



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BUENAVISTA PROPERTIES, INC.,
and/or JOSEPHINE CONDE,
 Petitioners,

G.R. No. 212980

Present:

- versus -

CARPIO,* *J.*, Chairperson,
 BRION,
 DEL CASTILLO,
 MENDOZA, and
 LEONEN, *JJ.*

RAMON G. MARIÑO, represented by
ATTY. OSWALDO F. GABAT as
 Attorney-in-Fact and Counsel *vice*
ATTY. AMADO DELORIA, former
 Attorney-in-Fact and counsel,
 Respondent.

Promulgated:

19 OCT 2016

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RESOLUTION

BRION, J.:

Before us is the petitioners' **Motion for Reconsideration with Leave of Court** addressing the April 4, 2016 Resolution of this Court that denied "the motion with FINALITY, no substantial argument having been adduced to warrant the reconsideration sought." The previously denied motion was the petitioners' motion for reconsideration of our Resolution dated September 17, 2014, which denied the petition for review on certiorari.

I. FACTUAL BACKDROP OF GR NO. 212980:

The Spouses Buencamino and Spouses San Juan (*landowners*) entered into a Joint Venture Agreement (*JVA*) with *La Savoie* Development Corporation. The parties agreed that La Savoie would develop the three (3) parcels of land located in San Rafael, Bulacan into a commercial and residential subdivision (*Buenvista Park Subdivision*), and manage the

* Designated as Acting Chief Justice per Special Order No. 2386 dated September 29, 2016.

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project including its sales. The pricing of the lots were to be determined jointly by the landowners and La Savoie.

The landowners subsequently sold their property to Josephine Conde (*Conde*) who assigned her interests to Buenavista Properties, Inc. (*BPI*). Conde and BPI thereafter executed an **Addendum**¹ (to the JVA) extending the period of development to 1997.

Soon after, BPI, through Conde, wrote La Savoie several letters asking the latter “to stop selling until [it has] put enough development to obtain the best prices”,² and until they have agreed on the revised prices. In a letter dated **August 17, 1997**, BPI reiterated its request and to “immediately stop selling the subdivision lots until [they] have agreed on the prices x x x otherwise, [it] shall be forced to invoke the termination clause of the JVA.”³ BPI’s requests were left unheeded.

On **July 18, 1997**, respondent Ramon G. Mariño (*Mariño*) and La Savoie, through its President Jeanne Menguito (*Menguito*), entered into a **Contract to Sell**⁴ involving a parcel of land in Buenavista Park Subdivision. Paragraph 4 of the Contract provides that upon complete payment of the purchase price, La Savoie agrees to execute a final deed of sale in favour of Mariño.

On **February 28, 1998**, BPI filed before the Regional Trial Court (*RTC*) a complaint against La Savoie for the termination of the JVA, recovery of properties plus damages, with a prayer for a temporary restraining order and a writ of preliminary injunction⁵ (*JVA rescission case*). The RTC issued a **writ of preliminary injunction on August 11, 1998**, enjoining La Savoie from selling the remaining unsold lots in the Buenavista Park Subdivision.⁶

Mariño **completed the payment** for the subdivision lot on **September 19, 2001**. La Savoie thereafter transmitted the corresponding Deed of Absolute Sale to BPI for its execution.⁷ Despite demands, BPI refused to sign the Deed and to deliver the title in favor of Mariño. BPI claimed that La Savoie, in excess of authority, sold the subdivision lots in prices fixed unilaterally and without BPI’s approval.

In a decision⁸ dated **June 12, 2003**, the RTC, among others: (1) terminated the JVA and the Addendum to the JVA; and (2) ordered La

¹ *Rollo*, pp. 212-215.

² Letter dated September 30, 1996, *id.* at 218.

See also BPI’s July 22, 1996 and August 15, 1996 letters requesting La Savoie to suspend the sale of the lots immediately upon receipt of the letter until such time as they have agreed on the new pricing of the lots, *id.* at 216-217 respectively.

³ *Id.* at 219.

⁴ *Id.* at 142-146.

⁵ Docketed as Civil Case No. Q-98-33682.

⁶ *Rollo*, pp. 229-230.

⁷ October 9, 2002 letter, *id.* at 134.

⁸ Issued by Judge Lydia Querubin Layosa, *id.* at 231-237.

Savoie to deliver to BPI the possession of the Buenavista Park Subdivision together with all the improvements thereon.

Mariño subsequently filed before the Housing and Land Use Regulatory Board (*HLURB*) an action for specific performance against the petitioners.

In its decision dated **June 5, 2006**, the HLURB-Legal Services Group ordered the petitioners to: (1) deliver the title, covering the purchased subdivision lot, to Mariño under the latter's name free from all liens and encumbrances within thirty days from finality; and (2) pay the amount of ₱20,000.00 as exemplary damages, ₱30,000.00 as attorney's fees, and ₱20,000.00 as cost of suit.

Meanwhile, in a decision⁹ dated August 10, 2006, **the CA affirmed the June 12, 2003 decision of the RTC in the JVA rescission case.** The case eventually reached this Court, on La Savoie's appeal, which the Court denied in a Resolution¹⁰ dated February 19, 2007.

On **September 17, 2007**, the HLURB Commissioners affirmed the findings of facts and conclusions of law contained in the decision of the HLURB-Legal Services Group.

The petitioners appealed the September 17, 2007 HLURB decision before the Office of the President (*OP*) which the latter denied in its **September 30, 2008** decision. The OP likewise denied the petitioners' motion for reconsideration in its May 7, 2009 decision.

The CA Ruling

In its September 30, 2013 decision, the CA affirmed the September 30, 2008 OP decision declaring that:

First, La Savoie's sale of the lot to Mariño is not *ultra vires*. The CA pointed out that Mariño does not appear to have been aware of BPI's letters to La Savoie asking the latter to stop the sale of the lots until they have agreed on the price. Thus, BPI's withdrawal of authority to sell cannot bind Mariño.

Second, even if La Savoie had exceeded its authority to sell, BPI is solidarily liable for allowing the former to act as though it had full powers following Article 1911 of the Civil Code.

Third, at the time of the execution of the Contract to Sell, no case had been filed by BPI to prevent La Savoie from selling the property. BPI only

⁹ Docketed as CA-G.R. No. 79318, id. at 238-251.
¹⁰ Id. at 584.

filed a case for rescission of the JVA seven months after the execution of sale to Mariño.

Fourth, Mariño is entitled to the delivery of the title as he had fully paid the purchase price pursuant to Section 25 of Presidential Decree (PD) No. 957 (or the Subdivision and Condominium Buyers' Protective Decree).

Fifth, La Savoie is not an indispensable party to the case who could have rendered the decision void per Section 7, Rule 3 of the Rules of Court. According to the CA, La Savoie has already transmitted the Deed of Absolute Sale over the subject lot to BPI. Since the title is in BPI's name and possession, it has the obligation to execute the Deed and deliver the title to Mariño; thus, BPI is the indispensable party, not La Savoie and Menguito.

Lastly, the Court's denial of La Savoie's petition in the JVA rescission case was contained only in a minute resolution. Thus, the CA concluded citing *Deutsche Bank AG Manila Branch v. Commissioner of Internal Revenue*,¹¹ the denial cannot be deemed a binding precedent to the case especially when different issues and parties are involved.

II. THE PETITION

BPI argued in its petition for review on *certiorari* before this Court that:

1. the authority to sell granted to La Savoie under the JVA was a limited authority to sell, *i.e.*, only "by way of engaging the services of brokers";
2. since La Savoie's authority to sell was limited, its act of selling the lot to Mariño is *ultra vires*;
3. BPI and its President Conde were not parties to the Contract to Sell with Mariño, but rather La Savoie and its President Menguito, thus, the Contract did not and could not bind them;
4. As they were not parties to the Contract to Sell, Mariño did not have a cause of action against them and the HLURB should have dismissed the latter's case against it;
5. La Savoie and its President Menguito are indispensable parties in this case, hence, Mariño's failure to implead them rendered the decision of the HLURB void;
6. BPI filed a third-party complaint against La Savoie in the former's Answer to Mariño's Complaint;

¹¹ G.R. No. 188550, August 19, 2013, citing *Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue*, GR No. 167330, September 18, 2009, 600 SCRA 413, 416, 446-447.

7. Mariño is a buyer in bad faith because he failed to examine the title;
8. the duty of delivering the title to the buyer under Section 25 of Presidential Decree 957 cannot be imposed on a non-party to a contract; and
9. the CA, which this Court affirmed, had previously decided a case, involving closely identical facts, in favour of BPI; and the OP in fact had similarly dismissed the cases filed against BPI for refusing to honor La Savoie's unauthorized sale to buyers in similar situations.

III. INCIDENTS SUBSEQUENT TO THE FILING OF THE PETITION

The Court's September 17, 2014 Minute Resolution

On September 17, 2014, the Court issued a **minute resolution**¹² denying the petition for "failure to sufficiently show any reversible error in the assailed judgment to warrant the exercise of this Court's discretionary appellate jurisdiction, and for raising substantially factual issues."

Petitioner's motion for reconsideration (1st MR)

On November 10, 2014, the petitioners sought reconsideration¹³ of the Court's September 17, 2014 Resolution reiterating that:

1. the authority to sell BPI granted to La Savoie under the JVA was a limited authority to sell, *i.e.*, only "by way of engaging the services of brokers";
2. BPI had already withdrawn this limited authority to sell on July 22, 1996, or almost one year before La Savoie sold the subject subdivision lot to Mariño on July 18, 1997;
3. the CA, which this Court affirmed, had previously decided a case, involving closely identical facts, in favour of BPI; and
4. there was no privity of contract between BPI and Mariño as the Contract to Sell was entered into between La Savoie and Mariño.

¹² *Rollo*, pp. 304-305.

¹³ *Id.* at 306-312.

Mr. Delfin V. Cruz's November 25, 2014 Letter (1st Letter)

On November 25, 2014, Mr. Delfin V. Cruz wrote Associate Justices Arturo D. Brion and Mariano C. Del Castillo identical letters¹⁴ bringing to the Justices' attention the present case which he believed was "railroaded and continue to be railroaded by prosecutors, judges, and justices because of money and influence."¹⁵

The Court's April 4, 2016 Minute Resolution

On April 4, 2016, the Court issued a resolution¹⁶ denying with finality the petitioners' motion for reconsideration because "no substantial argument having been adduced to warrant the reconsideration sought."

Petitioners' Motion for Reconsideration with Leave of Court (2nd MR)

On **June 1, 2016**, the petitioners filed a Motion for Reconsideration With Leave of Court¹⁷ from the Court's April 4, 2016 resolution denying

¹⁴ Dated November 25, 2014. The letter addressed to Associate Justice Mariano C. Del Castillo is attached to the *rollo*, pp. 317-326.

¹⁵ Page 2 of Mr. Delfin's letter. He also claimed that the case "did not undergo [the Justices'] scrutiny because if it did, [they] would render an impartial decision based on evidence because [they] are guided by "FAIRNESS" and the sense of "HIYA" and, in this regard, he accused the Court's Second Division of unjustifiably denying their *Petition for Review on Certiorari* of the CA decision, which, he believed was way out of line since the CA concealed and vanished the truth presented in evidence.

Thereafter, he added, the CA twisted the truth by falsely declaring that "[BPI] gave La Savoie authority to sell to justify its decision favouring Mariño." He pointed out that [BPI] never authorized La Savoie to sell. Rather, the Special Power of Attorney [BPI] executed and presented as evidence shows BPI merely authorized La Savoie to "engage the services of brokers," which authority [BPI] revoked about a year before La Savoie sold lots to Mariño and other buyers."¹⁵

Further, he claimed that the "[CA's] decision merely echoed La Savoie's unsubstantiated allegations,¹⁵ and pointed out that "[Mrs. Menguito] misrepresented herself as a Filipino citizen although she is a Vietnamese who holds French citizenship" while her children are foreigners holding ACR's.¹⁵ Thus, Mr. Delfin posits that since "La Savoie is not allowed by Philippine laws to acquire land because it is 56% foreign-owned," it cannot "claim ownership of properties registered in the name of [BPI] and undertake to execute deeds of sale in favour of buyers."¹⁵ These notwithstanding, La Savoie sold [BPI's] lots as owner pretending to have the power to execute a deed of sale.¹⁵

He continued that BPI was justified in refusing to deliver on La Savoie's unauthorized sale. Unfortunately, it was only BPI, the lot owner, that Mariño sued before the HLURB, despite the fact that it was not even a party to the contract between the seller La Savoie and the buyer Mariño; neither did it receive any part of the consideration Mariño paid La Savoie.¹⁵

Additionally, he alleged that the CA even falsely declared that BPI did not implead La Savoie even when the evidence shows otherwise as BPI had filed a third party complaint against La Savoie.¹⁵

He effectively charged the Second Division of unjustly favoring an undeserving party claiming that the CA "abused its power and someone in the Second Division is doing no less by allowing it to deprive a property owner of its property without due process."¹⁵ "That the Second Division's resolution unjustly favors Mariño is exposed by the fact that despite our advertence to a decision affirmed by the [Court] x x x in which the [CA] held that La Savoie's promise to deliver 19 lots to a complainant did not bind [BPI], the Second Division did not pay attention to it."¹⁵ To Mr. Delfin, "there exists a conspiracy among La Savoie, its lawyers, and buyer Mariño with the protection of arbiters, prosecutors, and members of the judiciary, and even those who sit in judgment at the [IBP]."¹⁵

¹⁶ *Rollo*, p. 639.

¹⁷ *Id.* at 640-657.

with finality their 1st MR (the motion for reconsideration of the Court's September 17, 2014 Resolution); the present motion prayed that the Court "take a second look at the many valid arguments and the overwhelming evidences presented which prove that the [CA] twisted the facts and acted with grave abuse of discretion equivalent to a capricious and whimsical exercise of judgment resulting in a x x x warped and one-sided decision."¹⁸

The petitioners insist that:

1. the authority to sell BPI granted to La Savoie under the JVA was a limited authority to sell, *i.e.*, only "by way of engaging the services of brokers" which authority BPI already withdrew on July 22, 1996, or almost one year before La Savoie sold the subject subdivision lot to Mariño on July 18, 1997;
2. La Savoie and its President Menguito are indispensable parties in this case, hence, Mariño's failure to implead them rendered the decision of the HLURB void;
3. there was no privity of contract between BPI and Mariño as the Contract to Sell was entered into between La Savoie and Mariño; and
4. the CA, which this Court affirmed, had previously decided a case, involving closely identical facts, in favour of BPI.

Mr. Delfin Cruz's June 21, 2016 Letter (2nd Letter)

On June 21, 2016, Mr. Delfin V. Cruz sent Associate Justice Brion a second letter relating that he sent the 1st Letter "believing that [the] petition x x x did not undergo [J. Brion's] scrutiny because I was convinced by your public pronouncements that you are guided by the rule of 'FAIRNESS' and the sense of 'HIYA' and so you would never affirm a resolution upholding a [CA] decision that is way out of line because it is not based on documentary evidence, law, and jurisprudence."¹⁹

¹⁸ Id. at 640-641.

¹⁹ He also pointed out that he, however, "just learned that [J. Brion is] the ponente of the case, subject of [the] letter x x x that it is not your intention to rig our case because you have made public declarations of your resolve to "earn the trust, through our actions, of the society that has been good to us and of the public we are sworn to serve" quoting J. Brion's October 25, 2014 speech at the Greater Manila IBP Convention.

He further claimed that he "still wants to believe that the decision to dismiss [the] petition was arrived at without malice and that all [J. Brion's] pronouncements are authentic and sincere". Nonetheless, he effectively threatened to "resort to extrajudicial means such as telling Mr. Efren S. Cruz x x x that his column of October 30, 2014, about [J. Brion] is one big mistake, or spreading the news of this injustice on social media, or picketing your office with the press in tow to accuse you and have the society judge the unfairness of your actions" because he cannot "accept an unjust decision that is clearly not in accord with documentary evidence, law, and jurisprudence" and he is "shocked by [the] resolution dismissing [the] petition."

The Court's July 13, 2016 Resolution

In a resolution dated July 13, 2016, the Court resolved to:

1. *DEFER ACTION on the petitioners' Motion for Reconsideration with Leave of Court dated June 1, 2016;*
2. *DEFER ACTION on Delfin Cruz's letters of June 21, 2016 and November 25, 2014 (the latter having been simply previously noted);*
3. *REQUIRE Delfin V. Cruz to: (a) define his exact relationship with Buenavista Properties, Inc.; (b) state if he had been authorized by Buenavista Properties and/or its counsel to write his letters dated November 25, 2014 and June 21, 2016 respectively, both within 10 days from receipt of this resolution; and*
4. *REQUIRE Buenavista Properties, Inc. and its counsel of record to state if they are aware of the letters of Delfin V. Cruz; to confirm the exact relationship of Delfin V. Cruz with Buenavista Properties, Inc. and if they authorized Delfin V. Cruz to write the above-mentioned letters, all within 10 days from receipt of this Resolution.*

Mr. Delfin Cruz's July 28, 2016 Letter (3rd Letter)

In his letter dated July 28, 2016 (with enclosed copy of the JVA between BPI and La Savoie) addressed to J. Brion, Mr. Delfin Cruz reiterated that *"there is no factual basis for the Court of Appeals to say that La Savoie had the authority to sell, much less to promise to execute a deed of sale in favour of Mr. Mariño, because the SPA does not endow such power to La Savoie."*

Mr. Delfin Cruz insists that the Court of Appeals' decision, which compelled them to deliver the title to Mariño, is anchored on the falsehood that BPI gave La Savoie the power to sell, hence, it is *"clearly not motivated by the 'RULE OF FAIRNESS' and the 'SENSE OF HIYA' that you (referring to J. Brion) proclaim you are guided by x x x."* He implored J. Brion to *"hand down a decision in accordance with [his] 'rule of fairness' and the 'sense of hiya.'"*

Mr. Delfin Cruz's September 3, 2016 Letter (4th Letter)

In his letter dated September 3, 2016, addressed to J. Brion, Mr. Delfin Cruz stated that he was the "Chairman of the Board of Buenavista while the case between it and Ramon G. Mariño was still in the early stage" which made him intimately aware of the facts of the case.

He admitted that he wrote J. Brion merely as a concerned citizen *"even if I was not specifically authorized by either Buenavista or its lawyer,*



Atty. Ben I. Ibuyan, to write you” and reiterated the reasons he stated in his previous three letters for writing J. Brion.

Finally, he apologized if his last letter appeared as a threat, emphasizing that it was not his intention and was in fact, “careful in using the words: ‘I do not wish to resort to extra-judicial means....’”.

Petitioner Buenavista’s Compliance

For its part, the petitioner, thru counsel, complied with our July 13, 2016 Resolution by submitting the joint affidavit of Cresencio R. Selispara and Gemma S. Buenafe attesting that they did not authorize Mr. Delfin Cruz to write his letters to the Court and were not even aware till they received the Court’s directive of July 13, 2013 that these letters were written.

The Court’s Ruling

The Court has already denied with finality BPI’s motion for reconsideration in its April 4, 2016 resolution; BPI’s June 1, 2016 Motion for Reconsideration With Leave of Court is a prohibited second motion for reconsideration.

We emphasize that the June 1, 2016 Motion for Reconsideration With Leave of Court that BPI filed addressing the Court’s April 4, 2016 Resolution (denying with finality its November 10, 2014 motion for reconsideration) is a prohibited second motion for reconsideration pursuant to Section 2, Rule 52 in relation with Section 4, Rule 56, both of the Rules of Court, as well as pursuant to Section 3, Rule 15 of the Internal Rules of the Supreme Court.

Section 2 of Rule 52 states that “[n]o second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.”

Under Section 3 of Rule 15, the Court “*shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the higher interest of justice. There is reconsideration ‘in the higher interest of justice’ when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties.*” Note, however, that while the Rule provides for exceptions, the second motion for reconsideration can still only be entertained “***before the ruling sought to be reconsidered becomes final by operation of law or by the Court’s declaration.***”

The case does not present a situation that would justify the Court in granting BPI’s June 1, 2016 Motion for Reconsideration With Leave of

Court – a second motion for reconsideration which the Court should not entertain.

Moreover, jurisprudence has settled that a “decision that has acquired finality becomes immutable and unalterable[,] and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it [will be] made by the court that rendered it or by the highest court of the land.’ ‘Once a judgment or order becomes final, all the issues between the parties are deemed resolved and laid to rest.’ No additions can be made to the decision, and no other action can be taken on it, except to order its execution.”²⁰

As discussed above, the Court denied with finality BPI’s November 10, 2014 motion for reconsideration in the April 4, 2016 resolution; the resolution likewise provided that “[n]o further pleadings or motions shall be entertained in this case. Let entry of final judgment be made in due course.”

In sum, these reasons sufficiently justify the Court in refusing to entertain BPI’s June 1, 2016 second motion for reconsideration.

In any event, the Court correctly denied BPI’s petition for review on certiorari and motion for reconsideration.

In any event, the Court correctly denied BPI’s petition for review on *certiorari*, in its September 17, 2014 resolution, as well as its 1st MR in the April 4, 2016 resolution. The issues and arguments BPI raised in its petition, as reiterated in its 1st and 2nd MRs, merely repeated the issues it has previously raised before the HLURB, the OP, and the CA, which issues all three tribunals had duly considered and uniformly ruled against BPI.

We point out that the issues BPI raised in its petition and MRs can be summed up into two: (1) whether La Savoie had the authority to sell the subdivision lots pursuant to the JVA and its Addendum; and (2) assuming *arguendo* that La Savoie had the authority to sell under the JVA, whether such authority had already been rescinded prior to the execution of the Contract to Sell with Mariño.

We find it clear from the pertinent provisions of the JVA, footnoted below, that contrary to BPI’s claim, La Savoie was empowered to sell the Buenavista Park Subdivision lots, including the subject lot it sold to Mariño.²¹

²⁰ See J. Brion’s Dissenting Opinion in *Keppel v. Cebu Shipyard, Inc. v. Pioneer Insurance and Surety Corporation*, GR Nos. 180880-81, *Pioneer Insurance and Surety Corporation v. Keppel v. Cebu Shipyard, Inc.*, GR No. 180896-97, September 18, 2012 (citations omitted).

²¹ The JVA pertinently reads:

II. OBLIGATIONS OF THE DEVELOPER:

2.1 The DEVELOPER, furnishing all expenses, labor, materials, equipment, expertise and supervision, shall convert/develop the land into a mixed-use subdivision with commercial and residential phases in accordance with specifications, and designs and standards of the HOUSING AND LAND USE REGULATORY BOARD and other government agencies concerned. The DEVELOPER's work and responsibilities, include:

x x x x

2.2 The DEVELOPER, in addition to the above shall provide and exercise general management over the project, its development, promotion, advertisement, marketing and sales.

x x x x

III. DEVELOPER AS ATTORNEY-IN-FACT OF THE LANDOWNER:

3.1 For and in consideration of amounts received from the DEVELOPER and the interests of the DEVELOPER in the accomplishment of his authority, the LANDOWNER hereby waives all rights to appoint another attorney, or to do and perform by himself the powers and authority herein conferred, and to revoke this authority except for causes mentioned herein, in a manner that is binding even after his death to his heirs, executors or administrators, and designates and appoints the DEVELOPER as Attorney-in-fact with full power and authority to take full possession of the subject realty, exercise all acts necessary to x x x; engage the services of brokers.

IV. LIMITATIONS ON THE RIGHTS OF DEVELOPER:

x x x x

4.2 All Certifications of Title on lots shall be in the name and possession of the LANDOWNER until they are sold, subject to the annotation of this agreement.

4.3 Pricing of lots and broker's commission shall be determined jointly by the LANDOWNER and the DEVELOPER.

x x x x

VI. PERIOD OF SALE/DEVELOPMENT:

x x x x

6.2 The DEVELOPER shall sell all the lots in the project within three (3) years from the execution of this agreement.

x x x x

VII. RECEIPT AND COLLECTION OF PAYMENTS:

7.1 The DEVELOPER as manager shall receive, collect and receipt in its name all payments from the buyers subject to the obligation to account and remit to the LANDOWNER its due at the thirtieth (30th) day of each month.

x x x x

VIII. PENALTIES

x x x x

8.1 In case the DEVELOPER violates any provision of this contract or otherwise fails and/or refuses to go through with its commitment herein, the LANDOWNER, instead of suing for specific performance, may elect to cancel this contract by means of a written communication set to that effect to the DEVELOPER. In the event of said cancellation, the DEVELOPER shall, in addition to rights granted the LANDOWNER by law, forfeit in favour of said LANDOWNER all investments and/or improvements that shall have been introduced.

This conclusion proceeds from the examination of clauses 2.2, 3.1, and 6.2 of the JVA which states that La Savoie had the power to, among others: (1) provide and **exercise general management** over the project including its marketing and sales; (2) to **act as BPI's attorney-in-fact** with full power and authority to take full possession of the realty, **including engaging the services of brokers**; and (3) **sell the lots, within the specified period**. Additionally, La Savoie had the authority **to receive and give receipts under its name, payments from buyers of the subdivision lots**, per clause 7.1 of the JVA.

Likewise and contrary to BPI's assertion, the Contract to Sell between La Savoie and Mariño was executed *before BPI categorically withdrew La Savoie's authority to sell under the JVA*. Note that per clause 8.1 of the JVA, in case La Savoie fails or refuses to perform its obligations under the JVA or violates any provisions of the JVA, BPI could either sue the former for specific performance or cancel the contract *via* written communication to this effect.

In this case, BPI's option to cancel the JVA, instead of suing for specific performance, became categorically clear only on February 28, 1998 when it filed the JVA rescission case against La Savoie. La Savoie and Mariño entered into the Contract to Sell on July 18, 1997 or seven (7) months prior to the filing of the JVA rescission case; undoubtedly, La Savoie then still retained the full authority under the JVA to enter into the Contract to Sell with Mariño.

While BPI wrote La Savoie several letters prior to the filing of the JVA rescission case, *i.e.*, on July 22, 1996, August 15, 1996, September 30, 1996, and August 15, 1997, requesting and/or asking the latter to suspend or stop selling the subdivision lots until they have agreed on the selling price, BPI never categorically terminated the JVA nor withdrew La Savoie's authority to sell through these letters.²²

[emphases and underscoring supplied]

²² The pertinent provisions of BPI's letters state:

- July 22, 1996 letter:

“x x x x

Since it has been more than four (4) years ago from the time you fixed the prices of our lots, it has now become obvious that our prices are no longer realistic and prospective buyers might simply take advantage of our low prices for speculation purposes. We must therefore insist that **you suspend the sale of our lots immediately upon receipt hereof until such time as we have agreed on the new pricing of our lots.**

x x x x”

- August 15, 1996 letter:

“x x x x

Notably, and again contrary to BPI's claim, these letters show that it did not cancel the JVA prior to the filing of the JVA rescission case because, as of its August 15, 1997 letter, it was still about to invoke the termination clause of the JVA.

The above considerations are outlined to show the considerations the Court took into account in denying the petition outright (aside from the reason that the issues raised were mostly factual issues that a Rule 45 petition does not allow). Thus, this Court can only NOTE without action BPI's June 1, 2016 Motion for Reconsideration With Leave of Court addressing the April 4, 2016 Resolution of the Court (denying with finality its November 10, 2014 motion for reconsideration). It is a second motion for reconsideration that is prohibited under Section 2, Rule 52 in relation with Section 4, Rule 56, both of the Rules of Court, as well as under Section 3, Rule 15 of the Internal Rules of the Supreme Court.

The Court NOTES Mr. Delfin Cruz's compliance, through his September 3, 2016 Letter, with the Court's July 13, 2016 Resolution, among others, requiring him to: (a) define his exact relationship with Buenavista Properties, Inc.; (b) state if he had been authorized by Buenavista Properties and/or its counsel to write his letters dated November 25, 2014 and June 21, 2016 respectively.

We suggest that this time you conduct the necessary investigation of the current prices of the lots in nearby subdivisions, make a study, and submit to us your proposed pricing for our joint evaluation and decision on the matter.

In the meantime, **please stop selling until we have mutually agreed on the realistic pricing of the lots.**

x x x x"

- September 30, 1996 letter:

"x x x x

In view hereof, we regret that we cannot agree to your proposed prices. Instead **we ask you to stop selling until you have put enough development to obtain the best prices x x x.**"

- August 15, 1997 letter

"x x x x

"Also, we have learned that you have gone on with the sale of the developed lots, notwithstanding our letters dated July 22, 1996, August 15, 1996 and March 17, 1997 asking you to desist from any further sale until we have agreed on revised prices. Please be reminded that our JVA specifically provides that pricing must be mutually agreed upon.

Please, therefore, **immediately stop selling the subdivision lots until we have agreed on the prices** and remit to us the accumulated penalties within FIVE (5) days from receipt of this letter; **otherwise, we shall be forced to invoke the termination clause of our JVA.**" [emphases supplied]

Since he is not a formal party to the case, the Court cannot recognize the representations Mr. Delfin Cruz has made before this Court – through his letters dated November 25, 2014, June 21, 2016, July 28, 2016, and September 3, 2016 – in relation with the present case.

In line with this position, the Court likewise chooses to gloss over the observations that Mr. Delfin Cruz has made in his various letters against the Court and its Members.

The Court, however, observes that interventions of the kind that Mr. Delfin Cruz undertook are the kind of interference that only delays the resolution of cases in this Court; hence, our rule that parties should always speak through their counsels. If we do not penalize the counsels of record in this case at all, it is only because they promptly replied that they did not know of the intervention of Mr. Delfin Cruz who is no longer an official of their client company.

The Court likewise warns Mr. Delfin Cruz in the strongest terms that any further word from him, whether directly made to this Court or its Members or in the social media (as he had threatened), **tending to interfere with the processes of the present case, to malign this Court or its Members, to disparage their reputation or to impugn their integrity**, shall be dealt with severely and without consideration of Mr. Delfin Cruz' age or age-related infirmities.

WHEREFORE, premises considered, the Court resolves to:

1. **NOTE** without action Buenavista Properties Inc.'s June 1, 2016 Motion for Reconsideration With Leave of Court, filed to challenge the Court's April 4, 2016 Resolution that **DENIED WITH FINALITY** its November 10, 2014 Motion for Reconsideration; and
2. **NOTE** the letter dated September 3, 2016 (filed in compliance with the Court's directive to explain in the July 13, 2016 Resolution) and the other previous letters of Mr. Delfin Cruz. The Court, however, **WARNS** in the strongest terms that any further word from Mr. Delfin Cruz, whether directly made to this Court or its Members or in the social media (as Mr. Cruz had threatened), tending to interfere with the processes of the present case, to malign the Court or its Members, to disparage their reputation or to impugn their integrity, shall be dealt with severely and without consideration of Mr. Delfin Cruz' age or age-related infirmities.

No further pleadings shall be entertained in this case.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:



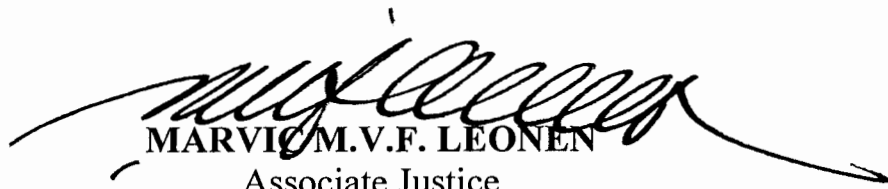
ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



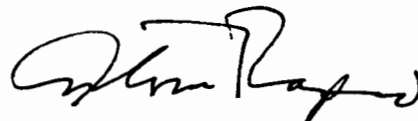
JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



ANTONIO T. CARPIO
Acting Chief Justice