



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SAN MIGUEL PROPERTIES, INC., **G.R. No. 166836**
Petitioner,

Present:

-versus-

SEC. HERNANDO B. PEREZ,
ALBERT C. AGUIRRE,
TEODORO B. ARCENAS, JR.,
MAXY S. ABAD,
JAMES G. BARBERS,
STEPHEN N. SARINO,
ENRIQUE N. ZALAMEA, JR.,
MARIANO M. MARTIN,
ORLANDO O. SAMSON,
CATHERINE R. AGUIRRE,
and ANTONIO V. AGCAOILI,
Respondents.

SERENO, C.J.,
BERSAMIN,
VILLARAMA, JR.,
REYES, and
***PERLAS-BERNABE, JJ.**

Promulgated:

SEP 04 2013

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DECISION

BERSAMIN, J.:

The pendency of an administrative case for specific performance brought by the buyer of residential subdivision lots in the Housing and Land Use Regulatory Board (HLURB) to compel the seller to deliver the transfer certificates of title (TCTs) of the fully paid lots is properly considered a ground to suspend a criminal prosecution for violation of Section 25 of Presidential Decree No. 957¹ on the ground of a prejudicial question. The

* Vice Associate Justice Teresita J. Leonardo-De Castro, who is on official trip for the Court to attend the Southeast Asia Regional Judicial Colloquium on Gender Equality Jurisprudence and the Role of the Judiciary in Promoting Women's Access to Justice, in Bangkok, Thailand, per Special Order No. 1529 dated August 29, 2013.

¹ Entitled *Regulating the Sale of Subdivision Lots and Condominiums, Providing Penalties for Violation Thereof* (July 12, 1976).

administrative determination is a logical antecedent of the resolution of the criminal charges based on non-delivery of the TCTs.

Antecedents

Petitioner San Miguel Properties Inc. (San Miguel Properties), a domestic corporation engaged in the real estate business, purchased in 1992, 1993 and April 1993 from B.F. Homes, Inc. (BF Homes), then represented by Atty. Florencio B. Orendain (Orendain) as its duly authorized rehabilitation receiver appointed by the Securities and Exchange Commission (SEC),² 130 residential lots situated in its subdivision BF Homes Parañaque, containing a total area of 44,345 square meters for the aggregate price of ₱106,248,000.00. The transactions were embodied in three separate deeds of sale.³ The TCTs covering the lots bought under the first and second deeds were fully delivered to San Miguel Properties, but 20 TCTs covering 20 of the 41 parcels of land with a total area of 15,565 square meters purchased under the third deed of sale, executed in April 1993 and for which San Miguel Properties paid the full price of ₱39,122,627.00, were not delivered to San Miguel Properties.

On its part, BF Homes claimed that it withheld the delivery of the 20 TCTs for parcels of land purchased under the third deed of sale because Atty. Orendain had ceased to be its rehabilitation receiver at the time of the transactions after being meanwhile replaced as receiver by FBO Network Management, Inc. on May 17, 1989 pursuant to an order from the SEC.⁴

BF Homes refused to deliver the 20 TCTs despite demands. Thus, on August 15, 2000, San Miguel Properties filed a complaint-affidavit in the Office of the City Prosecutor of Las Piñas City (OCP Las Piñas) charging respondent directors and officers of BF Homes with non-delivery of titles in violation of Section 25, in relation to Section 39, both of Presidential Decree No. 957 (I.S. No. 00-2256).⁵

At the same time, San Miguel Properties sued BF Homes for specific performance in the HLURB (HLURB Case No. REM-082400-11183),⁶ praying to compel BF Homes to release the 20 TCTs in its favor.

In their joint counter-affidavit submitted in I.S. No. 00-2256,⁷ respondent directors and officers of BF Homes refuted San Miguel Properties' assertions by contending that: (a) San Miguel Properties' claim

² *Rollo* p. 442.

³ *Id.* at 137-172.

⁴ *Id.* at 61.

⁵ *Id.* at 123.

⁶ *Id.* at 420-428.

⁷ *Id.* at 178-181.

was not legally demandable because Atty. Orendain did not have the authority to sell the 130 lots in 1992 and 1993 due to his having been replaced as BF Homes' rehabilitation receiver by the SEC on May 17, 1989; (b) the deeds of sale conveying the lots were irregular for being undated and unnotarized; (c) the claim should have been brought to the SEC because BF Homes was under receivership; (d) in receivership cases, it was essential to suspend all claims against a distressed corporation in order to enable the receiver to effectively exercise its powers free from judicial and extra-judicial interference that could unduly hinder the rescue of the distressed company; and (e) the lots involved were under *custodia legis* in view of the pending receivership proceedings, necessarily stripping the OCP Las Piñas of the jurisdiction to proceed in the action.

On October 10, 2000, San Miguel Properties filed a motion to suspend proceedings in the OCP Las Piñas,⁸ citing the pendency of BF Homes' receivership case in the SEC. In its comment/opposition, BF Homes opposed the motion to suspend. In the meantime, however, the SEC terminated BF Homes' receivership on September 12, 2000, prompting San Miguel Properties to file on October 27, 2000 a reply to BF Homes' comment/opposition coupled with a motion to withdraw the sought suspension of proceedings due to the intervening termination of the receivership.⁹

On October 23, 2000, the OCP Las Piñas rendered its resolution,¹⁰ dismissing San Miguel Properties' criminal complaint for violation of Presidential Decree No. 957 on the ground that no action could be filed by or against a receiver without leave from the SEC that had appointed him; that the implementation of the provisions of Presidential Decree No. 957 exclusively pertained under the jurisdiction of the HLURB; that there existed a prejudicial question necessitating the suspension of the criminal action until after the issue on the liability of the distressed BF Homes was first determined by the SEC *en banc* or by the HLURB; and that no prior resort to administrative jurisdiction had been made; that there appeared to be no probable cause to indict respondents for not being the actual signatories in the three deeds of sale.

On February 20, 2001, the OCP Las Piñas denied San Miguel Properties' motion for reconsideration filed on November 28, 2000, holding that BF Homes' directors and officers could not be held liable for the non-delivery of the TCTs under Presidential Decree No. 957 without a definite ruling on the legality of Atty. Orendain's actions; and that the criminal

⁸ Id. at 215-217.

⁹ Id. at 253.

¹⁰ Id. at 247-250.

liability would attach only after BF Homes did not comply with a directive of the HLURB directing it to deliver the titles.¹¹

San Miguel Properties appealed the resolutions of the OCP Las Piñas to the Department of Justice (DOJ), but the DOJ Secretary denied the appeal on October 15, 2001, holding:

After a careful review of the evidence on record, we find no cogent reason to disturb the ruling of the City Prosecutor of Las Piñas City. Established jurisprudence supports the position taken by the City Prosecutor concerned.

There is no dispute that aside from the instant complaint for violation of PD 957, there is still pending with the Housing and Land Use Regulatory Board (HLURB, for short) a complaint for specific performance where the HLURB is called upon to inquire into, and rule on, the validity of the sales transactions involving the lots in question and entered into by Atty. Orendain for and in behalf of BF Homes.

As early as in the case of *Solid Homes, Inc. vs. Payawal*, 177 SCRA 72, the Supreme Court had ruled that the HLURB has exclusive jurisdiction over cases involving real estate business and practices under PD 957. This is reiterated in the subsequent cases of *Union Bank of the Philippines versus HLURB*, G.R. [No.] 953364, June 29, 1992 and *C.T. Torres Enterprises vs. Hilionada*, 191 SCRA 286.

The said ruling simply means that unless and until the HLURB rules on the validity of the transactions involving the lands in question with specific reference to the capacity of Atty. Orendain to bind BF Homes in the said transactions, there is as yet no basis to charge criminally respondents for non-delivery of the subject land titles. In other words, complainant cannot invoke the penal provision of PD 957 until such time that the HLURB shall have ruled and decided on the validity of the transactions involving the lots in question.

WHEREFORE, the appeal is hereby **DENIED**.

SO ORDERED.¹² (Emphasis supplied)

The DOJ eventually denied San Miguel Properties' motion for reconsideration.¹³

Ruling of the CA

Undaunted, San Miguel Properties elevated the DOJ's resolutions to the CA on *certiorari* and *mandamus* (C.A.-G.R. SP No. 73008), contending

¹¹ Id. at 272-273.

¹² Id. at 95-96.

¹³ Id. at 98-99.

that respondent DOJ Secretary had acted with grave abuse in denying their appeal and in refusing to charge the directors and officers of BF Homes with the violation of Presidential Decree No. 957. San Miguel Properties submitted the issue of whether or not HLURB Case No. REM-082400-11183 presented a prejudicial question that called for the suspension of the criminal action for violation of Presidential Decree No. 957.

In its assailed decision promulgated on February 24, 2004 in C.A.-G.R. SP No. 73008,¹⁴ the CA dismissed San Miguel Properties' petition, holding and ruling as follows:

From the foregoing, the conclusion that may be drawn is that the rule on prejudicial question generally applies to civil and criminal actions only.

However, an exception to this rule is provided in *Quiambao vs. Osorio* cited by the respondents. In this case, an issue in an administrative case was considered a prejudicial question to the resolution of a civil case which, consequently, warranted the suspension of the latter until after termination of the administrative proceedings.

Quiambao vs. Osorio is not the only instance when the Supreme Court relaxed the application of the rule on prejudicial question.

In *Tamin vs. CA* involving two (2) civil actions, the Highest Court similarly applied the rule on prejudicial question when it directed petitioner therein to put up a bond for just compensation should the demolition of private respondents' building proved to be illegal as a result of a pending cadastral suit in another tribunal.

City of Pasig vs. COMELEC is yet another exception where a civil action involving a boundary dispute was considered a prejudicial question which must be resolved prior to an administrative proceeding for the holding of a plebiscite on the affected areas.

In fact, in *Vidad vs. RTC of Negros Oriental, Br. 42*, it was ruled that in the interest of good order, courts can suspend action in one case pending determination of another case closely interrelated or interlinked with it.

It thus appears that public respondent did not act with grave abuse of discretion x x x when he applied the rule on prejudicial question to the instant proceedings considering that the issue on the validity of the sale transactions x x x by x x x Orendain in behalf of BF Homes, Inc., is closely intertwined with the purported criminal culpability of private respondents, as officers/directors of BF Homes, Inc., arising from their failure to deliver the titles of the parcels of land included in the questioned conveyance.

¹⁴ Id. at 13-21; penned by Associate Justice Rebecca De Guia-Salvador, with the concurrence of Associate Justice Romeo A. Brawner (later Presiding Justice/retired/deceased) and Associate Justice Jose C. Reyes, Jr.

All told, to sustain the petitioner's theory that the result of the HLURB proceedings is not determinative of the criminal liability of private respondents under PD 957 would be to espouse an absurdity. If we were to assume that the HLURB finds BFHI under no obligation to delve the subject titles, it would be highly irregular and contrary to the ends of justice to pursue a criminal case against private respondents for the non-delivery of certificates of title which they are not under any legal obligation to turn over in the first place. (Bold emphasis supplied)

On a final note, absent grave abuse of discretion on the part of the prosecutorial arm of the government as represented by herein public respondent, courts will not interfere with the discretion of a public prosecutor in prosecuting or dismissing a complaint filed before him. A public prosecutor, by the nature of his office, is under no compulsion to file a criminal information where no clear legal justification has been shown, and no sufficient evidence of guilt nor *prima facie* case has been established by the complaining party.

WHEREFORE, premises considered, the instant Petition for Certiorari and Mandamus is hereby **DENIED**. The Resolutions dated 15 October 2001 and 12 July 2002 of the Department of Justice are **AFFIRMED**.

SO ORDERED.¹⁵

The CA denied San Miguel Properties' motion for reconsideration on January 18, 2005.¹⁶

Issues

Aggrieved, San Miguel Properties is now on appeal, raising the following for consideration and resolution, to wit:

THE COURT OF APPEALS COMMITTED GRAVE, SERIOUS AND REVERSIBLE ERRORS WHEN IT DISMISSED PETITIONER'S CERTIORARI AND MANDAMUS PETITION TO ORDER AND DIRECT RESPONDENT SECRETARY TO INDICT RESPONDENTS FOR VIOLATION OF SECTION 25, PD. 957 IN THAT:

1. THE OBLIGATION OF PRIVATE RESPONDENTS TO DELIVER TO PETITIONER THE TITLES TO 20 FULLY-PAID LOTS IS MANDATED BY SECTION 25, PD 957. IN FACT, THE OFFICE OF THE PRESIDENT HAD DULY CONFIRMED THE SAME PER ITS DECISION DATED 27 JANUARY 2005 IN O.P. CASE NO. 03-E-203, ENTITLED "*SMPI V. BF HOMES, INC.*".
2. A *FORTIORI*, PRIVATE RESPONDENTS' FAILURE AND/OR REFUSAL TO DELIVER TO PETITIONER THE SUBJECT

¹⁵ Id. at 19-20.

¹⁶ Id. at 23-25.

TITLES CONSTITUTES CRIMINAL OFFENSE PER SECTIONS 25 AND 39, PD 957 FOR WHICH IT IS THE MINISTERIAL DUTY OF RESPONDENT SECRETARY TO INDICT PRIVATE RESPONDENTS THEREFOR.

3. IN ANY EVENT, THE HLURB CASE DOES NOT PRESENT A “PREJUDICIAL QUESTION” TO THE SUBJECT CRIMINAL CASE SINCE THE FORMER INVOLVES AN ISSUE SEPARATE AND DISTINCT FROM THE ISSUE INVOLVED IN THE LATTER. CONSEQUENTLY, THE HLURB CASE HAS NO CORRELATION, TIE NOR LINKAGE TO THE PRESENT CRIMINAL CASE WHICH CAN PROCEED INDEPENDENTLY THEREOF.
4. IN FACT, THE CRIMINAL CULPABILITY OF PRIVATE RESPONDENTS EMANATE FROM THEIR MALA PROHIBITA NON-DELIVERY OF THE TITLES TO TWENTY (20) FULLY-PAID PARCELS OF LAND TO PETITIONER, AND NOT FROM THEIR NON-COMPLIANCE WITH THE HLURB’S RULING IN THE ADMINISTRATIVE CASE.
5. NONETHELESS, BY DECREEEING THAT PETITIONER’S CRIMINAL COMPLAINT IS PREMATURE, BOTH THE COURT OF APPEALS AND RESPONDENT SECRETARY HAD IMPLIEDLY ADMITTED THE EXISTENCE OF SUFFICIENT PROBABLE CAUSE AGAINST PRIVATE RESPONDENTS FOR THE CRIME CHARGED.¹⁷

It is relevant at this juncture to mention the outcome of the action for specific performance and damages that San Miguel Properties instituted in the HLURB simultaneously with its filing of the complaint for violation of Presidential Decree No. 957. On January 25, 2002, the HLURB Arbiter ruled that the HLURB was inclined to suspend the proceedings until the SEC resolved the issue of Atty. Orendain’s authority to enter into the transactions in BF Homes’ behalf, because the final resolution by the SEC was a logical antecedent to the determination of the issue involved in the complaint before the HLURB. Upon appeal, the HLURB Board of Commissioners (HLURB Board), citing the doctrine of primary jurisdiction, affirmed the HLURB Arbiter’s decision, holding that although no prejudicial question could arise, strictly speaking, if one case was civil and the other administrative, it nonetheless opted to suspend its action on the cases pending the final outcome of the administrative proceeding in the interest of good order.¹⁸

Not content with the outcome, San Miguel Properties appealed to the Office of the President (OP), arguing that the HLURB erred in suspending the proceedings. On January 27, 2004, the OP reversed the HLURB Board’s ruling, holding thusly:

¹⁷ Id. at 37-38.

¹⁸ Id. at 608.

The basic complaint in this case is one for specific performance under Section 25 of the Presidential Decree (PD) 957 – “The Subdivision and Condominium Buyers’ Protective.”

As early as August 1987, the Supreme Court already recognized the authority of the HLURB, as successor agency of the National Housing Authority (NHA), to regulate, pursuant to PD 957, in relation to PD 1344, the real estate trade, with exclusive original jurisdiction to hear and decide cases “involving specific performance of contractual and statutory obligation filed by buyers of subdivision lots ... against the owner, developer, dealer, broker or salesman,” the HLURB, in the exercise of its adjudicatory powers and functions, “must interpret and apply contracts, determine the rights of the parties under these contracts and award[s] damages whenever appropriate.”

Given its clear statutory mandate, the HLURB’s decision to await for some forum to decide – if ever one is forthcoming – the issue on the authority of Orendain to dispose of subject lots before it peremptorily resolves the basic complaint is unwarranted, the issues thereon having been joined and the respective position papers and the evidence of the parties having been submitted. To us, it behooved the HLURB to adjudicate, with the usual dispatch, the right and obligation of the parties in line with its own appreciation of the obtaining facts and applicable law. To borrow from *Mabubha Textile Mills Corporation vs. Ongpin*, it does not have to rely on the finding of others to discharge this adjudicatory functions.¹⁹

After its motion for reconsideration was denied, BF Homes appealed to the CA (C.A.-G.R. SP No. 83631), raising as issues: (a) whether or not the HLURB had the jurisdiction to decide with finality the question of Atty. Orendain’s authority to enter into the transaction with San Miguel Properties in BF Homes’ behalf, and rule on the rights and obligations of the parties to the contract; and (b) whether or not the HLURB properly suspended the proceedings until the SEC resolved with finality the matter regarding such authority of Atty. Orendain.

The CA promulgated its decision in C.A.-G.R. SP No. 83631,²⁰ decreeing that the HLURB, not the SEC, had jurisdiction over San Miguel Properties’ complaint. It affirmed the OP’s decision and ordered the remand of the case to the HLURB for further proceedings on the ground that the case involved matters within the HLURB’s competence and expertise pursuant to the doctrine of primary jurisdiction, viz:

[T]he High Court has consistently ruled that the NHA or the HLURB has jurisdiction over complaints arising from contracts between the subdivision developer and the lot buyer or those aimed at compelling the subdivision developer to comply with its contractual and statutory obligations.

¹⁹ Id. at 609-610.

²⁰ Id. at 504-523.

Hence, the HLURB should take jurisdiction over respondent's complaint because it pertains to matters within the HLURB's competence and expertise. The proceedings before the HLURB should not be suspended.

While We sustain the Office of the President, the case must be remanded to the HLURB. This is in recognition of the doctrine of primary jurisdiction. The fairest and most equitable course to take under the circumstances is to remand the case to the HLURB for the proper presentation of evidence.²¹

Did the Secretary of Justice commit grave abuse of discretion in upholding the dismissal of San Miguel Properties' criminal complaint for violation of Presidential Decree No. 957 for lack of probable cause and for reason of a prejudicial question?

The question boils down to whether the HLURB administrative case brought to compel the delivery of the TCTs could be a reason to suspend the proceedings on the criminal complaint for the violation of Section 25 of Presidential Decree No. 957 on the ground of a prejudicial question.

Ruling of the Court

The petition has no merit.

1.

Action for specific performance, even if pending in the HLURB, an administrative agency, raises a prejudicial question

BF Homes' posture that the administrative case for specific performance in the HLURB posed a prejudicial question that must first be determined before the criminal case for violation of Section 25 of Presidential Decree No. 957 could be resolved is correct.

A prejudicial question is understood in law to be that which arises in a case the resolution of which is a logical antecedent of the issue involved in the criminal case, and the cognizance of which pertains to another tribunal. It is determinative of the criminal case, but the jurisdiction to try and resolve it is lodged in another court or tribunal. It is based on a fact distinct and separate from the crime but is so intimately connected with the crime that it determines the guilt or innocence of the accused.²² The rationale behind the principle of prejudicial question is to avoid conflicting decisions.²³ The

²¹ Id. at 522.

²² *People v. Consing, Jr.*, G.R. No. 148193, January 16, 2003, 395 SCRA 366, 369.

²³ *Beltran v. People*, G.R. No. 137567, June 20, 2000, 334 SCRA 106, 110.

essential elements of a prejudicial question are provided in Section 7, Rule 111 of the *Rules of Court*, to wit: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed.

The concept of a prejudicial question involves a civil action and a criminal case. Yet, contrary to San Miguel Properties' submission that there could be no prejudicial question to speak of because no civil action where the prejudicial question arose was pending, the action for specific performance in the HLURB raises a prejudicial question that sufficed to suspend the proceedings determining the charge for the criminal violation of Section 25²⁴ of Presidential Decree No. 957. This is true simply because the action for specific performance was an action civil in nature but could not be instituted elsewhere except in the HLURB, whose jurisdiction over the action was exclusive and original.²⁵

The determination of whether the proceedings ought to be suspended because of a prejudicial question rested on whether the facts and issues raised in the pleadings in the specific performance case were so related with the issues raised in the criminal complaint for the violation of Presidential Decree No. 957, such that the resolution of the issues in the former would be determinative of the question of guilt in the criminal case. An examination of the nature of the two cases involved is thus necessary.

An action for specific performance is the remedy to demand the exact performance of a contract in the specific form in which it was made, or according to the precise terms agreed upon by a party bound to fulfill it.²⁶ Evidently, before the remedy of specific performance is availed of, there

²⁴ Section 25. Issuance of Title. – The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit. No fee, except those required for the registration of the deed of sale in the Registry of Deeds, shall be collected for the issuance of such title. In the event a mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, the owner or developer shall redeem the mortgage or the corresponding portion thereof within six months from such issuance in order that the title over any fully paid lot or unit may be secured and delivered to the buyer in accordance herewith.

²⁵ Under Presidential Decree No. 1344 (entitled *Empowering the National Housing Authority to Issue Writ of Execution in the Enforcement of its Decision under Presidential Decree No. 957*), the National Housing Authority, the predecessor of the HLURB, was vested with original jurisdiction, as follows:

Section 1. In the exercise of its functions 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 and statutory obligations filed by buyers of subdivision lot or condominium unit against the owner, developer, dealer, broker or salesman.** (Emphasis supplied)

²⁶ Black's Law Dictionary.

must first be a breach of the contract.²⁷ The remedy has its roots in Article 1191 of the *Civil Code*, which reads:

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. x x x (Emphasis supplied)

Accordingly, the injured party may choose between specific performance or rescission with damages. As presently worded, Article 1191 speaks of the remedy of rescission in reciprocal obligations within the context of Article 1124 of the former *Civil Code* which used the term *resolution*. The remedy of resolution applied only to reciprocal obligations, such that a party's breach of the contract equated to a tacit resolutory condition that entitled the injured party to rescission. The present article, as in the former one, contemplates alternative remedies for the injured party who is granted the option to pursue, as principal actions, either the rescission or the specific performance of the obligation, with payment of damages in either case.²⁸

On the other hand, Presidential Decree No. 957 is a law that regulates the sale of subdivision lots and condominiums in view of the increasing number of incidents wherein "real estate subdivision owners, developers, operators, and/or sellers have reneged on their representations and obligations to provide and maintain properly" the basic requirements and amenities, as well as of reports of alarming magnitude of swindling and fraudulent manipulations perpetrated by unscrupulous subdivision and condominium sellers and operators,²⁹ such as failure to deliver titles to the buyers or titles free from liens and encumbrances. Presidential Decree No. 957 authorizes the suspension and revocation of the registration and license of the real estate subdivision owners, developers, operators, and/or sellers in certain instances, as well as provides the procedure to be observed in such instances; it prescribes administrative fines and other penalties in case of violation of, or non-compliance with its provisions.

Conformably with the foregoing, the action for specific performance in the HLURB would determine whether or not San Miguel Properties was legally entitled to demand the delivery of the remaining 20 TCTs, while the criminal action would decide whether or not BF Homes' directors and

²⁷ *Ayala Life Assurance, Inc. v. Ray Burton Development Corporation*, G.R. No. 163075, January 23, 2006, 479 SCRA 462, 469.

²⁸ *Congregation of the Religious of the Virgin Mary v. Orola*, G.R. No. 169790, April 30, 2008, 553 SCRA 578, 585.

²⁹ *Co Chien v. Sta. Lucia Realty & Development Inc.*, G.R. No. 162090, January 31, 2007, 513 SCRA 570, 577-578.

officers were criminally liable for withholding the 20 TCTs. The resolution of the former must obviously precede that of the latter, for should the HLURB hold San Miguel Properties to be not entitled to the delivery of the 20 TCTs because Atty. Orendain did not have the authority to represent BF Homes in the sale due to his receivership having been terminated by the SEC, the basis for the criminal liability for the violation of Section 25 of Presidential Decree No. 957 would evaporate, thereby negating the need to proceed with the criminal case.

Worthy to note at this juncture is that a prejudicial question need not conclusively resolve the guilt or innocence of the accused. It is enough for the prejudicial question to simply test the sufficiency of the allegations in the information in order to sustain the further prosecution of the criminal case. A party who raises a prejudicial question is deemed to have hypothetically admitted that all the essential elements of the crime have been adequately alleged in the information, considering that the Prosecution has not yet presented a single piece of evidence on the indictment or may not have rested its case. A challenge to the allegations in the information on the ground of prejudicial question is in effect a question on the merits of the criminal charge through a non-criminal suit.³⁰

2.

Doctrine of primary jurisdiction is applicable

That the action for specific performance was an administrative case pending in the HLURB, instead of in a court of law, was of no consequence at all. As earlier mentioned, the action for specific performance, although civil in nature, could be brought only in the HLURB. This situation conforms to the *doctrine of primary jurisdiction*. There has been of late a proliferation of administrative agencies, mostly regulatory in function. It is in favor of these agencies that the *doctrine of primary jurisdiction* is frequently invoked, not to defeat the resort to the judicial adjudication of controversies but to rely on the expertise, specialized skills, and knowledge of such agencies in their resolution. The Court has observed that one thrust of the proliferation is that the interpretation of contracts and the determination of private rights under contracts are no longer a uniquely judicial function exercisable only by the regular courts.³¹

The doctrine of *primary jurisdiction* has been increasingly called into play on matters demanding the special competence of administrative agencies even if such matters are at the same time within the jurisdiction of the courts. A case that requires for its determination the expertise, specialized skills, and knowledge of some administrative board or

³⁰ *Marbella-Bobis v. Bobis*, G.R. No. 138509, July 31, 2000, 336 SCRA 747, 752.

³¹ *Antipolo Realty Corporation v. National Housing Authority*, No. L-50444, August 31, 1987, 153 SCRA 399, 407.

commission because it involves technical matters or intricate questions of fact, relief must first be obtained in an appropriate administrative proceeding before a remedy will be supplied by the courts although the matter comes within the jurisdiction of the courts. The application of the doctrine does not call for the dismissal of the case in the court but only for its suspension until after the matters within the competence of the administrative body are threshed out and determined.³²

To accord with the *doctrine of primary jurisdiction*, the courts cannot and will not determine a controversy involving a question within the competence of an administrative tribunal, the controversy having been so placed within the special competence of the administrative tribunal under a regulatory scheme. In that instance, the judicial process is suspended pending referral to the administrative body for its view on the matter in dispute. Consequently, if the courts cannot resolve a question that is within the legal competence of an administrative body prior to the resolution of that question by the latter, especially where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative agency to ascertain technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered, suspension or dismissal of the action is proper.³³

3.

Other submissions of petitioner are unwarranted

It is not tenable for San Miguel Properties to argue that the character of a violation of Section 25 of Presidential Decree No. 957 as *malum prohibitum*, by which criminal liability attached to BF Homes' directors and officers by the mere failure to deliver the TCTs, already rendered the suspension unsustainable.³⁴ The mere fact that an act or omission was *malum prohibitum* did not do away with the initiative inherent in every court to avoid an absurd result by means of rendering a reasonable interpretation and application of the procedural law. Indeed, the procedural law must always be given a reasonable construction to preclude absurdity in its application.³⁵ Hence, a literal application of the principle governing prejudicial questions is to be eschewed if such application would produce unjust and absurd results or unreasonable consequences.

³² *Industrial Enterprises, Inc. v. Court of Appeals*, G.R. No. 88550, April 18, 1990, 184 SCRA 426, 431-432.

³³ *Provident Tree Farms, Inc. v. Batario, Jr.*, G.R. No. 92285, March 28, 1994, 231 SCRA 463, 469-470; *Saavedra, Jr. v. Department of Justice*, G.R. No. 93173, September 15, 1993, 226 SCRA 438, 442-443; *Presidential Commission on Good Government v. Peña*, No. L-77663, April 12, 1988, 159 SCRA 556, 567-568; *Pambujan Sur United Mine Workers v. Samar Mining Co., Inc.*, 94 Phil 932, 941 (1954).

³⁴ *Rollo*, p. 49

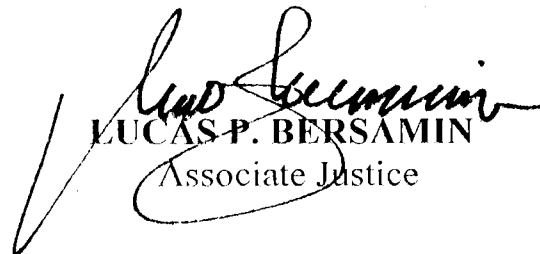
³⁵ *Millares v. National Labor Relations Commission*, G.R. No. 110524, July 29, 2002, 385 SCRA 306, 316.

San Miguel Properties further submits that respondents could not validly raise the prejudicial question as a reason to suspend the criminal proceedings because respondents had not themselves initiated either the action for specific performance or the criminal action. It contends that the defense of a prejudicial question arising from the filing of a related case could only be raised by the party who filed or initiated said related case.

The submission is unfounded. The rule on prejudicial question makes no distinction as to who is allowed to raise the defense. *Ubi lex non distinguit nec nos distinguere debemus*. When the law makes no distinction, we ought not to distinguish.³⁶

WHEREFORE, the Court **AFFIRMS** the decision promulgated on February 24, 2004 by the Court of Appeals in CA-G.R. SP NO. 73008; and **ORDERS** petitioner to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

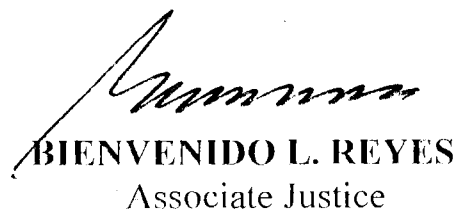
WE CONCUR:



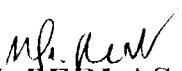
MARIA LOURDES P.A. SERENO
Chief Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. BERLAS-BERNABE
Associate Justice

³⁶ *Yu v. Tatad*, G.R. No. 170979, February 9, 2011, 642 SCRA 421, 428.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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