



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SWIRE
DEVELOPMENT
CORPORATION,

REALTY G.R. No. 207133

Petitioner,

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
VILLARAMA, JR.,
REYES, and
JARDELEZA, JJ.

- versus -

Promulgated:

JAYNE YU,

Respondent.

March 9, 2015

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[Signature]
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DECISION

PERALTA, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure which seeks to reverse and set aside the Decision¹ dated January 24, 2013 and Resolution² dated April 30, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 121175.

The facts follow.

Respondent Jayne Yu and petitioner Swire Realty Development Corporation entered into a Contract to Sell on July 25, 1995 covering one residential condominium unit, specifically Unit 3007 of the Palace of Makati, located at P. Burgos corner Caceres Sts., Makati City, with an area

¹ Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Elihu A. Ybañez and Edwin D. Sorongon, concurring; *rollo*, pp. 43-52.

² *Id.* at 54-55.

[Handwritten mark]

of 137.30 square meters for the total contract price of ₱7,519,371.80, payable in equal monthly installments until September 24, 1997. Respondent likewise purchased a parking slot in the same condominium building for ₱600,000.00.

On September 24, 1997, respondent paid the full purchase price of ₱7,519,371.80 for the unit while making a down payment of ₱20,000.00 for the parking lot. However, notwithstanding full payment of the contract price, petitioner failed to complete and deliver the subject unit on time. This prompted respondent to file a Complaint for Rescission of Contract with Damages before the Housing and Land Use Regulatory Board (*HLURB*) Expanded National Capital Region Field Office (*ENCRFO*).

On October 19, 2004, the *HLURB ENCRFO* rendered a Decision³ dismissing respondent's complaint. It ruled that rescission is not permitted for slight or casual breach of the contract but only for such breaches as are substantial and fundamental as to defeat the object of the parties in making the agreement. It disposed of the case as follows:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered ordering [petitioner] the following:

1. To finish the subject unit as pointed out in the inspection Report
2. To pay [respondent] the following:
 - a. the amount of ₱100,000 as compensatory damages for the minor irreversible defects in her unit [respondent], or, in the alternative, conduct the necessary repairs on the subject unit to conform to the intended specifications;
 - b. moral damages of ₱20,000.00
 - c. Attorney's fees of ₱20,000.00

On the other hand, [respondent] is hereby directed to immediately update her account insofar as the parking slot is concerned, without interest, surcharges or penalties charged therein.

All other claims and counterclaims are hereby dismissed for lack of merit.

IT IS SO ORDERED.⁴

Respondent then elevated the matter to the *HLURB* Board of Commissioners.

³ *Id.* at 75-79.

⁴ *Id.* at 78-79.

In a Decision⁵ dated March 30, 2006, the HLURB Board of Commissioners reversed and set aside the ruling of the HLURB ENCRFO and ordered the rescission of the Contract to Sell, ratiocinating:

We find merit in the appeal. The report on the ocular inspection conducted on the subject condominium project and subject unit shows that the amenities under the approved plan have not yet been provided as of May 3, 2002, and that the subject unit has not been delivered to [respondent] as of August 28, 2002, which is beyond the period of development of December 1999 under the license to sell. The delay in the completion of the project as well as of the delay in the delivery of the unit are breaches of statutory and contractual obligations which entitles [respondent] to rescind the contract, demand a refund and payment of damages.

The delay in the completion of the project in accordance with the license to sell also renders [petitioner] liable for the payment of administrative fine.

Wherefore, the decision of the Office below is set aside and a new decision is rendered as follows:

1. Declaring the contract to sell as rescinded and directing [petitioner] to refund to [respondent] the amount of ₱7,519,371.80 at 6% per annum from the time of extrajudicial demand on January 05, 2001: subject to computation and payment of the correct filing fee;
2. Directing [petitioner] to pay respondent attorney's fees in the amount of ₱20,000.00;
3. Directing [petitioner] to pay an administrative fine of ₱10,000.00 for violation of Section 20, in relation to Section 38 of P.D. 957:

SO ORDERED.⁶

Petitioner moved for reconsideration, but the same was denied by the HLURB Board of Commissioners in a Resolution⁷ dated June 14, 2007.

Unfazed, petitioner appealed to the Office of the President (OP) on August 7, 2007.

In a Decision⁸ dated November 21, 2007, the OP, through then Deputy Executive Secretary Manuel Gaite, dismissed petitioner's appeal on the ground that it failed to promptly file its appeal before the OP. It held:

⁵ *Id.* at 66-68.

⁶ *Id.* at 67-68.

⁷ *Id.* at 71-73.

⁸ *Id.* at 80-82.

Records show that [petitioner] received its copy of the 30 March 2006 HLURB Decision on 17 April 2006 and instead of filing an appeal, it opted first to file a Motion for Reconsideration on 28 April 2006 or eleven (11) days thereafter. The said motion interrupted the 15-day period to appeal.

On 23 July 2007, [petitioner] received the HLURB Resolution dated 14 June 2007 denying the Motion for Reconsideration.

Based on the ruling in **United Overseas Bank Philippines, Inc. v. Ching** (486 SCRA 655), the period to appeal decisions of the HLURB Board of Commissioners to the Office of the President is 15 days from receipt thereof pursuant to Section 15 of P.D. No. 957 and Section 2 of P.D. No. 1344 which are special laws that provide an exception to Section 1 of Administrative Order No. 18.

Corollary thereto, par. 2, Section 1 of Administrative Order No. 18, Series of 1987 provides that:

The time during which a motion for reconsideration has been pending with the Ministry/Agency concerned shall be **deducted** from the period of appeal. But where such a motion for reconsideration has been filed during office hours of the last day of the period herein provided, the appeal must be made within the day following receipt of the denial of said motion by the appealing party. (Underscoring supplied)

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Accordingly, the [petitioner] had only four (4) days from receipt on 23 July 2007 of HLURB Resolution dated 14 June 2007, or until 27 July 2007 to file the Notice of Appeal before this Office. However, [petitioner] filed its appeal only on 7 August 2007 or eleven (11) days late.

Thus, this Office need not delve on the merits of the appeal filed as the records clearly show that the said appeal was filed out of time.

WHEREFORE, premises considered, [petitioner]'s appeal is hereby **DISMISSED**, and the HLURB Decision dated 30 March 2006 and HLURB Resolution dated 14 June 2007 are hereby **AFFIRMED**.

SO ORDERED.⁹

Immediately thereafter, petitioner filed a motion for reconsideration against said decision.

In a Resolution¹⁰ dated February 17, 2009, the OP, through then Executive Secretary Eduardo Ermita, granted petitioner's motion and set aside Deputy Executive Secretary Gaite's decision. It held that after a careful and thorough evaluation and study of the records of the case, the OP

⁹ *Id.* at 81-82. (Emphasis in the original)

¹⁰ *Id.* at 56-61.

was more inclined to agree with the earlier decision of the HLURB ENCRFO as it was more in accord with facts, law and jurisprudence relevant to the case. Thus:

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **GRANTED**. The Decision and Resolution of the HLURB Third Division Board of Commissioners, dated March 30, 2006 and June 14, 2007, respectively, are hereby **SET ASIDE**, and the HLURB ENCRFO Decision dated October 19, 2004 is hereby **REINSTATED**.

SO ORDERED.¹¹

Respondent sought reconsideration of said resolution, however, the same was denied by the OP in a Resolution¹² dated August 18, 2011.

Consequently, respondent filed an appeal to the CA.

In a Decision dated January 24, 2013, the CA granted respondent's appeal and reversed and set aside the Order of the OP. The *fallo* of its decision reads:

WHEREFORE, the Petition is hereby **GRANTED**. The assailed *Resolution* dated 17 February 2009 and *Order* dated 18 August 2011 of the Office of the President, in O.P. Case No. 07-H-283, are hereby **REVERSED** and **SET ASIDE**. Accordingly, the *Decision* dated 30 March 2006 and *Resolution* dated 14 June 2007 of the HLURB Board of Commissioners in HLURB Case No. REM-A-050127-0014, are **REINSTATED**.

SO ORDERED.¹³

Petitioner moved for reconsideration, however, the CA denied the same in a Resolution dated April 30, 2013.

Hence, the present petition wherein petitioner raises the following grounds to support its petition:

THE COURT OF APPEALS GRAVELY ERRED IN IGNORING THE LEGAL PRECEPTS THAT:

A. TECHNICAL RULES ARE NOT BINDING UPON ADMINISTRATIVE AGENCIES; and

¹¹ *Id.* at 61. (Emphasis in the original)

¹² *Id.* at 62-64.

¹³ *Id.* at 51. (Emphasis in the original)

B. RESCISSION WILL BE ORDERED ONLY WHERE THE BREACH COMPLAINED OF IS SUBSTANTIAL AS TO DEFEAT THE OBJECT OF THE PARTIES IN ENTERING INTO THE AGREEMENT.¹⁴

In essence, the issues are: (1) whether petitioner's appeal was timely filed before the OP; and (2) whether rescission of the contract is proper in the instant case.

We shall resolve the issues *in seriatim*.

First, the period to appeal the decision of the HLURB Board of Commissioners to the Office of the President has long been settled in the case of *SGMC Realty Corporation v. Office of the President*,¹⁵ as reiterated in the cases of *Maxima Realty Management and Development Corporation v. Parkway Real Estate Development Corporation*¹⁶ and *United Overseas Bank Philippines, Inc. v. Ching*.¹⁷

In the aforementioned cases, we ruled that the period to appeal decisions of the HLURB Board of Commissioners is fifteen (15) days from receipt thereof pursuant to Section 15¹⁸ of PD No. 957¹⁹ and Section 2²⁰ of PD No. 1344²¹ which are special laws that provide an exception to Section 1 of Administrative Order No. 18. Thus, in the *SGMC Realty Corporation v. Office of the President* case, the Court explained:

As pointed out by public respondent, the aforecited administrative order allows aggrieved party to file its appeal with the Office of the President within thirty (30) days from receipt of the decision complained of. Nonetheless, such thirty-day period is subject to the qualification that there are no other statutory periods of appeal applicable. If there are special laws governing particular cases which provide for a shorter or

¹⁴ *Id.* at 23.

¹⁵ 393 Phil. 697 (2000).

¹⁶ 467 Phil. 190 (2004).

¹⁷ 521 Phil. 146 (2006).

¹⁸ Section 15. *Decision*. The case shall be decided within thirty (30) days from the time the same is submitted for decision. The Decision may order the revocation of the registration of the subdivision or condominium project, the suspension, cancellation, or revocation of the license to sell and/or forfeiture, in whole or in part, of the performance bond mentioned in Section 6 hereof. In case forfeiture of the bond is ordered, the Decision may direct the provincial or city engineer to undertake or cause the construction of roads and other requirements for the subdivision or condominium as stipulated in the bond, chargeable to the amount forfeited. Such decision shall be immediately executory and shall become final after the lapse of 15 days from the date of receipt of the Decision.

¹⁹ *REGULATING THE SALE OF SUBDIVISION LOTS AND CONDOMINIUMS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF*.

²⁰ Section 2. The decision of the National Housing Authority shall become final and executory after the lapse of fifteen (15) days from the date of its receipt. It is appealable only to the President of the Philippines and in the event the appeal is filed and the decision is not reversed and/or amended within a period of thirty (30) days, the decision is deemed affirmed. Proof of the appeal of the decision must be furnished the National Housing Authority.

