



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Welfredo V. Laditan
WELFEDO V. LADITAN
Division Clerk of Court
Third Division

JUL 14 2016

THIRD DIVISION

FLORITA LIAM,

Petitioner,

G.R. No. 194664

Present:

VELASCO, JR., J.,
Chairperson,

- versus -

PERALTA,
PEREZ,
REYES, and
JARDELEZA,* JJ.

UNITED COCONUT PLANTERS
BANK,

Respondent.

Promulgated:

June 15, 2016

Welfredo V. Laditan

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DECISION

REYES, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeking to annul and set aside the Decision² dated September 24, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 112195 holding that United Coconut Planters Bank (UCPB) was wrongly impleaded in Florita Liam's (Liam) complaint for specific performance before the Housing and Land Use Regulatory Board (HLURB).

* On leave.

¹ *Rollo*, pp. 9-34.

² Penned by Presiding Justice Andres B. Reyes, Jr., with Associate Justices Japar B. Dimaampao and Jane Aurora C. Lantion concurring; *id.* at 248-261.

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The Facts

On April 11, 1996, Liam entered into a contract to sell³ with developer Primetown Property Group, Inc. (PPGI) for the purchase of Condominium Unit No. 603, Hongkong Tower, of the latter's Makati Prime City (MPC) condominium project in San Antonio Village, Makati City for the price of ₱2,614,652.66. The parties also stipulated that the unit will be delivered not later than 35 months from the start of actual construction.

To finance the construction of the condominium project, PPGI obtained a loan from UCPB. PPGI thereafter partially settled its loan by transferring to UCPB its right to collect all receivables from condominium buyers, including Liam. For this purpose, PPGI and UCPB executed a Memorandum of Agreement (MOA)⁴ and a document denominated as Sale of Receivables and Assignment of Rights and Interests (Deed of Sale/Assignment)⁵ both dated April 23, 1998.

On May 29, 1998, PPGI notified Liam of the sale of its receivables to UCPB. PPGI directed her to remit any remaining balance of the condominium unit's purchase price to UCPB. PPGI further stated that "[the] payment arrangement shall in no way cause any amendment of [the] terms and conditions, nor the cancellation of the Contract to Sell [she] executed with PPGI."⁶

Liam heeded the notice and forthwith remitted her payments to UCPB. However, on March 9, 1999, Liam wrote UCPB asking for the deferment of her amortization payments until such time that the unit is ready for delivery.⁷ At that point, Liam stopped making payments. On February 28, 2001, Liam again wrote UCPB complaining of the delayed delivery of the unit and reiterating that she will only resume making payments once the unit is delivered. Liam also requested the waiver of interests and penalties for the period prior to UCPB's assumption as the payee of her amortizations.⁸

Her requests, however, were left unanswered. Thus, on April 14, 2004, Liam demanded for the refund of all the payments she made for PPGI's failure to deliver the unit on the stipulated date.⁹

³ Id. at 85-90.

⁴ Id. at 282-292.

⁵ Id. at 293-297.

⁶ Id. at 91.

⁷ Id. at 92.

⁸ Id. at 93-94.

⁹ Id. at 96-97.

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On July 1, 2005, UCPB proposed to Liam a financing package for the full settlement of the balance of the purchase price.¹⁰

On October 17, 2005, Liam saw UCPB's newspaper advertisement offering to the public the sale of 'ready for occupancy' units in the Palm Tower of MPC condominium project at a much lower price.¹¹

On November 14, 2005, Liam requested UCPB to suspend the restructuring of her loan and instead asked for the downgrading of her purchased two-bedroom condominium unit to another unit equivalent in value to the ₱1,223,000.00 total payments she already made. She also questioned the realty tax and documentary stamp tax imposed by UCPB in the proposed financing package.¹²

Her requests, however, remained unheeded. Thus, on April 10, 2006, Liam filed a Complaint¹³ for specific performance before the HLURB against PPGI and UCPB. The complaint recounted the foregoing episodes and alleged that UCPB promised to deliver the unit within six months. Liam prayed that she be given first priority to choose among the available units at Palm Tower which has a minimum price of ₱24,984.15 per square meter and that her total payments of ₱1,232,259.91 be credited to the contract for her newly chosen unit. To justify her plea, Liam averred that UCPB has already devaluated the market values of the condominium units from the original purchase price of ₱43,089.00 per sq m to ₱24,984.15 per sq m.

Liam also claimed that she is not liable for the realty taxes on her unit because she is neither in possession thereof nor the holder of its title.

Liam further complained that UCPB has been biased in charging the interest rates to its buyers at 13% *per annum* as against the 11% *per annum* rate imposed on auction buyers. UCPB was also allegedly unfair in charging buyers with realty taxes and capital gains tax when the same should be shouldered by the developer.

In its Answer,¹⁴ PPGI denied receiving any demand from Liam and averred that she is already estopped from making any claims against PPGI because she agreed to the substitution of PPGI by UCPB. In the same pleading, PPGI moved for the deferment of the proceedings in view of its pending petition for corporate rehabilitation before Branch 138 of the

¹⁰ Id. at 98.

¹¹ Id. at 101.

¹² Id. at 103-104.

¹³ Id. at 78-84.

¹⁴ Id. at 37-43.

Regional Trial Court of Makati City, which ordered on August 15, 2003, that the enforcement of all claims against PPGI be suspended.¹⁵ Finally, PPGI counterclaimed for attorney's fees and litigation expenses.

Meanwhile, UCPB averred that it had no legal obligation to deliver the unit to Liam because it is not the developer of the condominium project. UCPB maintained that it is merely a creditor of PPGI. UCPB explained that it only acquired PPGI's right to collect its receivables from Liam and other condominium buyers. UCPB denied giving a specific date for the completion of Liam's unit because such matter was beyond its control but rather devolved upon PPGI as the developer.

UCPB further declared that the units are already complete, hence, Liam should resume payment of her amortizations. UCPB contended that it already acted favorably on Liam's request for waiver of penalties and interests.

UCPB explained that the newspaper advertisements pertained to the units it acquired from PPGI as payment for the latter's loan. The advertisements did not have any connection to the contract to sell between Liam and PPGI, the purchase price of which was the prevailing market price at the time of its signing.

Finally, UCPB tagged the complaint as a malicious and unnecessary suit and demanded for indemnification of its legal expenses in the amount of ₱50,000.00.¹⁶

Ruling of the HLURB

In a Decision¹⁷ dated August 16, 2007, HLURB Arbiter Marino Bernardo M. Torres (Torres) ruled in favor of Liam, to wit:

WHEREFORE, premises considered, it is hereby ordered that:

1. UCPB give [Liam] the privilege to choose among the available units at Palm Tower, San Antonio Village, or in the alternative[,] to maintain the previous unit subject of the Contract to Sell;
2. The Realty Tax must be [for] the account of the respondent UCPB, the unit being in the possession of the respondent;

¹⁵ Id. at 44-45.

¹⁶ Id. at 105-110.

¹⁷ Id. at 138-139.

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3. The Capital Gains Tax having been waived, [the] documentary stamp tax must also be charged to respondent UCPB.

It is so ordered.¹⁸

Upon the appeal filed by PPGI and UCPB, the above ruling was affirmed with modification by the HLURB Board of Commissioners in a Decision¹⁹ dated May 22, 2008, thus:

WHEREFORE, premises considered, the appeal is PARTIALLY GRANTED. Accordingly[,] the judgment appealed from is MODIFIED to read as follows:

1. Ordering the parties to continue with their contract and upon [Liam's] full payment of the purchase price of P2,614,652.66, ordering respondent UCPB to deliver [U]nit 603 of HongKong Tower and to execute the corresponding deed of sale in [Liam's] favor. In the alternative, at the option of [Liam], [UCPB] is ordered to refund to her the total installment payments made with interest at 6% per annum until fully paid reckoned from the filing of the complaint.

2. Declaring that the [R]ealty [T]ax must be for the account of the respondent UCPB, the unit being in the possession of the respondent.

3. Declaring that [Liam] is liable for the payment of the documentary stamp tax.

SO ORDERED.²⁰

In so ruling, the HLURB Board of Commissioners ratiocinated that Liam cannot complain about the lower purchase price of other units or demand for the amendment of the stipulated price in her Contract to Sell with PPGI. Liam and PPGI have long agreed on the purchase price before the lower price of the other units was even advertised. Liam was, however, held entitled to a refund because the unit was not completed within the period stipulated in the contract.²¹

Liam was held not liable for realty tax because she was never in possession of the condominium unit. She was nevertheless held liable to pay the documentary stamp taxes for the registration of the deed of sale.²²

¹⁸ Id. at 139.

¹⁹ Composed of Commissioner and Chief Executive Officer Romulo Q. Fabul, Commissioner Jesus Y. Pang and Ex-Officio Commissioner Joel I. Jacob; id. at 166-170.

²⁰ Id. at 169-170.

²¹ Id. at 168-169.

²² Id. at 169.

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Ruling of the Office of the President

UCPB thereafter appealed to the Office of the President (OP) arguing that it should not be obligated to refund Liam's alleged total installment payments because it did not step into the shoes of PPGI.²³ In the Decision²⁴ dated May 7, 2009, the OP, through the Deputy Executive Secretary for Legal Affairs, rejected UCPB's argument. The OP held that the Deed of Sale/Assignment between UCPB and PPGI covered all the rights and interests arising from or out of the contract to sell between Liam and PPGI. The OP ruling disposed thus:

WHEREFORE, premises considered, the appeal is **DISMISSED**. The Decision dated May 22, 2008 rendered by the Board of Commissioners of the Housing and Land Use Regulatory Board is hereby **AFFIRMED**.

SO ORDERED.²⁵

On UCPB's motion for reconsideration, the OP reiterated its findings in a Resolution²⁶ dated December 10, 2009, by stressing that since PPGI assigned all its rights and interests to UCPB, the latter is deemed subrogated to and bound by exactly the same conditions to which PPGI was bound under the contract to sell. Thus, UCPB is obligated to return the payments of Liam after the project was not completed on time.

Ruling of the CA

Unwavering, UCPB sought recourse before the CA contending that it was merely an agent of PPGI in collecting the receivables from Liam and was never a party to the contract to sell. Hence, it cannot be made to assume the liabilities of PPGI as owner, developer or project manager of the condominium unit. Even assuming that UCPB is liable, its liability must be limited to the amount it actually received from Liam in behalf of PPGI.²⁷

In a Decision²⁸ dated September 24, 2010, the CA ruled in favor of UCPB. The CA limited the issue to the liability of UCPB for specific performance under the contract to sell between PPGI and Liam.

²³ Id. at 171-183.

²⁴ Id. at 72-76.

²⁵ Id. at 76.

²⁶ Id. at 77.

²⁷ Id. at 48-68.

²⁸ Id. at 248-261.

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The CA ruled that Liam had no right to demand for specific performance from UCPB because it was not a privy to the contract to sell. The obligations of PPGI to Liam remained subsisting and it continued to be Liam's obligor with respect to the delivery of the condominium units even after the assignment. Thus, UCPB cannot be held liable for PPGI's breach of its obligation to Liam. The CA concluded that UCPB was wrongly impleaded in the complaint for specific performance. Accordingly, the CA ruling disposed as follows:

IN VIEW OF THE FOREGOING, the assailed 7 May 2009 Decision of the Office of the President is hereby **REVERSED** and **SET ASIDE**.

SO ORDERED.²⁹

Liam moved for the reconsideration³⁰ of the foregoing judgment but her motion was denied in the Resolution³¹ dated December 3, 2010 of the CA. Hence, the present petition submitting the following issues for resolution, *viz*:

WHETHER OR NOT THE HONORABLE SUPREME COURT, ALBEIT NOT A TRIER OF FACTS, BUT BEING THE FINAL ARBITER OF ANY JUSTIFIABLE CONTROVERSIES, HAS THE POWER AND AUTHORITY TO REVIEW THE FACTS AND EVIDENCE OBTAINING IN THIS CASE DUE TO THE EXISTENCE OF WELL RECOGNIZED EXCEPTIONS TO THE RULE[;]

WHETHER OR NOT THE [CA] ERRED IN REVERSING AND SETTING ASIDE THE DECISIONS OF THE OFFICES *A QUO*[;]

WHE[T]HER OR NOT THE [CA] ERRED IN NOT HOLDING THAT THE DECISION OF THE HLURB HAS BECOME FINAL AND EXECUTORY BY THE [UCPB'S] FAILURE TO POST THE REQUIRED APPEAL BOND PURSUANT TO SECTION 2 OF RULE XVI[,] IN RELATION [TO SECTION] 1 OF RULE XVIII, OF THE RULES OF PROCEDURE OF THE [HLURB] BOARD OF COMMISSIONERS.³²

²⁹ Id. at 261.

³⁰ Id. at 262-269.

³¹ Id. at 277-278.

³² Id. at 19.

Ruling of the Court

The Court denies the petition.

Preliminary Considerations

Contrary to Liam's submissions, there are no factual issues in this appeal since the following circumstances and events are not disputed by the parties: a) PPGI and Liam have a subsisting Contract to Sell; b) PPGI executed agreements with UCPB without Liam's consent; c) PPGI failed to deliver the condominium unit subject of the Contract to Sell within the stipulated period.

The crucial point of contention is actually the correct interpretation of the nature of the agreements between PPGI and UCPB and their repercussions to the Contract to Sell between PPGI and Liam. These matters are legal questions³³ as they do not require an examination of the probative value of the evidence presented by the parties but rather the determination of the applicable law on the given state of facts.³⁴ The Court has delineated the distinctions between a question of law and a question of fact as follows:

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. *For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them.* The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the questioned posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.³⁵ (Italics in the original)

Thus, the petition is the proper subject of the Court's review under Rule 45 of the Rules of Court.

³³ See *Licaros v. Gatmaitan*, 414 Phil. 857, 873 (2001).

³⁴ See *Engr. Dueñas v. Guce-Africa*, 618 Phil. 10, 19 (2009).

³⁵ *Id.*, citing *Velayo-Fong v. Sps. Velayo*, 539 Phil. 377, 386-387 (2006).

The transaction between UCPB and PPGI was an assignment of credit and not subrogation.

“An assignment of credit is an agreement by virtue of which the owner of a credit, known as the assignor, by a legal cause, such as sale, *dation* in payment, exchange or donation, and without the consent of the debtor, transfers his credit and accessory rights to another, known as the assignee, who acquires the power to enforce it to the same extent as the assignor could enforce it against the debtor. It may be in the form of sale, but at times it may constitute a *dation* in payment, such as **when a debtor, in order to obtain a release from his debt, assigns to his creditor a credit he has against a third person.**”³⁶

Simply, an assignment of credit is the process of transferring the right of the assignor to the assignee who would then have the right to proceed against the debtor. The assignment may be done either gratuitously or onerously, in which case, the assignment has an effect similar to that of a sale.³⁷

On the other hand, subrogation is a process by which the third party pays the obligation of the debtor to the creditor with the latter’s consent. As a consequence, the paying third party steps into the shoes of the original creditor as subrogee of the latter.³⁸ It results in a subjective novation of the contract in that a third person is subrogated to the rights of the creditor.³⁹

The crucial distinction between assignment and subrogation actually deals with the necessity of the consent of the debtor in the original transaction. In an assignment of credit, the consent of the debtor is not necessary in order that the assignment may fully produce legal effects. What the law requires in an assignment of credit is not the consent of the debtor but merely notice to him as the assignment takes effect only from the time he has knowledge thereof. A creditor may, therefore, validly assign his credit and its accessories without the debtor’s consent.⁴⁰

³⁶ *Spouses Serfino v. Far East Bank and Trust Company, Inc.*, 697 Phil. 51, 57 (2012), citing *Aquintey v. Sps. Tibong*, 540 Phil. 422, 446 (2006).

³⁷ *Licaros v. Gatmaitan*, supra note 33, at 866-867.

³⁸ *Id.* at 867.

³⁹ *Starbright Sales Enterprises, Inc. v. Philippine Realty Corporation, et al.*, 679 Phil. 330, 336 (2012).

⁴⁰ *Licaros v. Gatmaitan*, supra note 33, at 867-868.

Meanwhile, subrogation requires an agreement among the three parties concerned – the original creditor, the debtor, and the new creditor. It is a new contractual relation based on the mutual agreement among all the necessary parties.⁴¹

The terms of the MOA and Deed of Sale/Assignment between PPGI and UCPB unequivocally show that the parties intended an assignment of PPGI's credit in favor of UCPB.

Section 1 of the MOA is explicit that as partial settlement of its loan, PPGI sold in favor of UCPB its unsold condominium units in MPC as well as its outstanding receivables from the 539 units covered by Contracts to Sell, viz:

ARTICLE I

SUBJECT

Section 1.01 In partial settlement of **FIRST PARTY's** [PPGI] outstanding and/or maturing obligation with **SECOND PARTY** [UCPB], **to the extent of P1,160,965,734.33, FIRST PARTY** has offered the following modes of settlement, viz:

- a. Absolute Sale over unsold condominium units/parking spaces of Makati Prime City (hereinafter referred as "MPC) including all existing and future improvements thereon situated at St. Pauls Road, Antonio Village, Makati City, and covered by Condominium Certificates of Titles (CCTs) registered with the Register of Deeds for Makati City, the technical description of which are listed in Annex "A" and made integral part hereof;

x x x x

- c. **Sale of outstanding receivables due or payable to SECOND PARTY over 538 "MPC" sold units and 176 "KIENER" sold units, from Buyers who have purchased said units and the Assignment of Rights and Interests arising out of the units pertinent [to] Contract to Sell (CTS) as evidenced by pertinent and individual Contracts to Sell (CTS), hereto attached as Annex "C;**

x x x x⁴² (Emphasis supplied)

⁴¹ Id. at 868.

⁴² *Rollo*, pp. 285-286.

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“This agreement was implemented through the Deed of Sale/Assignment whereby the parties reiterated and emphasized that they intended an assignment of PPGI’s receivables thus giving UCPB the right to run after the former’s condominium buyers with outstanding balances under a Contract to Sell, like herein petitioner Liam.”⁴³ The operative provisions of the Deed of Sale/Assignment provide thus:

WHEREAS, under the terms and conditions of the Memorandum of Agreement, the FIRST PARTY [PPGI] had agreed to sell, transfer, convey and set over unto SECOND PARTY [UCPB], all the Accounts Receivables accruing from FIRST PARTY’s Makati Prime City Condominium Project (“MPC” for brevity) and Kiener Hills Condominium Project (“KIENER” for brevity), as enumerated in a list hereto attached as Annexes “A” and “B”, respectively and forms an integral part hereof, together with all the incidental rights, titles, interests and participations over the units covered by the Contracts to Sell from which the Account[s] Receivables have arisen;

WHEREAS, the parties have agreed that the consideration of this [Deed of Sale/Assignment] shall be the aggregate amount of PESOS: SEVEN HUNDRED FORTY-EIGHT MILLION (P748,000,000.00), Philippine currency broken down as follows:

x x x x

NOW, THEREFORE, for and in consideration of the foregoing premises and the aggregate amount of PESOS : SEVEN HUNDRED FORTY-EIGHT MIL[L]ION (P748,000,000.00) Philippine currency, FIRST PARTY [PPGI] hereby sells, transfers, conveys and set over as by these presents it has assigned, transferred, conveyed and set over unto SECOND PARTY [UCPB] all Accounts Receivables accruing from FIRST PARTY’s “MPC” and “KIENER” as enumerated in a list hereto attached as Annexes “A” and “B” respectively together with the assignment of all its rights, titles, interests and participations over the units covered by or arising from the Contracts to Sell from which the Accounts Receivables have arisen, under the following terms and conditions:

1. The FIRST PARTY hereby sells, transfers, conveys, assigns and sets over unto the SECOND PARTY [HLURB]:
 - a. all the Account Receivables or moneys due which may grow due upon the said receivables pursuant to the list attached as Annexes “A” and “B”;
 - b. all its rights and interest arising from or out of the Contract to Sell of its respective receivable[s]/condominium unit.

x x x x⁴⁴

⁴³ Id. at 299.

⁴⁴ Id. at 293-294.

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“The primary consideration in determining the true nature of a contract is the intention of the parties. If the words of a contract appear to contravene the evident intention of the parties, the latter shall prevail. Such intention is determined not only from the express terms of their agreement, but also from the contemporaneous and subsequent acts of the parties.”⁴⁵ However, if the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.⁴⁶

The provisions of the foregoing agreements between PPGI and UCPB are clear, explicit and unambiguous as to leave no doubt about their objective of executing an assignment of credit instead of subrogation. The MOA and the Deed of Sale/Assignment clearly state that UCPB became an assignee of UCPB’s outstanding receivables of its condominium buyers. The Court perceives no *provisio* or any extraneous factor that incites a contrary interpretation. Even the simultaneous and subsequent acts of the parties accentuate their intention to treat their agreements as assignment of credit.

As Liam herself submits, her consent to the MOA and Deed of Sale/Assignment was not secured and she only learned about them when PPGI informed her to remit her payments to UCPB in a letter dated May 29, 1998, which reads:

This refers to your purchase of Unit #603 of Hongkong Tower, [MPC], a project of [PPGI], the development of which has been partially financed by [UCPB] wherein the rights, title and interest over the said unit(s); which includes among others your installment payments have been assigned to them.

In connection with Section 18 of Presidential Decree No. 957, x x x, we hereby direct your goodself to remit all payments under your Contract to Sell directly to [UCPB] x x x.

This payment arrangement shall in no way cause any amendment of the other terms and conditions, nor the cancellation of the Contract to Sell you have executed with PPGI.⁴⁷

The absence of Liam’s consent to the transactions between PPGI and UCPB affirms their nature as assignment of credit. As already mentioned, the consent of the debtor is not essential in assignment of credit. What the law requires is merely notice to him. A creditor may, therefore, validly assign his credit and its accessories without the debtor’s consent. The purpose of the notice is only to inform the debtor that from the date of the

⁴⁵ *Spouses Villaceran, et al. v. De Guzman*, 682 Phil. 426, 435 (2012).

⁴⁶ CIVIL CODE OF THE PHILIPPINES, Article 1370.

⁴⁷ *Rollo*, p. 91.

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assignment, payment should be made to the assignee and not to the original creditor.⁴⁸

The last paragraph of the letter also confirms that UCPB's acquisition of PPGI's receivables did not involve any changes in the Contract to Sell between PPGI and Liam; neither did it vary the rights and the obligations of the parties therein. Thus, no novation by subrogation could have taken place.

The CA was therefore correct in ruling that the agreement between PPGI and UCPB was an assignment of credit. UCPB acquired PPGI's right to demand, collect and receive Liam's outstanding balance; UCPB was not subrogated into PPGI's place as developer under the Contract to Sell.

UCPB was improperly impleaded in Liam's complaint.

The CA is correct when it concluded that as a mere assignee, UCPB cannot be impleaded in Liam's complaint for specific performance. It is clear that the intention of the parties was merely to assign the receivables; and therefore, there is no ground to hold UCPB solidarily liable with PPGI.

In the recent case of *Chin Kong Wong Choi v. UCPB*,⁴⁹ the Court reiterated the rulings of the CA in the cases of *UCPB v. O'Halloran*⁵⁰ and *UCPB v. Ho*,⁵¹ thus:

In *UCPB v. O'Halloran*, docketed as C.A.-G.R. S.P. No. 101699, respondent O'Halloran's accounts with Primetown were also assigned by Primetown to UCPB, under the same Agreement as in this case. Since Primetown failed to deliver the condominium units upon full payment of the purchase price, O'Halloran likewise sued both Primetown and UCPB for cancellation of the contracts to sell, and the case eventually reached the CA. The CA held UCPB liable to refund the amount it actually received from O'Halloran. The CA held that there is no legal, statutory or contractual basis to hold UCPB solidarily liable with Primetown for the full reimbursement of the payments made by O'Halloran. The CA found that based on the Agreement, **UCPB is merely the assignee of the receivables under the contracts to sell to the extent that the assignment is a manner adopted by which Primetown can pay its loan to the bank.** The CA held that the assignment of receivables did not make UCPB the owner or developer of the unfinished project to make it solidarily liable with Primetown. The CA decision dated 23 July 2009 in

⁴⁸ *Project Builders, Inc. v. Court of Appeals*, 411 Phil. 264, 274 (2001).

⁴⁹ G.R. No. 207747, March 11, 2015, 753 SCRA 153.

⁵⁰ CA-G.R. SP No. 101699, July 23, 2009.

⁵¹ CA-G.R. SP No. 113446, May 9, 2013.

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C.A.-G.R. S.P. No. 101699 became final and executory upon Entry of Judgment on 17 August 2009 for O'Halloran and 18 August 2009 for UCPB.

In *UCPB v. Ho*, docketed as C.A.-G.R. S.P. No. 113446, respondent Ho was similarly situated with O'Halloran and Spouses Choi. Upon reaching the CA, the CA considered the Agreement between UCPB and Primetown as an assignment of credit, because: 1) the parties entered into the Agreement without the consent of the debtor; 2) UCPB's obligation "to deliver to the buyer the title over the condominium unit upon their full payment" signifies that the title to the condominium unit remained with Primetown; 3) UCPB's prerogative "to rescind the contract to sell and transfer the title of condominium unit to its name upon failure of the buyer to pay the full purchase price" indicates that UCPB was merely given the right to transfer title in its name to apply the property as partial payment of Primetown's obligation; and 4) the Agreement clearly states that the assignment is limited to the receivables and does not include "any and all liabilities which [Primetown] may have assumed under the individual contract to sell." Thus, the CA ruled that **UCPB was a mere assignee of the right of Primetown to collect on its contract to sell with Ho**. The CA, then, applied the ruling in *UCPB v. O'Halloran* in finding UCPB jointly liable with Primetown only for the payments UCPB had actually received from Ho.

On 4 December 2013, this Court issued a Resolution denying Ho's petition for review for failure to show any reversible error on the part of the CA. On 2 April 2014, this Court likewise denied the motion for reconsideration with finality. Thus, the 9 May 2013 Decision of the Special Fifteenth Division of the CA in CA-G.R. SP No. 113446 became final and executory.⁵² (Citations omitted and emphasis in the original)

Following our pronouncement in the case of *Chin Kong Wong Choi*, which finds application in the present case, UCPB should not be held liable for the obligations and liabilities of PPGI under its contract to sell with Liam, considering that the bank is a mere assignee of the rights and receivables under the Agreement it executed with PPGI. There being no other grounds to hold UCPB solidarily liable with PPGI, the instant petition must be denied for lack of merit.

The lack of an appeal bond before the HLURB Board of Commissioners did not render final and executory the appealed judgment of the HLURB Arbiter.

It is incorrect for Liam to argue that the Decision dated August 16, 2007 of HLURB Arbiter Torres has become final and executory in view of UCPB's failure to post a bond when it appealed to the HLURB Board of

⁵² *Chin Kong Wong Choi v. UCPB*, supra note 49, at 163-165.

Commissioners. Section 2, Rule XVI of the 2004 HLURB Rules of Procedure,⁵³ provides:

Sec. 2. Contents of the Appeal Memorandum. – The appeal memorandum shall state the date when the appellant received a copy of the decision, the grounds relied upon, the arguments in support thereof, and the relief prayed for.

In addition, the appellant shall attach to the appeal memorandum the following:

- a. Affidavit of service of the appeal memorandum executed jointly by the appellant and his counsel, which substantially complies with Supreme Court Circular No. 19-91, stating in essence the date of such service, copies of the registry return receipt shall likewise be attached;
- b. A verified certification jointly executed by the appellant and his counsel in accord with Supreme Court Circular No. 28-91 as amended, attesting that they have not commenced a similar, related or any other proceeding involving the same subject matter or causes of action before any other court or administrative tribunal in the Philippines; and
- c. **In case of money judgment, an appeal bond satisfactory to the Board equivalent to the amount of the award excluding interests, damages and attorney's fees.**⁵⁴
(Emphasis ours)

Evidently, the HLURB Rules of Procedure mandates the posting of an appeal bond only in cases where the appealed judgment involves a monetary award. The Decision dated August 16, 2007 of HLURB Arbiter Torres was not a judgment for a specific sum of money. Instead, it ordered UCPB to give Liam the privilege to choose among the available units at Palm Tower, San Antonio Village, or in the alternative, to maintain the previous unit subject of the Contract to Sell.⁵⁵

WHEREFORE, premises considered, the petition is **DENIED**. The Decision dated September 24, 2010 of the Court of Appeals in CA-G.R. SP No. 112195 is hereby **AFFIRMED**.


⁵³ The Rules of Procedure in effect at the time the appeal to the HLURB Board of Commissioners was filed. Currently, the 2011 HLURB Rules of Procedure is in effect.

⁵⁴ The rule was cited as a reference in *Peña v. GSIS*, 533 Phil. 670, 678 (2006).

⁵⁵ *Rollo*, p. 139.


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SO ORDERED.




BIENVENIDO L. REYES
Associate Justice

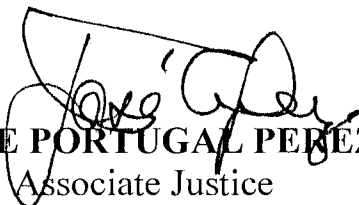
WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice

(On leave)
FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

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.



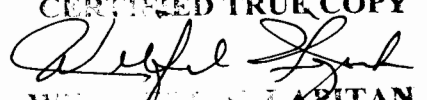
PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

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

CERTIFIED TRUE COPY

WELFREDO S. CAPITAN
Division Clerk of Court
Third Division
JUL 14 2016

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