



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **11 March 2020** which reads as follows:*

“G.R. Nos. 238741-42 (Roberto A. Sison, Jose Ma. L. Duarte, Emelita E. Quema, Regina’s Industries & Development Corporation, and Markatmic, Inc., v. Epifanio S. Joaquin, Nelson G. Mendoza, Constantino A. Marcaida, Godofredo Galindez, Antonio C. Laurel, Eugenio T. Dela Cruz, and Briccio S. Tamparong). — This is a petition for review on *certiorari*¹ under Rule 45 of the Revised Rules of Court dated May 7, 2018, assailing the Decision² dated April 13, 2018 of the Court of Appeals (CA) in CA-G.R. SP Nos. 147420 & 147248, which affirmed the Decision³ dated August 30, 2016 of the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. HOA-A-160411-0787 entitled “*Jose Ma. L. Duarte, et al. v. Epifanio S. Joaquin, et al.*,” originally filed with the HLURB-Expanded National Capital Region Field Office (ENCRFO).

The facts, as borne out by the records, are as follows:

Incorporated in 1978, Ayala Alabang Village Association (AAVA) is the homeowners’ association of Ayala Alabang Village, a gated residential village located at Barangay Ayala Alabang, Muntinlupa City, Metro Manila. Lot owners automatically become members of the AAVA under the contract of purchase of the lot from the village’s developer. Under its Articles of Incorporation and By-laws, AAVA is governed by a Board of Governors (Board), consisting of seven members, representing each of the seven districts into which AAV is divided. The members of the Board serve for a term of two years and are elected by the qualified and non-delinquent members in the districts they represent while the president holds office for one year and is elected by the board from among its members. The election

¹ *Rollo*, pp. 3-36.

² Penned by Associate Justice Socorro B. Inting (now COMELEC commissioner), with the concurrence of Associate Justices Ramon A. Cruz (*Chairperson*) and Rafael Antonio M. Santos; *id.* at 248-260.

³ *Id.* at 131-163.

of governors is held on a staggered basis and is held every year during the Annual General Membership (AGM) meeting held every April.⁴

During the 2014 AGM meeting, elections for governors of Districts 1, 2, 3, and 7 were held, with respondents Nelson G. Mendoza, Constantino A. Marcaida, Godofredo Galindez, and Eugene T. Dela Cruz, respectively, as the only candidates. Likewise, during the 2015 AGM meeting, respondents Epifanio S. Joaquin and Antonio C. Laurel were the only candidates for Districts 4 and 6, respectively; while no candidate stood for the District 5 election. As the only candidates, respondents were thus elected to the AAVA Board; while respondent Briccio S. Tamparong remained governor for District 5 in a holdover capacity. The results for the two elections were as follows:⁵

APRIL 2014 AAVA BOARD ELECTIONS			
Candidate	District	Eligible Electors	Votes Present and Cast
Mendoza	1	718	99
Marcaida	2	622	8
Galindez	3	690	93
Dela Cruz	7	1441	188
APRIL 2015 AAVA BOARD ELECTIONS			
Candidate	District	Eligible Electors	Votes Present and Cast
Laurel	4	297	40
Joaquin	6	508	44

On October 8, 2015, petitioners assailed the election of respondents as AAVA governors *via* a complaint filed with the HLURB-ENCRFO. They prayed, among others, for the nullification of the 2014 and 2015 AAVA Board elections for lack of quorum, and for a declaration of invalidity of Tamparong's holdover as District 5 governor. Respondents answered *inter alia* that the Complaint, being in the nature of an election contest, is barred by prescription under Section 61 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9904 and Section 90 of the 2011 Revised Rules of Procedure of the HLURB (HLURB Rules).⁶

On March 10, 2016, Housing and Land Use Arbiter Al Matthew P. Umali rendered a Decision dismissing petitioners' complaint,⁷ holding that the Complaint was in the nature of an election contest and therefore, barred. In seeking to invalidate the election of all seven members of the AAVA board, petitioners were essentially seeking the dissolution of the entire Board – a proceeding which governed by Sections 13 and 14 of RA No. 9904.⁸ Arbiter Umali likewise ordered the conduct of a new election under the supervision of the HLURB Homeowners Association Franchising Unit.⁹

⁴ Id. at 6, 249-250.

⁵ Id. at 6-7, 250.

⁶ Id. at 251.

⁷ Id.

⁸ *Rollo*, p. 133-134.

⁹ Id. at 252.

Petitioners appealed to the HLURB *en banc*, which affirmed Arbiter Umali's ruling.¹⁰

The HLURB *en banc*, in its Decision dated July 27, 2016,¹¹ held that the controversy is in the nature of an election contest as defined in Section 89 of the HLURB Rules because the allegations in the complaint pertain to the manner and validity of the 2014 and 2015 AAVA Board elections; and because the complaint prays for the nullification of the election of respondents as AAVA governors. Hence, the 10-day prescriptive period for filing an election contest applies. Furthermore, petitioners failed to meet a condition precedent, as they should have first referred the matter to the Nomination and Election Committee of the AAVA as required in the association's by-laws.¹²

Petitioner Roberto A. Sison appealed to the CA *via* a Rule 43 petition filed on August 31, 2016, while the other petitioners filed a separate appeal on September 14, 2016.¹³ The two cases were consolidated, and later disposed of in the above-mentioned Decision dated April 13, 2018.

According to the appellate court, the characterization of a proceeding as an election contest as defined in Section 89 of the HLURB Rules, is determined not by the parties who filed the case, but rather, by the allegations of the complaint. In the case at bar, petitioners are questioning the validity of the elections held during the 2014 and 2015 AAVA AGMs for lack of quorum as required by Section 24 of the Corporation Code. However, the CA held that these allegations were tantamount to an attack on the "manner and validity" of the aforementioned elections, because non-compliance with the quorum requirement necessarily results in the invalidity of the elections. The fundamental thrust of the complaint is an attack on the manner and validity of the questioned elections – which is an election contest under the HLURB Rules. Citing this Court's ruling in *Ricafort, et al. v. Hon. Dicdican, et al.*,¹⁴ the CA further explained that a proceeding to nullify a general membership meeting where an election of directors was held is tantamount to challenge against the validity of the election of the directors elected during such meeting, even if the plaintiffs are not claiming the offices themselves.¹⁵

In view of such ruling, since petitioners filed their complaint only on October 6, 2015, way past 10 days after the 2014 and 2015 elections, their complaint should be deemed prescribed under Section 61 of the Implementing Rules and Regulations (IRR) of RA No. 9904 and Section 90 of the HLURB Rules.

¹⁰ Id. at 251-252.

¹¹ Signed by Commissioners Antonio M. Bernardo, Luis A. Paredes, and Ria Corazon A. Golez-Cabrera. Commissioner Linda L. Malenab-Hornilla was not present, id. at 131-136.

¹² Id. at 134-136.

¹³ Id. at 8.

¹⁴ 783 Phil. 134 (2016).

¹⁵ Id. at 160-161.

The CA likewise upheld the validity of respondent Tamparong's appointment as hold-over governor, on the basis of Section 60 of the IRR of RA No. 9904.

Petitioners did not file a motion for reconsideration from the CA Decision and went immediately to this Court via the present petition for review under Rule 45, which we are constrained to deny.

It must be noted that petitioners are not claiming to be the duly elected governors of AAVA. All they are seeking is the nullification of the 2014 and 2015 elections for lack of quorum, and a remand of the case to the HLURB for further proceedings.¹⁶ However, the record indisputably reveals that the AAVA Board of Governors holds office for a term of two years only.¹⁷ Hence, as of this time, the terms of the governors elected in the 2014 and 2015 elections have already lapsed, making this petition moot and academic, since the terms for which respondents have been elected have already lapsed. Furthermore, the directive in the HLURB-ENCRFO Decision to conduct a new election for the AAVA Board obviates the need to delve into the issues raised by the petitioners, as this is the exact consequence of their complaint's prayer. Stated differently, if this Court were to grant their petition and vacate the results of the 2014 and 2015 AAVA board elections, it would be necessary to order a new election to fill in the vacancies, considering that petitioners are not, in themselves or for others, claiming the disputed offices.

WHEREFORE, premises considered, the petition is hereby **DISMISSED**. The Decision dated April 13, 2018 of the Court of Appeals in CA-G.R. SP Nos. 147420 & 147428 is hereby **AFFIRMED**.

SO ORDERED. **Inting, J.**, no part due to his sister's participation in the Court of Appeals; **Carandang, J.**, designated additional member per Raffle dated December 9, 2019."

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *MAC 7/10*

¹⁶ *Rollo*, p. 27.

¹⁷ *Id.* at 6, 39, 250.

SYCIP SALAZAR HERNANDEZ & GATMAITAN (reg)
Counsel for Petitioners
3rd Floor, SyCipLaw Center
105 Paseo de Roxas, Legazpi Village
1226 Makati City

ATTY. CONSTANTINO A. MARCAIDA (reg)
Counsel for himself and the other Respondents
No. 11 Visayas Street
1780 Ayala Alabang Village
Muntinlupa City

HOUSING AND LAND USE REGULATORY BOARD (reg)
Sunnymede IT Center, 1614 Quezon Avenue
South Triangle, Quezon City
(HLURB Case No. HOA-A-160411-0787)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP Nos. 147248 & 147420

Please notify the Court of any change in your address.
GR238741-42. 3/11/2020(142)URES

17/10