



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

UNITED INTERIOR G.R. No. 216788
MANGGAHAN
HOMEOWNERS
ASSOCIATION, represented by
its President, DANIEL
CALILUNG,

Petitioner,

- versus -

HON. AMBROSIO B. DE
LUNA, Presiding Judge,
REGIONAL TRIAL COURT OF
PALAWAN and PUERTO
PRINCESA CITY – BRANCH
51, SPOUSES EDILBERTO
VILLON and HELEN PE-
VILLON, represented by their
heirs namely: EMEE PE-
VILLON, EMMANUEL PE-
VILLON, ELSIE VILLON-
CABRERA, ELMA VILLON-
AUSTRIA, and ELLEN
FERRERO,

Respondents.

Present:

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., * JJ.

Promulgated:

20 NOV 2017

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DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for *certiorari*¹ assailing the Orders dated September 19, 2014² and December 12, 2014³ of the Regional Trial Court of Palawan and Puerto Princesa City, Branch 51 (RTC) in Civil Case No. 3442,

* On official leave.
¹ Rollo, pp. 3-13.
² Id. at 241-242. Penned by Judge Ambrosio B. De Luna.
³ Id. at 15-18.

expunging from the records of the case the Notice of Appeal filed by petitioner United Interior Manggahan Homeowners Association (petitioner) for lack of authority from its Board of Directors to initiate the filing of the same.

The Facts

Sometime in early 2000, petitioner, as represented by its President, Daniel Calilung (Calilung), filed before the RTC a Complaint⁴ for Specific Performance with Prayer for the Issuance of a Temporary Restraining Order and Preliminary Injunction with Damages against respondents Spouses Edilberto Villon and Helen Pe-Villon (Sps. Villon), now represented by their heirs Eme Pe-Villon, Emmanuel Pe-Villon, Elsie Villon-Cabrera, Elma Villon-Austria, and Ellen Ferrero (respondents). After petitioner rested its case, Sps. Villon filed a Manifestation and Motion to Dismiss on Demurrer to Evidence⁵ which the RTC eventually granted in an Order⁶ dated March 5, 2014,⁷ and thereby dismissed petitioner's complaint.

Aggrieved, petitioner moved for reconsideration,⁸ but was denied in an Order⁹ dated May 6, 2014. Consequently, petitioner filed a Notice of Appeal.¹⁰ For their part, Sps. Villon filed an Omnibus Motion to Strike Out Notice of Appeal and Issue Certificate of Finality,¹¹ claiming that petitioner failed to attach a board resolution authorizing Calilung to file the Notice of Appeal on its behalf, pursuant to Section 12 of Republic Act No. (RA) 9904.¹² They also claimed that petitioner no longer exists and that it failed to

⁴ Id. at 71-79.

⁵ Dated March 24, 2010. Id. at 162-163.

⁶ Id. at 37-43.

⁷ Initially, the RTC denied respondents' Manifestation and Motion to Dismiss on Demurrer to Evidence in an Order dated January 7, 2014 (id. at 21-24). Hence, Sps. Villon filed a motion for reconsideration dated February 3, 2014 (id. at 35-36) and a Supplemental Motion for Reconsideration (Re: Order dated 07 January 2014) dated February 25, 2014 (id. at 168-174).

⁸ See motion for reconsideration dated March 13, 2014; id. at 184-185.

⁹ Id. at 187-188.

¹⁰ Dated May 10, 2014. Id. at 44-45.

¹¹ Dated May 26, 2014. Id. at 46-50.

¹² Entitled "AN ACT PROVIDING FOR A MAGNA CARTA FOR HOMEOWNERS AND HOMEOWNERS' ASSOCIATIONS, AND FOR OTHER PURPOSES," otherwise known as the "MAGNA CARTA FOR HOMEOWNERS AND HOMEOWNERS' ASSOCIATIONS," approved on January 7, 2010. Respondent particularly relied on the following portions of Section 12 of RA 9904:

Section 12. *Duties and Responsibilities of the Board.* — In addition to the duties and responsibilities stated in the bylaws of the association, the board shall have the following duties and responsibilities:

x x x x

The board shall act in all instances on behalf of the association, except to amend the articles of incorporation, to dissolve the association, to elect members of the board or to determine the qualifications, powers and duties, or terms of office of the board, and other instances that require the vote or approval of the members themselves. In the performance of their duties, the officers and members of the board shall exercise the degree of care and loyalty required by such position.

comply with the reportorial requirements mandated by Section 46, Rule 8¹³ and Section 63, Rule 10¹⁴ of Housing and Land Use Regulatory Board Resolution No. 877, Series of 2011,¹⁵ and furthermore, did not show proof of payment of the required appeal fees.¹⁶

The RTC Ruling

On September 19, 2014, the RTC ordered¹⁷ petitioner's Notice of Appeal expunged from the records "for lack of authority from [its] Board of Directors to initiate the appeal,"¹⁸ pursuant to Section 12 of RA 9904. It, however, found that "[petitioner] has paid the appeal fee within the reglementary period."¹⁹

Dissatisfied, petitioner sought reconsideration,²⁰ attaching therewith a copy of Board Resolution No. 01, Series of 2013,²¹ confirming Calilung's authority to, among others, represent petitioner in the case.²² For their part, Sps. Villon opposed,²³ reiterating that petitioner did not attach a board resolution authorizing Calilung to file the Notice of Appeal on its behalf; and had failed to show proof of payment of the required appeal fees. They added that petitioner's motion for reconsideration failed to comply with the three (3)-day notice rule under Sections 4,²⁴ 5,²⁵ and 6,²⁶ Rule 15 of the Rules of Court.²⁷

¹³ Section 46, Rule 8 requires the submission to the HLURB Regional Office of the general information sheet, latest financial statement, certified true copy of the masterlist of members, and the compiled resolutions duly certified by the association secretary and attested to by the Chairman of the Board or the President of the Association within ninety (90) days from the close of the fiscal period.

¹⁴ Section 63, Rule 10 requires the filing to the HLURB Regional Office of the election reports within fifteen (15) days from the date of any regular or special election.

¹⁵ Entitled IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 9904, OTHERWISE KNOWN AS THE MAGNA CARTA FOR HOMEOWNERS AND HOMEOWNERS ASSOCIATIONS," also known as the "IMPLEMENTING RULES AND REGULATIONS OF RA 9904," approved on June 24, 2011.

¹⁶ See *rollo*, pp. 46-49.

¹⁷ See Order dated September 19, 2014; *id.* at 241-242.

¹⁸ *Id.* at 242.

¹⁹ *Id.*; italics supplied. In the Order dated December 12, 2014, however, the RTC ruled that petitioner failed to "present proof that the required docket and other court fees were paid" (*id.* at 17).

²⁰ See motion for reconsideration dated October 3, 2014; *id.* at 53-57.

²¹ *Id.* at 19-20.

²² See *id.* at 55.

²³ See Comment/Opposition (Re: Plaintiff's Motion for Reconsideration dated 03 October 2014) dated October 22, 2014; *id.* at 214-223.

²⁴ Section 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

²⁵ Section 5. *Notice of hearing.* – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

²⁶ Section 6. *Proof of service necessary.* – No written motion set for hearing shall be acted upon by the court without proof of service thereof.

²⁷ See *rollo*, p. 217.

In an Order²⁸ dated December 12, 2014, the RTC denied petitioner's motion on the same ground,²⁹ adding that petitioner failed to "*present proof that the required docket and other court fees were paid*"³⁰ and to comply with Section 4, Rule 15 of the same Rules that requires at least three (3) days prior notice for the hearing of its motion for reconsideration.³¹ Accordingly, the RTC declared the September 19, 2014 Order final and executory.³²

Undaunted, petitioner filed the present *certiorari* petition against the heirs of Sps. Villon, *i.e.*, herein respondents.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the RTC gravely abused its discretion in expunging petitioner's Notice of Appeal from the records of the case.

The Court's Ruling

The petition is meritorious.

Preliminarily, respondents assail³³ petitioner's present resort to a *certiorari* action arguing that: being final, the September 19, 2014 and December 12, 2014 Orders are not the proper subject of a petition for *certiorari*;³⁴ and, in any case, direct filing of the petition to the Court violates the doctrine of hierarchy of courts.³⁵

The Court finds petitioner's resort to a *certiorari* petition before the Court proper.

Under Section 1, Rule 65 of the Rules of Court, an aggrieved party may file a petition for *certiorari* when "any tribunal, board, or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law."³⁶ Section 1, Rule 41 of the same Rules provides that no appeal may be taken from, among others, an

²⁸ Id. at 15-18.

²⁹ See id. at 16.

³⁰ Id. at 17; italics supplied.

³¹ Id.

³² Id. at 18.

³³ See Comment/Opposition (to Petition for *Certiorari* dated February 20, 2015) dated July 21, 2015; id. at 91-114.

³⁴ See id. at 97-99.

³⁵ See id. at 99-102.

³⁶ Underscoring supplied.

order disallowing or dismissing an appeal; the aggrieved party may, however, file an appropriate special civil action under Rule 65.

In this case, the assailed September 19, 2014 Order – expunging petitioner’s Notice of Appeal from the records of the case– is effectively an order disallowing or dismissing an appeal that precludes resort to an appeal. Hence, pursuant to Section 1 of Rule 41, its only recourse is via the present *certiorari* action.

Moreover, *certiorari* is the proper remedy when the assailed orders were issued in excess of or without jurisdiction or with grave abuse of discretion amounting to lack or excess thereof. Grave abuse of discretion may arise when a lower court or tribunal violates or contravenes the Constitution, existing law, or jurisprudence. As will be discussed in detail below, the RTC’s order, expunging from the records petitioner’s Notice of Appeal was a grave legal error and contradicts established procedural rules.

In this relation, it should be observed that while strict adherence to the judicial hierarchy of courts has been the long standing policy of the courts, it is not without exception as the Court possesses full discretionary power to take cognizance and assume jurisdiction over petitions filed directly with it. A direct resort to the Court is allowed when the questions involved are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice,³⁷ as in this case.³⁸

Proceeding to the main issue, petitioner argues that pursuant to Section 9, Rule 41 of the Rules of Court, once an appeal is perfected, the trial court is divested of jurisdiction all over the judgment and the action in which it is rendered so far as the rights of the parties under the judgment are concerned.³⁹ Thus, it has no power to do anything which affects the substantial rights of the parties therein.⁴⁰

The Court disagrees. Under Section 9, Rule 41 of the Rules of Court, “[i]n appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.”⁴¹ In fact, under Section 13 of the same Rules, the trial court, prior to the transmittal of the original record or record on appeal, may, *motu proprio* or on motion, order the dismissal of the appeal on the grounds specified therein. In other words, the mere filing of a notice

³⁷ See *Valmores v. Achacoso*, G.R. No. 217453, July 19, 2017, citing *Maza v. Turla*, G.R. No. 187094, February 15, 2017, and *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 331, 333-334 (2015).

³⁸ Petitioner argues the urgency of the filing of the petition before the Court, in view of the construction of the SM Mall on the contested property (see *rollo*, pp. 270- 271).

³⁹ See *id.* at 11.

⁴⁰ *Id.*

⁴¹ Emphasis and underscoring supplied.

of appeal does not automatically divest the trial court of its jurisdiction, since the appeal is deemed perfected as to the appellant only; it is not “deemed perfected,” for purposes of divesting the court of its jurisdiction, “before the expiration of the period to appeal of the other parties.” Thus, contrary to petitioner’s position, the RTC has yet to lose its jurisdiction over the case when it filed its Notice of Appeal as respondents’ period to appeal had not yet expired by then.

This notwithstanding, the Court finds that the RTC committed grave abuse of discretion when it expunged from the records petitioner’s Notice of Appeal for “lack of authority from its Board of Directors to initiate the appeal.”⁴² Under the Rules, an appeal from cases decided by the RTC in the exercise of its original jurisdiction shall be made to the Court of Appeals by “filing a notice of appeal [(or record of appeal in cases required by law)] with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party.”⁴³ The appeal shall be taken, with the full amount of the appellate court docket and other lawful fees paid, within fifteen (15) days from notice of the judgment or final order appealed from.⁴⁴

It is clear from the foregoing provisions that a board resolution authorizing the representative to initiate the appeal is not required for the purpose of filing a notice of appeal. This is because a notice of appeal is not a pleading, initiatory or otherwise, that, when required by the law or the rules,⁴⁵ must contain, among others, a verification and certification against forum shopping to be signed by the party or his/her representative, and, in the case of a representative, proof of his/her authority to file the action, *i.e.*, power of attorney or secretary’s certificate with copy of the board resolution. Besides, if only to put to rest any doubts anent respondents’ objection against Calilung’s authority to represent petitioner in the case,⁴⁶ the latter in fact submitted, with its motion for reconsideration, a copy of Board Resolution No. 01, Series of 2013⁴⁷ to this effect. Thus, when the RTC in this case expunged petitioner’s Notice of Appeal for lack of authority from petitioner’s Board of Directors to initiate the appeal, it not only effectively expanded the procedural requirements for initiating an appeal; more than anything, it effectively deprived petitioner of further recourse to the higher courts by asking for the submission of documents which neither the law nor the Rules and jurisprudence require.

