trial Court of Makati City, Branch 62 (RTC) dated June 28, 2010 in Civil Case No. 04-1380 for breach of contract.

Plaintiffs-appellants Mr. and Mrs. Camilo Moreno, Consuelo Arlene S. Moreno, Cesar Seril, Mr. and Mrs. Daniel Rivero and Joanne Rivero, along with many others, were longtime occupants of eight (8) parcels of land in Barangay Mauway, Mandaluyong City with a total area of 2,517 square meters covered by TCT Nos. 5958, 5959, 5961, 5962 and 5964 owned and registered in the name of Docarra Realty Development Corporation (Docarra Realty). On January 31, 1989, the occupants of said property with the assistance of former Mandaluyong Mayor Benjamin Abalos formed the Carmen Neighborhood Association, Inc. (CNAI) for the purpose of acquiring the occupied lots under the Community Mortgage Program (CMP) of defendant-appellee National Home Mortgage & Finance Corp. (NHMFC). At that time the elected officers of CNAI were: Saturnina Moreno, President; Roberta Rivero, Vice-President; Natividad Abinal, Treasurer; Maria Rosario Mallari, Secretary; Eduardo Doroin, Editor; Rosalina Cometa and Juana Mabini, Board Members.<sup>[1]</sup> As a requirement for acquisition of the property, CNAI thru its president Saturnina Moreno and Hussman Management and Development Corporation entered into a project management and planning services contract on May 17, 1989.<sup>[2]</sup> CNAI also engaged the services of Archaic Construction Co., Inc. for the survey and subdivision titling of the property.<sup>[3]</sup>

On December 5, 1991, Docarra Realty, CNAI represented by Moreno and the City of Mandaluyong executed a Memorandum of Agreement (MOA) providing among others that Mandaluyong city thru its mayor acting as originator, was extending assistance to CNAI in obtaining a loan from defendant-appellee NHMFC for the purchase/development of the property owned by Docarra Realty at the price of P3,775,500.00 (P1500.00/square meter).<sup>[4]</sup> On February 1, 1993, Mandaluyong city entered into an agreement with CNAI extending a loan of P3,722,689.96 among the members so that they can acquire lots they were occupying on the property. As beneficiaries of the project, the individual members of CNAI entered into lease purchase agreements with CNAI.<sup>[5]</sup> Further, CNAI submitted a Masterlist of Beneficiaries and Loan Apportionment and a subdivision plan of the property to

defendant-appellee NHMFC. Plaintiffs-appellants Camilo Moreno, Daniel Rivero, Cesar Seril, Consuelo Arlene Moreno and Joanne Rivero were among the 75 beneficiaries in the Masterlist of Beneficiaries.<sup>[6]</sup>

On March 4, 1994, defendant-appellee NHMFC issued a certification that Docarra Realty was selling the property to CNAI under the CMP.<sup>[7]</sup> After the sale between Docarra Realty and Mandaluyong city on October 24, 1994, the latter executed a deed of absolute sale over the same on November 15, 1996 in favor of CNAI for the price of P3,775,500.00.<sup>[8]</sup> Defendant-appellee NHMFC then released the loan amount of P 3,722,689.90 to CNAI through Moreno for distribution to members/beneficiaries.<sup>[9]</sup>

Sometime in November 1997, an election was held where members of CNAI elected new officers namely: Tagumpay Evangelista, President; Eduardo Doroin, Vice-President; Rosario Paja, Treasurer; Edna Evangelista, Secretary; Marilou Vibar, Auditor; Vicente Valenciano, PRO; Ligaya Enclona, Rosario Naldoza, Rosalina Cometa, Rodel Belarmino and Valfredo Mallari, Board Members.<sup>[10]</sup>

On November 27, 1997, the new officers (Evangelista group) held a meeting and issued Resolution No. 1-S-98 approving a second Masterlist of Beneficiaries in accordance with a letter order dated March 26, 1993 of then Mayor Benjamin Abalos.<sup>[11]</sup> Resolution No. 1-S-98 stated that the first masterlist submitted to defendant-appellee NHMFC was not final due to complaints received from members of CNAI that the old board/officers (Moreno group) granted themselves multiple awards. Thereafter, the new board also issued Resolution No. 1-A-S-98 declaring that the multiple awards of former officers (Moreno group) will be replaced by qualified members/beneficiaries. Plaintiffs-appellants were among those removed or replaced in the second list of beneficiaries.<sup>[12]</sup>

On July 31, 2001, the Adjudication and Appeals Committee (AAC) of defendant-appellee NHMFC issued Resolution No. 19 adopting the second Masterlist of Beneficiaries submitted by the Evangelista group.<sup>[13]</sup> On September 3, 2001, defendant-appellee NHMFC wrote to CNAI's former president Moreno informing her of the second masterlist of beneficiaries and requesting her to remit all collections on the amortizations made by CNAI's members minus the payments corresponding to plaintiffs-appellants.<sup>[14]</sup>

On September 26, 2001, the Moreno group including plaintiffs-appellants filed a motion for reconsideration of Resolution No. 19 with the AAC of defendant-appellee, however, on February 20, 2002, the latter wrote to plaintiffs-appellants' counsel reiterating its letter dated September 3, 2001 and effectively denying their motion.<sup>[15]</sup> On November 9, 2002, plaintiffs-appellants appealed Resolution No. 19 to the Office of the President in O.P. Case No. 02-K-548, but the appeal was dismissed for having been filed out of time in a resolution dated June 10, 2003.<sup>[16]</sup> On August 28, 2003, the OP issued the order also denying plaintiffs-appellant's motion for reconsideration of the resolution dated June 10, 2003.<sup>[17]</sup> Plaintiffs-appellants sought recourse via a petition for review docketed as CA-G.R. SP NO. 79326 to this Court, but the petition was dismissed by the Twelfth Division due to a defective certification against forum-shopping in the resolution dated October 30, 2003. Their

motion for reconsideration thereon was denied in the resolution dated January 29, 2004.<sup>[18]</sup> On June 2, 2004, the Supreme Court issued a resolution in G.R. No. 162020 denying the petition for review on certiorari filed by plaintiffs-appellants for late filing. On October 4, 2004, the Supreme Court issued the resolution denying plaintiffs-appellant's motion for reconsideration thereon with finality.<sup>[19]</sup>

On December 23, 2004, plaintiffs-appellants filed a complaint against defendant-appellee for breach of contract, alleging that they were summarily removed from the list of beneficiaries under the first Masterlist of Beneficiaries without due process and despite having paid amortizations on their housing loan; that their removal from the second Masterlist of Beneficiaries was brought about by the allegation that they supported the opponent of then Mayor Abalos; and that as a result, Mayor Abalos ordered the election of new officers for CNAI where non-members and non-residents were allowed to vote, thus, plaintiffs-appellant prayed for their reinstatement in the Masterlist of Beneficiaries and payment of attorney's fees of P100,000.00 and P3,000 per appearance. <sup>[20]</sup>

In its answer with affirmative defenses, defendant-appellee alleged that it launched the CMP to assist informal settlers in gaining access to housing finance under the National Shelter Program; that the originator of the loan for the project was the city of Mandaluyong thru Mayor Benjamin Abalos; that as a requirement for the release of the loan in the project, the masterlist of beneficiaries with loan apportionment and subdivision plan must be duly endorsed by the originator or its representative; that under defendant-appellee NHMFC's Resolution No. 19 dated July 31, 2001 the first masterlist of beneficiaries by the Moreno group was held to be temporary in nature and still subject to revisions due to lack of endorsement by the originator and complaints received from CNAI members regarding multiple awards allegedly granted by the former set of officers; that CNAI's new officers issued Resolution No. 1-S-98 approving the second masterlist of beneficiaries in accordance with the letter order dated March 26, 1993 of Mayor Abalos; and pursuant thereto, defendant-appellee wrote to Moreno on September 3, 2001 regarding the second and final masterlist of beneficiaries. Further, defendant-appellee alleged that plaintiffs-appellants' complaint should be dismissed for failure to disclose the fact of filing an administrative case before the Adjudication and Appeals Committee of the NHMFC, which they elevated to the Office of the President, the Court of Appeals and Supreme Court. As counterclaim, defendant-appellee prayed for damages in the amount of P100,000.00 and attorney's fees.<sup>[21]</sup>

On June 28, 2010, the RTC rendered the decision dismissing the complaint for breach of contract. In its decision the RTC held that the first Masterlist of Beneficiaries submitted by the Moreno group through Hussman Management & Development Corp., was not final as clearly established by the letter dated March 26, 1993 of then Mayor Abalos, which was acknowledged by CNAI's former president Moreno. Further, based on Resolution No. 19 issued by defendant-appellee on July 31, 2001, it was found that the first masterlist of beneficiaries and loan apportionment was not endorsed by originator City of Mandaluyong, but rather by the developer Hussman who had no authority to do so. The required endorsement or certification of the originator was set forth under the Consolidated Implementing Guidelines for the Community Mortgage Program, particularly Section 12.4.1 of NHMFC Corporate Circular No. CMP-018 dated November 22, 1995. Pursuant thereto, the RTC sustained the validity and finality of the second masterlist of

beneficiaries submitted by CNAI's new president Tagumpay Evangelista on August 12, 1998, which was duly endorsed by Atty. Jimmy D. Lacebal as representative of the originator. This final masterlist in effect, disenfranchised plaintiffs-appellants under Resolution No. 1-S-98 and Resolution No. 1-A-S98 both issued by the CNAI. Accordingly, the RTC ruled that defendant-appellee committed no breach of contract as it had nothing to do with the disenfranchisement or replacement of plaintiffs-appellants from the second masterlist of beneficiaries; and that it was not even a party to any contract directly affecting plaintiffs-appellants.

Anent the issue of whether or not the case was barred by prior judgment under the principle of *res judicata*, the RTC held that replacement of plaintiffs-appellants from the masterlist of beneficiaries initially submitted by Moreno to defendant-appellee NHMFC was the subject matter of proceedings before the Adjudication & Appeals Committee (AAC), which rendered Resolution No. 19; and that said proceedings involved the same subject matter, causes of action and parties, thus, the *res judicata* rule applies in the case. The trial court also held that plaintiffs-appellants willfully violated the rule against forum-shopping when they failed to disclose in the initiatory pleading that there was a case involving the same subject matter, parties and causes of action which was resolved by the Adjudication & Appeals Committee of NHMFC, Office of the President, Court of Appeals and Supreme Court with finality.

[22]

On September 2, 2010, plaintiffs-appellants filed a notice of appeal, which was given due course in the order dated September 13, 2010.[23] In this appeal, plaintiffs-appellants assign the lone error, to wit:

THE TRIAL COURT GRAVELY ERRED WHEN IT RENDERED JUDGMENT  
DISMISSING THE COMPLAINT FOR BREACH OF CONTRACT.[24]

Plaintiffs-appellants contend that the defendant-appellee NHMFC committed a breach of their contract when it excluded their names in the Masterlist of Beneficiaries without justifiable ground and due process; that even if the first Masterlist of Beneficiaries was allegedly not final and not duly endorsed by originator City of Mandaluyong, there was no reason for them to be excluded as beneficiaries; and that there was a perfected contract of loan between defendant-appellee NHMFC and plaintiffs-appellants as individual members of CNAI, since the former accepted monthly amortizations paid by the latter on their loans. Anent the issues of *res judicata* and forum shopping, plaintiffs-appellants contend that there was no identity of causes of action between the present case for breach of contract and the first case, which sought to question the validity of Resolution No. 19.[25]

The appeal is bereft of merit.

Community Mortgage Program (CMP), as a mode of land acquisition was introduced by Republic Act No. 7279 entitled "An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism and for its Implementation and other purposes." Sec. 33 of the Act specifies that beneficiaries of the Program shall be responsible for their organization into associations to manage their subdivisions or places of residence, to secure housing loans under existing CMP and such other projects beneficial to them. The mortgage financing program of the National Home Mortgage Finance Corporation (NHMFC) assists legally organized associations of underprivileged and homeless citizens to