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FIRST DIVISION

[G.R. No. 167379. June 27, 2006]

PRIMELINK PROPERTIES AND DEVELOPMENT CORPORATION and RAFAELITO W. LOPEZ, *petitioners, vs.* **MA. CLARITA T. LAZATIN-MAGAT, JOSE SERAFIN T. LAZATIN, JAIME TEODORO T. LAZATIN and JOSE MARCOS T. LAZATIN,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS; PARTS OF A PLEADING; RELIEF; EVEN WITHOUT THE PRAYER FOR A SPECIFIC REMEDY, PROPER RELIEF MAY BE GRANTED BY THE COURT IF THE FACTS ALLEGED IN THE COMPLAINT AND THE EVIDENCE INTRODUCED SO WARRANT.—** Section 2(c), Rule 7 of the Rules of Court provides that a pleading shall specify the relief sought but it may add as general prayer for such further or other relief as may be deemed just and equitable. Even without the prayer for a specific remedy, proper relief may be granted by the court if the facts alleged in the complaint and the evidence introduced so warrant. The court shall grant relief warranted by the allegations and the proof even if no such relief is prayed for. The prayer in the complaint for other reliefs equitable and just in the premises justifies the grant of a relief not otherwise specifically prayed for.

2. **CIVIL LAW; OBLIGATIONS AND CONTRACTS; PARTNERSHIP; WITH THE RESCISSION OF THE JOINT VENTURE AGREEMENT, ALL AUTHORITY OF ANY PARTNER TO ACT FOR THE PARTNERSHIP IS TERMINATED EXCEPT IN SO FAR AS MAY BE NECESSARY TO WIND UP THE PARTNERSHIP AFFAIRS OR TO COMPLETE TRANSACTIONS BEGUN BUT NOT YET FINISHED.—** With the rescission of the joint venture agreement, all authority of any partner to act for the partnership is terminated except so far as may be necessary to wind up the partnership affairs or to complete transactions begun but not yet finished. On dissolution, the partnership is not terminated but continues until the winding up of partnership

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affairs is completed. Winding up means the administration of the assets of the partnership for the purpose of terminating the business and discharging the obligations of the partnership.

3. ID.; ID.; ID.; PARTNERS ARE AUTHORIZED TO WIND UP THE PARTNERSHIP AFFAIRS.— "Art. 1836. Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not insolvent, has the right to wind up the partnership affairs, provided, however, that any partner, his legal representative or his assignee, upon cause shown, may obtain winding up by the court."

APPEARANCES OF COUNSEL

Padilla Reyes & Dela Torre Law Offices for petitioners.
J. Barte Law Office for respondents.

D E C I S I O N

CALLEJO, SR., *J.*:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 69200 and its Resolution[2] denying petitioners' motion for reconsideration thereof.

The factual and procedural antecedents are as follows:

Primelink Properties and Development Corporation (Primelink for brevity) is a domestic corporation engaged in real estate development. Rafaelito W. Lopez is its President and Chief Executive Officer.[3]

Ma. Clara T. Lazatin-Magat and her brothers, Jose Serafin T. Lazatin, Jaime T. Lazatin and Jose Marcos T. Lazatin (the

[1] Penned by Associate Justice Regalado E. Maambong, with Associate Justices Eloy R. Bello, Jr. and Lucenito N. Tagle, concurring; *rollo*, pp. 33-53.

[2] *Rollo*, pp. 72-74.

[3] *Id.* at 12.

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Lazatins for brevity), are co-owners of two (2) adjoining parcels of land, with a combined area of 30,000 square meters, located in Tagaytay City and covered by Transfer Certificate of Title (TCT) No. T-1084[4] of the Register of Deeds of Tagaytay City.

On March 10, 1994, the Lazatins and Primelink, represented by Lopez, in his capacity as President, entered into a Joint Venture Agreement[5] (JVA) for the development of the aforementioned property into a residential subdivision to be known as "*Tagaytay Garden Villas*." Under the JVA, the Lazatin siblings obliged themselves to contribute the two parcels of land as their share in the joint venture. For its part, Primelink undertook to contribute money, labor, personnel, machineries, equipment, contractor's pool, marketing activities, managerial expertise and other needed resources to develop the property and construct therein the units for sale to the public. Specifically, Primelink bound itself to accomplish the following, upon the execution of the deed:

a.) Survey the land, and prepare the projects master plans, engineering designs, structural and architectural plans, site development plans, and such other need plans in accordance with existing laws and the rules and regulations of appropriate government institutions, firms or agencies;

b.) Secure and pay for all the licenses, permits and clearances needed for the projects;

c.) Furnish all materials, equipment, labor and services for the development of the land in preparation for the construction and sale of the different types of units (single-detached, duplex/ twin, cluster and row house);

d.) Guarantee completion of the land development work if not prevented by *force majeure* or fortuitous event or by competent authority, or other unavoidable circumstances beyond the DEVELOPER'S control, not to exceed three years from the date of the signing of this Joint Venture Agreement, except the installation of the electrical facilities which is solely MERALCO'S responsibility;

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[4] Records, pp. 12-13.

[5] *Id.* at 14.

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e.) Provide necessary manpower resources, like executive and managerial officers, support personnel and marketing staff, to handle all services related to land and housing development (administrative and construction) and marketing (sales, advertising and promotions).[6]

The Lazatins and Primelink covenanted that they shall be entitled to draw allowances/advances as follows:

1. During the first two years of the Project, the DEVELOPER and the LANDOWNER can draw allowances or make advances not exceeding a total of twenty percent (20%) of the net revenue for that period, on the basis of sixty percent (60%) for the DEVELOPER and forty percent (40%) for the LANDOWNERS.

   The drawing allowances/advances are limited to twenty percent (20%) of the net revenue for the first two years, in order to have sufficient reserves or funds to protect and/or guarantee the construction and completion of the different types of units mentioned above.

2. After two years, the DEVELOPER and the LANDOWNERS shall be entitled to drawing allowances and/or advances equivalent to sixty percent (60%) and forty percent (40%), respectively, of the total net revenue or income of the sale of the units.[7]

They also agreed to share in the profits from the joint venture, thus:

1. The DEVELOPER shall be entitled to sixty percent (60%) of the net revenue or income of the Joint Venture project, after deducting all expenses incurred in connection with the land development (such as administrative management and construction expenses), and marketing (such as sales, advertising and promotions), and

2. The LANDOWNERS shall be entitled to forty percent (40%) of the net revenue or income of the Joint Venture project, after deducting all the above-mentioned expenses.[8]

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[6] *Id.* at 15.

[7] *Id.* at 16.

[8] *Id.*

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Primelink submitted to the Lazatins its Projection of the Sales-Income-Cost of the project:

SALES-INCOME-COST PROJECTION

SELLING PRICE	COST PRICE	DIFFERENCE	INCOME
CLUSTER:			
A1 3,200,000	- A2 1,260,000	= 1,940,000 x 24	= ₱46,560,000.00
TWIN:			
B1 2,500,000	- B2 960,000	= 1,540,000 x 24	= 36,960,000.00
SINGLE:			
C1 3,500,000	- C2 1,400,000	= 2,100,000 x 16	= 33,600,000.00
ROW-TYPE TOWNHOMES:			
D1 1,600,000	- D2 700,000	= 900,000 x 24	= 21,600,000.00
			₱138,720,000.00

(GROSS) Total Cash Price (A1+B1+C1+D1)	= ₱231,200,000.00
Total Building Expense (A2+B2+C2+D2)	= 92,480,000.00

COMPUTATION OF ADD'L. INCOME ON INTEREST

TCP x 30% D/P = ₱ 69,360,000	₱ 69,360,000.00
Balance = 70% = 161,840,000	
x .03069 x 48 = ₱238,409,740	238,409,740.00
Total Amount (TCP + int. earn.)	₱307,769,740.00

EXPENSES:

less:	A	Building expenses	₱ 92,480,000.00
	B	Commission (8% of TCP)	18,496,000.00
	C	Admin. & Mgmt. expenses (2% of TCP)	4,624,000.00
	D	Advertising & Promo exp. (2% of TCP)	4,624,000.00
	E	Building expenses for the open spaces and Amenities (Development cost not incl. Housing) 400 x 30,000 sqms.	12,000,000.00
		TOTAL EXPENSES (A+B+C+D+E)	₱ 132,224,000.00

RECONCILIATION OF INCOME *VS.* EXPENSES

Total Projected Income (incl. income from interest earn.)	₱ 307,769,740.00
less:	132,224,000.00
Total Expenses	₱ 175,545,740.00[9]

[9] *Id.* at 23.

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The parties agreed that any unsettled or unresolved misunderstanding or conflicting opinions between the parties relative to the interpretation, scope and reach, and the enforcement/implementation of any provision of the agreement shall be referred to Voluntary Arbitration in accordance with the Arbitration Law.[10]

The Lazatins agreed to subject the title over the subject property to an escrow agreement. Conformably with the escrow agreement, the owner's duplicate of the title was deposited with the China Banking Corporation.[11] However, Primelink failed to immediately secure a Development Permit from Tagaytay City, and applied the permit only on August 30, 1995. On October 12, 1995, the City issued a Development Permit to Primelink.[12]

In a Letter[13] dated April 10, 1997, the Lazatins, through counsel, demanded that Primelink comply with its obligations under the JVA, otherwise the appropriate action would be filed against it to protect their rights and interests. This impelled the officers of Primelink to meet with the Lazatins and enabled the latter to review its business records/papers. In another Letter[14] dated October 22, 1997, the Lazatins informed Primelink that they had decided to rescind the JVA effective upon its receipt of the said letter. The Lazatins demanded that Primelink cease and desist from further developing the property.

Subsequently, on January 19, 1998, the Lazatins filed, with the Regional Trial Court (RTC) of Tagaytay City, Branch 18, a complaint for rescission accounting and damages, with prayer for temporary restraining order and/or preliminary injunction against Primelink and Lopez. The case was docketed as Civil Case No. TG-1776. Plaintiffs alleged, among others, that, despite the lapse of almost four (4) years from the execution of the

[10] *Id.* at 16.

[11] *Id.* at 15.

[12] *Id.* at 70.

[13] *Id.* at 20.

[14] *Id.* at 22.

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JVA and the delivery of the title and possession of the land to defendants, the land development aspect of the project had not yet been completed, and the construction of the housing units had not yet made any headway, based on the following facts, namely: (a) of the 50 housing units programmed for Phase I, only the following types of houses appear on the site in these condition: (aa) single detached, one completed and two units uncompleted; (bb) cluster houses, one unit nearing completion; (cc) duplex, two units completed and two units unfinished; and (dd) row houses, two units, completed; (b) in Phase II thereof, all that was done by the defendants was to grade the area; the units so far constructed had been the object of numerous complaints by their owners/purchasers for poor workmanship and the use of sub-standard materials in their construction, thus, undermining the project's marketability. Plaintiffs also alleged that defendants had, without justifiable reason, completely disregarded previously agreed accounting and auditing procedures, checks and balances system installed for the mutual protection of both parties, and the scheduled regular meetings were seldom held to the detriment and disadvantage of plaintiffs. They averred that they sent a letter through counsel, demanding compliance of what was agreed upon under the agreement but defendants refused to heed said demand. After a succession of letters with still no action from defendants, plaintiffs sent a letter on October 22, 1997, a letter formally rescinding the JVA.

Plaintiffs also claimed that in a sales-income-costs projection prepared and submitted by defendants, they (plaintiffs) stood to receive the amount of ₱70,218,296.00 as their net share in the joint venture project; to date, however, after almost four (4) years and despite the undertaking in the JVA that plaintiffs shall initially get 20% of the agreed net revenue during the first two (2) years (on the basis of the 60%-40% sharing) and their full 40% share thereafter, defendants had yet to deliver these shares to plaintiffs which by conservative estimates would amount to no less than ₱40,000,000.00.[15]

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[15] *Id.* at 6.

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Plaintiffs prayed that, after due proceedings, judgment be rendered in their favor, thus:

WHEREFORE, it is respectfully prayed of this Honorable Court that a temporary restraining order be forthwith issued enjoining the defendants to immediately stop their land development, construction and marketing of the housing units in the aforesaid project; after due proceedings, to issue a writ of preliminary injunction enjoining and prohibiting said land development, construction and marketing of housing units, pending the disposition of the instant case.

After trial, a decision be rendered:

1. Rescinding the Joint Venture Agreement executed between the plaintiffs and the defendants;

2. Immediately restoring to the plaintiffs possession of the subject parcels of land;

3. Ordering the defendants to render an accounting of all income generated as well as expenses incurred and disbursement made in connection with the project;

4. Making the Writ of Preliminary Injunction permanent;

5. Ordering the defendants, jointly and severally, to pay the plaintiffs the amount Forty Million Pesos (₱40,000,000.00) in actual and/or compensatory damages;

6. Ordering the defendants, jointly and severally, to pay the plaintiffs the amount of Two Million Pesos (₱2,000,000.00) in exemplary damages;

7. Ordering the defendants, jointly and severally, to pay the plaintiffs the amount equivalent to ten percent (10%) of the total amount due as and for attorney's fees; and

8. To pay the costs of this suit.

Other reliefs and remedies as are just and equitable are likewise being prayed for.[16]

Defendants opposed plaintiffs' plea for a writ of preliminary injunction on the ground that plaintiffs' complaint was premature, due to their failure to refer their complaint to a Voluntary Arbitrator pursuant to the JVA in relation to Section 2 of Republic Act

[16] *Id.* at 6.

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No. 876 before filing their complaint in the RTC. They prayed for the dismissal of the complaint under Section 1(j), Rule 16 of the Rules of Court:

WHEREFORE, it is respectfully prayed that an Order be issued:

a) dismissing the Complaint on the basis of Section 1(j), Rule 16 of the aforecited Rules of Court, or, in the alternative,

b) requiring the plaintiffs to make initiatory step for arbitration by filing the demand to arbitrate, and then asking the parties to resolve their controversies, pursuant to the Arbitration Law, or in the alternative,

c) staying or suspending the proceedings in captioned case until the completion of the arbitration, and

d) denying the plaintiffs' prayer for the issuance of a temporary restraining order or writ of preliminary injunction.

Other reliefs and remedies just and equitable in the premises are prayed for.[17]

In the meantime, before the expiration of the reglementary period to answer the complaint, defendants, invoking their counsel's heavy workload, prayed for a 15-day extension[18] within which to file their answer. The additional time prayed for was granted by the RTC.[19] However, instead of filing their answer, defendants prayed for a series of 15-day extensions in eight (8) successive motions for extensions on the same justification.[20] The RTC again granted the additional time prayed for, but in granting the last extension, it warned against further extension.[21] Despite the admonition, defendants again moved for another 15-day extension,[22] which, this time, the RTC denied. No answer

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[17] *Id.* at 34.

[18] *Id.* at 37.

[19] *Id.* at 38.

[20] March 3, 1998; March 17, 1998; March 31, 1998; April 15, 1998; April 29, 1998; May 14, 1998; May 28, 1998; June 11, 1998. Records, pp. 39, 55, 90, 104, 107, 110, 115 and 117, respectively.

[21] Records, p. 119.

[22] *Id.* at 120.

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having been filed, plaintiffs moved to declare the defendants in default,[23] which the RTC granted in its Order[24] dated June 24, 1998.

On June 25, 1998, defendants filed, via registered mail, their "Answer with Counterclaim and Opposition to the Prayer for the Issuance of a Writ of Preliminary Injunction."[25] On July 8, 1998, defendants filed a Motion to Set Aside the Order of Default.[26] This was opposed by plaintiffs.[27] In an Order[28] dated July 14, 1998, the RTC denied defendants' motion to set aside the order of default and ordered the reception of plaintiffs' evidence *ex parte*. Defendants filed a motion for reconsideration[29] of the July 14, 1998 Order, which the RTC denied in its Order[30] dated October 21, 1998.

Defendants thereafter interposed an appeal to the CA assailing the Order declaring them in default, as well as the Order denying their motion to set aside the order of default, alleging that these were contrary to facts of the case, the law and jurisprudence.[31] On September 16, 1999, the appellate court issued a Resolution[32] dismissing the appeal on the ground that the Orders appealed from were interlocutory in character and, therefore, not appealable. No motion for reconsideration of the Order of the dismissal was filed by defendants.

In the meantime, plaintiffs adduced *ex parte* their testimonial and documentary evidence. On April 17, 2000, the RTC rendered a Decision, the dispositive part of which reads:

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[23] *Id.* at 122.

[24] *Id.* at 125.

[25] *Id.* at 126.

[26] *Id.* at 134.

[27] *Id.* at 139.

[28] *Id.* at 143.

[29] *Id.* at 146.

[30] *Id.* at 164.

[31] *Id.* at 165.

[32] *Id.* at 204-205.

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WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

1. Ordering the rescission of the Joint Venture Agreement as of the date of filing of this complaint;
2. Ordering the defendants to return possession, including all improvements therein, of the real estate property belonging to the plaintiffs which is described in, and covered by Transfer Certificate of Title No. T-10848 of the Register of Deeds of Tagaytay City, and located in Barangay Anulin, City of Tagaytay;
3. Ordering the defendants to turn over all documents, records or papers that have been executed, prepared and retained in connection with any contract to sell or deed of sale of all lots/ units sold during the effectivity of the joint venture agreement;
4. Ordering the defendants to pay the plaintiffs the sum of ₱1,041,524.26 representing their share of the net income of the ₱2,603,810.64 as of September 30, 1995, as stipulated in the joint venture agreement;
5. Ordering the defendants to pay the plaintiffs' attorney's fees in the amount of ₱104,152.40;
6. Ordering the defendants to pay the costs.

SO ORDERED.[33]

The trial court anchored its decision on the following findings:

x x x Evidence on record have shown patent violations by the defendants of the stipulations particularly paragraph II covering Developer's (defendant) undertakings, as well as paragraph III and paragraph V of the JVA. These violations are not limited to those made against the plaintiffs alone as it appears that some of the unit buyers themselves have their own separate gripes against the defendants as typified by the letters (Exhibits "G" and "H") of Mr. Emmanuel Enciso.

x x x x x x x x x

Rummaging through the evidence presented in the course of the testimony of Mrs. Maminta on August 6, 1998 (Exhibits "N", "O",

[33] *Id.* at 215.

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"P", "Q" and "R" as well as submarkings, pp. 60 to 62, TSN August 6, 1998) this court has observed, and is thus convinced, that a pattern of what appears to be a scheme or plot to reduce and eventually blot out the net income generated from sales of housing units by defendants, has been established. Exhibit "P-2" is explicit in declaring that, as of September 30, 1995, the joint venture project earned a net income of about ₱2,603,810.64. This amount, however, was drastically reduced in a subsequent financial report submitted by the defendants to ₱1,954,216.39. Shortly thereafter, and to the dismay of the plaintiffs, the defendants submitted an income statement and a balance sheet (Exhibits "R" and "R-1") indicating a net loss of ₱5,122,906.39 as of June 30, 1997.

Of the reported net income of ₱2,603,810.64 (Exhibit "P-2") the plaintiffs should have received the sum of ₱1,041,524.26 representing their 40% share under paragraph II and V of the JVA. But this was not to be so. Even before the plaintiffs could get hold of their share as indicated above, the defendants closed the chance altogether by declaring a net loss. The court perceives this to be one calculated *coup-de-grace* that would put to thin air plaintiffs' hope of getting their share in the profit under the JVA.

That this matter had reached the court is no longer a cause for speculation. The way the defendants treated the JVA and the manner by which they handled the project itself *vis-à-vis* their partners, the plaintiffs herein, there is bound to be certain conflict as the latter repeatedly would received the losing end of the bargain.

Under the intolerable circumstances, the plaintiffs could not have opted for some other recourse but to file the present action to enforce their rights. x x x[34]

On May 15, 2000, plaintiffs filed a Motion for Execution Pending Appeal[35] alleging defendants' dilatory tactics for its allowance. This was opposed by defendants.[36]

On May 22, 2000, the RTC resolved the motion for execution pending appeal in favor of plaintiffs.[37] Upon posting a bond of

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[34] *Id.* at 212-214.

[35] *Id.* at 216-220.

[36] *Id.* at 221-228.

[37] *Id.* at 231-232.

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₱1,000,000.00 by plaintiffs, a writ of execution pending appeal was issued on June 20, 2000.[38]

Defendants appealed the decision to the CA on the following assignment of errors:

I

THE TRIAL COURT ERRED IN DECIDING THE CASE WITHOUT FIRST REFERRING THE COMPLAINT FOR VOLUNTARY ARBITRATION (R.A. NO. 876), CONTRARY TO THE MANDATED VOLUNTARY ARBITRATION CLAUSE UNDER THE JOINT VENTURE AGREEMENT, AND THE DOCTRINE IN "*MINDANAO PORTLAND CEMENT CORPORATION V. MCDONOUGH CONSTRUCTION COMPANY OF FLORIDA*" (19 SCRA 814-815).

II

THE TRIAL COURT ERRED IN ISSUING A WRIT OF EXECUTION PENDING APPEAL EVEN IN THE ABSENCE OF GOOD AND COMPELLING REASONS TO JUSTIFY SAID ISSUANCE, AND DESPITE PRIMELINK'S STRONG OPPOSITION THERETO.

III

THE TRIAL COURT ERRED IN REFUSING TO DECIDE PRIMELINK'S MOTION TO QUASH THE WRIT OF EXECUTION PENDING APPEAL AND THE MOTION FOR RECONSIDERATION, ALTHOUGH THE COURT HAS RETAINED ITS JURISDICTION TO RULE ON ALL QUESTIONS RELATED TO EXECUTION.

IV

THE TRIAL COURT ERRED IN RESCINDING THE JOINT VENTURE AGREEMENT ALTHOUGH PRIMELINK HAS SUBSTANTIALLY DEVELOPED THE PROJECT AND HAS SPENT MORE OR LESS FORTY MILLION PESOS, AND DESPITE APPELLEES' FAILURE TO PRESENT SUFFICIENT EVIDENCE JUSTIFYING THE SAID RESCISSION.

V

THE TRIAL COURT ERRED IN DECIDING THAT THE APPELLEES HAVE THE RIGHT TO TAKE OVER THE SUBDIVISION AND TO

[38] *Id.* at 236.

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APPROPRIATE FOR THEMSELVES ALL THE EXISTING IMPROVEMENTS INTRODUCED THEREIN BY PRIMELINK, ALTHOUGH SAID RIGHT WAS NEITHER ALLEGED NOR PRAYED FOR IN THE COMPLAINT, MUCH LESS PROVEN DURING THE *EX PARTE* HEARING, AND EVEN WITHOUT ORDERING APPELLEES TO FIRST REIMBURSE PRIMELINK OF THE SUBSTANTIAL DIFFERENCE BETWEEN THE MARKET VALUE OF APPELLEES' RAW, UNDEVELOPED AND UNPRODUCTIVE LAND (CONTRIBUTED TO THE PROJECT) AND THE SUM OF MORE OR LESS FORTY MILLION PESOS WHICH PRIMELINK HAD SPENT FOR THE HORIZONTAL AND VERTICAL DEVELOPMENT OF THE PROJECT, THEREBY ALLOWING APPELLEES TO UNJUSTLY ENRICH THEMSELVES AT THE EXPENSE OF PRIMELINK.[39]

The appeal was docketed in the CA as CA-G.R. CV No. 69200.

On August 9, 2004, the appellate court rendered a decision affirming, with modification, the appealed decision. The *fallo* of the decision reads:

> WHEREFORE, in view of the foregoing, the assailed decision of the Regional Trial Court of Tagaytay City, Branch 18, promulgated on April 17, 2000 in Civil Case No. TG-1776, is hereby AFFIRMED. Accordingly, Transfer Certificate of Title No. T-10848 held for safekeeping by Chinabank pursuant to the Escrow Agreement is ordered released for return to the plaintiffs-appellees and conformably with the affirmed decision, the cancellation by the Register of Deeds of Tagaytay City of whatever annotation in TCT No. 10848 by virtue of the Joint Venture Agreement, is now proper.
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> SO ORDERED.[40]

Citing the ruling of this Court in *Aurbach v. Sanitary Wares Manufacturing Corporation*,[41] the appellate court ruled that, under Philippine law, a joint venture is a form of partnership and is to be governed by the laws of partnership. The aggrieved

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[39] CA *rollo*, pp. 63-65.

[40] *Rollo*, p. 53.

[41] G.R. Nos. 75875, 75951 and 75975-76, December 15, 1989, 180 SCRA 130, 147.

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parties filed a motion for reconsideration,[42] which the CA denied in its Resolution[43] dated March 7, 2005.

Petitioners thus filed the instant Petition for Review on *Certiorari*, alleging that:

1) DID THE HONORABLE COURT OF APPEALS COMMIT A FATAL AND REVERSIBLE LEGAL ERROR AND/OR GRAVE ABUSE OF DISCRETION IN ORDERING THE RETURN TO THE RESPONDENTS OF THE PROPERTY *WITH ALL IMPROVEMENTS THEREON*, EVEN WITHOUT ORDERING/REQUIRING THE RESPONDENTS TO FIRST PAY OR REIMBURSE PRIMELINK OF ALL EXPENSES INCURRED IN DEVELOPING AND MARKETING THE PROJECT, LESS THE ORIGINAL VALUE OF THE PROPERTY, AND THE SHARE DUE RESPONDENTS FROM THE PROFITS (IF ANY) OF THE JOINT VENTURE PROJECT?

2) IS THE AFORESAID ORDER ILLEGAL AND CONFISCATORY, OPPRESSIVE AND UNCONSCIONABLE, CONTRARY TO THE TENETS OF GOOD HUMAN RELATIONS AND VIOLATIVE OF EXISTING LAWS AND JURISPRUDENCE ON JUDICIAL NOTICE, DEFAULT, UNJUST ENRICHMENT AND RESCISSION OF CONTRACT WHICH REQUIRES MUTUAL RESTITUTION, NOT UNILATERAL APPROPRIATION, OF PROPERTY BELONGING TO ANOTHER?[44]

Petitioners maintain that the aforesaid portion of the decision which unconditionally awards to respondents "all improvements" on the project without requiring them to pay the value thereof or to reimburse Primelink for all expenses incurred therefore is inherently and essentially illegal and confiscatory, oppressive and unconscionable, contrary to the tenets of good human relations, and will allow respondents to unjustly enrich themselves at Primelink's expense. At the time respondents contributed

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[42] *Rollo*, p. 55.

[43] *Id.* at 72-74.

[44] *Id.* at 14.

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the two parcels of land, consisting of 30,000 square meters to the joint venture project when the JVA was signed on March 10, 1994, the said properties were worth not more than ₱500.00 per square meter, the "price tag" agreed upon the parties for the purpose of the JVA. Moreover, before respondents rescinded the JVA sometime in October/November 1997, the property had already been substantially developed as improvements had already been introduced thereon; petitioners had likewise incurred administrative and marketing expenses, among others, amounting to more or less ₱40,000,000.00.[45]

Petitioners point out that respondents did not pray in their complaint that they be declared the owners and entitled to the possession of the improvements made by petitioner Primelink on the property; neither did they adduce evidence to prove their entitlement to said improvements. It follows, petitioners argue, that respondents were not entitled to the improvements although petitioner Primelink was declared in default.

They also aver that, under Article 1384 of the New Civil Code, rescission shall be only to the extent necessary to cover the damages caused and that, under Article 1385 of the same Code, rescission creates the obligation to return the things which were not object of the contract, together with their fruits, and the price with its interest; consequently, it can be effected only when respondents can return whatever they may be obliged to return. Respondents who sought the rescission of the JVA must place petitioner Primelink in the status *quo*. They insist that respondents cannot rescind and, at the same time, retain the consideration, or part of the consideration received under the JVA. They cannot have the benefits of rescission without assuming its burden. All parties must be restored to their original positions as nearly as possible upon the rescission of a contract. In the event that restoration to the status *quo* is impossible, rescission may be granted if the Court can balance the equities and fashion an appropriate remedy that would be equitable to both parties and afford complete relief.

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[45] *Id.* at 21-22.

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Petitioners insist that being defaulted in the court *a quo* would in no way defeat their claim for reimbursement because "[w]hat matters is that the improvements exist and they cannot be denied."[46] Moreover, they point out, the ruling of this Court in *Aurbach v. Sanitary Wares Manufacturing Corporation*[47] cited by the CA is not in point.

On the other hand, the CA ruled that although respondents therein (plaintiffs below) did not specifically pray for their takeover of the property and for the possession of the improvements on the parcels of land, nevertheless, respondents were entitled to said relief as a necessary consequence of the ruling of the trial court ordering the rescission of the JVA. The appellate court cited the ruling of this Court in the *Aurbach* case and Article 1838 of the New Civil Code, to wit:

> As a general rule, the relation of the parties in joint ventures is governed by their agreement. When the agreement is silent on any particular issue, the general principles of partnership may be resorted to.[48]

Respondents, for their part, assert that Articles 1380 to 1389 of the New Civil Code deal with rescissible contracts. What applies is Article 1191 of the New Civil Code, which reads:

> ART. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.
>
> The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.
>
> The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.
>
> This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.

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[46] *Id.* at 26.

[47] *Supra* note 41.

[48] *Rollo*, pp. 50-51.

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They insist that petitioners are not entitled to rescission for the improvements because, as found by the RTC and the CA, it was petitioner Primelink that enriched itself at the expense of respondents. Respondents reiterate the ruling of the CA, and argue as follows:

> PRIMELINK argued that the LAZATINs in their complaint did not allege, did not prove and did not pray that they are and should be entitled to take over the development of the project, and that the improvements and existing structures which were introduced by PRIMELINK after spending more or less Forty Million Pesos – be awarded to them. They merely asked in the complaint that the joint venture agreement be rescinded, and that the parcels of land they contributed to the project be returned to them.
>
> PRIMELINK's argument lacks merit. The order of the court for PRIMELINK to return possession of the real estate property belonging to the LAZATINs including all improvements thereon was not a judgment that was different in kind than what was prayed for by the LAZATINs. The order to return the property with all the improvements thereon is just a necessary consequence to the order of rescission.
>
> As a general rule, the relation of the parties in joint ventures is governed by their agreement. When the agreement is silent on any particular issue, the general principles of partnership may be resorted to. In *Aurbach v. Sanitary Wares Manufacturing Corporation*, the Supreme Court discussed the following points regarding joint ventures and partnership:
>
> > The legal concept of a joint venture is of common law origin. It has no precise legal definition, but it has been generally understood to mean an organization formed for some temporary purpose. (*Gates v. Megargel,* 266 Fed. 811 [1920]) *It is, in fact, hardly distinguishable from the partnership, since elements are similar – community of interest in the business, sharing of profits and losses, and a mutual right of control.* (*Blackner v. McDermott,* 176 F.2d 498 [1949]; *Carboneau v. Peterson,* 95 P.2d 1043 [1939]; *Buckley v. Chadwick,* 45 Cal.2d 183, 288 P.2d 12, 289 P.2d 242 [1955]) The main distinction cited by most opinions in common law jurisdictions is that the partnership contemplates a general business with some degree of continuity, while the joint venture is formed for the execution of a single

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> transaction, and is thus of a temporary nature. (*Tuffs v. Mann,* 116 Cal.App. 170, 2 P.2d 500 [1931]; *Harmon v. Martin,* 395 III. 595, 71 N.E.2d 74 [1947]; *Gates v. Megargel,* 266 Fed. 811 [1920]) This observation is not entirely accurate in this jurisdiction, since under the Civil Code, a partnership may be particular or universal, and a particular partnership may have for its object a specific undertaking. (Art. 1783, Civil Code). It would seem therefore that, *under Philippine law, a joint venture is a form of partnership and should thus be governed by the laws of partnership.* The Supreme Court has, however, recognized a distinction between these two business forms, and has held that although a corporation cannot enter into a partnership contract, it may, however, engage in a joint venture with others. (At p. 12, *Tuazon v. Bolanos,* 95 Phil. 906 [1954]; Campos and Lopez – Campos Comments, Notes and Selected Cases, Corporation Code 1981) (Italics supplied)

The LAZATINs were able to establish fraud on the part of PRIMELINK which, in the words of the court *a quo*, was a pattern of what appears to be a scheme or plot to reduce and eventually blot out the net incomes generated from sales of housing units by the defendants. Under Article 1838 of the Civil Code, where the partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, *the party entitled to rescind is, without prejudice to any other right is entitled to a lien on, or right of retention of, the surplus of the partnership property* after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advance contributed by him. In the instant case, the joint venture still has outstanding liabilities to third parties or the buyers of the property.

It is not amiss to state that title to the land or TCT No. T-10848 which is now held by Chinabank for safekeeping pursuant to the Escrow Agreement executed between Primelink Properties and Development Corporation and Ma. Clara T. Lazatin-Magat should also be returned to the LAZATINs as a necessary consequence of the order of rescission of contract. The reason for the existence of the Escrow Agreement has ceased to exist when the joint venture agreement was rescinded.[49]

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[49] *Id.* at 50-52.

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Respondents stress that petitioners must bear any damages or losses they may have suffered. They likewise stress that they did not enrich themselves at the expense of petitioners.

In reply, petitioners assert that it is unjust and inequitable for respondents to retain the improvements even if their share in the ₱1,041,524.26 of the net income of the property and the sale of the land were to be deducted from the value of the improvements, plus administrative and marketing expenses in the total amount of ₱40,000,000.00. Petitioners will still be entitled to an accounting from respondents. Respondents cannot deny the existence and nature of said improvements as they are visible to the naked eye.

The threshold issues are the following: (1) whether respondents are entitled to the possession of the parcels of land covered by the JVA and the improvements thereon introduced by petitioners as their contribution to the JVA; (2) whether petitioners are entitled to reimbursement for the value of the improvements on the parcels of land.

The petition has no merit.

On the first issue, we agree with petitioners that respondents did not specifically pray in their complaint below that possession of the improvements on the parcels of land which they contributed to the JVA be transferred to them. Respondents made a specific prayer in their complaint that, upon the rescission of the JVA, they be placed in possession of the parcels of land subject of the agreement, and for other "reliefs and such other remedies as are just and equitable in the premises." However, the trial court was not precluded from awarding possession of the improvements on the parcels of land to respondents in its decision. Section 2(c), Rule 7 of the Rules of Court provides that a pleading shall specify the relief sought but it may add as general prayer for such further or other relief as may be deemed just and equitable. Even without the prayer for a specific remedy, proper relief may be granted by the court if the facts alleged in the complaint and the evidence introduced so warrant.[50] The court

[50] *Eugenio v. Velez,* G.R. No. 85140, May 17, 1990, 185 SCRA 425, 432-433.

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shall grant relief warranted by the allegations and the proof even if no such relief is prayed for.[51] The prayer in the complaint for other reliefs equitable and just in the premises justifies the grant of a relief not otherwise specifically prayed for.[52]

The trial court was not proscribed from placing respondents in possession of the parcels of land and the improvements on the said parcels of land. It bears stressing that the parcels of land, as well as the improvements made thereon, were contributed by the parties to the joint venture under the JVA, hence, formed part of the assets of the joint venture.[53] The trial court declared that respondents were entitled to the possession not only of the parcels of land but also of the improvements thereon as a consequence of its finding that petitioners breached their agreement and defrauded respondents of the net income under the JVA.

On the second issue, we agree with the CA ruling that petitioner Primelink and respondents entered into a joint venture as evidenced by their JVA which, under the Court's ruling in *Aurbach*, is a form of partnership, and as such is to be governed by the laws on partnership.

When the RTC rescinded the JVA on complaint of respondents based on the evidence on record that petitioners willfully and persistently committed a breach of the JVA, the court thereby dissolved/cancelled the partnership.[54] With the rescission of the JVA on account of petitioners' fraudulent acts, all authority of any partner to act for the partnership is terminated except so far as may be necessary to wind up the partnership affairs or to complete transactions begun but not yet finished.[55] On dissolution, the partnership is not terminated but continues until

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[51] *Banco Filipino Savings and Mortgage Bank v. Court of Appeals*, 388 Phil. 27, 41 (2000).

[52] *Arroyo, Jr. v. Taduran*, G.R. No. 147012, January 29, 2004, 421 SCRA 423, 427.

[53] *Lipscomb v. Aulenbacker*, 272 S.W. 363, 168 Ark. 1066.

[54] Article 1831 in relation to Article 1831(4)(b), NEW CIVIL CODE.

[55] Article 1832 in relation to Article 1834, NEW CIVIL CODE.

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the winding up of partnership affairs is completed.[56] Winding up means the administration of the assets of the partnership for the purpose of terminating the business and discharging the obligations of the partnership.

The transfer of the possession of the parcels of land and the improvements thereon to respondents was only for a specific purpose: the winding up of partnership affairs, and the partition and distribution of the net partnership assets as provided by law.[57] After all, Article 1836 of the New Civil Code provides that unless otherwise agreed by the parties in their JVA, respondents have the right to wind up the partnership affairs:

> Art. 1836. Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not insolvent, has the right to wind up the partnership affairs, provided, however, that any partner, his legal representative or his assignee, upon cause shown, may obtain winding up by the court.

It must be stressed, too, that although respondents acquired possession of the lands and the improvements thereon, the said lands and improvements remained partnership property, subject to the rights and obligations of the parties, *inter se*, of the creditors and of third parties under Articles 1837 and 1838 of the New Civil Code, and subject to the outcome of the settlement of the accounts between the parties as provided in Article 1839 of the New Civil Code, absent any agreement of the parties in their JVA to the contrary.[58] Until the partnership accounts are determined, it cannot be ascertained how much any of the parties is entitled to, if at all.

It was thus premature for petitioner Primelink to be demanding that it be indemnified for the value of the improvements on the parcels of land owned by the joint venture/partnership. Notably,

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[56] Article 1829, NEW CIVIL CODE.

[57] *Sy v. Court of Appeals,* 372 Phil. 207, 299 (1999).

[58] *Ortega v. Court of Appeals,* 315 Phil. 573, 581-582 (1995).

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the JVA of the parties does not contain any provision designating any party to wind up the affairs of the partnership.

Thus, under Article 1837 of the New Civil Code, the rights of the parties when dissolution is caused in contravention of the partnership agreement are as follows:

(1) Each partner who has not caused dissolution wrongfully shall have:

(a) All the rights specified in the first paragraph of this article, and

(b) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(2) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property, provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under the second paragraph, No. 1(b) of this article, and in like manner indemnify him against all present or future partnership liabilities.

(3) A partner who has caused the dissolution wrongfully shall have:

(a) If the business is not continued under the provisions of the second paragraph, No. 2, all the rights of a partner under the first paragraph, subject to liability for damages in the second paragraph, No. 1(b), of this article.

(b) If the business is continued under the second paragraph, No. 2, of this article, the right as against his co-partners and all claiming through them in respect of their interests in the partnership, to have the value of his interest in the partnership, less any damage caused to his co-partners by the dissolution, ascertained and paid to him in cash, or the payment secured by a bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's

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interest the value of the good-will of the business shall not be considered.

And under Article 1838 of the New Civil Code, the party entitled to rescind is, without prejudice to any other right, entitled:

(1) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him;

(2) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(3) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership.

The accounts between the parties after dissolution have to be settled as provided in Article 1839 of the New Civil Code:

Art. 1839. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

(a) The partnership property,

(b) The contributions of the partners necessary for the payment of all the liabilities specified in No. 2.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners,

(b) Those owing to partners other than for capital and profits,

(c) Those owing to partners in respect of capital,

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in No. 1 of this article to the satisfaction of the liabilities.

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(4) The partners shall contribute, as provided by Article 1797, the amount necessary to satisfy the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in the preceding number.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in No. 4, to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in No. 4.

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors.

(9) Where a partner has become insolvent or his estate is insolvent, the claims against his separate property shall rank in the following order:

(a) Those owing to separate creditors;

(b) Those owing to partnership creditors;

(c) Those owing to partners by way of contribution.

IN LIGHT OF ALL THE FOREGOING, the petition is *DENIED*. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 69200 are *AFFIRMED* insofar as they conform to this Decision of the Court.

Costs against petitioners.

SO ORDERED.

Panganiban, C.J. (Chairperson), Ynares-Santiago, Austria-Martinez, and *Chico-Nazario, JJ.,* concur.