

JOLLIBEE PLAZA CONDOMINIUM CORPORATION, REPRESENTED BY JAMES TACLIN BAÑEZ AND RAINIER L. MADRID, IN A DERIVATIVE CAPACITY AS OWNER AND OCCUPANT, RESPECTIVELY, OF UNIT 1609, PETI...

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Review[1] filed under Rule 43 of the Rules of Court. The Petition assails the Decision[2] dated July 27, 2011 issued by the Office of the President (“OP” for brevity) in O.P. Case No. 09-E-168. The Petition also questions the OP’s Resolution[3] dated November 29, 2011, which denied petitioners’ eventual Motion for Reconsideration.[4]

The facts are as follows:

Petitioner Jollibee Plaza Condominium Corporation (“petitioner JPCC” for brevity) is a corporation, which has the title to, and has the management of the common areas and facilities of Jollibee Plaza Condominium (“JP Condominium” for brevity) located along Ortigas Avenue, Pasig City.[5]

On the other hand, petitioners James Taclin Bañez (“Bañez” for brevity) and Ranier L. Madrid (“Madrid” for brevity) are the registered owner and occupant, respectively, of Unit 1609 at the JP Condominium.[6]

Private respondents William Tan Untiong, Paulino Cheng, Samuel Serrano and Cesar De Larrazabal are members of the Board of Directors of JPCC (“private respondent JPCC Board of Directors” for brevity).[7]

Private respondent Jollibee Foods Corporation (“private respondent JFC” for brevity) is a corporation duly organized and existing under the laws of the Philippines. It is one of the unit owners of JP Condominium.[8]

Petitioners Bañez and Madrid, in a “derivative suit”[9] filed on behalf of petitioner JPCC (collectively referred to here as “petitioners”), filed on February 6, 2008, a Complaint[10] for “Reversion/Restoration of Common Areas, Accounting and Damages”[11] against private respondents JPCC Board of Directors and JFC before the Housing and Land Use Regulatory Board (“HLURB” for brevity). Their Complaint[12] alleged that, among others:

“1.7 HOWEVER, defendant JPCC directors, by virtue of their interlocking interest and/or control of both JFC and JPCC, and with a view of giving undue benefit, gain and/or advantage to JFC, appear to have conspired with one another in violating the above express and implied terms of the Master Deed of JPCC, as shown by the following:

FIRST, defendants, in apparent conspiracy with one another, allowed JFC to take, steal, possess, occupy, appropriate and/or exclusively use the common areas, facilities and utilities in the said 'JFC floors' consisting of lights, air conditioning, water, hallways, fire exits and toilets xxx [D]efendants allowed JFC to destroy the existing and construct permanent partitions therein thereby making it impossible and/or difficult for other occupants of Jollibee Plaza building to access and use the hallways, fire exits and common toilets in the said 'JFC floors'.

SECOND, defendant JPCC directors, in an obvious design to give undue benefit, advantage and/or gain to JFC, allowed JFC to take steal, possess, occupy, appropriate and/or use the said common areas, facilities in the said 'JFC floors' without JFC first paying JPCC the proper compensation xxx

THIRD, worse, as admitted by JPCC's President William Tan Untiong in his letter of 17 September 2007, JFC did not and does not pay association dues and other assessments that ought be due from and paid by JFC, as it exclusively occupied and continues to exclusively occupy such common areas from 2000 to date.

FOURTH, worst of all, it appears that, since 2000 to date, the maintenance costs and utilities, such as electricity and water, for the common areas and facilities on the common areas 'JFC floors' were apparently paid for using the common operational funds of JPCC, assessed and paid for by the general JPCC membership.

1.8 EVIDENTLY, by the foregoing acts and/or omissions of defendants, in apparent conspiracy with one another, was able to obtain undue benefit, advantage and/or gain xxx

xxx

1.9 On the other hand, by virtue of the above acts and/or omissions of defendants, plaintiff JPCC and other occupants of Jollibee Plaza building including herein Banez and Madrid were greatly damaged, prejudiced and/or disadvantaged thereby xxx

xxx

1.11 THUS, on 18 June 2007, herein Banez and Madrid, wrote defendant JPCC directors to explain JFC's illegal and unlawful intrusion, obstruction, appropriation and/or taking of the common areas and facilities and utilities in all 'JFC floors', and whether the appropriate compensation to JPCC was paid by JFC xxx"[13] (Emphasis supplied)

On March 19, 2008, private respondent JPCC Board of Directors filed their "ANSWER WITH COUNTERCLAIM"[14] denying all the allegations of petitioners in their Complaint.

For its part, private respondent JFC filed its "ANSWER"[15] on March 28, 2008, stating that, among others:

"1. The elements of a derivative suit, as outlined in Section 1, Rule 7 of Rules of Procedure of the Housing and Land Use Regulatory Board, are not present in the Complaint filed by Mr. Banez and Atty. Madrid.

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11. Moreover, Mr. Banez and Atty. Madrid have not sufficiently exhausted intra-corporate remedies by bringing the matter to the membership of the Condominium Corporation for a general vote."[16]

On April 1, 2008, the HLURB-Expanded National Capital Region Field Office ("HLURB-Region" for brevity) dismissed petitioners' Complaint[17] on ground that the HLURB had no jurisdiction over the case.[18]

Petitioners filed an Appeal[19] from the HLURB-Region's Order[20] dated April 1, 2008 to the HLURB-Board of Commissioners ("HLURB-Board" for brevity). The HLURB-Board, in its Decision[21] dated October 28, 2008, dismissed petitioners' Appeal, and affirmed the HLURB-Region's Order[22] dated April 1, 2008.

Petitioners filed a Motion for Reconsideration[23] of the Decision of the HLURB-Board, which Motion was denied by the HLURB-Board in its Resolution[24] dated March 30, 2009.

As a result of this, petitioners filed a "Petition for Review"[25] before the OP. The OP rendered its assailed Decision[26] dated July 27, 2011 dismissing petitioners' "Petition for Review,"[27] and affirming the Decision[28] and Resolution[29] of the HLURB-Board.

After petitioners' Motion for Reconsideration[30] was denied by the OP in its assailed Resolution[31] dated

November 29, 2011, petitioners filed the Petition[32] at bench, praying that:

“WHEREFORE, petitioner respectfully prays that:

1. Petitioner's appeal be given DUE COURSE, and thereafter, judgment be rendered ANNULING and SETTING ASIDE the challenged O.P.'s Decision dated 27 July 2011 and Resolution dated 29 November 2011; and
2. Petitioner's complaint be REINSTATED for further proceedings before the HLURB.

Other reliefs just and equitable are likewise prayed for.”[33]

Petitioners raised the following grounds:

“I

THE O.P. ERRONEOUSLY DISMISSED PETITIONER'S APPEAL FOR LACK OF JURISDICTION. PETITIONER'S SUIT FOR JFC'S APPROPRIATION OF THE COMMON AREAS, ACCOUNTING AND VIOLATIONS OF THE MASTER DEED WITH DEED OF RESTRICTIONS COMMITTED WITH THE APPARENT PARTICIPATION, TOLERANCE OR ACQUIESCENCE OF NOMINAL RESPONDENT JPCC BOARD OF DIRECTORS, FALLS WITHIN THE EXCLUSIVE JURISDICTION OF THE HLURB BECAUSE:

- THE RELATIONSHIP AMONG THE PARTIES DOES NOT MAKE THIS CASE INTRA-CORPORATE. SUING IN A DERIVATIVE CAPACITY, PETITIONER JPCC IS NEITHER A STOCKHOLDER, DIRECTOR NOR OFFICER OF MAIN DEFENDANT JFC.
- NEITHER DOES THE DERIVATIVE NATURE OF THIS SUIT MAKE THE CASE INTRA-CORPORATE. THE CORE ISSUE HERE IS THE PROPER APPLICATION AND ENFORCEMENT OF THE MASTER DEED OF A CONDOMINIUM PROJECT.
- PURSUANT TO THE DOCTRINE OF PRIMARY JURISDICTION, THE HLURB, AS REGULATOR OF CONDOMINIUM PROJECTS, HAS THE TECHNICAL EXPERTISE AND COMPETENCE TO RESOLVE THE MAIN MASTER DEED CONTROVERSY HEREIN.
- R.A. NO. 4726, AS AMENDED BY R.A. NO. 7899, VESTS HLURB THE AUTHORITY TO APPROVE OR REVOKE THE MASTER DEED OF A CONDOMINIUM PROJECT, INCLUDING THE LEASE OR DISPOSITION OF A CONDOMINIUM PROJECT'S COMMON AREAS.

II

THE O.P. ERRONEOUSLY CONCLUDED THAT THE HLURB BOARD'S DISMISSAL OF PETITIONER'S APPEAL ON THE GROUND OF LACK OF JURISDICTION HAD BECOME FINAL AND EXECUTORY IN THAT:

- THE MATTER OF JURISDICTION CANNOT ATTAIN FINALITY. WHILE PETITIONER INVOKED HLURB JURISDICTION, THE HLURB ITSELF SHIRKS AWAY FROM ITS JURISDICTION. IN EITHER CASE, THE CORE ISSUE BEING JURISDICTION, ONLY THE SUPREME COURT CAN RESOLVE IT WITH FINALITY.
- ONCE THE SUPREME COURT RESOLVES THIS JURISDICTIONAL ISSUE, THE NET EFFECT IS MERELY TO REFILE THIS SUIT BEFORE THE PROPER FORUM, WITHOUT REGARD TO ANY FINALITY OF THE HLURB DECISION.”[34]

Contrary to petitioners' allegations in their assigned ground I, the HLURB has no jurisdiction over petitioners'

Complaint.

Petitioners, in insisting that the HLURB had jurisdiction over the case, argued that:

“The HLURB is the proper agency to take cognizance of this case since controversies pertaining to implementation and enforcement of a condominium project's Master Deed falls within HLURB jurisdiction
xxx

The main defendant or culprit in this case is JFC. xxx

It is undisputed that JPCC is not a stockholder, director or officer of JFC. xxx

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The resultant derivative nature of this suit, being merely secondary and a necessary offshoot, did not and cannot by any stretch of imagination change the original nature of the case as being one between JPCC and JFC to compel the latter to restore the common areas and pay the proper compensation for its unlawful appropriation of the same.

CLEARLY, this suit, notwithstanding its derivative nature, is NOT INTRA-CORPORATE IN NATURE. It is based on the enforcement and implementation of a condominium project's Master Deed which is within the sole jurisdiction of the HLURB.

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Applying the above standards, it is readily discernible that this case is not intra-corporate in nature. The Master Deed in question does not give rise to rights and obligations under the Corporation Code or the internal rules of a corporation (By-laws, Articles of Incorporation, etc.). The Master Deed is in the nature of a contract between the Condominium Corporation and the unit owners in a condominium project. Thus, an action to enforce its provisions does not fall within the ambit of an intra-corporate dispute.

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HENCE, applying the doctrine of primary jurisdiction, the HLURB, as the agency vested with the power to regulate condominium projects, is the proper body to adjudicate this case.

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CLEARLY, the HLURB is tasked to approve the Master Deed of condominium projects, and to monitor, regulate and approve/disapprove disposition of common areas.”[35] (Emphasis supplied)

Defeating petitioners' arguments however, is that the allegations in the Complaint[36] revealed that the case fell within the jurisdiction of the Regional Trial Court (“RTC” for brevity). This is because, as was alleged by petitioners Bañez and Madrid in their Complaint[37], they filed the Complaint[38] as a “derivative suit”[39] on behalf of petitioner JPCC against private respondent JPCC Board of Directors. Moreover, petitioner Bañez, as a unit owner in JP Condominium and an individual stockholder[40] of petitioner JPCC, filed the Complaint[41] against private respondent JPCC Board of Directors, who were the officers of petitioner JPCC, and against private respondent JFC, which was a unit owner in JP Condominium and a stockholder of petitioner JPCC. That petitioners' “derivative suit” fell within the jurisdiction of the RTC was as similarly declared by the Supreme Court in *Anthony S. Yu, et al. v Joseph Yukayguan, et al.*, G.R. No. 177549, June 18, 2009, to wit:

“The general rule is that where a corporation is an injured party, its power to sue is lodged with its board of directors or trustees. Nonetheless, an individual stockholder is permitted to institute a derivative suit on behalf of the corporation wherein he holds stocks in order to protect or vindicate corporate rights, whenever the officials of the corporation refuse to sue, or are the ones to be sued, or hold the control of the corporation. In

such actions, the suing stockholder is regarded as a nominal party, with the corporation as the real party in interest. A derivative action is a suit by a shareholder to enforce a corporate cause of action. The corporation is a necessary party to the suit. And the relief which is granted is a judgment against a third person in favor of the corporation. Similarly, if a corporation has a defense to an action against it and is not asserting it, a stockholder may intervene and defend on behalf of the corporation. By virtue of Republic Act No. 8799, otherwise known as the Securities Regulation Code, jurisdiction over intra-corporate disputes, including derivative suits, is now vested in the Regional Trial Courts designated by this Court pursuant to A.M. No. 00-11-03-SC promulgated on 21 November 2000.” (Emphasis supplied)

Further showing that the RTC had jurisdiction over petitioners' Complaint[42] is that the status or relationship of the parties and the nature of the question that is the subject of their controversy[43] revealed that the case involved an intra-corporate controversy, contrary to petitioners' arguments in their assigned grounds I.1 and I.2.

This is because petitioner Bañez (stockholder[44] of petitioner JPCC) and petitioner Madrid (occupant) filed the Complaint[45] on behalf of petitioner JPCC against private respondents JPCC Board of Directors and JFC (unit owner and stockholder[46] of petitioner JPCC) for the reason that private respondent JPCC Board of Directors allowed private respondent JFC to “appropriate and/or exclusively use”[47] the common areas and other facilities of JP Condominium “without [private respondent] JFC first paying [petitioner] JPCC the proper compensation”[48], to the prejudice of petitioners' rights which they claimed pursuant to their “derivative suit”. This situation is as opposed to one where there is no intra-corporate relationship, such as when a Complaint is filed against the owner, developer, dealer, broker or salesman of the condominium. An intra-corporate relationship being present between the parties here was as also found by the OP, to wit:

“First, the condominium corporation, JPCC, is not one of those entitled to sue under Section 1 of P.D. 1344. JPCC is not a buyer of a condominium unit but the owner of the common areas of the condominium and the action was filed not against the owner, developer, dealer, broker or salesman of the condominium but against JPCC's Board of Directors and one of the unit owners of the condominium, JFC.”[49] (Emphasis supplied)

That an intra-corporate controversy exists, as in this case, when the relationship is “between the corporation, partnership and its members or officers” and “among stockholders, partners or associates themselves”, is pursuant to the following pronouncement of the Supreme Court in *Philip Go, et al. v. Distinction Properties Development and Construction, Inc.* G.R. No. 194024, April 25, 2012:

“An intra-corporate controversy is one which 'pertains to any of the following relationships: (1) between the corporation, partnership or association and the public; (2) between the corporation, partnership or association and the State in so far as its franchise, permit or license to operate is concerned; (3) between the corporation, partnership or association and its stockholders, partners, members or officers; and (4) among the stockholders, partners or associates themselves.’” (Emphasis supplied)

In addition, the causes of action of petitioners were intra-corporate in nature. This is because petitioners alleged in their Complaint[50] that private respondent JPCC Board of Directors violated petitioners' rights by allowing private respondent JFC to “appropriate and/or exclusively use”[51] the common areas and other facilities of JP Condominium without payment of proper compensation.[52] Moreover, according to petitioners, such acts of private respondent JPCC Board of Directors had “greatly damaged, prejudiced and/or disadvantaged”[53] petitioner JPCC and the other occupants of the condominium, including petitioners Bañez and Madrid.[54]

The character of the reliefs sought by petitioners was also intra-corporate in nature. Petitioners were seeking for private respondent JPCC Board of Directors to stop private respondent JFC from continuing to appropriate and exclusively use the common areas of the condominium, and for private respondent JPCC Board of Directors to collect from private respondent JFC compensation due to the latter's appropriation or exclusive use of such

common areas. Petitioners also prayed that private respondents pay Damages for private respondents' alleged violation of petitioners' rights. All of these were as revealed in petitioners' prayer in their Complaint,[55] to wit:

“a. xxx [O]rdering, directing and/or compelling defendants to revert, restore and/or rectify, at defendant JFC's own expense, the common areas on the said JFC floors similar in appearance and configuration to the other common areas of Jollibee Plaza building xxx;

b. xxx [O]rdering and directing defendants to account, determine and submit to this office a report on the proper and reasonable compensation/rental value based on prevailing market rates, for JFC's exclusive use and possession of the subject common areas starting 2000 until its continued possession thereof, and for defendant JFC to pay plaintiff JPCC the said amount xxx;

c. xxx [O]rdering defendants to account and submit to this Office a detailed report of the actual amount or value taken and/or depleted from plaintiff JPCC's common operational funds used to defray or expend for the maintenance costs of the common areas of the JFC floors, and for defendant JFC to pay plaintiff JPCC actual damages xxx;

d. xxx [O]rdering defendants to, jointly and severally, pay plaintiff JPCC exemplary damages xxx;”[56]

That a cause of action, along with the reliefs sought, is intra-corporate in nature if the controversy involves the acts of a condominium corporation and its stockholders or unit owners, such as petitioners and private respondents here, is pursuant to the pronouncement of the Supreme Court in the same case of Philip Go, et al. v. Distinction Properties Development and Construction, Inc. G.R. No. 194024, April 25, 2012, to wit:

“xxx The averments in the complaint and the character of the relief sought are the ones to be consulted. xxx Thus, it was ruled that the jurisdiction of the HLURB to hear and decide cases is determined by the nature of the cause of action, the subject matter or property involved and the parties.

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In this case, the complaint filed by petitioners alleged causes of action that apparently are not cognizable by the HLURB considering the nature of the action and the reliefs sought. A perusal of the complaint discloses that petitioners are actually seeking to nullify and invalidate the duly constituted acts of PHCC - the April 29, 2005 Agreement entered into by PHCC with DPDCI and its Board Resolution which authorized the acceptance of the proposed offsetting/settlement of DPDCI's indebtedness and approval of the conversion of certain units from saleable to common areas. All these were approved by the HLURB.

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xxx [T]here is no doubt that the controversy in this case is essentially intra-corporate in character, for being between a condominium corporation and its members-unit owners. In the recent case of Chateau De Baie Condominium Corporation v. Sps. Moreno, an action involving the legality of assessment dues against the condominium owner/developer, the Court held that, the matter being an intra-corporate dispute, the RTC had jurisdiction to hear the same pursuant to R.A. No. 8799.” (Emphasis supplied; underlining was made in the original)

Because the nature of the averments and the reliefs sought for by petitioners in their Complaint[57] involved an intra-corporate controversy, then, petitioners could not properly argue in their assigned grounds I.3 and I.4 that since the HLURB was the agency in charge of regulating condominium projects, it having the authority to approve or revoke a Master Deed of a Condominium, including the lease and disposition of the condominium project's common areas, then, the HLURB had primary jurisdiction over petitioner JPCC's Complaint involving the acts complained of against private respondents, which acts according to petitioners amounted to private respondents' violation of the Condominium's Master Deed. The reason petitioners could not do so is that, apart

from the fact that the acts complained of were intra-corporate in nature, the HLURB's power and authority to hear and decide cases are limited to the matters provided for under Section 1 of Presidential Decree No. 1344 ("P.D. No. 1344" for brevity), which matters do not include the situation here. Section 1 of P.D. No. 1344 states:

"SECTION 1. In the exercise of its functions to regulate the real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have exclusive jurisdiction to hear and decide cases of the following nature:

- (a) Unsound real estate business practices;
- (b) Claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman; and
- (c) Case involving specific performance of contractual and statutory obligations filed by buyers of subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman." (Emphasis supplied)

Besides, the jurisdiction granted to the HLURB to determine and categorize acts which may constitute unsound business practice or breach of contractual obligations in the real estate trade does not mean that all cases involving subdivision lots or condominium units automatically fall under HLURB's jurisdiction. This is pursuant to the pronouncement of the Supreme Court in *Philip Go, et al. v. Distinction Properties Development and Construction, Inc.* G.R. No. 194024, April 25, 2012, as follows:

"The HLURB is given a wide latitude in characterizing or categorizing acts which may constitute unsound business practice or breach of contractual obligations in the real estate trade. This grant of expansive jurisdiction to the HLURB does not mean, however, that all cases involving subdivision lots or condominium units automatically fall under its jurisdiction. The CA aptly quoted the case of *Christian General Assembly, Inc. v. Ignacio*, wherein the Court held that:

The mere relationship between the parties, i.e., that of being subdivision owner/developer and subdivision lot buyer, does not automatically vest jurisdiction in the HLURB. For an action to fall within the exclusive jurisdiction of HLURB the decisive element is the nature of the action as enumerated in Section 1 of P.D. 1344. On this matter, we have consistently held that the concerned administrative agency, the National Housing Authority (NHA) before and now the HLURB, has jurisdiction over complaints aimed at compelling the subdivision developer to comply with its contractual and statutory obligations.

In this case, the complaint filed by petitioners alleged causes of action that apparently are not cognizable by the HLURB considering that the nature of the action and the reliefs sought. A perusal of the complaint discloses that petitioners are actually seeking to nullify and invalidate the duly constituted acts of PHCC – the April 29, 2005 Agreement entered into by PHCC with DPDCI and its Board Resolution which authorized the acceptance of the proposed offsetting/settlement of DPDCI's indebtedness and approval of the conversion of certain units from saleable to common areas. All these were approved by the HLURB." (Emphasis supplied)

Petitioners' Complaint[58] fell under the provisions of Presidential Decree No. 902-A, as amended, which matter was beyond the jurisdiction of the HLURB. All of these were as also found by the OP, to wit:

"The case is clearly intra-corporate in nature which is beyond the jurisdiction of the HLURB.

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Section 5 of PD No. 902-A, as amended, enumerates the cases over which the Securities and Exchange Commission (SEC) has jurisdiction:

- 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, [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 insofar as it concerns their individual franchise or right to exist as such entity; xxx

Here, the case was brought by way of a derivative suit by the condominium corporation, appellant JPCC, which owns and manages the common areas of the condominium, against (1) one of its members, JFC, for violating the provisions of the Master Deed with regards to the common areas, and (2) the Board of Directors who tolerated and/or consented to such violations and failed to require payment of the proper compensation therefore to the detriment and prejudice of the corporation and the other members. Clearly, the case is covered by Section 5 (a) and (b) of P.D. No. 902-A aforementioned.”[59] (Emphasis supplied)

The jurisdiction to hear and to decide the case clearly belonged to the RTC,[60] as is also pursuant to the following declaration of the Supreme Court in that same case of Philip Go, et al. v. Distinction Properties Development and Construction, Inc.:

“Moreover, considering that petitioners, who are members of PHCC, are ultimately challenging the agreement entered into by PHCC with DPDCI, they are assailing, in effect, PHCC’s acts as a body corporate. This action, therefore, partakes the nature of an ‘intra-corporate controversy,’ the jurisdiction over which used to belong to the Securities and Exchange Commission (SEC), but transferred to the courts of general jurisdiction or the appropriate Regional Trial Court (RTC), pursuant to Section 5b of P.D. No. 902-A, as amended by Section 5.2 of Republic Act (R.A.) No. 8799.” (Emphasis supplied)

Considering that the HLURB had no jurisdiction over petitioners’ Complaint, then, contrary to petitioners’ arguments in their assigned grounds II, II.1 and II.2, the OP could not be said to have erred in dismissing petitioners’ Appeal. Moreover, the OP’s conclusion that the HLURB had no jurisdiction is not rendered readily erroneous just because its Decision is subject to appellate review and because, as insisted upon by petitioners, it is the Supreme Court’s Decision on a case, especially pertaining to jurisdiction, that is final.

Notwithstanding such insistence by petitioners, is that adverse to petitioners’ assigned ground II, the HLURB-Board’s Decision[61] dated October 28, 2008 had itself already become final and executory, showing further that the OP properly dismissed petitioners’ Appeal.

Petitioner JPCC had argued that:

“It is fundamental that questions on jurisdiction can be raised at any stage of the proceedings, and may even be considered *motu proprio* by the Supreme Court xxx.

Here, it is petitioner itself which is invoking the HLURB’s jurisdiction, while the latter continues to refuse to assume and exercise it. As aforementioned, the issue to be resolved here is whether the HLURB has jurisdiction over this dispute involving violation of the Master Deed. This is a question of law that only the Supreme Court can finally decide.

Consequently, the HLURB ruling which dismissed petitioner’s appeal due to purported lack of jurisdiction, and affirmed by the O.P., cannot attain finality. Only the Supreme Court can resolve this question of law with finality.

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It is only the Supreme Court which can resolve with finality the question of jurisdiction and lay down a doctrine or legal precedent on this issue. The HLURB, a mere administrative agency, does not have the

authority to promulgate a doctrinal ruling on questions of law regarding jurisdiction. Only Supreme Court decisions form part of the laws of the land.”[62] (Emphasis supplied)

Vanquishing petitioners' allegations however, is that as the records revealed, petitioners failed to timely file their “Petition for Review”[63] of the HLURB-Board's Decision[64] of October 28, 2008 to the OP within fifteen (15) days from petitioners' receipt of such HLURB-Board's Decision. The filing of an Appeal from the Decision of the HLURB to the OP within fifteen (15) days from the receipt of the HLURB's Decision was as required under Section 2, Rule XXI of the HLURB Rules of Procedure, which states:

“Section 2. Appeal. – Any party may, upon notice to the Board and the other party, appeal a decision of the Board of Commissioners to the Office of the President within fifteen (15) days from receipt thereof, in accordance with P.D. 1344 and A.O. 18 series of 1987.

The pendency of a motion for reconsideration shall suspend the running of the period to appeal to the Office of The President.” (Emphasis supplied)

Here, petitioners received a copy of the HLURB-Board's Decision[65] dated October 28, 2008 on November 18, 2008.[66] After six (6) days, or on November 24, 2008,[67] petitioners filed their Motion for Reconsideration.[68] Petitioners' Motion for Reconsideration[69] was denied by the HLURB-Board in its Resolution[70] dated March 30, 2009. Such Resolution[71] in turn, was received by petitioners on April 27, 2009.[72] Considering that six (6) days had already elapsed when petitioners filed its Motion for Reconsideration, then, petitioners had only nine (9) days left or until May 6, 2009 to file an Appeal to the OP. This, petitioners failed to do because they filed their “Petition for Review”[73] only on May 12, 2009.[74]

Petitioners could not be given a fresh period of fifteen (15) days to file their Appeal to the OP. This is because the “fresh period rule”, which was reiterated in *Neypes, et al. v. Court of Appeals*, G.R. No. 141524, September 14, 2005, does not apply to cases that are administrative in nature, such as the one here. The non-application of the “fresh period rule” to administrative cases is pursuant to the following proclamation of the Supreme Court in *Panolino v. Tajala*, G.R. No. 183616, June 29, 2010:

“As reflected in the above-quoted portion of the decision in *Neypes*, the 'fresh period rule' shall apply to Rule 40 (appeals from the Municipal Trial Courts to the Regional Trial Courts); Rule 41 (appeals from the Regional Trial Courts to the Court of Appeals or Supreme Court); Rule 42 (appeals from the Regional Trial Courts to the Court of Appeals); Rule 43 (appeals from quasi-judicial agencies to the Court of Appeals); and Rule 45 (appeals by certiorari to the Supreme Court). Obviously, these Rules cover judicial proceedings under the 1997 Rules of Civil Procedure.

Petitioner's present case is administrative in nature involving an appeal from the decision or order of the DENR regional office to the DENR Secretary. Such appeal is indeed governed by Section 1 of Administrative Order No. 87, Series of 1990. As earlier quoted, Section 1 clearly provides that if the motion for reconsideration is denied, the movant shall perfect his appeal 'during the remainder of the period of appeal, reckoned from receipt of the resolution of denial;' whereas if the decision is reversed, the adverse party has a fresh 15-day period to perfect his appeal.

Rule 41, Section 3 of the Rules of Court, as clarified in *Neypes*, being inconsistent with Section 1 of Administrative Order No. 87, Series of 1990, it may not apply to the case of petitioner whose motion for reconsideration was denied.” (Emphasis supplied; Italics and Underlings were made in the original)

All of these matters were as also found by the OP in its assailed Decision[75] dated July 27, 2011, to wit:

“Section 2 Rule XXI of the 2004 HLURB Rules of Procedure provides for a 15-day reglementary period within which to appeal a decision rendered by the Board of Commissioners to the Office of the President in

accordance with Presidential Decree No. 1344 (PD 1344) and Administrative Order No. 18 (AO 18). The second paragraph of Section 2 also provides that the pendency of a motion for reconsideration shall suspend the running of such period to appeal. Corollarily, Section 1 of AO 18 states that the time during which a motion for reconsideration has been pending with the agency/office concerned shall be deducted from the period to appeal before the Office of the President. Thus, the filing of a motion for reconsideration merely suspends the running of the 15-day appeal period to the Office of the President.

In the instant case, complainant-appellants received a copy of the Decision of the HLURB-Board on 18 November 2008 and moved for reconsideration six (6) days later or on 24 November 2008. The HLURB-Board dismissed the Motion for Reconsideration in its Resolution dated 30 March 2009, a copy of which was received by the complainants-appellants on 27 April 2009. Since six days has already been exhausted in filing the motion for reconsideration, complainant-appellants have nine days left or until 06 May 2009 to file an appeal to this Office. They, however, did so only on 12 May 2009, six days after the lapse of the reglementary period to appeal.”[76] (Emphasis supplied)

Evidently, a party's failure to file a timely appeal, as in this case, would render the questioned decision final and executory, as had already been declared by the Supreme Court in *Pena v. Government Service Insurance System*, G.R. No. 159520, September 19, 2006, as follows:

“[F]or failure of the respondent to file the proper mode of appeal within the reglementary period, the afore-mentioned Decision of the HLURB became final and executory as early as March 1996.

It is true, as the Court of Appeals mentioned in its Decision, that rules of procedure are mere tools designed to facilitate the attainment of justice and their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided and they cannot be blindly adhered to if they would serve no other purpose than to put into oblivion the very *lis mota* of the controversy under scrutiny. However, there are certain procedural rules that must remain inviolable like those setting the periods for perfecting an appeal or filing a Petition for Review, for it is doctrinally entrenched that the right to appeal is a statutory right and one who seeks to avail of that right must comply with the statute or rules. These rules, particularly the requirements for perfecting an appeal within the reglementary period specified in the law, must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business.” (Emphasis supplied)

After careful consideration of all the facts, arguments, and issues appearing on the records as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be proper under the circumstances, the following disposition is therefore made on these matters.

IN VIEW OF ALL THESE, the Petition is DENIED.

Didican (Chairman) and Dimagiba,[*] JJ., concur.

[*] New third member vice J. Paredes (inhibited) per raffle dated January 30, 2014.

[1] Rollo, pp. 3-28.

[2] Rolo, pp. 32-37.

[3] Rollo, pp. 38-39.

[4] Rollo, pp. 331-343.

[5] Rollo, p. 5.

- [6] Rollo, p. 5.
- [7] Rollo, pp. 5-6.
- [8] Rollo, p. 5.
- [9] Rollo, p. 40.
- [10] Rollo, pp. 40-57.
- [11] Rollo, pp. 40-56.
- [12] Rollo, pp. 40-57.
- [13] Rollo, pp. 46-50.
- [14] Rollo, pp. 149-153.
- [15] Rollo, pp. 154-174.
- [16] Rollo, pp. 169-174.
- [17] Rollo, pp. 40-57.
- [18] Rollo, p. 206.
- [19] Rollo, pp. 207-238.
- [20] Rollo, p. 206.
- [21] Rollo, pp. 269-271.
- [22] Rollo, p. 206.
- [23] Rollo, pp. 272-283.
- [24] Rollo, pp. 285-286.
- [25] Rollo, pp. 287-321.
- [26] Rollo, pp. 32-37.
- [27] Rollo, pp. 287-321.
- [28] Rollo, pp. 269-271.
- [29] Rollo, pp. 285-286.
- [30] Rollo, pp. 331-343.
- [31] Rollo, pp. 38-39.
- [32] Rollo, pp. 3-28.
- [33] Rollo, p. 27
- [34] Rollo, pp. 16-17.
- [35] Rollo, pp. 18-24.
- [36] Rollo, pp. 40-57.

- [37] Rollo, pp. 40-57.
- [38] Rollo, pp. 40-57.
- [39] Rollo, p. 40.
- [40] Jacobus Bernhard Hulst v. PR Builders, Inc., G.R. No. 156364, September 25, 2008.
- [41] Rollo, pp. 40-57.
- [42] Rollo, pp. 40-57.
- [43] Matling Industrial and Commercial Corporation, et al. v. Coros, G.R. No. 157802, October 13, 2010.
- [44] Jacobus Bernhard Hulst v. PR Builders, Inc., G.R. No. 156364, September 25, 2008.
- [45] Rollo, pp. 40-57.
- [46] Jacobus Bernhard Hulst v. PR Builders, Inc., G.R. No. 156364, September 25, 2008.
- [47] Rollo, p. 46
- [48] Rollo, p. 47
- [49] Rollo, p. 35.
- [50] Rollo, pp. 40-57.
- [51] Rollo, p. 46
- [52] Rollo, pp. 40-41
- [53] Rollo, p. 49.
- [54] Rollo, pp. 40.
- [55] Rollo, pp. 40-57.
- [56] Rollo, pp. 54-55.
- [57] Rollo, pp. 40-57.
- [58] Rollo, pp. 40-57.
- [59] Rollo, p. 36.
- [60] Securities and Regulations Code, Section 5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, that the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases.
- [61] Rollo, pp. 269-271.
- [62] Rollo, pp. 25-27.
- [63] Rollo, pp. 287-321.
- [64] Rollo, pp. 269-271.
- [65] Rollo, pp. 269-271.

[66] Rollo, p. 272.

[67] Rollo, p. 272.

[68] Rollo, pp. 272-283.

[69] Rollo, pp. 272-283.

[70] Rollo, pp. 285-286.

[71] Rollo, pp. 285-286.

[72] Rollo, p. 288.

[73] Rollo, pp. 287-321.

[74] Rollo, p. 287.

[75] Rollo, pp. 32-37.

[76] Rollo, p. 33.

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