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FIRST DIVISION

[G.R. No. 131683. June 19, 2000]

JESUS LIM ARRANZA; LORENZO CINCO; QUINTIN TAN; JOSE ESCOBAR; ELBERT FRIEND; CLASSIC HOMES VILLAGE ASSOCIATION, INC.; BF NORTHWEST HOMEOWNERS' ASSOCIATION, INC.; and UNITED BF HOMEOWNERS' ASSOCIATIONS, INC., *petitioners, vs.* **B.F. HOMES, INC. AND THE HONORABLE COURT OF APPEALS,** *respondent.*

SYNOPSIS

The issue involved in this petition is whether it is the SEC or the HLURB that has jurisdiction over a complaint for specific performance filed by subdivision homeowners against a subdivision developer to enforce the latter's obligations to provide them their basic needs as purchasers of the lots: water, security and open spaces. Respondent BF Homes, Inc. (BFHI) claimed that inasmuch as BFHI is under receivership, the case is exclusively within the jurisdiction of the SEC.

The Supreme Court upheld HLURB's jurisdiction over the specific performance case as the SEC proceeds with the rehabilitation of BFHI. Applicable laws confer upon the HLURB jurisdiction over matters relating to the observance of laws governing corporations engaged in developing subdivisions and condominiums.

As BFHI undergoes rehabilitation receivership, BFHI continues to exist as a corporation, hence, should continue to perform its obligations to petitioners as homeowners. Petitioners' complaint against BFHI should not be considered as "claims" of creditors which should be suspended as provided in Sec. 6 (c) of PD No. 902-A. Such claims referred solely to monetary claims, which are but incidental to petititioners' complaint against BFHI. Once monetary awards are determined in the HLURB, however, the same should be submitted to the SEC as established claims.

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SYLLABUS

1. **ADMINISTRATIVE LAW; ADMINISTRATIVE AGENCIES; HOUSING AND LAND USE REGULATORY BOARD (HLURB); JURISDICTION OF HLURB IS DETERMINED BY APPLICABLE LAWS AND THE ALLEGATIONS OF THE COMPLAINT.**— Jurisdiction is the authority to hear and determine a cause — the right to act in a case. It is conferred by law and not by mere administrative policy of any court or tribunal. It is determined by the averments of the complaint and not by the defense contained in the answer. Hence, the jurisdictional issue involved here shall be determined upon an examination of the applicable laws and the allegations of petitioners' complaint before the HLURB.

2. **ID.; ID.; ID.; ID.; THE HLURB HAS JURISDICTION OVER CASES ARISING FROM CONTRACTS BETWEEN SUBDIVISION DEVELOPER AND LOT OWNERS; CASE AT BAR.**— In the cases that reached this Court, the ruling has consistently been 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 to make the subdivision a better place to live in. x x x In the case at bar, petitioners' complaint is for specific performance to enforce their rights as purchasers of subdivision lots as regards rights of way, water, open spaces, road and perimeter wall repairs, and security. Indisputably then, the HLURB has jurisdiction over the complaint. x x x The fact that respondent is under receivership does not divest the HLURB of that jurisdiction.

3. **CORPORATION LAW; RECEIVER; DEFINITION AND DUTIES; EFFECT OF THE APPOINTMENT OF A RECEIVER ON THE CORPORATION'S EXISTENCE AND ON ITS OBLIGATIONS; PURPOSE OF RECEIVERSHIP.**— A receiver is a person appointed by the court, or in this instance, by a quasi-judicial administrative agency, in behalf of all the parties for the purpose of preserving and conserving the property and preventing its possible destruction or dissipation, if it were left in the possession of any of the parties. It is the duty of the receiver to administer the assets of the receivership estate; and in the management and disposition of the property committed to his possession, he acts in a fiduciary capacity and *with impartiality*

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towards all interested persons. The appointment of a receiver does not dissolve a corporation, nor does it interfere with the exercise of its corporate rights. In this case where there appears to be no restraints imposed upon respondent as it undergoes rehabilitation receivership, respondent continues to exist as a corporation and hence, continues or should continue to perform its contractual and statutory responsibilities to petitioners as homeowners. Receivership is aimed at the preservation of, and at making more secure, existing rights; it cannot be used as an instrument for the destruction of those rights.

4. **ID.; RECEIVERSHIP; SUSPENSION OF CLAIMS IN PAYMENTS; ACTION FOR SPECIFIC PERFORMANCE BEFORE HLURB IS NOT PECUNIARY IN NATURE AS TO WARRANT THE SUSPENSION OF PROCEEDINGS PROVIDED IN SEC. 6(C) OF P.D. NO. 902-A, AS AMENDED; CASE AT BAR.**— Neither may petitioners be considered as having "claims" against respondent within the context of the following proviso of Section 6 (c) of P.D. No. 902-A, as amended by P.D. Nos. 1653, 1758 and 1799, to warrant suspension of the HLURB proceedings. x x x No violation of the SEC order suspending payments to creditors would result as far as petitioners' complaint before the HLURB is concerned. To reiterate, what petitioners seek to enforce are respondent's obligations as a subdivision developer. Such claims are *basically* not pecuniary in nature although it could *incidentally* involve monetary considerations. All that petitioners' claims entail is the exercise of proper subdivision management on the part of the SEC-appointed Board of Receivers towards the end that homeowners shall enjoy the ideal community living that respondent portrayed they would have when they bought real estate from it. x x x Whatever monetary awards the HLURB may impose upon respondent are incidental matters that should be addressed to the sound discretion of the Board of Receivers charged with maintaining the viability of respondent as a corporation. Any controversy that may arise in that regard should then be addressed to the SEC. It is worth noting that the parties agreed at the 1 July 1998 hearing that should the HLURB establish and grant petitioners' claims, the same should be referred to the SEC. Thus, the proceedings at the HLURB should not be suspended notwithstanding that respondent is still under receivership.

5. **ID.; P.D. NO. 902-A, AS AMENDED; JURISDICTION OF THE SECURITIES AND EXCHANGE COMMISSION (SEC),**

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ELEMENTS; THE SEC HAS NO JURISDICTION OVER COMPLAINTS FOR SPECIFIC PERFORMANCE FILED BY LOT BUYERS AGAINST SUBDIVISION DEVELOPERS.— On the other hand, the jurisdiction of the SEC is defined by P.D. NO. 902-A, as amended. x x x For the SEC to acquire jurisdiction over any controversy under these provisions, two elements must be considered: (1) the status or relationship of the parties; and (2) the nature of the question that is the subject of their controversy. The first element requires that the controversy must arise "out of intra-corporate or partnership relations between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the State in so far as it concerns their individual franchises." Petitioners are not stockholders, members or associates of respondent. They are lot buyers and now homeowners in the subdivision developed by the respondent. The second element requires that the dispute among the parties be intrinsically connected with the regulation or the internal affairs of the corporation, partnership or association. The controversy in this case is remotely related to the "regulation" of respondent corporation or to respondent's "internal affairs." x x x Their claim for reimbursement should be viewed in the light of respondent's alleged failure to observe its statutory and contractual obligations to provide petitioners a "decent human settlement" and "ample opportunities for improving their quality of life." The HLURB, not the SEC, is equipped with the expertise to deal with that matter.

6. **ID.; ID.; ID.; ID.; PROVISIONS OF P.D. NO. 902-A AND P.D. NO. 957, ARE LAWS IN *PARI MATERIA*.**— It should be stressed that the main concern in this case is the issue of jurisdiction over petitioners' complaint against respondent for specific performance. P.D. No. 902-A, as amended, defines the jurisdiction of the SEC; while P.D. No. 957, as amended, delineates that of the HLURB. These two quasi-judicial agencies exercise functions that are distinct from each other. The SEC has authority over the operation of all kinds of corporations, partnerships or associations with the end in view of protecting the interests of the investing public and creditors. On the other hand, the HLURB has jurisdiction over matters relating to observance of laws governing corporations engaged in the specific business of development of subdivisions and condominiums. The HLURB and the SEC being bestowed with

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distinct powers and functions, the exercise of those functions by one shall not abate the performance by the other of its own functions. As respondent puts it, "there is no contradiction between P.D. No. 902-A and P.D. No. 957." x x x P.D. Nos. 902-A and 957, as far as both are concerned with corporations, are laws in *pari materia*. P.D. No. 902-A relates to all corporations, while P.D. No. 957 pertains to corporations engaged in the particular business of developing subdivisions and condominiums. Although the provisions of these decrees on the issue of jurisdiction appear to collide when a corporation engaged in developing subdivisions and condominiums is under receivership, the same decrees should be construed as far as reasonably possible to be in harmony with each other to attain the purpose of an expressed national policy.

APPEARANCES OF COUNSEL

Robles Ricafrente Aguirre San Vicente and Cacho Law Firm and *Veneranda Acaylar-Cruz* for petitioners.

Benjamin B. Bernardino for respondents.

Antonio R. Bautista & Partners for BF Homes, Inc.

Ata & Habawel for Intervenors.

DECISION

DAVIDE, JR., *C.J.*:

For resolution in this petition is the issue of whether it is the Securities and Exchange Commission (SEC) or the Housing and Land Use Regulatory Board (HLURB) that has jurisdiction over a complaint filed by subdivision homeowners against a subdivision developer that is under receivership for specific performance regarding basic homeowners' needs such as water, security and open spaces.

Respondent BF Homes, Inc. (BFHI), is a domestic corporation engaged in developing subdivisions and selling residential lots. One of the subdivisions that respondent developed was the BF Homes Parañaque Subdivision, which now sprawls across not only a portion of the City of Parañaque but also those of the adjoining cities of Las Piñas and Muntinlupa.

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When the Central Bank ordered the closure of Banco Filipino, which had substantial investments in respondent BFHI, respondent filed with the SEC a petition for rehabilitation and a declaration that it was in a state of suspension of payments. On 18 March 1985, the SEC placed respondent under a management committee. Upon that committee's dissolution on 2 February 1988, the SEC appointed Atty. Florencio B. Orendain as a Receiver, and approved a Revised Rehabilitation Plan.

As a Receiver, Orendain instituted a central security system and unified the sixty-five homeowners' associations into an umbrella homeowners' association called United BF Homeowners' Associations, Inc. (UBFHAI), which was thereafter incorporated with the Home Insurance and Guaranty Corporation (HIGC).[1]

In 1989, respondent, through Orendain, turned over to UBFHAI control and administration of security in the subdivision, the Clubhouse and the open spaces along Concha Cruz Drive. Through the Philippine Waterworks and Construction Corporation (PWCC), respondent's managing company for waterworks in the various BF Homes subdivisions, respondent entered into an agreement with UBFHAI for the annual collection of community assessment fund and for the purchase of eight new pumps to replace the over-capacitated pumps in the old wells.

On 7 November 1994, Orendain was relieved by the SEC of his duties as a Receiver, and a new Board of Receivers consisting of eleven members of respondent's Board of Directors was appointed

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[1] The UBFHAI filed with the HIGC a petition docketed as HIGC Case No. 138 praying that it be declared the "umbrella organization and sole representative of all homeowners in BF Homes Parañaque Subdivision." The HIGC hearing officer having granted that prayer, therein respondent BFPHAI appealed under HIGC-AB-HOA 93-013, but the appeal was dismissed for lack of merit. BFPHAI, then filed an "appeal/petition for review" with the Court of Appeals under CA-G.R. SP No. 33482, but said appellate court dismissed the petition. Hence, BFPHAI filed a petition for *certiorari* with this Court under G.R. No. 117370. On 24 October 1994, this Court dismissed the petition for noncompliance with requirement No. 4 of Circular No. 1-88 and failure to file the petition within a reasonable time. On 18 January 1995, the Court denied with finality BFPHAI's motion for reconsideration of the Resolution of 24 October 1994. Entry of judgment was made on 15 February 1995.

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for the implementation of Phases II and III of respondent's rehabilitation.[2] The new Board, through its Chairman, Albert C. Aguirre, revoked the authority given by Orendain to use the open spaces at Concha Cruz Drive and to collect community assessment funds; deferred the purchase of new pumps; recognized BF Parañaque Homeowners' Association, Inc., (BFPHAI) as the representative of all homeowners in the subdivision; took over the management of the Clubhouse; and deployed its own security guards in the subdivision.

Consequently, on 5 July 1995, herein petitioners filed with the HLURB a class suit "for and in behalf of the more than 7,000 homeowners in the subdivision" against respondent BFHI, BF Citiland Corporation, PWCC and A.C. Aguirre Management Corporation "to enforce the rights of purchasers of lots" in BF Homes Parañaque.[3] They alleged that:

1. The forty (40) wells, mostly located at different elevations in Phases 3 and 4 of the subdivision and with only twenty-seven (27) productive, are the sources of the inter-connected water system in the 765-hectare subdivision;
2. There is only one drainage and sewer system;
3. There is one network of roads;
4. There are eight (8) entry and exit points to the subdivision and from three (3) municipalities (now cities), a situation obtaining in this subdivision only and nowhere else;
5. There was no security force for the entire subdivision until 1988;
6. There are not enough open spaces in the subdivision in relation to the total land area developed; and whatever open spaces are available have been left unkempt, undeveloped and neglected;
7. There are no zoning guidelines which resulted in unregulated constructions of structures and the proliferation of business establishments in residential areas; and

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[2] Phase I was aimed at the payment of external creditors, while Phase II was for the purpose of paying off respondent BFHI's liabilities of over ₱500 million to Banco Filipino. According to petitioners, respondent is now in the final phase of receivership (*Rollo*, 59).

[3] *Rollo*, 44.

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8. The BFPHAI became "moribund" sometime in 1980 on account of its failure to cope with the delivery of basic services except for garbage collection.

Petitioners raised "issues" on the following basic needs of the homeowners: rights-of-way; water; open spaces; road and perimeter wall repairs; security; and the interlocking corporations that allegedly made it convenient for respondent "to compartmentalize its obligations as general developer, even if all of these are hooked into the water, roads, drainage and sewer systems of the subdivision."[4] Thus, petitioners prayed that:

A. A cease-and-desist order from selling any of the properties within the subdivision be issued against respondent BFHI, BF Citi, ACAMC, and/or any and all corporations acting as surrogates/ alter-egos, sister companies of BFHI and/or its stockholders until the warranties, facilities and infrastructures shall have been complied with or put up (and) the advances of UBFHAI reimbursed, otherwise, to cease and desist from rescinding valid agreements or contracts for the benefit of complainants, or committing acts diminishing, diluting or otherwise depriving complainants of their rights under the law as homeowners;

B. After proper proceedings the bond or deposit put up by respondent BF Homes, Inc. be forfeited in favor of petitioners;

C. Respondent BFHI be ordered to immediately turnover the roads, open spaces, and other facilities built or put up for the benefit of lot buyers/homeowners in the subdivision to complainant UBFHAI as representative of all homeowners in BF Homes Parañaque, free from all liens, encumbrances, and taxes in arrears;

D. If the open spaces in the subdivision are not sufficient as required by law, to impose said penalties/sanctions against BFHI or the persons responsible therefor;

E. Order the reimbursement of advances made by UBFHAI;

F. Turn over all amounts which may have been collected from users' fees of the strip of open space at Concha Cruz Drive;

G. Order PWCC to effect and restore 24-hour water supply to all residents by adding new wells replacing over-capacitated pumps and otherwise improving water distribution facilities;

[4] *Rollo*, 59.

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H. Order PWCC to continue collecting the Community Development Fund and remit all amounts collected to UBFHAI;

I. Order BFHI to immediately withdraw the guards at the clubhouse and the 8 entry and exit points to the subdivision, this being an act of usurpation and blatant display of brute force;

J. The appropriate penalties/sanctions be imposed against BF Citi, ACAMC or any other interlocking corporation of BFHI or any of its principal stockholders in respect of the diminution/encroaching/violation on the rights of the residents of the subdivision to enjoy/avail of the facilities/services due them; and

K. Respondents be made to pay attorney's fees and the costs of this suit.[5]

In its answer, respondent claimed that (a) it had complied with its contractual obligations relative to the subdivision's development; (b) respondent could not be compelled to abide by agreements resulting from Orendain's *ultra vires* acts; and (c) petitioners were precluded from instituting the instant action on account of Section 6(c) of P.D. No. 902-A providing for the suspension of all actions for claims against a corporation under receivership. Respondent interposed counterclaims and prayed for the dismissal of the complaint.[6]

Petitioners thereafter filed an urgent motion for a cease-and-desist/*status quo* order. Acting on this motion, HLURB Arbiter Charito M. Bunagan issued a 20-day temporary restraining order to avoid rendering nugatory and ineffectual any judgment that could be issued in the case;[7] and subsequently, an Order granting petitioners' prayer for preliminary injunction was issued

enjoining and restraining respondent BF Homes, Incorporated, its agents and all persons acting for and in its behalf from taking over/administering the Concha Garden Row, from issuing stickers to residents and non-residents alike for free or with fees, from preventing necessary improvements and repairs of infrastructures within the authority and administration of complainant UBFHAI, and from directly and indirectly

[5] *Rollo*, 61-63.

[6] *Id.*, 66-86.

[7] *Id.*, 119.

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taking over security in the eight (8) exit points of the subdivision or in any manner interfering with the processing and vehicle control in subject gates and otherwise to remove its guards from the gates upon posting of a bond of One Hundred Thousand Pesos (₱100,000.00) which bond shall answer for whatever damages respondents may sustain by reason of the issuance of the writ of preliminary injunction if it turns out that complainant is not entitled thereto.[8]

Respondent thus filed with the Court of Appeals a petition for *certiorari* and prohibition docketed as CA-G.R. SP No. 39685. It contended in the main that the HLURB acted "completely without jurisdiction" in issuing the Order granting the writ of preliminary injunction considering that inasmuch as respondent is under receivership, the "subject matter of the case is one exclusively within the jurisdiction of the SEC."[9]

On 28 November 1997, the Court of Appeals rendered a decision[10] annulling and setting aside the writ of preliminary injunction issued by the HLURB. It ruled that private respondents' action may properly be regarded as a "claim" within the contemplation of PD No. 902-A which should be placed on equal footing with those of petitioners' other creditor or creditors and which should be filed with the Committee of Receivers. In any event, pursuant to Section 6(c) of P.D. No. 902-A and SEC's Order of 18 March 1985, petitioners' action against respondent, which is under receivership, should be suspended.

Hence, petitioners filed the instant petition for review on *certiorari*. On 26 January 1998, the Court issued a temporary restraining order (TRO) enjoining respondent, its officers, representatives and persons acting upon its orders from.

(a) taking over/administering the Concha Garden Row; (b) issuing stickers to residents and non-residents alike for free or with fees; (c) preventing necessary improvements and repairs of infrastructures within the authority and administration of complainant United BF Homeowners'

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[8] *Id.*, 128-129.

[9] *Rollo*, 135.

[10] Per Morales, C.A., *J.*, with Garcia, C. and Hormachuelos, P.A., *JJ.*, concurring. *Rollo*, 180-192.

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Association, Inc. (UBFHAI); (d) directly and indirectly taking over security in the eight (8) exit points of all of BF Homes Parañaque Subdivision or in any-manner interfering with the processing and vehicle control in the subject gates; and (e) otherwise to remove its guards from the gates x x x[11]

Respondent's motion to lift the TRO was denied.

At the hearing on 1 July 1998, the primary issue in this case was defined as "which body has jurisdiction over petitioners' claims, the Housing and Land Use Regulatory Board (HLURB) or the Securities and Exchange Commission (SEC)?" The collateral issue to be addressed is "assuming that the HLURB has jurisdiction, may the proceedings therein be suspended pending the outcome of the receivership before the SEC?"

For their part, petitioners argue that the complaint referring to rights of way, water, open spaces, road and perimeter wall repairs, security and respondent's interlocking corporations that facilitated circumvention of its obligation involves unsound real estate practices. The action is for specific performance of a real estate developers' obligations under P.D. No. 957, and the relief sought is revocation of the subdivision project's registration certificate and license to sell. These issues are within the jurisdiction of the HLURB. Even if respondent is under receivership, its obligations as a real estate developer under P.D. No. 957 are not suspended. Section 6(c) of P.D. No. 902-A, as amended by P.D. No. 957, on "suspension of all actions for claims against corporations" refers solely to monetary claims which are but incidental to petitioner's complaints against BFHI, and if filed elsewhere than the HLURB, it would result to splitting causes of action. Once determined in the HLURB, however, the monetary awards should be submitted to the SEC as established claims. Lastly, the acts enjoined by the HLURB are not related to the disposition of BFHI's assets as a corporation undergoing its final phase of rehabilitation.

On the other hand, respondent asserts that the SEC, not the HLURB, has jurisdiction over petitioners' complaint based on the contracts entered into by the former receiver. The SEC, being the

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[11] *Ibid.*, 208.

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appointing authority, should be the one to take cognizance of controversies arising from the performance of the receiver's duties. Since respondent's properties are under the SEC's *custodia legis*, they are exempt from any court process.

Jurisdiction is the authority to hear and determine a cause — the right to act in a case.[12] It is conferred by law and not by mere administrative policy of any court or tribunal.[13] It is determined by the averments of the complaint and not by the defense contained in the answer.[14] Hence, the jurisdictional issue involved here shall be determined upon an examination of the applicable laws and the allegations of petitioners' complaint before the HLURB.

Presidential Decree No. 957 (The Subdivision and Condominium Buyers' Protective Decree) was issued on 12 July 1976 in answer to the popular call for correction of pernicious practices of subdivision owners and/or developers that adversely affected the interests of subdivision lot buyers. Thus, one of the "whereas clauses" of P.D. No. 957 states:

> WHEREAS, numerous reports reveal that many real estate subdivision owners, developers, operators, and/or sellers have reneged on their representations and obligations to provide and maintain properly subdivision roads, drainage, sewerage, water systems, lighting systems, and other similar basic requirements, thus endangering the health and safety of home and lot buyers. x x x

Section 3 of P.D. No. 957 empowered the National Housing Authority (NHA) with the "exclusive jurisdiction to regulate the real estate trade and business." On 2 April 1978, P.D. No. 1344 was issued to expand the jurisdiction of the NHA to include the following:

> 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:

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[12] *Herrera v. Barretto*, 25 Phil. 245, 251 [1913].

[13] *Cudia v. Court of Appeals*, 348 Phil. 190, 199 [1998].

[14] *Chico v. Court of Appeals*, 348 Phil. 37, 41 [1998].

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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. (Italics supplied.)

Thereafter, the regulatory and quasi-judicial functions of the NHA were transferred to the Human Settlements Regulatory Commission (HSRC) by virtue of Executive Order No. 648 dated 7 February 1981. Section 8 thereof specifies the functions of the NHA that were transferred to the HSRC including the authority to hear and decide "cases on unsound real estate business practices; claims involving refund filed against project owners, developers, dealers, brokers or salesmen and cases of specific performance." Executive Order No. 90 dated 17 December 1986 renamed the HSRC as the Housing and Land Use Regulatory Board (HLURB).[15]

The boom in the real estate business all over the country resulted in more litigation between subdivision owners/developers and lot buyers with the issue of the jurisdiction of the NHA or the HLURB over such controversies as against that of regular courts. In the cases[16] that reached this Court, the ruling has consistently been 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 to make the subdivision a better place to live in.

Notably, in *Antipolo Realty Corporation v. National Housing*

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[15] Section 1 (c).

[16] *Tejada v. Homestead Property Corporation*, 178 SCRA 164 [1989]; *Sandoval v. Cañeba,* 190 SCRA 77 [1990]; *C.T. Torres Enterprises, Inc. v. Hibionada*, 191 SCRA 268 [1990]; *Union Bank of the Philippines v. HLURB*, 210 SCRA 558 [1992]; *Estate Developers and Investors Corporation v. Court of Appeals,* 213 SCRA 353 [1992]; *Alcasid v. Court of Appeals*, 217 SCRA 437 [1993]; *Fajardo v. Bautista,* 232 SCRA 291 [1994]; *Realty Exchange Venture Corporation v. Sendino*, 233 SCRA 665 [1994].

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Authority[17] one of the issues raised by the homeowners was the failure of Antipolo Realty to develop the subdivision in accordance with its undertakings under the contract to sell. Such undertakings include providing the subdivision with concrete curbs and gutters, underground drainage system, asphalt paved roads, independent water system, electrical installation with concrete posts, landscaping and concrete sidewalks, developed park or amphitheater and 24-hour security guard service. The Court held that the complaint filed by the homeowners was within the jurisdiction of the NHA.

Similarly, in *Alcasid v. Court of Appeals*,[18] the Court ruled that the HLURB, not the RTC, has jurisdiction over the complaint of lot buyers for specific performance of alleged contractual and statutory obligations of the defendants, to wit, the execution of contracts of sale in favor of the plaintiffs and the introduction in the disputed property of the necessary facilities such as asphalting and street lights.

In the case at bar, petitioners' complaint is for specific performance to enforce their rights as purchasers of subdivision lots as regards rights of way, water, open spaces, road and perimeter wall repairs, and security. Indisputably then, the HLURB has jurisdiction over the complaint.

The fact that respondent is under receivership does not divest the HLURB of that jurisdiction. A receiver is a person appointed by the court, or in this instance, by a quasi-judicial administrative agency, in behalf of all the parties for the purpose of preserving and conserving the property and preventing its possible destruction or dissipation, if it were left in the possession of any of the parties.[19] It is the duty of the receiver to administer the assets of the receivership estate; and in the management and disposition of the property committed to his possession, he acts in a fiduciary capacity and *with impartiality towards all interested persons.*[20] The

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[17] 153 SCRA 399 [1987].

[18] *Supra* note 16.

[19] *Commodities Storage & Ice Plant Corporation v. Court of Appeals*, 274 SCRA 439, 446 [1997].

[20] 75 C.J.S. Receivers §163, 802 [1952].

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appointment of a receiver does not dissolve a corporation, nor does it interfere with the exercise of its corporate rights.[21] In this case where there appears to be no restraints imposed upon respondent as it undergoes rehabilitation receivership,[22] respondent continues to exist as a corporation and hence, continues or should continue to perform its contractual and statutory responsibilities to petitioners as homeowners.

Receivership is aimed at the preservation of, and at making more secure, existing rights; it cannot be used as an instrument for the destruction of those rights.[23]

No violation of the SEC order suspending payments to creditors would result as far as petitioners' complaint before the HLURB is concerned. To reiterate, what petitioners seek to enforce are respondent's obligations as a subdivision developer. Such claims are *basically* not pecuniary in nature although it could *incidentally* involve monetary considerations. All that petitioners' claims entail is the exercise of proper subdivision management on the part of the SEC-appointed Board of Receivers towards the end that homeowners shall enjoy the ideal community living that respondent portrayed they would have when they bought real estate from it.

Neither may petitioners be considered as having "claims" against respondent within the context of the following proviso of Section 6 (c) of P.D. No. 902-A, as amended by P.D. Nos. 1653, 1758 and 1799, to warrant suspension of the HLURB proceedings:

> [U]pon appointment of a management committee, rehabilitation receiver, board or body, pursuant to this Decree, all actions for *claims* against corporations, partnerships or associations under management or receivership pending before any court, tribunal, board or body shall be suspended accordingly. (Italics supplied.)

In *Finasia Investments and Finance Corporation v. Court of*

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[21] *Teal Motor Co., Inc. v. Court of First Instance of Manila,* 51 Phil. 549, 563 [1928].

[22] See *Provident Savings Bank v. Court of Appeals*, 222 SCRA 125, 130-131 [1993].

[23] *Ysasi v. Hon. Fernandez*, 132 Phil. 526, 533 [1968].

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Appeals,[24] this Court defined and explained the term "claim" in Section 6 (c) of P.D. No. 902-A, as amended, as follows:

> We agree with the public respondent that the word "*claim*" as used in Sec. 6 (c) of P.D. 902-A, as amended, refers to *debts or demands of a pecuniary nature.* It means "the assertion of a right to have money paid. It is used in special proceedings like those before administrative court, on insolvency." (Italics supplied.)

Hence, in *Finasia Investments*, the Court held that a civil case to nullify a special power of attorney because the principal's signature was forged should not be suspended upon the appointment of a receiver of the mortgagee to whom a person mortgaged the property owned by such principal. The Court ruled that the cause of action in that civil case "does not consist of demand for payment of debt or enforcement of pecuniary liability." It added:

> It has nothing to do with the purpose of Section 6 (c) of P.D. 902-A, as amended, which is to prevent a creditor from obtaining an advantage or preference over another with respect to action against corporation, partnership, association under management or receivership and to protect and preserve the rights of party litigants as well as the interest of the investing public or creditors. Moreover, a final verdict on the question of whether the special power of attorney in question is a forgery or not will not amount to any preference or advantage to Castro who was not shown to be a creditor of FINASIA.[25]

In this case, under the complaint for specific performance before the HLURB, petitioners do not aim to enforce a pecuniary demand. Their claim for reimbursement should be viewed in the light of respondent's alleged failure to observe its statutory and contractual obligations to provide petitioners a "decent human settlement" and "ample opportunities for improving their quality of life."[26] The HLURB, not the SEC, is equipped with the expertise to deal with that matter.

On the other hand, the jurisdiction of the SEC is defined by P.D. No. 902-A, as amended, as follows:

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[24] 237 SCRA 446, 450 [1994].

[25] *Id.*, 450-451.

[26] P.D. No. 957, first "whereas clause."

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SEC. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

a) Devices or schemes employed by or any act of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, members of associations or organizations registered with the Commission;

b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members of associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members, or associates, respectively; and between such corporation, partnership or association and the State insofar as it concerns their individual franchise or right to exist as such entity; [and]

c) Controversies in the election or appointments of directors, trustees, officers, or managers of such corporation, partnerships or associations.

For the SEC to acquire jurisdiction over any controversy under these provisions, two elements must be considered: (1) the status or relationship of the parties; and (2) the nature of the question that is the subject of their controversy.[27] The first element requires that the controversy must arise "out of intra-corporate or partnership relations between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the State in so far as it concerns their individual franchises."[28] Petitioners are not stockholders, members or

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[27] *Viray v. Court of Appeals*, 191 SCRA 308, 323 [1990]; *Macapalan v. Katalbas-Moscardon,* 227 SCRA 49, 54 [1993]; *Torio v. Court of Appeals,* 230 SCRA 626; 632 [1994]; *Bernardo, Sr. v. Court of Appeals*, 331 Phil. 962, 980 [1996]; *Lozano v. De los Santos,* 274 SCRA 452, 457 [1997].

[28] *Lozano v. De los Santos, supra,* citing *Union Glass & Container Corporation v. SEC*, 126 SCRA 31, 38 [1983] and AGPALO, COMMENTS ON THE CORPORATION CODE OF THE PHILIPPINES, 447-448 [1993].

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associates of respondent. They are lot buyers and now homeowners in the subdivision developed by the respondent.

The second element requires that the dispute among the parties be intrinsically connected with the regulation or the internal affairs of the corporation, partnership or association.[29] The controversy in this case is remotely related to the "regulation" of respondent corporation or to respondent's "internal affairs."

It should be stressed that the main concern in this case is the issue of jurisdiction over petitioners' complaint against respondent for specific performance. P.D. No. 902-A, as amended, defines the jurisdiction of the SEC; while P.D. No. 957, as amended, delineates that of the HLURB. These two quasi-judicial agencies exercise functions that are distinct from each other. The SEC has authority over the operation of all kinds of corporations, partnerships or associations with the end in view of protecting the interests of the investing public and creditors. On the other hand, the HLURB has jurisdiction over matters relating to observance of laws governing corporations engaged in the specific business of development of subdivisions and condominiums. The HLURB and the SEC being bestowed with distinct powers and functions, the exercise of those functions by one shall not abate the performance by the other of its own functions. As respondent puts it, "there is no contradiction between P.D. No. 902-A and P.D. No. 957."[30]

What complicated the jurisdictional issue in this case is the fact that petitioners are primarily praying for the retention of respondent's obligations under the Memorandum of Agreement that Receiver Orendain had entered into with them but which the present Board of Receivers had revoked.

In *Figueroa v. SEC*,[31] this Court has declared that the power to overrule or revoke the previous acts of the management or Board of Directors of the entity under receivership is within a receiver's

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[29] *Lozano v. De los Santos, supra* at 457-458 citing *Dee v. SEC*, 199 SCRA 238 [1991] and *Union Glass & Container Corporation v. SEC, supra.*

[30] *Rollo*, 492.

[31] 162 SCRA 689 [1988].

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authority, as provided for by Section 6 (d) (2) of P.D. No. 902-A. Indeed, when the acts of a previous receiver or management committee prove disadvantageous or inimical to the rehabilitation of a distressed corporation, the succeeding receiver or management committee may abrogate or cast aside such acts. However, that prerogative is not absolute. It should be exercised upon due consideration of all pertinent and relevant laws when public interest and welfare are involved. The business of developing subdivisions and corporations being imbued with public interest and welfare, any question arising from the exercise of that prerogative should be brought to the proper agency that has technical know-how on the matter.

P.D. No. 957 was promulgated to encompass all questions regarding subdivisions and condominiums. It is aimed at providing for an appropriate government agency, the HLURB, to which all parties aggrieved in the implementation of its provisions and the enforcement of contractual rights with respect to said category of real estate may take recourse. Nonetheless, the powers of the HLURB may not in any way be deemed as in derogation of the SEC's authority. P.D. Nos. 902-A and 957, as far as both are concerned with corporations, are laws in *pari materia.* P.D. No. 902-A relates to all corporations, while P.D. No. 957 pertains to corporations engaged in the particular business of developing subdivisions and condominiums. Although the provisions of these decrees on the issue of jurisdiction appear to collide when a corporation engaged in developing subdivisions and condominiums is under receivership. the same decrees should be construed as far as reasonably possible to be in harmony with each other to attain the purpose of an expressed national policy.[32]

Hence, the HLURB should take jurisdiction over petitioners' complaint because it pertains to matters within the HLURB's competence and expertise. The HLURB should view the issue of whether the Board of Receivers correctly revoked the agreements entered into between the previous receiver and the petitioners from the perspective of the homeowners' interests, which P.D. No. 957

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[32] *C&C Commercial Corporation v. National Waterworks & Sewerage Authority*, 129 Phil. 227, 236 [1967].

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aims to protect. Whatever monetary awards the HLURB may impose upon respondent are incidental matters that should be addressed to the sound discretion of the Board of Receivers charged with maintaining the viability of respondent as a corporation. Any controversy that may arise in that regard should then be addressed to the SEC.

It is worth noting that the parties agreed at the 1 July 1998 hearing that should the HLURB establish and grant petitioners' claims, the same should be referred to the SEC. Thus, the proceedings at the HLURB should not be suspended notwithstanding that respondent is still under receivership. The TRO that this Court has issued should accordingly continue until such time as the HLURB shall have resolved the controversy. The present members of the Board of Receivers should be reminded of their duties and responsibilities as an *impartial* Board that should serve the interests of both the homeowners and respondent's creditors. Their interests, financial or otherwise, as members of respondent's *Board of Directors* should be circumscribed by *judicious and unbiased* performance of their duties and responsibilities as members of the *Board of Receivers*. Otherwise, respondent's full rehabilitation may face a bleak future. Both parties should never give full rein to acts that could prove detrimental to the interests of the homeowners and eventually jeopardize respondent's rehabilitation.

WHEREFORE, the questioned Decision of the Court of Appeals is hereby *REVERSED* and *SET ASIDE*. The case is *REMANDED* to the Housing and Land Use Regulatory Board for continuation of proceedings with dispatch as the Securities and Exchange Commission proceeds with the rehabilitation of respondent BF Homes, Inc., through the Board of Receivers. Thereafter, any and all monetary claims duly established before the HLURB shall be referred to the Board of Receivers for proper disposition and thereafter, to the SEC, if necessary. No costs.

SO ORDERED.

Puno, Kapunan, Pardo, and *Ynares-Santiago, JJ.*, concur.