



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PERFECTO VELASQUEZ, JR., **G.R. No. 231290**

Petitioner,

Present:

- versus -

CAGUIOA, *Acting Chairperson*
REYES, J., JR.,
HERNANDO,*
LAZARO-JAVIER, and
LOPEZ, JJ.

LISONDRA LAND INCORPORATED,
Represented by **EDWIN L. LISONDRA,**
Respondent.

Promulgated:

AUG 27 2020

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DECISION

LOPEZ, J.:

The jurisdiction of a quasi-judicial agency and the operation of the principle of estoppel are the core issues in this petition for review on certiorari under Rule 45 of the Rules of Court assailing the Court of Appeals' (CA) Decision¹ dated December 28, 2016 in CA-G.R. SP No. 131359, which set aside the Office of the President's Decision dated August 1, 2013.

ANTECEDENTS

In 1998, Perfecto Velasquez, Jr. and Lisondra Land Incorporated entered into a joint venture agreement to develop a 7,200-square meter parcel of land into a memorial park.² However, Lisondra Land did not secure the required permit from the Housing and Land Use Regulatory Board (HLURB) within a reasonable time which delayed the project construction. Moreover,

* Designated additional Member per Raffle dated August 19, 2020.

¹ *Rollo*, pp. 31-42. Penned by Associate Justice Nina G. Antonio-Valenzuela, with the concurrence of Associate Justices Fernanda Lampas Peralta and Jane Aurora C. Lantion

² *Id.* at 83-86.

Lisondra Land failed to provide the memorial park with the necessary insurance coverage and to pay its share in the realty taxes. Worse, Perfecto learned that Lisondra Land collected kickbacks from agents and gave away lots in exchange for the services of the engineers, architects, construction managers and suppliers, contrary to the commitment to finance the project using its own funds. Thus, Perfecto filed against Lisondra Land a complaint for breach of contract before the Regional Trial Court (RTC) docketed as Civil Case No. 18146.³

Lisondra Land sought to dismiss the complaint for lack of jurisdiction. It claimed that the supposed violations involved real estate trade and business practices which are within the HLURB's exclusive authority.⁴ Yet, the RTC ruled that it is competent to decide the case.⁵ Dissatisfied, Lisondra Land elevated the matter to the CA through a special civil action for *certiorari* under Rule 65 docketed as CA-G.R. SP No. 72463.

In its Decision dated November 25, 2003, the CA granted the petition and ordered to dismiss Civil Case No. 18146. It held that the RTC committed grave abuse of discretion in taking cognizance of the complaint and explained that Lisondra Land's alleged acts constitute unsound real estate business practices falling under the HLURB's jurisdiction as provided in Section 1 of Presidential Decree (PD) No. 1344.⁶ Further, the RTC's theory that it can hear and decide the case simply because the action is not between buyers and developers of land would limit the application of the law.⁷ The CA's ruling lapsed into finality.⁸

Thereafter, Perfecto instituted a complaint before the HLURB claiming that Lisondra Land committed unsound real estate business practices. Allegedly, Lisondra Land expanded the business transactions outside the authorized project site and sold memorial lots without the required permit and license. Also, Lisondra Land failed to develop the project following the approved plan and mandated period.⁹ On July 20, 2007, the HLURB Arbiter ruled in favor of Perfecto and found that Lisondra Land violated the joint venture agreement. Thus, it rescinded the contract between the parties, transferred the project management to Perfecto, and ordered Lisondra Land to pay fines, damages and attorney's fees:¹⁰

WHEREFORE, premises considered, judgment is hereby rendered:

1) Declaring the JVA of the parties as rescinded with the

³ *Id.* at 75-80.

⁴ *Id.* at 87-100.

⁵ *Id.* at 101-102.

⁶ Empowering the National Housing Authority to Issue Writ of Execution in the Enforcement of its Decision under Presidential Decree No. 957.

⁷ *Id.* at 103-118. Peined by Associate Justice Renato C. Dacudao, with the concurrence of Associate Justices Cancio C. Garcia and Danilo B. Pinc.

⁸ *Id.* at 119.

⁹ *Id.* at 121-126.

¹⁰ *Id.* at 127-135.

parties to render an accounting of all their expenses and incomes, with the proper restitution if warranted.

2) Ordering the respondent to transfer the management of the subject memorial park covering Lot 1680-A, including Lot 1680-B to the complainant;

3) Ordering the respondent to pay [complainant] P100,000.00 as attorney[']s fee, P200,000.00 as moral damages, P200,000.00 as exemplary damages, and to pay complainant the cost of suit; and

4) Ordering the respondent to pay a fine of P10,000.00 for its unauthorized land development and P10,000.00 for every individual sale it executed without the requisite license to sell.

IT IS SO ORDERED.¹¹

Lisondra Land appealed to the HLURB Board of Commissioners.¹² In its Decision dated January 15, 2009, the HLURB Board dismissed the case for lack of jurisdiction. It ratiocinated that the RTC have the exclusive authority to decide the case because the dispute is between joint venture partners and is an intra-corporate controversy.¹³ Perfecto moved for reconsideration.

On January 21, 2010, the HLURB Board granted the motion and reversed its earlier decision. It denied Lisondra Land's appeal and affirmed the findings of the HLURB Arbiter with modifications as to the amount of damages and attorney's fees:¹⁴

WHEREFORE, premises considered, the appeal is DENIED and the decision of the Legal Services Group is AFFIRMED, except that the award of moral damages is reduced to P50,000.00; exemplary damages to P50,000.00; and attorney's fees to [P]30,000.00.

In all other respects, the decision is AFFIRMED.

SO ORDERED.¹⁵

Dissatisfied, Lisondra Land brought the case to the Office of the President (OP). In its Decision dated August 1, 2013, the OP denied the appeal and affirmed the HLURB Board's resolution.¹⁶ Aggrieved, Lisondra Land filed a petition for review to the CA docketed as CA-G.R. SP No. 131359 on the ground that the HLURB has no jurisdiction over the subject matter of the case.

¹¹ *Id.* at 134-135.

¹² *Id.* at 136-147.

¹³ *Id.* at 155-158.

¹⁴ *Id.* at 160-164.

¹⁵ *Id.* at 164.

¹⁶ *Id.* at 165-170.

On December 28, 2016, the CA found merit in the petition and set aside the OP's decision. It dismissed Perfecto's complaint clarifying that the HLURB's authority is limited only to cases filed by the buyers or owners of subdivision lots and condominium units.¹⁷ Perfecto sought reconsideration¹⁸ but was denied.¹⁹ Hence, this petition.

Perfecto argued that Lisondra Land is now estopped from assailing the HLURB's jurisdiction. It is not allowed to make a complete mockery of the judicial system resulting in two conflicting appellate court Decisions.²⁰ Meantime, Perfecto informed this Court that Lisondra Land had surrendered the property and he is now in full control of developing the project. Yet, he submits the case for resolution in view of the novel issue raised in his petition.²¹ On the other hand, Lisondra Land maintained that Perfecto is not a real estate buyer and his action must be filed before a court of general jurisdiction.²²

RULING

The petition is meritorious.

Jurisdiction is defined as the power and authority to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court or tribunal has no jurisdiction over the subject matter, the only power it has is to dismiss the action.²³ Here, we find it necessary to discuss first the HLURB's jurisdiction.

The jurisdiction of the HLURB to hear and decide cases is determined by the nature of the cause of action, the subject matter or property involved and the parties.

The scope and limitation of the HLURB's jurisdiction is well-defined. Its precursor, the National Housing Authority (NHA), was vested under PD No. 957 with exclusive jurisdiction to regulate the real estate trade and

¹⁷ *Supra* note 1.

¹⁸ *Id.* at 43-47.

¹⁹ *Id.* at 65-66.

²⁰ *Id.* at 12-30.

²¹ *Id.* at 193-194.

²² *Rollo*, pp. 176-185.

²³ *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, 760 Phil. 954 (2015), citing *Philippine Coconut Producers Federation, Inc. v. Republic*, 679 Phil. 508 (2012); *Spouses Genato v. Viola*, 625 Phil. 514 (2010); *Perkin Elmer Singapore Pte Ltd. v. Dakila Trading Corp.*, 556 Phil. 822 (2007); *Allied Domecq Philippines, Inc. v. Villon*, 482 Phil. 894 (2004); *Katon v. Palanca, Jr.*, 481 Phil. 168 (2004); and *Zamora v. CA*, 262 Phil. 298 (1990).

business.²⁴ Thereafter, the NHA's jurisdiction was expanded under Section 1 of PD No. 1344 to include adjudication of the following cases: **(a) unsound real estate business practices**; (b) claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and (c) cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, broker or salesman.²⁵ In 1981, Executive Order (EO) No. 648 transferred the regulatory and quasi-judicial functions of the NHA to Human Settlements Regulatory Commission.²⁶ In 1986, EO No. 90 changed the name of the Commission to HLURB.²⁷

Notably, the cases before the HLURB must involve a subdivision project,²⁸ subdivision lot,²⁹ condominium project³⁰ or condominium unit.³¹ Otherwise, the HLURB has no jurisdiction over the subject matter.³² Similarly, the HLURB's jurisdiction is limited to those cases filed by the buyer or owner of a subdivision or condominium and based on any of the causes of action enumerated under Section 1 of PD No. 1344.³³ The following cases are instructive.

In *Solid Homes, Inc. v. Teresita Payawal*,³⁴ the private respondent filed a complaint against the petitioner before the RTC for failure to deliver the corresponding certificate of title over a subdivision lot despite payment of the purchase price and for mortgaging the property in bad faith to a financing company. After trial, the RTC ruled in favor of the private respondent.

²⁴ Subdivision and Condominium Buyer's Protective Decree effective July 12, 1976. The NHA's jurisdiction includes the registration of subdivision or condominium projects and dealers, brokers and salesmen of subdivision lots or condominium units; the issuance and suspension of license to sell; and the revocation of registration certificate and license to sell.

²⁵ *Supra* note 6.

²⁶ Reorganizing the Human Settlements Regulatory Commission effective February 7, 1981.

²⁷ Identifying the Government Agencies Essential for the National Shelter Program and Defining their Mandates, Creating the Housing and Urban Development Coordinating Council, Rationalizing Funding Sources and Lending Mechanisms for Home Mortgages and for Other Purposes effective December 17, 1986.

²⁸ Subdivision project shall mean a tract or a parcel of land registered under Act No. 496 which is partitioned primarily for residential purposes into individual lots with or without improvements thereon, and offered to the public for sale, in cash or in installment terms. It shall include all residential, commercial, industrial and recreational areas as well as open spaces and other community and public areas in the project. See Section 2(d) of PD No. 957.

²⁹ Subdivision lot shall mean any of the lots, whether residential, commercial, industrial, or recreational, in a subdivision project. See Section 2(e) of PD No. 957.

³⁰ Condominium project shall mean the entire parcel of real property divided or to be divided primarily for residential purposes into condominium units, including all structures thereon. See Section 2(g) of PD No. 957.

³¹ Condominium unit shall mean a part of the condominium project intended for any type of independent use or ownership, including one or more rooms or spaces located in one or more floors (or part of parts of floors) in a building or buildings and such accessories as may be appended thereto. See Section 2(h) of PD No. 957.

³² In quite a number of cases, the Court declared the HLURB without jurisdiction where the complaint filed did not allege that the property involved is a subdivision or condominium project or a subdivision lot or condominium unit. See *Lacson Hermanas, Inc. v. Heirs of Cenon Ignacio*, 500 Phil. 673 (2005); and *Spouses Javellana v. Presiding Judge*, 486 Phil. 98 (2004).

³³ *Delos Santos v. Spouses Sarmiento*, 548 Phil. 1 (2007).

³⁴ 257 Phil. 914 (1989).

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However, the Supreme Court nullified the RTC's decision and held that the NHA is vested with the "exclusive jurisdiction" over an action between a subdivision developer and its buyer. Moreover, it added that a decision rendered without jurisdiction may be assailed any time unless the party raising it is already barred by estoppel, thus:

The applicable law is PD No. 957, as amended by PD No. 1344, entitled "Empowering the National Housing Authority to Issue Writs of Execution in the Enforcement of Its Decisions Under Presidential Decree No. 957." Section 1 of the latter decree provides as follows:

SECTION 1. In the exercise of its function to regulate the real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have *exclusive jurisdiction* to hear and decide cases of the following nature:

- A. *Unsound real estate business practices;*
- B. *Claims involving refund and any other claims* filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and
- C. *Cases involving specific performance of contractual statutory obligations* filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman.

The language of this section, especially the italicized portions, leaves no room for doubt that "exclusive jurisdiction" over the case between the petitioner and the private respondent is vested not in the Regional Trial Court but in the National Housing Authority.

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It is settled that any decision rendered without jurisdiction is a total nullity and may be struck down at any time, even on appeal before this Court. The only exception is where the party raising the issue is barred by estoppel, which does not appear in the case before us. On the contrary, the issue was raised as early as in the motion to dismiss filed in the trial court by the petitioner, which continued to plead it in its answer and, later, on appeal to the respondent court. We have no choice, therefore, notwithstanding the delay this decision will entail, to nullify the proceedings in the trial court for lack of jurisdiction. (Emphases Supplied.)

Similarly, *Peña v. Government Service Insurance System*³⁵ declared that HLURB has jurisdiction over a complaint filed by a buyer against a subdivision developer and its mortgagee although the action involved title or possession in the real estate, *viz.*:

³⁵ 533 Phil. 670 (2006).

When an administrative agency or body is conferred quasi-judicial functions, all controversies relating to the subject matter pertaining to its specialization are deemed to be included within the jurisdiction of said administrative agency or body. Split jurisdiction is not favored. **Therefore, the Complaint for Specific Performance, Annulment of Mortgage, and Damages filed by petitioner against respondent, though involving title to, possession of, or interest in real estate, was well within the jurisdiction of the HLURB for it involves a claim against the subdivision developer, Queen's Row Subdivision, Inc., as well as respondent.**

Later, *Ortigas & Co., Ltd Partnership v. Court of Appeals*³⁶ interpreted Section 1 of P.D. No. 1344 with respect to the HLURB's power to hear and decide complaints for unsound real estate business practices against land developers. We ruled that the offended party in such kind of action are buyers of lands involved in development. Otherwise, the complaint must be filed before a court of general jurisdiction, to wit:

Section 1 of P.D. 1344 vests in the HLURB the exclusive jurisdiction to hear and decide the following cases:

- (a) unsound real estate business practices;
- (b) claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker, or salesman; and
- (c) cases involving specific performance of contractual and statutory obligations filed by buyers of subdivision lots or condominium units against the owner, developer, dealer, broker or salesman.

Unlike paragraphs (b) and (c) above, paragraph (a) does not state which party can file a claim against an unsound real estate business practice. **But, in the context of the evident objective of Section 1, it is implicit that the "unsound real estate business practice" would, like the offended party in paragraphs (b) and (c), be the buyers of lands involved in development.** The policy of the law is to curb unscrupulous practices in real estate trade and business that prejudice buyers.

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Obviously, the City had not bought a lot in the subject area from Ortigas which would give it a right to seek HLURB intervention in enforcing a local ordinance that regulates the use of private land within its jurisdiction in the interest of the general welfare. It has the right to bring such kind of action but only before a court of general jurisdiction such as the RTC. (Emphases Ours.)

³⁶ 688 Phil. 367 (2012).

Here, it is undisputed that Perfecto is a business partner of Lisondra Land and is not a buyer of land involved in development. Applying the above case doctrines, Perfecto has no personality to sue Lisondra Land for unsound real estate business practices before the HLURB. The regular courts have authority to decide their dispute. Nonetheless, we hold that Lisondra Land is already estopped from questioning the HLURB's jurisdiction.

Lisondra Land cannot assume a theory different from its position in Civil Case No. 18146, CA-G.R. SP No. 72463 and the HLURB.

The notion that the defense of lack of jurisdiction may be waived by estoppel on the party invoking it most prominently emerged in *Tijam v. Sibonghanoy*³⁷ where the Supreme Court held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction, to wit:

The facts of this case show that from the time the Surety became a quasi-party on July 31, 1948, it could have raised the question of the lack of jurisdiction of the Court of First Instance of Cebu to take cognizance of the present action by reason of the sum of money involved which, according to the law then in force, was within the original exclusive jurisdiction of inferior courts. It failed to do so. Instead, at several stages of the proceedings in the court *a quo* as well as in the Court of Appeals, **it invoked the jurisdiction of said courts to obtain affirmative relief and submitted its case for a final adjudication on the merits. It was only after an adverse decision was rendered by the Court of Appeals that it finally woke up to raise the question of jurisdiction.** Were we to sanction such conduct on its part, We would in effect be declaring as useless all the proceedings had in the present case since it was commenced on July 19, 1948 and compel the judgment creditors to go up their alvary once more. **The inequity and unfairness of this is not only patent but revolting.**

Thereafter, there are divergent jurisprudential doctrines touching the issue of jurisdiction by estoppel. The cases of *Spouses Martinez v. De la Merced*,³⁸ *Marquez v. Secretary of Labor*,³⁹ *Ducat v. Court of Appeals*,⁴⁰ *Bayoca v. Nogales*,⁴¹ *Spouses Jimenez v. Patricia Inc.*,⁴² and *Centeno v. Centeno*⁴³ all adhered to the doctrine that a party's active participation in the actual proceedings before a court without jurisdiction will bar him from assailing such lack of jurisdiction.

³⁷ 131 Phil. 556 (1968).

³⁸ 255 Phil. 871 (1989).

³⁹ 253 Phil. 329 (1989).

⁴⁰ 379 Phil. 753 (2000).

⁴¹ 394 Phil. 465 (2000).

⁴² 394 Phil. 877 (2000).

⁴³ 397 Phil. 170 (2000).

In *Martinez*, the private respondents had several opportunities to raise the question of lack of preliminary conference but they did not raise or even hint this issue amounting to a waiver of the irregularity of the proceedings. We ruled that while lack of jurisdiction may be assailed at any stage, a party's active participation in the proceedings before a court without jurisdiction will estop such party from assailing such lack of jurisdiction.⁴⁴ In *Marquez*, the petitioner impugned the jurisdiction of the Secretary of Labor and the Regional Director contending that all money claims of workers arising from an employer-employee relationship are within the exclusive jurisdiction of the Labor Arbiter. We reiterated that the active participation of the party against whom the action was brought, coupled with his failure to object to the jurisdiction of the court or quasi-judicial body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.⁴⁵

Similarly in *Ducat*, we declared that if the parties acquiesced in submitting an issue for determination by the trial court, they are estopped from questioning the jurisdiction of the same court to pass upon the issue.⁴⁶ In *Bayoca*, the petitioners claimed that the property is a public agricultural land over which the trial court has no jurisdiction. We ruled that petitioners raised this issue only before the Supreme Court and are now estopped considering that they have actively participated in the proceedings before the lower and appellate courts with their principal defense consisting of the certificates of titles in their names. In *Jimenez*, the petitioners assailed the MeTC's jurisdiction contending that the failure of the complaint to allege the character of the sublease or entry into the property, whether legal or illegal, automatically classified it into an *accion publiciana* or *reivindicatoria* cognizable by the RTC. We held that petitioners cannot now be allowed belatedly to adopt an inconsistent posture by attacking the jurisdiction of the court to which they had submitted themselves voluntarily.⁴⁷

⁴⁴ In this case, the private respondents had at least three opportunities to raise the question of lack of preliminary conference first, when private respondents filed a motion for extension of time to file their position paper; second, at the time when they actually filed their position paper in which they sought native relief from the Metropolitan Trial Court; and third, when they filed a motion for reconsideration of the order of the Metropolitan Trial Court expunging from the records the position paper of private respondents, in which motion private respondents even urged the court to sustain their position paper.

⁴⁵ In this case, the complaint was pending before the Regional Director, petitioner did not raise the issue of jurisdiction but instead actively participated in the hearings. After the adverse decision of the Regional Director and upon the elevation of the case on appeal to the Secretary of Labor, still no jurisdictional challenge was made. Even in the two motions for reconsideration of the DOLE decision of affirmance, petitioner did not assail the jurisdiction of the Secretary of Labor or the Regional Director.

⁴⁶ In this case, the petitioner's filing of a Manifestation and Urgent Motion to Set Parameters of Computation is indicative of its conformity with the questioned order of the trial court referring the matter of computation of the excess to SCV and simultaneously thereafter, the issuance of a writ of possession. The Supreme Court noted that if petitioner thought that subject order was wrong, it could have taken recourse to the Court of Appeals but petitioner did not. Instead he manifested his acquiescence in the said order by seeking parameters before the trial court. It is now too late for petitioner to question subject order of the trial court.

⁴⁷ In this case, the petitioners raised the jurisdictional issue for the first time only in the Petition for Review. However, it should be noted that they did so only after an adverse decision was rendered by the Court of Appeals. Despite several opportunities in the RTC, which ruled in their favor, and in the Court



In *Centeno*, the petitioners alleged that the DARAB does not have jurisdiction over the complaint since the dispute is not agrarian in character. They averred that the case is clearly one for recovery of possession which falls under the jurisdiction of the regular courts. We ruled that petitioners are estopped from raising the issue of jurisdiction of the DARAB and that participation by certain parties in the administrative proceedings without raising any objection thereto, bars them from any jurisdictional infirmity after an adverse decision is rendered against them.⁴⁸

On the other hand, the cases of *Dy v. National Labor Relations Commission*,⁴⁹ *De Rossi v. National Labor Relations Commission*⁵⁰ and *Union Motors Corp. v. National Labor Relations Commission*⁵¹ buttressed the rule that jurisdiction is conferred by law and lack of jurisdiction may be questioned at any time even on appeal.

In *Dy*, the private respondent, who is holding an elective corporate office, filed a complaint for illegal dismissal before the NLRC and not with the SEC. The respondent invoked estoppel as against petitioners with respect to the issue of jurisdiction. We declared that estoppel cannot be invoked to prevent this Court from taking up the question of jurisdiction, which has been apparent on the face of the pleadings since the start of litigation. The decision of a tribunal not vested with appropriate jurisdiction is null and void. In *De Rossi*, which also involved the removal of a corporate officer, the petitioners argued that the private respondents never questioned the jurisdiction of the NLRC until after the case had been brought on appeal. We reiterated that jurisdiction of a tribunal, agency, or office, is conferred by law, and its lack of jurisdiction may be questioned at any time even on appeal.

In *Union Motors*, the private respondent contended that the petitioners actively participated in the proceedings before the Labor Arbiter and the NLRC and are estopped from assailing their jurisdiction. We maintained the rule that jurisdiction over a subject matter is conferred by law. Estoppel does not apply to confer jurisdiction to a tribunal that has none over a cause of action. The principle of estoppel cannot be invoked to prevent this Court from taking up the question of jurisdiction.

However, prior to *Tijam*, this Court already came up with an edifying rule in *People v. Casiano*⁵² on when jurisdiction by estoppel applies and when it does not:

of Appeals, petitioners never advanced the question of jurisdiction of the MeTC. Additionally, petitioners participated actively in the proceedings before the MeTC and invoked its jurisdiction with the filing of their answer, in seeking affirmative relief from it, in subsequently filing a notice of appeal before the RTC, and later, a Petition for Review with the Court of Appeals.

⁴⁸ In this case, a perusal of the records will show that petitioners participated in all stages of the instant case, setting up a counterclaim and asking for affirmative relief in their answer.

⁴⁹ 229 Phil. 234 (1986).

⁵⁰ 373 Phil. 17 (1999).

⁵¹ 373 Phil. 310 (1999).

⁵² 111 Phil. 73 (1961).

The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not. **If it had no jurisdiction, but the case was tried and decided upon the theory that it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction**, for the same "must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel" (5 C.J.S., 861-863). **However, if the lower court had jurisdiction, and the case was heard and decided upon a given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position — that the lower court had jurisdiction. Here, the principle of estoppel applies.** The rule that jurisdiction is conferred by law, and does not depend upon the will of the parties, has no bearing thereon. (Emphases Ours.)

The rule was cited and applied in several cases such as *La Naval Drug Corp. v. Court of Appeals*,⁵³ *Lozon v. National Labor Relations Commission*,⁵⁴ *Metromedia Times Corp. v. Pastorin*,⁵⁵ *Spouses Vargas v. Spouses Caminas*,⁵⁶ *Figueroa y Cervantes v. People*,⁵⁷ *Atwel v. Concepcion Progressive Association, Inc.*,⁵⁸ *Machado v. Gatdula*,⁵⁹ *Cudiamat v. Batangas Savings and Loan Bank, Inc.*,⁶⁰ *Calibre Traders, Inc. v. Bayer Philippines, Inc.*,⁶¹ and *Magno v. People*.⁶²

In *La Naval*, we said that whenever it appears that the court has no jurisdiction over the subject matter, the action shall be dismissed. This defense may be interposed at any time, during appeal or even after final judgment. Neither the courts nor the parties can confer jurisdiction which is legislative in character.⁶³ In *Metromedia Times*, the petitioner is not estopped from assailing the jurisdiction of the labor arbiter before the NLRC on appeal in line with the general rule that estoppel does not confer jurisdiction. We made similar pronouncements in the cases of *Lozon*,⁶⁴ *Spouses Vargas*,⁶⁵

⁵³ 306 Phil. 84 (1994).

⁵⁴ 310 Phil. 1 (1995).

⁵⁵ 503 Phil. 288 (2005).

⁵⁶ 577 Phil. 185 (2008).

⁵⁷ 580 Phil. 58 (2008).

⁵⁸ 574 Phil. 430 (2008).

⁵⁹ 626 Phil. 457 (2010).

⁶⁰ 628 Phil. 641 (2010).

⁶¹ 647 Phil. 350 (2010).

⁶² 662 Phil. 726 (2011).

⁶³ In this case, the want of jurisdiction by the court is indisputable, given the nature of the controversy. The arbitration law explicitly confines the court's authority only to pass upon the issue of whether there is or there is no agreement in writing providing for arbitration. In the affirmative, the statute ordains that the court shall issue an order "summarily directing the parties to proceed with the arbitration in accordance with the terms thereof." If the court, upon the other hand, finds that no such agreement exists, "the proceeding shall be dismissed." The proceedings are summary in nature.

⁶⁴ In this case, the Supreme Court sustained the NLRC's dismissal of the illegal dismissal case filed before the Labor Arbiter on the ground that the action is within the SEC's jurisdiction.

⁶⁵ In this case, the HLURB and not the trial court which has jurisdiction over the controversy. Moreover, the petitioners raised the issue of jurisdiction before the trial court rendered its decision. They continued to raise the issue on appeal before the Court of Appeals and Supreme Court. Hence, laches has not set in.

Figueroa,⁶⁶ *Atwel, et al.*,⁶⁷ *Machado*⁶⁸ and *Magno*⁶⁹ that estoppel shall not apply when the court or tribunal has no jurisdiction over the subject matter.

On the other hand, estoppel was applied in *Calibre Traders* since the trial court had jurisdiction over the respondent's counterclaim even if it incorrectly dismissed the case for non-payment of docket fees, to wit:

In accordance with the aforementioned rules on payment of docket fees, the trial court upon a determination that Bayerphil's counterclaim was permissive, should have instead ordered Bayerphil to pay the required docket fees for the permissive counterclaim, giving it reasonable time but in no case beyond the reglementary period. At the time Bayerphil filed its counter-claim against Calibre and the spouses Sebastian without having paid the docket fees up to the time the trial court rendered its Decision on December 6, 1993, Bayerphil could still be ordered to pay the docket fees since no prescription has yet set in. Besides, Bayerphil should not suffer from the dismissal of its case due to the mistake of the trial court.

Considering the foregoing discussion, we find no need to remand the case to the trial court for the resolution of Bayerphil's counterclaim. In *Metromedia Times Corporation v. Pastorin*, we discussed the rule as to when jurisdiction by estoppel applies and when it does not x x x.

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In this case, the trial court had jurisdiction over the counterclaim although it erroneously ordered its automatic dismissal. As already discussed, the trial court should have instead directed Bayerphil to pay the required docket fees within a reasonable time. Even then, records show that the trial court heard the counterclaim although it again erroneously found the same to be unmeritorious. **Besides, it must also be mentioned that Bayerphil was lulled into believing that its counterclaim was indeed compulsory and thus there was no need to pay docket fees by virtue of Judge Claravall's October 24, 1990 Resolution.** Petitioners also actively participated in the adjudication of the counterclaim which the trial court adjudge to be unmeritorious. (Emphases Ours.)

⁶⁶ In this case, the petitioner is in no way estopped by laches in assailing the jurisdiction of the RTC, considering that he raised the lack thereof in his appeal before the appellate court. At that time, no considerable period had yet elapsed for laches to attach.

⁶⁷ In this case, the conflict among the parties was outside the jurisdiction of the special commercial court. The doctrine of jurisdiction by estoppel is not available absent exceptional circumstance. The respondent cannot be permitted to wrest from petitioners the administration of the disputed property until after the parties' rights are clearly adjudicated in the proper courts. It is neither fair nor legal to bind a party to the result of a suit or proceeding in a court with no jurisdiction.

⁶⁸ In this case, the Commission on Settlement of Land Problems did not have jurisdiction over the subject matter of the complaint. Yet, it proceeded to assume jurisdiction over the case and even issued writs of execution and demolition against the petitioners. The lack of jurisdiction cannot be cured by the parties' participation in the proceedings. As such, the petitioners can rightfully question its jurisdiction at any time, even during appeal or after final judgment.

⁶⁹ In this case, the Sandiganbayan, not the CA, has appellate jurisdiction over the RTC's decision. The principle of estoppel cannot cure the jurisdictional defect of the Ombudsman's petition before the CA.

Yet, *Cudiamat* refused to apply the general rule that estoppel does not confer authority upon a court or tribunal and that lack of jurisdiction over the subject matter can be raised at any time. It established an exception when to compel the aggrieved party to refile the case would be an exercise in futility or superfluous, *viz.*:

In the present case, the Balayan RTC, sitting as a court of general jurisdiction, had jurisdiction over the complaint for quieting of title filed by petitioners on August 9, 1999. The Nasugbu RTC, as a liquidation court, assumed jurisdiction over the claims against the bank only on May 25, 2000, when PDIC's petition for assistance in the liquidation was raffled thereat and given due course.

While it is well-settled that lack of jurisdiction on the subject matter can be raised at any time and is not lost by estoppel by laches, the present case is an exception. To compel petitioners to re-file and relitigate their claims before the Nasugbu RTC when the parties had already been given the opportunity to present their respective evidence in a full-blown trial before the Balayan RTC which had, in fact, decided petitioners' complaint (about two years before the appellate court rendered the assailed decision) would be an exercise in futility and would unjustly burden petitioners.

The Court, in *Valenzuela v. Court of Appeals*, held that as a general rule, if there is a judicial liquidation of an insolvent bank, all claims against the bank should be filed in the liquidation proceeding. The Court in *Valenzuela*, however, after considering the circumstances attendant to the case, held that the general rule should not be applied if to order the aggrieved party to refile or relitigate its case before the litigation court would be "an exercise in futility." Among the circumstances the Court considered in that case is the fact that the claimants were poor and the disputed parcel of land was their only property, and the parties' claims and defenses were properly ventilated in and considered by the judicial court.

In the present case, the Court finds that analogous considerations exist to warrant the application of *Valenzuela*. Petitioner Restituto was 78 years old at the time the petition was filed in this Court, and his co-petitioner-wife Erlinda died during the pendency of the case. And, except for co-petitioner Corazon, Restituto is a resident of Ozamis City. **To compel him to appear and relitigate the case in the liquidation court-Nasugbu RTC when the issues to be raised before it are the same as those already exhaustively passed upon and decided by the Balayan RTC will be superfluous.** (Emphases Ours.)

Considering the above doctrines, we rule that the present case is exceptional and calls for the application of jurisdiction by estoppel.

Here, Perfecto originally filed his complaint against Lisondra Land before the RTC which, as discussed earlier, has jurisdiction over the controversy between the parties. However, Lisondra Land claimed that the



case is within the HLURB's exclusive authority. It maintained this theory before the CA which eventually ordered the dismissal of the complaint. Thereafter, Perfecto relied on the final and executory decision of the appellate court and refiled the action against Lisondra Land with the HLURB. Lisondra Land actively participated in the proceedings before the HLURB. After receiving an adverse decision, Lisondra Land questioned the jurisdiction of the HLURB and claimed that the RTC has the authority to hear the case. This is where estoppel operates and bars Lisondra Land from assailing the HLURB's jurisdiction. Lisondra Land cannot now abandon the theory behind its arguments before Civil Case No. 18146, CA-G.R. SP No. 72463 and the HLURB. The Court cannot countenance Lisondra Land's act of adopting inconsistent postures – *first, by attacking the jurisdiction of the trial court and, subsequently, the authority of the HLURB*. Otherwise, the consequence is revolting as Lisondra Land would be allowed to make a complete mockery of the judicial system. In fact, Lisondra Land's conduct had resulted in two conflicting appellate court decisions in CA-G.R. SP No. 72463 and CA-G.R. SP No. 131359 eroding the stability of our legal system and jurisprudence.

Also, we are mindful that *Tijam* presented an extraordinary case because the party invoking lack of jurisdiction did so only after 15 years and at a stage when the proceedings had already been elevated to the appellate court. This case is likewise exceptional since many years had lapsed from 2001 when Perfecto filed his complaint in the RTC until 2016 when the Court of Appeals dismissed the complaint before the HLURB. Like in *Tijam*, it is now too late for Lisondra Land to raise the issue of lack of jurisdiction.

Ordinarily, the Court remands the case to the CA for proper disposition on the merits. Nevertheless, to avoid further delay, we deem it more appropriate and practical to resolve the question of whether Lisondra Land is guilty of unsound real estate business practice.

Lisondra Land is guilty of unsound real estate business practices.

As pointed earlier, Lisondra Land had surrendered the property and Perfecto is now in full control of developing the project. However, this did not render the case academic. There remains an actual controversy between the parties. The principal issues on whether Lisondra Land is guilty of unsound real estate business practices and is liable to pay fines and damages are still unresolved. At most, the surrender of property only mooted Perfecto's prayer for the rescission of the joint venture agreement. The Court's declaration on the other questions would certainly be of practical value to the parties.⁷⁰ Hence, we shall not refrain from rendering a decision on the merits of this case.

⁷⁰ *Carpio v. Court of Appeals*, 705 Phil. 153 (2013). See also *Ticzon v. Video Post Manila, Inc.*, 389 Phil. 20 (2000); and *Tecnogas Philippines Manufacturing Corp. v. Philippine National Bank*, 574 Phil. 340 (2008), citing *Philippine National Bank v. Court of Appeals*, 353 Phil. 473 (1998).



The policy of PD No. 1344 is to curb the unscrupulous practices of the subdivision owner and developer in real estate trade and business that will prejudice the buyers. Here, substantial evidence exists that Lisondra Land sold memorial lots which are considered open spaces in the approved project plan. The location of a 4-unit mausoleum was found out to be the parking area of the memorial park.⁷¹ Notably, the sale of open spaces is contrary to PD No. 957 which prohibits the unauthorized alteration of plan, thus:

Section 22. *Alteration of Plans.* No owner or developer shall change or alter the roads, open spaces, infrastructures, facilities for public use and/or other form of subdivision development as contained in the approved subdivision plan and/or represented in its advertisements, without the permission of the Authority and the written conformity or consent of the duly organized homeowners association, or in the absence of the latter, by the majority of the lot buyers in the subdivision.

Also, some areas of the memorial park did not comply with the required thickness of road networks and portions of the road are sinking and deteriorated.⁷² Worse, Lisondra Land sold lots outside the authorized project site. It developed the adjoining land without consent of the owner and misrepresented to the public that it was the second phase of the project.⁷³ Taken together, these violations are prejudicial to the buyers and constitute unsound real estate business practices which merit the imposition of fines. We quote with approval the pertinent findings of the HLURB and the Office of the President, thus:

[HLURB's Resolution dated January 21, 2010]

There is no clear cut definition of what is unsound real estate business practice. However, based on the context of PD 1344, it is inferable that an act by the real estate owner/developer that would cause prejudice upon its buyers may be classified as such.

In the present case, the monitoring issuances of the Regional Office attest to the violations of PD 957 found to have been committed by respondent. The Notice of Violation dated July 21, 2006 found that respondent failed to complete the project development within the prescribed period and failed to secure an Extension of Time to Develop for said project. As a consequence, the project's license was suspended. There are also findings of introduction of alterations on the approved development plan without proper permit. The Legal Services Group also found that respondent went beyond the scope of the JVA when it introduced developments and sold lots in Lot 1680-B without authority of complainant and failed to adduce any evidence to support its claim that the development activities were with complainant's consent. The Regional Office also found that respondent sold lots that formed part of the open space of the project. **All these violations**

⁷¹ *Rollo*, pp. 132-133.

⁷² *Id.* at 130.

⁷³ *Id.* at 134.



may result in unauthorized sales and incomplete development of the project to the prejudice ultimately of the buyers.⁷⁴

[Office of the President's Decision dated August 1, 2013]

Lot 1680-A is the subject of the JVA (Phase I) and not Lot 1680-B (Phase II). Nevertheless, LLI expanded its business development transactions and activities to Lot 1680-B without completing the development of Lot 1680-A in accordance with the approved plan and within the period of twelve (12) months. The license to sell issued for Lot 1680-A project mandates that the project shall be completed not later than 24 February 1998. However, as discovered by the HLURB Regional Field Office No. 1, as of 13 September 2005, the project is still not fully developed. In the same findings, the HLURB suspended the license to sell of LLI as to blocks 1, 2, 3 and road lot of 5 of the approved development plan for the reasons that the road networks [are] only about 3-4 inches thick which is less than the required thickness of 6 inches; portions of the road appears to have sunk and deteriorated; and there had been alterations in the approved development plans granted and issued by the LGU, specifically on block[s] 1, 2 and 3, and block 20 and road lot 5.

LLI's violations of the JVA is further evidenced by the letter dated 21 July 2006 issued by the HLURB Regional Office No. 1 suspending temporarily its license to sell for failure to develop the project site in accordance with the development plans approved by the Municipal Government of Mangatarem. Lastly, LLI did not secure an approval for extension of time to develop the subject property despite the period given by the HLURB to comply with the existing laws.⁷⁵

Lastly, Perfecto is entitled to damages and attorney's fees. As the HLURB aptly observed, Perfecto incurred administrative expenses and fines because of Lisondra Land's bad faith. Moreover, Perfecto was forced to litigate in order to protect his property rights. Applying *Nacar v. Gallery Frames*,⁷⁶ the award of moral and exemplary damages shall earn interest at the rate of 6% per annum from the date of the HLURB Arbiter's Decision on July 20, 2007 until full payment.

To conclude, the law apportioned the jurisdiction of courts and tribunals for the orderly administration of justice. Thus, the doctrine of estoppel must be applied with great care and only when strong equitable considerations are present.⁷⁷ Here, the unfairness is not only patent but revolting. Lisondra Land should not be allowed to declare as useless all the proceedings had between the parties and compel Perfecto to go up to his Calvary once more.

⁷⁴ *Rollo*, pp. 163 and 164.

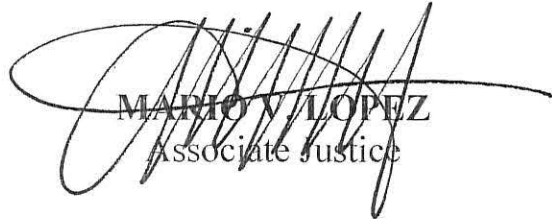
⁷⁵ *Id.* at 168.

⁷⁶ 716 Phil. 267 (2013).

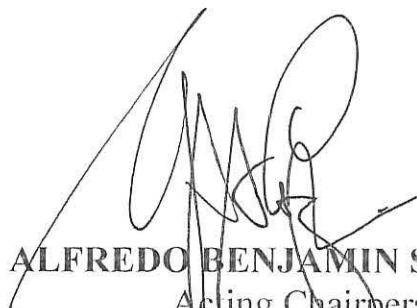
⁷⁷ *C & S Fishfarm Corp. v. Court of Appeals*, 442 Phil. 279 (2002).

FOR THESE REASONS, the petition is **GRANTED** and the assailed Court of Appeals' Decision dated December 28, 2016 in CA-G.R. SP No. 131359 is **REVERSED**. The Office of the President's Decision dated August 1, 2013 is **REINSTATED** and **AFFIRMED** with **MODIFICATION** in that the award of moral and exemplary damages shall earn interest at the rate of 6% *per annum* from the date of the Housing and Land Use Regulatory Board Arbiter's Decision on July 20, 2007 until full payment.

SO ORDERED.


MARIO V. LOPEZ
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Acting Chairperson
Associate Justice

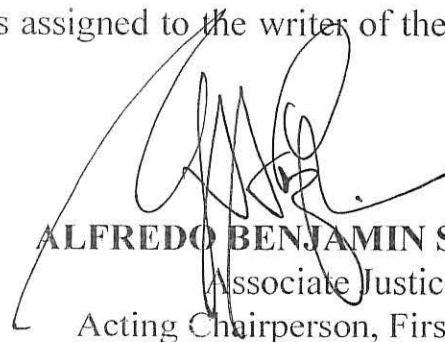

JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO-JAVIER
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.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, First 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.



DIOSDADO M. PERALTA
Chief Justice