⁴² *Rollo*, p. 242.

⁴³ Section 2 (a), Rule 41 of the Rules of Court.

⁴⁴ See Sections 3 and 4, Rule 41 of the Rules of Court.

⁴⁵ Section 4, Rule 7 of the Rules of Court provides that “[e]xcept when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.”

⁴⁶ See *rollo* p. 55.

⁴⁷ *Id.* at 19-20.

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Moreover, it should be pointed out that petitioner's failure to present proof of payment of the appeal fees, as ruled by the RTC in the December 12, 2014 Order, is not fatal to petitioner's appeal especially considering its earlier finding that petitioner "*has paid the appeal fee within the reglementary period.*"⁴⁸ Under the Rules, it is the non-payment of the docket and other lawful fees within the reglementary period that would justify the court in dismissing the appeal.⁴⁹

Finally, it should be reiterated that procedural rules are meant to facilitate, not defeat, the attainment of justice.⁵⁰ Considering the grave legal error it had committed in expunging petitioner's Notice of Appeal from the records on grounds which neither the law nor the Rules and jurisprudence require, it behooved the RTC to set aside the procedural infirmity in petitioner's motion for reconsideration of the September 19, 2014 Order, *i.e.*, failure to comply with the three (3)-day notice rule, and instead give due course to its appeal. The purpose, after all, of this notice requirement is to provide respondents with the opportunity to be heard, and to meaningfully oppose petitioner's motion or participate in the hearing thereof,⁵¹ which respondents were sufficiently able to do so through their Comment/Opposition⁵² to petitioner's motion.

All told, in acting as it did, the RTC clearly committed grave legal error that far exceeds the proper exercise of its jurisdiction.

WHEREFORE, the petition is **GRANTED**. The Orders dated September 19, 2014 and December 12, 2014 of the Regional Trial Court of Palawan and Puerto Princesa City, Branch 51 (RTC) in Civil Case No. 3442 are hereby **SET ASIDE**. The Regional Trial Court is **DIRECTED** to give due course to petitioner's Notice of Appeal.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

⁴⁸ *Rollo*, pp. 52 and 242; italics supplied.

⁴⁹ See Section 13, Rule 41 of the Rules of Court.

⁵⁰ See *Santos v. Litton Mills Incorporated*, 667 Phil. 640, 642 (2011); *Tan v. Planters Products, Inc.*, 573 Phil. 416, 428-429 (2008); and *Go v. Tan*, 458 Phil. 727,735 (2003).

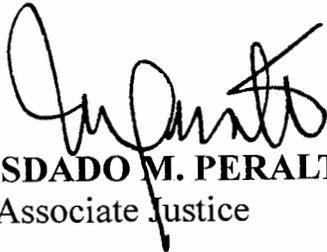
⁵¹ See *J.O.S. Managing Builders, Inc. v. United Overseas Bank Philippines*, G.R. No. 219815, September 14, 2016; and *Jehan Shipping Corporation v. National Food Authority*, 514 Phil. 166 (2005).

⁵² (Re: Plaintiff's Motion for Reconsideration dated 03 October 2014) dated October 22, 2014; *rollo*, pp. 214-223.

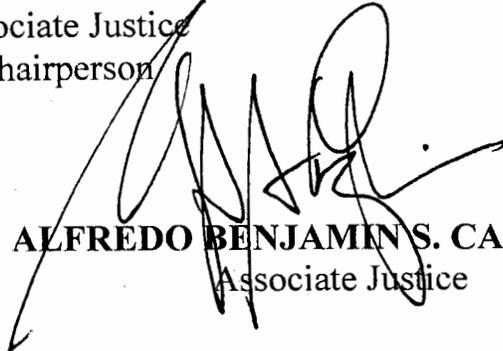
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On Official Leave
ANDRES B. REYES, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice