



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ARTOO P. GARIN,
Petitioner,

G.R. No. 216492

Present:

-versus-

CITY OF MUNTINLUPA, HON.
JAIME FRESNEDI, in his official
capacity as City Mayor, and
KATARUNGAN VILLAGE
HOMEOWNERS ASSOCIATION,
INC.,

LEONEN, *J.*, Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
ROSARIO*, *JJ.*

Respondents.

Promulgated:
January 20, 2021

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DECISION

LEONEN, *J.*:

A dispute between a homeowners association and a non-member homeowner is an intra-association dispute; thus, jurisdiction belongs to the Housing and Land Use Regulatory Board.¹

This Court resolves a Petition for Review on Certiorari² assailing the Orders³ of the Regional Trial Court, which suspended the proceedings of a Petition for Mandamus pending exhaustion of administrative remedies with the Housing and Land Use Regulatory Board.

* On official leave.

¹ At present, the Housing and Land Use Regulatory Board is part of the Department of Human Settlement and Urban Development by virtue of Republic Act No. 11201 (2019). At the time of the filing of this case before this Court, Republic Act No. 11201 was not yet passed into law.

² *Rollo*, pp. 10–29.

³ Id. at 30–32 and 33–34. The September 5, 2014 and January 9, 2015 Orders were penned by Judge Rolando G. Mislang of the Regional Trial Court of Pasig City, Branch 167.

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Artoo P. Garin (Garin), a resident of Pasig City, wanted to build a house in Katarungan Village in Muntinlupa City.⁴ Per Section 10 of Muntinlupa City Ordinance No. 02-047, one of the prerequisites to secure a building permit is a clearance from the homeowners' association.⁵

Garin requested clearance from Katarungan Village Homeowners Association (Katarungan), but clarified that "he is not a member of the association."⁶ However, Katarungan refused to give the required clearance until he paid an assessment fee and signed up for membership in their association.⁷

Thus, Garin filed a Petition for Mandamus with application for preliminary injunction before the Regional Trial Court.⁸ He sought to compel the City of Muntinlupa to accept his application for processing, even without the required clearance. He also prayed that Section 10 of Muntinlupa City Ordinance No. 02-047 be declared unconstitutional "insofar as it relates to the tasking of the homeowners association for the issuance of clearance[.]"⁹

On September 5, 2014, the Regional Trial Court issued an Order¹⁰ denying the injunctive relief, but temporarily suspending the proceedings pending Garin's exhaustion of administrative remedies with the Housing and Land Use Regulatory Board.¹¹

In denying the injunctive relief, the trial court found that Garin failed to establish a clear right or any substantial injury that would be caused, since he has not yet commenced the construction of his abode.¹²

The trial court also temporarily suspended the case pursuant to Rule 11 of the Implementing Rules and Regulations of Republic Act No. 9904, or the Magna Carta for Homeowners and Homeowners' Associations, which empowers the Housing and Land Use Regulatory Board to decide intra-association disputes.¹³

Garin moved for reconsideration, but was denied by the Regional

⁴ Id. at 12.

⁵ Id. at 13.

⁶ Id.

⁷ Id.

⁸ Id. at 14.

⁹ Id.

¹⁰ Id. at 30-32.

¹¹ Id. at 32. At present, the Housing and Land Use Regulatory Board is part of the Department of Human Settlement and Urban Development by virtue of Republic Act No. 11201 (2019). At the time of the filing of this case before this Court, Republic Act No. 11201 was not yet passed into law.

¹² Id. at 31-32.

¹³ Id. at 32.

Trial Court in its January 9, 2015 Order.¹⁴ The trial court emphasized that the alleged suppression of Garin's right was caused by Katarungan, not Muntinlupa City Ordinance No. 02-047.¹⁵ It found that whether Katarungan properly imposed Republic Act No. 9904 is a matter that should first be determined by the Housing and Land Use Regulatory Board, before the constitutionality of Section 10 of Muntinlupa City Ordinance No. 02-047 could be decided.¹⁶

Aggrieved, Garin filed this Petition for Review on Certiorari.¹⁷

On July 27, 2015, this Court required respondents to comment on the Petition.¹⁸

Respondent Katarungan¹⁹ and respondents City of Muntinlupa and Mayor Jaime R. Fresnedi²⁰ (Mayor Fresnedi) filed their respective Comments, as noted in this Court's October 21, 2015 Resolution.²¹

