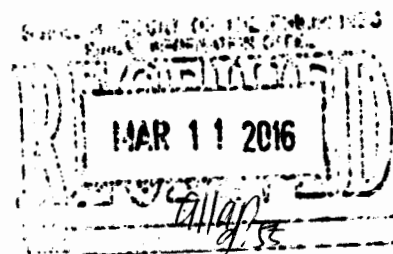




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

**MEGAWORLD PROPERTIES
 AND HOLDINGS, INC.,
 EMPIRE EAST LAND
 HOLDINGS, INC., and
 ANDREW L. TAN,**

Petitioners,

- versus -

**MAJESTIC FINANCE AND
 INVESTMENT CO., INC.,
 RHODORA LOPEZ-LIM, and
 PAULINA CRUZ,**

Respondents.

G.R. No. 169694

Present:

SERENO, C.J.,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PEREZ, and
 PERLAS-BERNABE, JJ.

Promulgated:

DEC 09 2015

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DECISION

BERSAMIN, J.:

This case arises from a dispute on whether either party of a joint venture agreement to develop property into a residential subdivision has already performed its obligation as to entitle it to demand the performance of the other's reciprocal obligation.

The Case

Under review is the decision promulgated on April 27, 2005,¹ whereby the Court of Appeals (CA) upheld the order issued on November 5, 2002 by the Regional Trial Court, Branch 67, in Pasig City (RTC) in Civil Case No. 67813 directing the defendants (petitioners herein) to perform their obligation to provide round-the-clock security for the

¹ *Rollo*, pp. 378-393; penned by Associate Justice Arturo D. Brion (now a Member of the Court), with the concurrence of Associate Justice Eugenio S. Labitoria (retired) and Associate Justice Eliezer R. De Los Santos (retired/deceased).

property under development.² Also appealed is the resolution promulgated on September 12, 2005 denying the petitioners' motion for reconsideration.³

Antecedents

On September 23, 1994, Megaworld Properties and Holdings, Inc. (developer) entered into a Joint Venture Agreement (JVA)⁴ with Majestic Finance and Investment Co., Inc. (owner) for the development of the residential subdivision located in Brgy. Alingaro, General Trias, Cavite. According to the JVA, the development of the 215 hectares of land belonging to the owner (joint venture property) would be for the sole account of the developer;⁵ and that upon completion of the development of the subdivision, the owner would compensate the developer in the form of saleable residential subdivision lots.⁶ The JVA further provided that the developer would advance all the costs for the relocation and resettlement of the occupants of the joint venture property, subject to reimbursement by the owner;⁷ and that the developer would deposit the initial amount of ₱10,000,000.00 to defray the expenses for the relocation and settlement, and the costs for obtaining from the Government the exemptions and conversion permits, and the required clearances.⁸

On September 24, 1994, the developer and owner agreed, through the addendum to the JVA,⁹ to increase the initial deposit for the settlement of claims and the relocation of the tenants from ₱10,000,000.00 to ₱60,000,000.00.

On October 27, 1994, the developer, by deed of assignment,¹⁰ transferred, conveyed and assigned to Empire East Land Holdings, Inc. (developer/assignee) all its rights and obligations under the JVA including the addendum.

On February 29, 2000, the owner filed in the RTC a complaint for specific performance with damages against the developer, the developer/assignee, and respondent Andrew Tan, who are now the petitioners herein. The complaint, docketed as Civil Case No. 67813, was mainly based on the failure of the petitioners to comply with their obligations under the JVA,¹¹ including the obligation to maintain a

² Id. at 111.

³ Id. at 413-415.

⁴ Id. at 113-123.

⁵ Id. at 117 (Art. III (e), JVA).

⁶ Id. at 118 (Art. IV, JVA).

⁷ Id. at 116 (Art. III(a) par. 1, JVA).

⁸ Id. (Art. III(a) par. 2, JVA).

⁹ Id. at 124.

¹⁰ Id. at 126-128.

¹¹ Id. at 167-202.

strong security force to safeguard the entire joint venture property of 215 hectares from illegal entrants and occupants.

Following the joinder of issues by the petitioners' answer with counterclaim, and by the respondents' reply with answer to the counterclaim, the RTC set the pre-trial of the case. At the conclusion of the pre-trial conference, the presentation of the owner's evidence was suspended because of the parties' manifestation that they would settle the case amicably. It appears that the parties negotiated with each other on how to implement the JVA and the addendum.

On September 16, 2002, the owner filed in the RTC a manifestation and motion,¹² praying therein that the petitioners be directed to provide round-the-clock security for the joint venture property in order to defend and protect it from the invasion of unauthorized persons. The petitioners opposed the manifestation and motion,¹³ pointing out that: (1) the move to have them provide security in the properties was premature; and (2) under the principle of reciprocal obligations, the owner could not compel them to perform their obligations under the JVA if the owner itself refused to honor its obligations under the JVA and the addendum.

On November 5, 2002, the RTC issued its first assailed order,¹⁴ directing the developer to provide sufficient round-the-clock security for the protection of the joint venture property, as follows:

For consideration is a "Manifestation and Motion" filed by plaintiff, through counsel, defendants having filed their Opposition thereto, the incident is now ripe for resolution.

After a careful examination of the records of this case, the Court believes that the defendants should provide security for the 215 hectares land subject of the joint venture agreement to protect it from unlawful elements as well as to avoid undue damage which may be caused by the settling of squatters. As specified in Article III par. (j) of the joint venture agreement which was entered into by plaintiffs and defendants, the latter shall at its exclusive account and sole expense secure the land in question from the influx of squatters and/or unauthorized settlers, occupants, tillers, cultivators and the likes from date of execution of this agreement.

WHEREFORE, and as prayed for, the Court hereby directs the defendants to provide sufficient round the clock security for the protection of the 215 hectares land subject of the joint venture agreement during the pendency of this case.

SO ORDERED.

¹² Id. at 269-271.

¹³ Id. at 272-275.

¹⁴ Id. at 111.

AS

The petitioners sought the reconsideration of the November 5, 2002 order,¹⁵ but the RTC denied the motion on May 19, 2003,¹⁶ observing that there was no reason to reverse the order in question considering that the allegations in the motion for reconsideration, being a mere rehash of those made earlier, had already been passed upon.

On August 4, 2003, the petitioners instituted a special civil action for *certiorari* in the CA,¹⁷ claiming therein that the RTC thereby gravely abused its discretion amounting to lack or excess of jurisdiction in issuing the order of November 5, 2002, specifying the following grounds, namely:

THE PUBLIC RESPONDENT GRAVELY ABUSED HIS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DIRECTING PETITIONERS TO PROVIDE ROUND THE CLOCK SECURITY GUARDS ON THE SUBJECT PROPERTIES.

I. THE PUBLIC RESPONDENT ARBITRARILY AND PREMATURELY DISPOSED OF ONE OF THE RELIEF[S] PRAYED FOR BY PRIVATE RESPONDENTS IN THEIR COMPLAINT WHEN TRIAL HAS NOT EVEN STARTED.

II. PUBLIC RESPONDENT ARBITRARILY DISREGARDED THE FACT THAT THE PARTIES ARE DISCUSSING HOW TO PURSUE THE JVA.

III. PUBLIC RESPONDENT ARBITRARILY DISREGARDED THE PRINCIPLE OF "RECIPROCAL OBLIGATIONS" UNDER THE CIVIL CODE.

On April 27, 2005, the CA promulgated its assailed decision dismissing the petitioner's petition for *certiorari*,¹⁸ ruling thusly:

On the merits of the petition, our examination of the records shows nothing whimsical or arbitrary in the respondent judge's order directing the petitioners to provide security over the joint venture property. Like the respondent judge, we believe that the obligation of the petitioners under the JVA to provide security in the area, as spelled out under Article II, par. (c) and Article III, paragraphs (h) and (j), is well established, thus:

x x x x

These clear and categorical provisions in the JVA –which petitioners themselves do not question –obviously belie their contention that the respondent judge's order to provide security for the property is premature at this stage. The petitioner's obligation to secure the property under the JVA arose upon the execution of the Agreement, or as

¹⁵ Id. at 277-283.

¹⁶ Id. at 112.

¹⁷ Id. at 74-103.

¹⁸ Id. at 378-393.

soon as the petitioners acquired possession of the joint venture property in 1994, and is therefore already demandable. The settled rule is that “contracts are the laws between the contracting parties, and if their terms are clear and leave no room for doubt as to their intentions, the contracts are obligatory no matter what their forms may be, whenever the essential requisites for their validity are present.” Thus, unless the existence of this particular obligation – i.e., to secure the joint venture property – is challenged, petitioners are bound to respect the terms of the Agreement and of his obligation as the law between them and MAJESTIC.

We stress along this line that the complaint MAJESTIC filed below is for specific performance and is not for rescission of contract. The complaint presupposes existing obligations on the part of the petitioners that MAJESTIC seeks to be carried out in accordance with the terms of the Agreement. Significantly, MAJESTIC did not pray in the complaint that petitioners be ordered to secure the area from the influx of illegal settlers and squatters because petitioner’s obligation in this regard commenced upon the execution of the JVA and hence, is already an existing obligation. What it did ask is for the petitioners to maintain a strong security force at all times over the area, in keeping with their commitment to secure the area from the influx of illegal settlers and occupant. To be sure, to “maintain” means “to continue”, “to carry on”, to “hold or keep in any particular state or condition” and presupposes an obligation that already began. Thus, contrary to petitioner’s submissions, the question of whether or not they have the obligation to provide security in the area is not at all an issue in the case below. The issue MAJESTIC presented below is whether or not petitioner should be ordered to maintain a strong security force within the joint venture property. Hence, in issuing the assailed orders, the public respondent prejudged no issue that is yet to be resolved after the parties shall have presented their evidence.

Our conclusion (that the petitioner’s obligation to secure and protect the joint venture property is a non-issue in the case below) necessarily explains why the first assailed order –although not in the form of a preliminary mandatory injunction –is nonetheless legally justified. As an established and undisputed interim measure pending the resolution of the case on the merits, we do not see its enforcement as hindrance to whatever negotiations the parties may undertake to settle their dispute.

Nor do we find the principle of reciprocal obligations a justification for petitioner’s refusal to perform their commitment of safeguarding the joint venture property. For, while it is true that the JVA gives rise to reciprocal obligations from both parties, these obligations are not necessarily demandable at the same time. MAJESTIC’s initial obligation under the JVA is to deliver or surrender to the petitioners the possession of the joint venture property –an obligation it fulfilled upon the execution of the Agreement. MAJESTIC’s obligation under the JVA to deliver to the petitioners the titles to the joint venture property and to reimburse them for tenant-related expenses are demandable at later stages of the contract or upon completion of the development, and therefore may not be used by the petitioners as an excuse for not complying with their own currently demandable obligation.

All told, we believe that securing and protecting the area from unlawful elements benefits both the developer and the landowner who are equally keen in safeguarding their interests in the project. Otherwise stated, incursion by unlawful settlers into an unsecured and unprotected joint venture property can only cause great loss and damage to both parties. Reasons of practicality within legal parameters, rather than grave abuse of discretion, therefore underlie the respondent judge's challenged orders.

WHEREFORE, premises considered, we hereby DISMISS the petition for lack of merit.

SO ORDERED.¹⁹ (Emphasis omitted)

On May 26, 2005, the petitioners filed a motion for reconsideration,²⁰ but the CA denied the motion on September 12, 2005.²¹

Hence, this appeal by petition for review on *certiorari*.

Issues

The petitioner submits the following issues:

- a. Whether or not the petitioners are obligated to perform their obligations under the JVA, including that of providing round-the-clock security for the subject properties, despite respondents' failure or refusal to acknowledge, or perform their reciprocal obligations there;
- b. Whether or not the RTC gravely abused its discretion in directing the petitioners to perform their obligations under the JVA, including that of providing round-the-clock security for the subject properties, although the JVA had been suspended due to the parties' disagreement as to how to implement the same;
- c. Whether or not the RTC gravely abused its discretion in issuing the first and second assailed orders and prematurely resolving and disposing of one of the causes of action of the respondents, which was to provide round-the-clock security for the subject properties, an issue proposed by the respondents, even before the termination of the pre-trial;
- d. Whether or not the RTC gravely abused its discretion in issuing the first and second assailed orders in clear disregard of the mandatory requirements of Rule 58 of the *Rules of Court*.²²

¹⁹ Id. at 388-395.

²⁰ Id. at 394-411.

²¹ Id. at 413-415.

²² Id. at 29-30.

Ruling of the Court

The appeal is meritorious. The CA erred in upholding the November 5, 2002 order of the RTC.

The obligations of the parties under the JVA were unquestionably reciprocal. Reciprocal obligations are those that arise from the same cause, and in which each party is a debtor and a creditor of the other at the same time, such that the obligations of one are dependent upon the obligations of the other. They are to be performed simultaneously, so that the performance by one is conditioned upon the simultaneous fulfillment by the other.²³ As the Court has expounded in *Consolidated Industrial Gases, Inc. v. Alabang Medical Center*:²⁴

Reciprocal obligations are those which arise from the same cause, and in which each party is a debtor and a creditor of the other, such that the obligation of one is dependent upon the obligation of the other. They are to be performed simultaneously, so that the performance of one is conditioned upon the simultaneous fulfillment of the other. In reciprocal obligations, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfills his obligation, delay by the other begins.

x x x x

In reciprocal obligations, before a party can demand the performance of the obligation of the other, the former must also perform its own obligation. For its failure to turn over a complete project in accordance with the terms and conditions of the installation contracts, CIGI cannot demand for the payment of the contract price balance from AMC, which, in turn, cannot legally be ordered to pay.²⁵

The determination of default on the part of either of the parties depends on the terms of the JVA that clearly categorized the parties' several obligations into two types.

The first type related to the *continuous obligations* that would be continuously performed from the moment of the execution of the JVA until the parties shall have achieved the purpose of their joint venture. The continuous obligations under the JVA were as follows: (1) the developer would secure the joint venture property from unauthorized occupants;²⁶ (2) the owner would allow the developer to take possession of the joint venture property;²⁷ (3) the owner would deliver any and all documents necessary for

²³ *Asuncion v. Evangelista*, G.R. No. 133491, October 13, 1999, 316 SCRA 848, 873, citing IV Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, 1985 edition, p. 175.

²⁴ G.R. No. 181983, November 13, 2013, 709 SCRA 409.

²⁵ Id. at 422-423, 431.

²⁶ *Rollo*, p. 117 (Art. III(j), JVA).

²⁷ Id. at 116 (Art. II(c), JVA).

the accomplishment of each activity;²⁸ and (4) both the developer and the owner would pay the real estate taxes.²⁹

The second type referred to the *activity obligations*. The following table shows the activity obligations of the parties under the JVA, to wit:

SEQUENCE OF ACTIVITIES (Article XIV of the JVA)		
ACTIVITY	OWNER OBLIGATION	DEVELOPER OBLIGATION
Signing of JVA.	Sign JVA Art. II(b) Deliver any and all documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes Art. II(g) Warrant absolute ownership	Sign JVA Art. V par. 2 Pay real estate taxes Art. IIIa par. 2 Deposit ₱10M
DEVELOPER to negotiate immediately with all tenants, settlers, occupants, tillers, cultivators of the land in question.	Art. II(b) Deliver any and all documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes Art. II(c) Allow DEVELOPER to take possession of subject property	Art. V par. 2 Pay real estate taxes Art. II(c) Take possession of the parcels of land Art. III (j) Secure property from invasion of squatters and other elements Art. III (c) To negotiate with occupants
DEVELOPER to pay and settle all monetary claims of all tenants, settlers, occupants, tillers, cultivators of the land.	Art. II(b) Deliver any and all documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes Art. VI Must consent on the reasonableness of the expenses.	Art. V par. 2 Pay real estate taxes Art. II(c) Take possession of the parcels of land Art. III (j) Secure property from invasion of squatters and other elements Art. III(a) par. 1 Advance expense for settlement and relocation Art. III(a) par. 2 Deposit ₱10M in a joint account of parties.
DEVELOPER to relocate and transfer all the tenants,	Art. II(b) Deliver any and all	Art. V par. 2 Pay real estate taxes

²⁸ Id. at 115 (Art. II(b), JVA).

²⁹ Id. at 118 (Art. V par. 2, JVA).

<p>settlers, occupants, tillers, cultivators of the land to their relocation site, and shall endeavor to fulfill the same and the two immediately preceding paragraphs (b & c) up to the extent of 75% accomplishment thereof within a period of one (1) year from date of execution of this Agreement. The remaining 25% of the same requirements shall be fully accomplished within another 6 months from date of expiration of the original one-year period.</p>	<p>documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes Art. II(d) Agree to allocate and aggregate a resettlement site within the property subject to mutually accepted conditions. Art. VI Must consent on the reasonableness of the expenses.</p>	<p>Art. II(c) Take possession of the parcels of land Art. III (j) Secure property from invasion of squatters and other elements Art. III(a) par. 1 Advance expense for settlement and relocation Art. III(a)par. 2 Deposit ₱10M in a joint account of OWNER and DEVELOPER Art. III(c) Relocate the occupants</p>
<p>DEVELOPER to apply for and secure exemption or conversion permit and such other related requirements needed for the approval of exemption or conversion application of the land in question within a period of one and a half (1 ½) years from date of execution of this Agreement subject to a six (6) month extension.</p>	<p>Art. II(b) Deliver any and all documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes Art. II(f) Assist DEVELOPER secure exemption from CARL and conversion/reclassification of subject property Art. III(b) Give DEVELOPER authority to apply for exemption, conversion and re-classification. Art. VI Must consent on the reasonableness of the expenses.</p>	<p>Art. V par. 2 Pay real estate taxes Art. II(c) Take possession of the parcels of land Art. III (j) Secure property from invasion of squatters and other elements Art. III(a) Advance expenses for exemption, conversion, re-classification expenses. Art.III(b) secure exemption and conversion permit</p>
<p>DEVELOPER to lay out a complete Development Plan</p>	<p>Art. III(i) Give written conformity to the development plan</p>	<p>Art. III(d) Complete comprehensive development plan (within 6 months to one year from the execution of the JVA)</p>
<p>DEVELOPER to apply for and secure all necessary development permit, performance bonds, environmental compliance certificate, license to sell and all other related</p>	<p>Art. II(b) Deliver any and all documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes</p>	<p>Art. V par. 2 Pay real estate taxes Art. II(c) Take possession of the parcels of land Art. III (j) Secure property from</p>

requirement from the pertinent Municipal Government , DENR, HLURB and other governmental agencies concerned within a period of 2 years from date of execution of this Agreement.		invasion of squatters and other elements Art. III(f) Secure development permit, ECC, License to Sell, etc.
DEVELOPER construction stage/ground breaking to commence after release of DAR exemption permit or conversion clearance and approval of other required permits by pertinent agencies of the government.	Art. II(b) Deliver any and all documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes	Art. V par. 2 Pay real estate taxes Art. II(c) Take possession of the parcels of land Art. III (j) Secure property from invasion of squatters and other elements Art. III(c) Mobilize development work and solely pay its expenses Art. III(f) Develop the property and solely pay its expenses on necessary permits
DEVELOPER to secure approval of subdivision plan and technical description from the Bureau of Lands based on the approved scheme and thereafter to petition, follow-up and secure the release of individual titles for all lots in the project in the respective names of the parties from the register of deeds.	Art. II(b) Deliver any and all documents required for the successful development of the Project Art. V par. 2 Pay real estate taxes Art. II(a) Deliver titles to DEVELOPER Art. II(a) Execute Deed of Assignment Art. III(a) Pay all expenses for settlement of claims, relocation, application for exemption, conversion, re-classification.	Art. V par. 2 Pay real estate taxes Art. II(c) Take possession of the parcels of land Art. III (j) Secure property from invasion of squatters and other elements Art. III(k) Process titling of lots
Market and Sell the property	Fix selling date	Fix selling date
Owner to reimburse and pay the DEVELOPER		

The activities under the JVA fell into seven major categories, specifically: (1) the relocation of the occupants; (2) the completion of the

development plan; (3) the securing of exemption and conversion permits; (4) the obtention of the development permits from government agencies; (5) the development of the subject land; (6) the issuance of titles for the subdivided lots; and (7) the selling of the subdivided lots and the reimbursement of the advances.

For the first activity (*i.e.*, the relocation of the occupants), the developer was obliged to negotiate with the occupants, to advance payment for disturbance compensation, and to relocate the occupants to an area within the subject land, while the owner was obliged to agree to and to allocate the resettlement site within the property, and to approve the expenses to be incurred for the process. Should the owner fail to allocate the site for the resettlement, the obligation of the developer to relocate would not be demandable. Conversely, should the developer fail to negotiate with the occupants, the owner's obligation to allocate the resettlement site would not become due.

As to the second activity (*i.e.*, the completion of the development plan), the developer had the obligation to lay out the plan, but the owner needed to conform to the plan before the same was finalized. Accordingly, the final development plan would not be generated should the owner fail to approve the lay-out plan; nor would the owner be able to approve if no such plan had been initially laid out by the developer.

In each activity, the obligation of each party was dependent upon the obligation of the other. Although their obligations were to be performed simultaneously, the performance of an activity obligation was still conditioned upon the fulfillment of the continuous obligation, and vice versa. Should either party cease to perform a continuous obligation, the other's subsequent activity obligation would not accrue. Conversely, if an activity obligation was not performed by either party, the continuous obligation of the other would cease to take effect. The performance of the continuous obligation was subject to the resolutive condition that the *precedent* obligation of the other party, whether continuous or activity, was fulfilled as it became due. Otherwise, the continuous obligation would be extinguished.

According to Article 1184 of the *Civil Code*, the condition that some event happen at a determinate time shall extinguish the obligation as soon as the time expires, or if it has become indubitable that the event will not take place. Here, the common cause of the parties in entering into the joint venture was the development of the joint venture property into the residential subdivision as to eventually profit therefrom. Consequently, all of the obligations under the JVA were subject to the happening of the complete development of the joint venture property, or if it would become indubitable that the completion would not take place, like when an

obligation, whether continuous or activity, was not performed. Should any of the obligations, whether continuous or activity, be not performed, all the other *remaining* obligations would not ripen into demandable obligations while those already performed would cease to take effect. This is because every single obligation of each party under the JVA rested on the common cause of profiting from the developed subdivision.

It appears that upon the execution of the JVA, the parties were performing their respective obligations until disagreement arose between them that affected the subsequent performance of their accrued obligations. Being reciprocal in nature, their respective obligations as the owner and the developer were dependent upon the performance by the other of its obligations; hence, any claim of delay or non-performance against the other could prosper only if the complaining party had faithfully complied with its own correlative obligation.³⁰

A respected commentator has cogently observed in this connection:³¹

§ 135. **Same; consequences of simultaneous performance.** As a consequence of the rule of simultaneous performance, if the party who has not performed his obligation demands performance from the other, the latter may interpose the defense of unfulfilled contract (*exceptio non adimpleti contractus*) by virtue of which he cannot be obliged to perform while the other's obligation remains unfulfilled. Hence, the Spanish Supreme Court has ruled that the non-performance of one party is justified if based on the non-performance of the other; that the party who has failed to perform cannot demand performance from the other; and that judicial approval is not necessary to release a party from his obligation, the non-performance of the other being a sufficient defense against any demand for performance by the guilty party.

Another consequence of simultaneous performance is the rule of *compensatio morae*, that is to say that neither party incurs in delay if the other does not or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfills his obligations, delay by the other begins.

Yet, the record is bereft of the proof to support the lower courts' unanimous conclusion that the owner had already performed its correlative obligation under the JVA as to place itself in the position to demand that the developer should already perform its obligation of providing the round-the-clock security on the property. In issuing its order of November 5, 2002, therefore, the RTC acted whimsically because it did not first ascertain whether or not the precedent reciprocal obligation of the owner upon which the demanded obligation of the developer was dependent had already been

³⁰ Article 38, *Civil Code*; please see *Consolidated Industrial Gases, Inc. v. Alabang Medical Centers*, G.R. No. 181983, November 13, 2013, 709 SCRA 409.

³¹ IV Caguioa, *Cases and Comments on Civil Law*, Premium Book Store, Manila, 1983 Revised Second Edition, pp. 175-176.

performed. Without such showing that the developer had ceased to perform a continuous obligation to provide security over the joint venture property *despite complete fulfillment by the owner of all its accrued obligations*, the owner had no right to demand from the developer the round-the-clock security over the 215 hectares of land.

The CA further gravely erred in characterizing the order for the petitioners to implement the round-the-clock security provision of the JVA and the addendum as an established and undisputed interim measure that could be issued pending the resolution of the case on the merits.

Apart from the provisional remedies expressly recognized and made available under Rule 56 to Rule 61 of the *Rules of Court*, the Court has sanctioned only the issuance of the *status quo ante* order but only to maintain the last, actual, peaceable and uncontested state of things that preceded the controversy.³² The eminent Justice Florenz D. Regalado,³³ an authority on remedial law, has delineated the nature of the *status quo ante* order, and distinguished it from the provisional remedy of temporary restraining order, as follows:

There have been instances when the Supreme Court has issued a *status quo* order which, as the very term connotes, is merely intended to maintain the last, actual, peaceable and uncontested state of things which preceded the controversy. This was resorted to when the projected proceedings in the case made the conservation of the *status quo* desirable or essential, but the affected party neither sought such relief or the allegations in his pleading did not sufficiently make out a case for a temporary restraining order. The *status quo* order was thus issued *motu proprio* on equitable considerations. Also, unlike a temporary restraining order or a preliminary injunction, a *status quo* order is more in the nature of a cease and desist order, since it neither directs the doing or undoing of acts as in the case of prohibitory or mandatory injunctive relief. The further distinction is provided by the present amendment in the sense that, unlike the amended rule on restraining orders, a *status quo* order does not require the posting of a bond.

The order of November 5, 2002, by directing the developer to provide sufficient round-the-clock security for the protection of the joint venture property during the pendency of the case, was not of the nature of the *status quo ante* order because the developer, as averred in the complaint, had not yet provided a single security watchman to secure the entire 215 hectares of land for several years.³⁴ Also, the owner stated in the comment to the petition that the developer had dismissed all the security guards posted in the property since 1997.³⁵ At the time of the filing of the complaint for specific

³² *Garcia v. Mojica*, G.R. No. 139043, September 10, 1999, 314 SCRA 207, 215.

³³ *I Remedial Law Compendium*, 6th Revised Edition, 1997, p. 651.

³⁴ *Rollo*, p. 184.

³⁵ *Id.* at 1014.

performance on February 29, 2000, therefore, the last actual, peaceable and uncontested state of things preceding the controversy was the absence of such security, not the installation of the security personnel/measures. In fact, the failure of the developer to provide the round-the-clock security itself became the controversy that impelled the owner to bring the action against the petitioners.

By preliminarily directing the developer to provide sufficient round-the-clock security for the protection of the joint venture property during the pendency of the case, the November 5, 2002 order of the RTC did not come under the category of the *status quo ante* order that would issue upon equitable consideration, or even of an injunctive relief that would issue under Rule 58 of the *Rules of Court*. Hence, the issuance of the order constituted a blatant jurisdictional error that needed to be excised. Verily, a jurisdictional error is one by which the act complained of was issued by the court without or in excess of jurisdiction.³⁶ *Without jurisdiction* means that the court acted with absolute want of jurisdiction. *Excess of jurisdiction* means that the court has jurisdiction but has transcended the same or acted without any statutory authority.³⁷

Although the RTC undoubtedly had jurisdiction to hear and decide the principal action for specific performance as well as to act on the motions submitted to it in the course of the proceedings, the distinction between jurisdiction over the case and jurisdiction to issue an interlocutory order as an ancillary remedy incident to the principal action should be discerned. We have frequently declared that a court may have jurisdiction over the principal action but may nevertheless act irregularly or in excess of its jurisdiction in the course of its proceedings by the granting of an auxiliary remedy.³⁸ In *Leung Ben v. O'Brien*,³⁹ for instance, this Court has thus clarified:

It may be observed in this connection that the word "jurisdiction" as used in attachment cases, has reference not only to the authority of the court to entertain the principal action but also to its authority to issue the attachment, as dependent upon the existence of the statutory ground. (6 C. J., 89.) This distinction between jurisdiction to issue the attachment as an ancillary remedy incident to the principal litigation is of importance; as a court's jurisdiction over the main action may be complete, and yet it may lack authority to grant an attachment as ancillary to such action. This distinction between jurisdiction over the ancillary has been recognized by this court in connection with actions involving the appointment of a receiver. Thus in *Rocha & Co. vs. Crossfield and Figueras* (6 Phil. Rep., 355), a receiver had been appointed without legal justification. It was held that the order making the appointment was beyond the jurisdiction of the court; and though the court admittedly had jurisdiction of the main cause,

³⁶ *Villareal v. Aliga*, G.R. No. 166995, January 13, 2014, 713 SCRA 52, 73.

³⁷ *Leynes v. Former Tenth Division of the Court of Appeals*, G.R. No. 154462, January 19, 2011, 640 SCRA 25, 39.

³⁸ *Campos v. Del Rosario*, 41 Phil. 45, 48 (1920).

³⁹ 38 Phil. 182, 186-187 (1918).

the order was vacated by this court upon application a writ of certiorari. (See Blanco vs. Ambler, 3 Phil. Rep., 358, Blanco vs. Ambler and McMicking 3 Phil. Rep., 735, Yangco vs. Rohde, 1 Phil. Rep., 404.)

By parity of reasoning it must follow that when a court issues a writ of attachment for which there is no statutory authority, it is acting irregularly and in excess of its jurisdiction, in the sense necessary to justify the Supreme Court in granting relief by the writ of certiorari.


WHEREFORE, the Court **GRANTS** the petition for review on *certiorari*; **REVERSES** and **SETS ASIDE** the decision promulgated on April 27, 2005 and the resolution promulgated on September 12, 2005; **NULLIFIES** the orders issued on November 5, 2002 and May 19, 2003 in Civil Case No. 67813 by the Regional Trial Court, Branch 67, in Pasig City; **DIRECTS** the Regional Trial Court, Branch 67, in Pasig City to resume the proceedings in Civil Case No. 67813 with dispatch; and **ORDERS** the respondents to pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

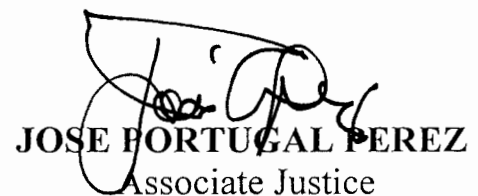
WE CONCUR:



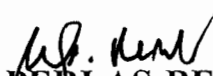
MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



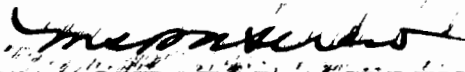
JOSE PORTUGAL PEREZ
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

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