²¹ *EMPOWERING THE NATIONAL HOUSING AUTHORITY TO ISSUE WRIT OF EXECUTION IN THE ENFORCEMENT OF ITS DECISION UNDER PRESIDENTIAL DECREE NO. 957*.

longer reglementary period, the same shall prevail over the thirty-day period provided for in the administrative order. This is in line with the rule in statutory construction that an administrative rule or regulation, in order to be valid, must not contradict but conform to the provisions of the enabling law.

We note that indeed there are special laws that mandate a shorter period of fifteen (15) days within which to appeal a case to public respondent. First, Section 15 of Presidential Decree No. 957 provides that the decisions of the National Housing Authority (NHA) shall become final and executory after the lapse of fifteen (15) days from the date of receipt of the decision. Second, Section 2 of Presidential Decree No. 1344 states that decisions of the National Housing Authority shall become final and executory after the lapse of fifteen (15) days from the date of its receipt. The latter decree provides that the decisions of the NHA is appealable only to the Office of the President. Further, we note that the regulatory functions of NHA relating to housing and land development has been transferred to Human Settlements Regulatory Commission, now known as HLURB. x x x²²

Records show that petitioner received a copy of the HLURB Board of Commissioners' decision on April 17, 2006. Correspondingly, it had fifteen days from April 17, 2006 within which to file its appeal or until May 2, 2006. However, on April 28, 2006, or eleven days after receipt of the HLURB Board of Commissioner's decision, it filed a Motion for Reconsideration, instead of an appeal.

Concomitantly, Section 1 of Administrative Order No. 18²³ provides that the time during which a motion for reconsideration has been pending with the ministry or agency concerned shall be deducted from the period for appeal. Petitioner received the HLURB Board Resolution denying its Motion for Reconsideration on July 23, 2007 and filed its appeal only on August 7, 2007. Consequently therefore, petitioner had only four days from July 23, 2007, or until July 27, 2007, within which to file its appeal to the OP as the filing of the motion for reconsideration merely suspended the running of the 15-day period. However, records reveal that petitioner only appealed to the OP on August 7, 2007, or eleven days late. Ergo, the HLURB Board of Commissioners' decision had become final and executory on account of the fact that petitioner did not promptly appeal with the OP.

In like manner, we find no cogent reason to exempt petitioner from the effects of its failure to comply with the rules.

In an avuncular case, we have held that while the dismissal of an appeal on purely technical grounds is concededly frowned upon, it bears emphasizing that the procedural requirements of the rules on appeal are not

²² *SGMC Realty Corporation v. Office of the President*, *supra* note 15, at 703-704.

²³ *PRESCRIBING RULES AND REGULATIONS GOVERNING APPEALS TO THE OFFICE OF THE PRESIDENT OF THE PHILIPPINES*.

harmless and trivial technicalities that litigants can just discard and disregard at will. Neither being a natural right nor a part of due process, the rule is settled that the right to appeal is merely a statutory privilege which may be exercised only in the manner and in accordance with the provisions of the law.²⁴

Time and again, we have held that rules of procedure exist for a noble purpose, and to disregard such rules, in the guise of liberal construction, would be to defeat such purpose. Procedural rules are not to be disdained as mere technicalities. They may not be ignored to suit the convenience of a party.²⁵ The reason for the liberal application of the rules before quasi-judicial agencies cannot be used to perpetuate injustice and hamper the just resolution of the case. Neither is the rule on liberal construction a license to disregard the rules of procedure.²⁶

Thus, while there may be exceptions for the relaxation of technical rules principally geared to attain the ends of justice, petitioner's fatuous belief that it had a fresh 15-day period to elevate an appeal with the OP is not the kind of exceptional circumstance that merits relaxation.

Second, Article 1191 of the Civil Code sanctions the right to rescind the obligation in the event that specific performance becomes impossible, to wit:

Article 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.

Basic is the rule that the right of rescission of a party to an obligation under Article 1191 of the Civil Code is predicated on a breach of faith by the other party who violates the reciprocity between them. The breach contemplated in the said provision is the obligor's failure to comply with an existing obligation. When the obligor cannot comply with what is incumbent upon it, the obligee may seek rescission and, in the absence of any just cause

²⁴ *J. Tiosejo Investment Corp. v. Ang*, G.R. No. 174149, September 8, 2010, 630 SCRA 334, 343.

²⁵ *Po v. Dampal*, 622 Phil. 523, 529 (2009).

²⁶ *Loon v. Power Master, Inc.*, G.R. No. 189404, December 11, 2013, 712 SCRA 440, 453.

for the court to determine the period of compliance, the court shall decree the rescission.²⁷

In the instant case, the CA aptly found that the completion date of the condominium unit was November 1998 pursuant to License No. 97-12-3202 dated November 2, 1997 but was extended to December 1999 as per License to Sell No. 99-05-3401 dated May 8, 1999. However, at the time of the ocular inspection conducted by the HLURB ENCRFO, the unit was not yet completely finished as the kitchen cabinets and fixtures were not yet installed and the agreed amenities were not yet available. Said inspection report states:

May 3, 2002:

1. The unit of the [respondent] is Unit 3007, which was labeled as P2-07, at the Palace of Makati, located at the corner of P. Burgos Street and Caceres Street, Poblacion, Makati City. Based on the approved plans, the said unit is at the 26th Floor.
2. During the time of inspection, the said unit appears to be completed except for the installation of kitchen cabinets and fixtures.
3. Complainant pinpointed to the undersigned the deficiencies as follows:
 - a. The delivered unit has high density fiber (HDF) floorings instead of narra wood parquet.
 - b. The [petitioners] have also installed baseboards as borders instead of pink porrino granite borders.
 - c. Walls are newly painted by the respondent and the alleged obvious signs of cladding could not be determined.
 - d. Window opening at the master bedroom conforms to the approved plans. As a result it leaves a 3 inches (sic) gap between the glass window and partitioning of the master's bedroom.
 - e. It was verified and confirmed that a square column replaced the round column, based on the approved plans.
 - f. At the time of inspection, amenities such as swimming pool and change room are seen at the 31st floor only. These amenities are reflected on the 27th floor plan of the approved condominium plans. Health spa for men and women, Shiatsu Massage Room, Two-Level Sky Palace Restaurant and Hall for games and entertainments, replete with billiard tables, a bar, indoor golf with spectacular deck and karaoke rooms were not yet provided by the [petitioner].
 - g. The [master's] bedroom door bore sign of poor quality of workmanship as seen below.

²⁷

Spouses Velarde v. Court of Appeals, 413 Phil. 360, 373 (2001)

- h. The stairs have been installed in such manner acceptable to the undersigned.
- i. Bathrooms and powder room have been installed in such manner acceptable to the undersigned.²⁸

From the foregoing, it is evident that the report on the ocular inspection conducted on the subject condominium project and subject unit shows that the amenities under the approved plan have not yet been provided as of May 3, 2002, and that the subject unit has not been delivered to respondent as of August 28, 2002, which is beyond the period of development of December 1999 under the license to sell. Incontrovertibly, petitioner had incurred delay in the performance of its obligation amounting to breach of contract as it failed to finish and deliver the unit to respondent within the stipulated period. The delay in the completion of the project as well as of the delay in the delivery of the unit are breaches of statutory and contractual obligations which entitle respondent to rescind the contract, demand a refund and payment of damages.


WHEREFORE, premises considered, the instant petition is **DENIED**. The Decision dated January 24, 2013 and Resolution dated April 30, 2013 of the Court of Appeals in CA-G.R. SP No. 121175 are hereby **AFFIRMED**, with **MODIFICATION** that moral damages be awarded in the amount of ₱20,000.00.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.

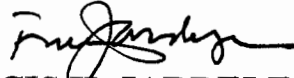
Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice