LUZMINDA SAYON, FRANCISCO ALAY, RAUL B. MONSANTO, HERMINIO VILLAHERMOSA, EDUARDO G. CANG, ALBERTO TESOCAN AND DELIA TESOCAN, PETITIONERS, VS. MEGA HEIGHTS RESIDENTS AND HOMEOWNE...

Ponente: FRANCISCO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/9b2b8889cb18/

FRANCISCO, J.:

This is a Petition[1] for Certiorari under Rule 65 of the Rules of Court with Prayer for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction assailing and seeking to restrain the immediate execution of the Decision[2] dated 18 August 2010 of the Housing and Land Use Regulatory Board, Region 10, Cagayan de Oro City in HULRB CASE NO. HOA-X-121009-005 for Declaration of Nullity of Election, etc. and the Order[3] dated 29 September 2010 denying petitioners' motion for reconsideration.

Factual Antecedents

The case emanates from the Petition[4] for "Declaration of Nullity of The Election held last August 23, 2009; Disqualification of the Sets of Officers in relation to the said election; Production of the Membership Roll; Presentation of the Audited Financial Statement, all issued Resolutions, in relation to the association and accounting of income & expenses of the Associations" [5] (PETITION for brevity) filed by herein respondents before the Housing and Land Use Regulatory Board, Region 10, Cagayan de Oro City (HLURB for brevity).

Herein petitioners are the incumbent officers of Mega Heights Residents & Homeowners Association, Inc. (Association for brevity), a corporation organized and registered in accordance with the provisions of the Batas Pambansa Blg. 68, otherwise known as the Corporation Code of the Philippines.

Herein respondents are residents of Mega Heights Subdivision, Gusa, Cagayan de Oro City and bona fide members of the Association. Respondents are represented by Roberto Rodrigo and Juan Colonia, Jr., thru a Special Power of Attorney.

On 10 December 2009, respondents filed the PETITION before the HLURB assailing the 23 August 2009 special elections conducted by petitioners. Respondents cited the following violations, inter alia, of the Association's Constitution and By-Laws, to wit:

- That, without conducting any special meeting or assembly for the conduct of a Special Election and without any Resolution or getting the majority vote of the members for the approval of the Special Election, [petitioners] called for an election on 23 August 2009 in violation of Section 2, Article VIII of the Association's By-Laws;[6]

- Prior to the conduct of the 23 August 2009 special election, the incumbent officers neither sent notices to all the members nor did they notify the HLURB ten days before the intended day of the election;[7] and

- That in case a special election will be conducted, a special general assembly should be convened and the whole membership will be notified for the purpose of confirming and affirming that they have voted or that the majority voted for the approval of such special election and whose signatures should be attached to the minutes of such special general assembly duly attested by the Secretary and noted by the President.[8]

On 8 January 2010, respondents filed a motion to dismiss the PETITION. On the other hand, petitioners questioned the legal personality of the Association's attorney-in-fact Rodrigo to file the PETITION on behalf of the Association before the HLURB.

Ruling of the HLURB Arbiter

The Arbiter dismissed the PETITION on the ground of lack of personality of respondents to sue under the Association's name. Nevertheless, the Arbiter ruled that the election conducted by petitioners-officers in August 2009 did not conform to the Association's by-laws. The decretal portion of the decision reads:

> "WHEREFORE, premises considered, the instant complaint is hereby DISMISSED for petitioner's lack of personality to sue under the association name.
>
> However, as the regulatory agency of the government, this Office hereby ORDERS all the parties to this case to have an interim election of association directors and officers within thirty (30) days from receipt hereof to serve up to the next general elections in December 2010. For this purpose, an Election Committee composed of three (3) members to supervise the conduct of said interim election should be formed with one member selected by the incumbent board, another selected by those opposed to said board and represented herein by Rodrigo and Colonia and the third member to be chosen by consensus from both sides of this dispute and to inform this Office of the committee composition within seven (7) days from receipt hereof."[9]

On 24 September 2010 herein petitioners filed their "Motion for Reconsideration cum Clarification" of the 18 August 2010 decision.

In an Order dated 29 September 2010, the Arbiter denied the motion. The Arbiter treated petitioners' motion as an appeal which should have been filed in accordance with Section 1, Rule XVI of the 2009 Revised Rules of Procedure of the HLURB, viz:

> Section 1. Appeal Memorandum. – Any party aggrieved by the decision of the Regional Office on any legal ground and upon payment of the appeal fee, may appeal the same by filing with the Regional Office a verified appeal memorandum in three (3) copies within fifteen (15) days from receipt of the assailed decision.
> xxxxx[10]

The Arbiter took note that the motion failed to comply with the requirements under the rule, viz:

> "Considering that the motion failed to comply with the afore-stated requirements and the Decision of this Board dated August 18, 2010 having been final and executory there being no appeal filed or received by this Office the same is hereby DENIED."[11]

Meanwhile, respondents, on 15 November 2010, filed a Motion to Schedule the interim elections on 12 December 2010. The motion was granted by HLURB Arbiter Tumulak and the interim election was subsequently scheduled on 19 December 2010. (Rollo, p. 138)

On 28 December 2010, petitioners filed an election protest in HLURB CASE NO. NMR-HOA-122810-006 grounded on the alleged irregularities attendant in the conduct of the homeowners' election held on 19 December 2010, to wit: "a) no posting of election (notice) within one (1) week prior to schedule date; (b) no General Assembly was called for the purpose; (c) no determination of voters or member; (d) no screening of the candidates whether or not they be qualified to be officers of the association and (e) no prior motice was sent to

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

this Office regarding the use of proxies." [12]

On 20 April 2011, HLURB Arbiter Mark Christer A. Sorilla dismissed the complaint for lack of cause of action against respondents.

Hence, this Petition dated 2 November 2010.

In this recourse, petitioners submit for resolution the following issues, to wit:

- "Whether or not the Honorable Board (HLURB) committed grave abuse of discretion amounting to excess of authority in directing the parties to have an interim election of association directors and officers within thirty (30) days from receipt hereof to serve up to the next general elections in December 2010 despite dismissal of the case based on lack of personality to sue in effect, no cause of action on the face of the complaints thereof.

- Whether or not the Honorable Board (HLURB) as a quasi-judicial body committed grave abuse of authority when it denies (sic) the motion for reconsideration cum clarification on various matters filed by herein petitioners.

- Whether or not the Honorable Board (HLURB) gravely erred in taking cognizance of the two complaints filed by the same person, with the same cause of action against the same party which is constitutive of multiplicity of suit.

- Whether or not, the BOARD has followed its own rules of procedure in accepting the evidence (SPA) without furnishing the opposing party (sic).

- Whether or Not, the Board is allowed to conduct election applying its new rules, in the conduct of election when the instant case is intertwined with the first case filed by the same complainant prior to the promulgation of the MAGNACARTA of Homeowners Association and without consultation within the period as set by same law for its enforcement; and

- Whether or not the Implementing Rules and Regulations (IRR) of the Magna Carta Law on (sic) which was approved by the commission was rightfully and lawfully applied in the case at bar."[13]

Our Ruling

Inceptively, We need to resolve the procedural issue challenging petitioners' legal standing to file the instant petition.

In seeking the outright dismissal of the instant petition, respondents invoke the lack of resolution and/or secretary certificate authorizing petitioners to file the petition in Association's behalf.

We find respondents' arguments meritorious.

The decision of HLURB Arbiter Tumulak, in part, reads:

> Xxx This Office notes that the incumbent association directors, having been in Office since 2006, have already overstayed their tenure of office and although new elections may not be the panacea required, a fresh mandate

> from the general membership is needed by whoever is in charge of the association to tackle advantageously the legitimate concerns enumerated in this suit.

Xxx

xxx

xxx" [14]

Thereafter, the HLURB Arbiter ordered the conduct of interim elections of directors to serve up to the next general elections in December 2010.

A perusal of the records reveals that the ordered elections were conducted on 19 December 2010.

Consequently, petitioners herein remained to be the officers of the Association when they filed this petition on 2 November 2010.

A perusal of the Verification and Certification of Non-forum Shopping reveals:

> "xxx
>
> WE, LUZMINDA F. SAYON, FRANCISCO L. ALAY, RAUL B. MONSANTO, EDUARDO G. CANG, HERMINIO P. VILLAHERMOSA, ALBERTO L. TESOCAN, and DELIA T. TESOCAN xxx

- That we are the petitioners in the above-entitled case and incumbent officers of the MEGA HEIGHTS RESIDENTS AND HOMEOWNERS ASSOCIATION, INC.

> xxx" [15] (Underscoring Supplied)

Herein petitioners signed the verification/certification of the Petition as petitioners therein and as incumbent officers of the Association. Petitioners, however, cannot be considered as real party-in-interest under Section 2 of Rule 3 of the Rules of Court. The provision reads:

> Section 2. Parties-in interest. – A real party-in-interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party-in-interest.

Contemplated in the rule is "material interest", an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.[16] (Emphasis Supplied)

Here, the cause of action pertained to the violation of the by-laws of the Association of which petitioners are incumbent officers and whose interest in this petition is merely incidental. Consequently, petitioners have no cause of action in filing this petition. The real party-in-interest is the Association, as a corporation.

Settled is the rule that a corporation exercises said powers through its board of directors and/or its duly authorized officers and agents.[17] Hence, the power of a corporation to sue and be sued in any court is lodged with the board of directors that exercises its corporate powers.[18] On the other hand, physical acts of the corporation, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors.[19]

In this case, the Association is a corporation. In filing this petition, however, the records are bereft of any document indicating that petitioners were authorized to sign the verification and the certification against non-forum shopping.

In Philippine Airlines, Inc. v. Flight Attendants and Stewards Association of the Philippines (FASAP)[20], the

Supreme Court held:

> xxx individuals vested with authority by a valid board resolution may sign the certificate of non-forum shopping on behalf of a corporation. We also required that proof of such authority must be attached. Failure to provide a certificate of non-forum shopping is sufficient ground to dismiss the petition. Likewise, the petition is subject to dismissal if a certification was submitted unaccompanied by proof of signatory's authority.

The foregoing rule was relaxed by the Supreme Court in certain instances, viz:

> In China Banking Corporation v. Mondragon International Philippines, Inc., [21] the CA dismissed the petition filed by China Bank, since the latter failed to show that its bank manager who signed the certification against non-forum shopping was authorized to do so. We reversed the CA and said that the case be decided on the merits despite the failure to attach the required proof of authority, since the board resolution which was subsequently attached recognized the pre-existing status of the bank manager as an authorized signatory. (Emphasis and Underscoring Supplied)
>
> In Abaya Investments Corporation v. Merit Philippines,[22] where the complaint before the Metropolitan Trial Court of Manila was instituted by petitioner's Chairman and President, Ofelia Abaya, who signed the verification and certification against non-forum shopping without proof of authority to sign for the corporation, we also relaxed the rule. We did so taking into consideration the merits of the case and to avoid a re-litigation of the issues and further delay the administration of justice, since the case had already been decided by the lower courts on the merits. Moreover, Abaya's authority to sign the certification was ratified by the Board. (Emphasis and Underscoring Supplied)

Here, there is no reason to relax the rule.

First, there was no belated filing or attachment of the Association’s board resolution authorizing petitioners to file the petition and secondly, there was no ratification by the Association, through a board resolution, of petitioners’ act of filing the petition.

All told, We hold that petitioners’ lack of personality to file this petition is fatal to their action.

It, thus, becomes unnecessary to rule on the other issues raised by petitioners.

WHEREFORE, the Petition is DISMISSED.

SO ORDERED.

CERTIFICATION

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

[*]Jacob and Badelles, JJ., concur.

---

[*] Vice Justice Romulo V. Borja, who inhibited from participating on the above-captioned case, per Raffle dated December 17, 2013.

[1] Rollo, pp. 2-24

[2] Rollo, pp. 32-34

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[3] Rollo, p. 29

[4] Rollo, pp. 76-82, Annex “G-1”

[5] Rollo, p. 76

[6] Rollo, p. 78

[7] Ibid

[8] Ibid

[9] Rollo, p. 34

[10] Rollo, p. 29

[11] Ibid

[12] Rollo, p. 137

[13] Rollo, pp. 11-12

[14] Rollo, p. 34

[15] Rollo, p. 25

[16] Uy v. Court of Appeals, 372 SCRA 743, 752 (1999)

[17] Shipside Incorporated v. Court of Appeals, 404 SCRA 981, 994 (2001)

[18] Republic of the Philippines v. Coalbrine International Philippines, Inc., G.R. No. 161838, 7 April 2010

[19] Shipside Incorporated v. Court of Appeals, 404 SCRA 981, 994 (2001)

[20] G.R. No. 143088, 24 January 2006

[21] G.R. No. 164798, 11 November 2005

[22] G.R. No. 176324, 16 April 2008

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.