Upon being required by this Court,²² Garin filed his Consolidated Reply,²³ as noted in this Court's November 6, 2017 Resolution.²⁴

Petitioner argues that the constitutionality of Section 10 of Muntinlupa City Ordinance No. 02-047 may be addressed by this Court without petitioner having to first exhaust the administrative remedies with the Housing and Land Use Regulatory Board. He argues that the "convoluted procedure"²⁵ recommended by the trial court "serves only to pressure the building applicant to capitulate rather than pursue the question of unjust imposition and derogation of one's constitutional right to disassociate."²⁶

Petitioner also notes that the deed of sale of his property had no annotation on automatic membership in the association. This, he says, means that there was no contract existing between him and respondent Katarungan.²⁷

¹⁴ Id. at 33–34.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 10–29.

¹⁸ Id. at 37–38.

¹⁹ Id. at 39–49. Comment of respondent Katarungan.

²⁰ Id. at 50–63. Comment of respondent City Government of Muntinlupa and Mayor Fresnedi.

²¹ Id. at 65.

²² Id. at 66.

²³ Id. at 67–70.

²⁴ Id. at 75.

²⁵ Id. at 17.

²⁶ Id.

²⁷ Id. at 21.

Petitioner argues that respondent Katarungan had “abused [its] delegated power”²⁸ which was the “necessary consequence of the undefined authority conferred by the Ordinance[.]”²⁹ He argues that “the Ordinance itself prescribes no specific limit or parameter for its exercise[.]”³⁰

Respondent Katarungan counters that if petitioner wants to avail of its services, he must pay the required dues, fees, and charges.³¹ It notes that its refusal to issue the clearance is based on the Implementing Rules and Regulations of Republic Act No. 9904,³² which empowers an association to cause compliance on, among others, structures to be built within the subdivision, in accordance with existing laws.³³

In addition, Section 72 of the Implementing Rules and Regulations of Republic Act No. 9904 provides:

SECTION 72. *Prohibited Acts.* — It shall be prohibited for any person:

....

b. To deprive any homeowner of the right to avail of or enjoy basic community services and facilities provided that the dues, charges, and other fees for such services have been duly paid[.]³⁴

As for petitioner’s right to abode, respondent Katarungan argues that this right can be limited by the general welfare clause under Section 16 of the Local Government Code.³⁵ It also argues that Muntinlupa City Ordinance No. 02-047 is presumed a valid exercise of police power.³⁶

Respondent Katarungan ends by reiterating that this case involves an intra-association dispute, which must properly be heard by the Housing and Land Use Regulatory Board, and not the regular trial courts.³⁷

For their part, respondents City of Muntinlupa and Mayor Fresnedi cite Section 5(c)³⁸ of HLURB Resolution No. R-771, series of 2004, and the

²⁸ Id. at 17.

²⁹ Id.

³⁰ Id.

³¹ Id. at 41.

³² Id. at 40.

³³ Id. at 40–41.

³⁴ Id. at 41.

³⁵ Id. at 41–42.

³⁶ Id. at 42.

³⁷ Id. at 42–43.

³⁸ Id. at 52. HLURB Resolution No. R-771 (2004), or the Rules on the Registration and Supervision of Homeowners Association, sec. 5(c) states:

Section 5. Powers and attributes of a homeowners association. – The powers and attributes of the homeowners association are those stated in its by-laws, which shall include the following:

....

Implementing Rules and Regulations of Republic Act No. 9904, in arguing that:

Clearly, . . . it is NOT the City Government or the assailed Ordinance which conferred upon [respondent Katarungan] the authority to issue homeowners clearance and impose fees. It is a national law no less, R.A. 9904, which the [Housing and Land Use Regulatory Board] is tasked to implement, that confers this authority[.]³⁹ (Emphasis in the original)

In addition, Section 8 of Republic Act No. 9904 requires every homeowner to “pay the necessary fees, charges and special assessments of the homeowners’ association.”⁴⁰

Assuming that respondent Katarungan’s power to issue a clearance was granted through Muntinlupa City Ordinance No. 02-047, respondents say that it would still be valid because of Article III, Section 2 of the “Zoning Ordinance.”⁴¹

Respondents also raise that petitioner “resorted to an improper remedy” because the questioned Order is an interlocutory order, from which no appeal can be taken.⁴²

In reply, petitioner reiterates that Muntinlupa City Ordinance No. 02-047 is unconstitutional because it conferred on respondent Katarungan “the absolute, unbridled power to determine the parameters for the issuance of its clearance”⁴³—“an invalid delegation of legislative authority.”⁴⁴

For resolution are the following issues:

First, whether or not a petition for review on certiorari under Rule 45 of the Rules of Civil Procedure is the correct remedy to question the Regional Trial Court’s Orders;

Second, whether or not petitioner Garin has complied with all the requisites of judicial review to question the constitutionality of Muntinlupa City Ordinance No. 02-047;

To impose and collect reasonable fees on members and non-member residents who avail of or benefit from the facilities and services of the association, to defray necessary operational expenses, subject to the limitations and conditions imposed under the law, regulations of the Board and the association by-laws[.]

³⁹ Id. at 53.

⁴⁰ Id. at 54.

⁴¹ Id. at 53. No copy of the Zoning Ordinance was attached by respondent City Government of Muntinlupa.

⁴² Id. at 54.

⁴³ Id. at 67.

⁴⁴ Id. at 68.

Third, whether or not the Regional Trial Court erred in ruling that primary jurisdiction over the case lies with the Housing and Land Use Regulatory Board; and

Finally, whether or not the Housing and Land Use Regulatory Board has jurisdiction over a dispute between a non-member homeowner and the homeowners' association.

We deny the Petition.

I

As a general rule, only final judgments or orders of the trial court, the Court of Appeals, or the Sandiganbayan may be appealed through a petition for review under Rule 45 of the Rules of Civil Procedure. On its face, it may appear that the trial court's Orders were interlocutory orders, which are generally not appealable but may be questioned through a petition for certiorari under Rule 65.

However, the September 5, 2014 Order denied petitioner's application for preliminary injunction and suspended the case pending petitioner's exhaustion of administrative remedies. While this appears to be interlocutory, it is, in reality, an order of dismissal. Its dispositive portion reads:

WHEREFORE, premises considered, the application for a writ of mandatory preliminary injunction is hereby DENIED.

Likewise, the instant case is temporarily suspended pending the exhaustion of administrative remedies by petitioner involving the issue herein with the HLURB.

SO ORDERED[.]⁴⁵

The temporary suspension becomes indefinite pending any further action by petitioner. It creates the presumption that the trial court will never act on the Petition for Mandamus if petitioner does not file his case with the proper administrative agency. Thus, while the trial court's Order may appear to be an interlocutory order, it effectively dismissed the Petition without explicitly saying so. Hence, petitioner availed of the proper remedy.

In any case, petitioner elevated his appeal to this Court based on what he perceived to be errors of law, not errors of fact, by the trial court.

⁴⁵ Id. at 32.

II

Petitioner's main argument is that the trial court erred in refusing to resolve the issue on the Muntinlupa City Ordinance No. 02047's constitutionality since it was for the Housing and Land Use Regulatory Board to resolve. He prays that the Order be set aside and that Section 10 of the Ordinance be declared unconstitutional.

This Court's power of judicial review may only be exercised if a case presents the following requisites: first, an actual case or controversy; second, the person bringing the case must have legal standing; third, the constitutional question is raised at the earliest possible opportunity; and fourth, the resolution of the constitutional question must be the very *lis mota* of the case, that is, it must be absolutely necessary for its determination.⁴⁶

The first three requisites are present here. The denial of petitioner's building permit application presents an actual controversy and legal standing. Petitioner is the homeowner who was directly "injured" by the non-issuance of the clearance by respondent Katarungan. He also raised the constitutional question at the earliest possible opportunity, submitting it before the trial court after his permit application had been denied.

The last requisite, however, remains wanting. Petitioner's cause of action can be resolved without having to pass upon the constitutional question.

Petitioner argues that the requirements outlined in Section 10 of Muntinlupa City Ordinance No. 02-047 are unconstitutional since requiring a homeowners' association clearance violates his right to disassociate. Section 10 of the Ordinance states:

Section 10. APPLICATION AND APPROVAL OF PROJECTS.
No project shall be approved unless the applicable requirements per project are complied with:

- * Duly Accomplished and Notarized Application Form
- * One Set of Plan
- * One copy of lot plan with Vicinity Map
- * Transfer Certificate of Title
- * Barangay Clearance/Barangay Resolution
- * