

ARLENE CASTOR, PETITIONER, VS. GK INTERNATIONAL VILLAGE HOMEOWNERS ASSOCIATION, INC., RESPONDENT.

Ponente: DICDICAN, J.

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DICDICAN, J.:

Before this Court is a Petition for Review[1], under Rule 43 of the Revised Rules of Court, seeking the reversal and setting aside of the Decision[2], dated April 16, 2004, issued by the Office of the President which dismissed the petitioner's appeal of a judgment rendered by the Housing and Land Use Regulatory Board for lack of jurisdiction.

The antecedent facts are as follows:

On May 2, 2008, respondent GK International Village Homeowners Association, Inc. filed a Complaint[3] against petitioner Arlene Castor in the Housing and Land Use Regulatory Board (HLURB) for delisting of beneficiary and issuance of writ of possession, docketed as NCRHOA-050208-1004. The respondent, a corporate entity duly organized and existing under and by virtue of the rules and regulations of the HLURB, alleged in the complaint that the GK International Village was developed as a socialized housing project, conceptualized by the members of Couples for Christ for the benefit of its poor members who are referred to in the complaint as “beneficiaries”. The petitioner, one of the beneficiaries of the housing project, allegedly eventually showed a pattern of continuous defiance of the association's rules by not conforming to the “priority schedule of construction”, by constructing a second floor despite the prohibition to erect a second floor and by acquiring free materials beyond the allowed budget, thus allegedly depriving poorer members of free materials. By reason of the foregoing, the respondent prayed in the Complaint before the HLURB that the petitioner be delisted as a beneficiary and that a writ of possession be issued in the respondent's favor so that it may take possession of the real property being occupied by the petitioner.

The petitioner, on May 28, 2008 filed her Answer[4] arguing that the respondent's complaint lacks cause of action and/or jurisdiction and that she never committed any violation.

In a Decision[5], dated December 23, 2008, the Housing and Land Use Arbiter Atty. Leonard Jacinto A. Soriano found in favor of the respondent. The dispositive part of the said decision reads:

“WHEREFORE, premises considered, judgment is hereby rendered granting the delistment of the respondent as member-beneficiary of complainant association which shall have a right to the issuance of a writ of possession of subject real property after payment to the respondent as she had already paid for the land in the amount of P127,500.00 and the amount equivalent expenses for the house construction materials and labor validly supported by receipts or evidence of payment.

IT IS SO ORDERED.”[6]

When the above-quoted decision was appealed by the petitioner to the HLURB's Board of Commissioners, her appealed was found to be bereft of merit and therefore denied. Hence, in a Decision[7], dated December 3, 2009, the Commissioners stated in the fallo thereof as follows:

“WHEREFORE, premises considered, the appeal is DENIED and the decision of the Regional Office is AFFIRMED.”[8]

The petitioner subsequently filed a motion for reconsideration of the HLURB Board of Commissioners' Decision. In a Resolution, dated February 19, 2010, the HLURB found no cogent reason or overriding justification to modify its December 3, 2009 Decision. Hence, it denied the petitioner's motion for reconsideration.

Feeling aggrieved, the petitioner filed an appeal from the HLURB Board of Commissioners' Decision, dated December 3, 2009 and Resolution, dated February 19, 2010, to the Office of the President. In the herein assailed Decision, dated April 16, 2014, Deputy Executive Secretary for Legal Affairs Michael Aguinaldo found the facts as follows:

“Arelene Castor (appellant) and Mr. Iluminado L. Junia, Jr. are initially both members of Couples for Christ (CFC). GK International Village HOA, Inc. (appellee), through Mr. Junia, initiated the purchase of a real property which is now the GK International Village, a social housing project intended for the benefit of the poor members of CFC Community North C Cluster 6.

“Beneficiaries of the project, including appellant, are required to comply with the terms and conditions embodied in the Certificate of Lot Assignment and Kusang Pagpapahayag ng Pangako.

“Due to the dispute in the leadership of the organization, some members of CFC, including Mr. Junia, disaffiliated themselves from the organization and formed the Couples for Christ – Foundation for Family and Life (CFC-FFL).

“Because of this development, appellee through its President and Vice President sent a letter to Gawad Kalinga (GK), an arm of CFC doing social ministry works of building communities for the poor, informing the latter that the CFC-FFL is taking over the administration of the housing project initiated by some of its members.

“Appellee now avers that appellant violated her Certificate of Lot Assignment since the social housing allows her to construct only one (1) floor house considering that the lot awarded to her measures 53.0 square meters, a lot bigger than the allowed maximum area of 36.20 square meters.

“Appellant built a second floor to her house using the own resources and donations from GK and appellee. Appellee alleges that the construction materials used by appellant are not allocated to her, but earmarked to those in the priority list of appellee. Moreover, there are materials that were provided by its rival, CFC Global, which allegedly enraged appellee.

“As a result thereof, appellee delisted appellant for conduct unbecoming a beneficiary and directed appellant to vacate and surrender the property.”[9]

Based on the foregoing facts, the Office of the President dismissed the petitioner's appeal for lack of jurisdiction. It held that the delistment of the petitioner, as a member of the respondent association and beneficiary of the housing project, was an intra-corporate controversy which was appealable to this Court pursuant to Section 20 (d) of R.A. No. 9904 otherwise known as “Magna Carta for Homeowners and Homeowners' Associations.” The decretal part of the said Decision, thus states as follows:

“WHEREFORE, premises considered, the instant appeal is hereby DISMISSED for lack of jurisdiction.”[10]

The petitioner filed a Motion for Reconsideration[11] on May 21, 2014. In the challenged Resolution, dated October 16, 2014, the Office of the President further explained that R.A. No. 9904 applied to the instant case since it took effect on March 30, 2010, before the petitioner filed her appeal. Contrary to the petitioner's assertion, the validity of the law does not rely on the issuance of an implementing rules and regulations or on the amendment of the HLURB rules. The dispositive portion of the assailed Resolution thus reads as follows:

“WHEREFORE, premises considered, the Motion for Reconsideration of appellant is hereby DISMISSED.”[12]

Thus, the petitioner filed the instant petition for review before this Court on the following alleged grounds:

I.

THE HONORABLE OFFICE OF THE PRESIDENT HAS COMMITTED A GRAVE ERROR IN DISMISSING THE APPEAL BY APPLYING SECTION 20 (D) OF R.A. NO. 9904, WITHOUT CONSIDERING THE PECULIAR CIRCUMSTANCES OF THE CASE, ESPECIALLY THE FACTS THAT: (A) THE INSTANT CASE IS NOT AN INTRACORPORATE CONTROVERSY;

(B) IT IS ONLY NOW THAT THE JURISDICTION IS BEING CLARIFIED WITH THE FILING OF HOUSE BILL NO. 3214; and

(c) THE IMPLEMENTING RULES AND REGULATIONS OF R.A. NO. 9904 WAS PROMULGATED ONLY ON JULY 24, 2011

II.

THE HONORABLE OFFICE OF THE PRESIDENT ERRED IN NOT REFERRING PETITIONER'S APPEAL TO THE COURT OF APPEALS.

The primordial issue, therefore, is whether or not the Office of the President has jurisdiction over the appeal of the petitioner from the judgment of the HLURB Board of Commissioners.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find that the petition is unmeritorious.

Section 20 (d) of R.A. 9904 provides:

“Section 20. Duties and Responsibilities of the HLURB. - In addition to the powers, authorities and responsibilities vested in it by Republic Act No. 8763, Presidential Decree No. 902 - A, Batas Pambansa Big. 68 and Executive Order No. 535, Series of 1981, as amended, the HLURB shall:

xxx xxx

(d) Hear and decide inter - association and/or inter - association controversies and/or conflicts, without prejudice to filing civil and criminal cases by the parties concerned before the regular courts: Provided, That all decisions of the HLURB are appealable directly to the Court of Appeals” (Emphasis supplied.)

Indubitably, the law granted the HLURB power and authority to hear and decide inter-association controversies and/or conflicts. By express provision of the law, all decisions of the HLURB are appealable directly to this Court and not to the Office of the President.

The Petitioner does not deny knowledge of the existence of R.A. No. 9904 when she perfected her appeal. In fact, the petitioner ratiocinates that, since R.A. No. 9904 has yet to have its implementing rules and regulations, the appeal from the HLURB's decision should not be with the Court of Appeals as provided for by R.A. No. 9904. Instead, the appeal should allegedly be with the Office of the President, in accordance with HLURB Memorandum Circular No. 28 and the 2011 Revised Rules of the HLURB, among others.

We do not agree with the petitioner. An examination of the provisions of the 2011 Revised Rules of the HLURB would reveal that nothing in its rules would even suggest that an appeal can be made with the Office of the President. Moreover, while HLURB Memorandum Circular No. 28 does provide a recourse to the Office of the President, it nonetheless exempts cases pertaining to homeowners associations. The Circular thus reads:

“This clarifies matters pertaining to appeals from the decisions of the Board of Commissioners as provided

under the 2011 Revised Rules of Procedure of the Housing and Land Use Regulatory Board.

1. A decision, resolution, or order of the Board of Commissioners is appealable to the Office of the President pursuant to Executive Order No. 648, S. 1981, and Presidential Decree No. 957 and 1344, except in homeowners associations cases which is appealable to the Court of Appeals pursuant to Republic Act No. 9904. (Emphasis supplied.)

2. Appeals to the Office of the President are governed by Administrative Order No. 22, Series of 2011, issued on October 11, 2011, which prescribes a reglementary period of fifteen (15) days from the party's receipt of the decision, resolution or order appealed from, to file a Notice of Appeal.

3. Appeals to the Court of Appeals are governed by Rule 43 of the Rules of Court (Appeals from the Court of Tax Appeals and Quasi-Judicial Agencies to the Court of Appeals), which prescribes a period of fifteen (15) days from notice of the award, judgment, final order or resolution, or from date of its last publication if required."

As can readily be gleaned from the Complaint^[13] filed by the respondent association and the Answer^[14] interposed by the petitioner, the issue is not ownership of the land but delistment of the petitioner by the respondent association. The crux of the matter is an association member's violation of rules and standards set by the association. This was correctly considered as an intra-corporate controversy or a homeowner's association case.

As the petitioner was found by the HLURB as having violated the rules and regulations set by the respondent association, the case was thus rooted in the relationship of the petitioner with the respondent association, the petitioner's membership therein and the petitioner's violations of its rules. If the petitioner truly believed that the issue was simply land ownership, then she could have insisted on presenting the case to the regular courts. Instead, the petitioner submitted to the jurisdiction of the HLURB.

Contrary to what petitioner asseverates, R.A. No. 9904 is quite clear as to where the appeal from the HLURB should be taken. It is of no moment that the implementing rules and regulations have yet to be formulated or promulgated. When the law is clear, unnecessary departure from its literal and unmistakable provisions cannot be countenanced, lest the intention of its framers be set at naught. Thus, petitioner's excuse in filing the appeal with the wrong body is untenable.

The petitioner also faulted the Office of the President for dismissing her appeal and for not forwarding her appeal to this Court. We do not subscribe to such fault finding. The right to appeal is a statutory right and one who seeks to avail of this right must comply with the manner required by the pertinent rules for the perfection of an appeal.^[15] The right is unavoidably forfeited by the litigant who does not comply with the manner thus prescribed.^[16]

The assailed HLURB decision and resolution have thus attained finality. The importance of the concept of finality of judgment cannot be gainsaid. It is a basic rule that, when a party to an original action fails to question an adverse judgment or decision by not filing the proper remedy within the period prescribed by law, he loses the right to do so, and the judgment or decision, as to him, becomes final and binding.^[17]

WHEREFORE, in view of the foregoing premises, the instant petition is hereby DENIED, and consequently DISMISSED.

SO ORDERED.

Ybañez, and [*]Fernandez, JJ., concur.

[*]Acting Junior Member per Raffle dated December 11, 2014. [1] Rollo, Petition pp. 7-32

[2] Ibid. pp. 35-37

[3] Ibid. pp. 52-57

[4] Ibid. pp. 72-80

[5] Ibid. pp. 280-287

[6] Ibid. page 287

[7] Ibid. pp. 289-293

[8] Ibid. page 293

[9] Rollo, pp. 35-36

[10] Ibid. page 37

[11] Ibid. pp. 38-49

[12] Ibid. page 51

[13] Rollo, pp. 52-61

[14] Ibid., pp. 72-80

[15] Sulpicio Lines, Inc. v. First Lepanto-Taisho Insurance Corporation, G.R. No.140349, 29 June 2005, 462 SCRA 125.

[16] Bejarasco vs. People of the Philippines, G.R. No. 159781, February 2, 2011.

[17] Building Care Corp. vs. Macaraeg, G.R. No. 198357, December 10, 2012.

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