

# FIRST DIVISION

[ CA-G.R. SP No. 122513, May 27, 2014 ]

**GOTESCO PROPERTIES, INC., JOSE GO, EVELYN GO, LOURDES ORTIGA, GEORGE GO AND VICENTE GO, PETITIONERS, VS. SPS. ROMEO AND VIOLETA ABALLA, RESPONDENTS.**

## DECISION

**BARRIOS, M. M., J.:**

This Petition for Review under Rule 43 of the Revised Rules of Court assails the Decision<sup>[1]</sup> dated 07 February 2011 of the Office of the President in O.P. Case No. 08-A-030, which dismissed petitioners' appeal and consequently affirmed the Decision of the Housing and Land Use Regulatory Board (HLURB) Board of Commissioners which also affirmed the decision of the Housing and Land Use Regulatory Board-Expanded National Capital Region Field Office (HLURB-ENCRFO).

The decretal portion of the HLURB-ENCRFO decision relevantly states:

*"WHEREFORE, in the light of the foregoing premises, judgment is hereby rendered:*

- 1. Respondent Gotesco Properties, Inc. is ordered to execute a Deed of Absolute Sale in favor of complainants spouses Romeo and Violeta Aballa and to deliver the Transfer Certificate of Title over Block 7, Lot 14, Evergreen Executive Village Phase IV, Deparo Road, Novaliches, Caloocan City; or, at the option of complainants spouses Aballa, to refund to them the amount P169,176.40 plus legal interest reckoned from September 2002 until fully paid;*
- 2. Respondents, jointly and severally, are ordered to pay to complainants spouses Romeo and Violeta Aballa:*
  - a. the amount of P50,000.00 as and by way of moral damages;*
  - b. the amount of P20,000.00 as and by way of exemplary damages; the amount of P10,000.00 as and by way attorney's fees and the cost of the litigation."*
  - c. the amount of P10,000.00 as and by way attorney's fees and the cost of the litigation."*

### The Antecedents

From the records, it is undisputed that on 24 January 1995, respondent spouses entered in to a Contract to Sell with petitioner Gotesco Properties, Inc. for the purchase of the 100-square meter Lot No. 14, Block 7 situated at Phase IV of the Evergreen Executive Village in Caloocan City, a subdivision project owned and developed by petitioner corporation. The subject lot is a portion of a bigger lot covered by a mother title identified as Transfer Certificate of Title No, 244220.

Pursuant to their contract, private respondents undertook to pay the purchase price of One Hundred Twenty Six Thousand Pesos (Php 126,000.00) for a period of Ten (10) years with interest rate of nine percent (9%) per annum. On the other hand, petitioner-corporation agreed to execute the deed of absolute sale and to deliver the title and possession of the subject lot upon full payment of the purchase price. However, despite full payment by respondent spouses and ensuing demands, petitioner-corporation failed to comply with its aforesaid obligation. Consequently, on 03 May 2006, respondent-spouses filed a complaint for specific performance or rescission of contract with damages against herein petitioners before the HLURB-ENCRFO.

For its part, petitioners postulate that they cannot be compelled to execute the deed of absolute sale and to deliver the title and possession of the subject property nor refund the payment of private respondents for the reason that the cause of delay is beyond their control. Petitioners argue that their petition for inscription of the technical description (LRC Case No. 4211) that was favorably granted by the Regional Trial Court of Caloocan City, Branch 131 was reversed by the Court of Appeals in CA G.R. CV No. 72187 entitled "Gotesco Properties, Inc., petitioner-appellee versus Republic of the Philippines, oppositor-appellant due to material defects in the petition. Hence, a new petition was filed which is still pending and which, thus, caused the delay in the subdivision of the property into individual lots with individual titles. Further, petitioners maintain that at the time of the execution of the contract to sell, private respondents were aware that the mother title had no technical description inscribed on it, and that said title was free from any liens or encumbrances. The BSP's adverse claim/levy was annotated long after the execution of the contract to sell with private respondents.

After due hearing, the HLURB-ENCRFO rendered the afore-quoted decision which, on appeal, was affirmed both by the HLURB Board of Commissioners and later, by the Office of the President.

Hence, this petition arguing that:

**THE HONORABLE OFFICE OF THE PRESIDENT HAD GRIEVOUSLY  
ERRED WHEN IT DISMISSED THE APPEAL THEREBY AFFIRMING  
THE FINDINGS OF THE HOUSING ARBITER AND THE HLURB.**

#### **The Court's Ruling**

The petition is bereft of merit.

Section 25 of PD 957<sup>[2]</sup> unequivocally imposes upon the subdivision owner or developer the obligation to cause the transfer of the corresponding certificate of title to the buyer upon full payment.

In the present case, there is no dispute that respondent-spouses already paid in full the purchase price, but this notwithstanding, petitioner corporation still failed to execute the deed of sale and to deliver the title and possession over the subject lot to respondent-spouses.

Petitioners seek to exonerate themselves because their failure to comply with their prestation was largely impelled by circumstances beyond its control i.e., the legal proceedings concerning the subdivision of the property into individual lots. Moreso,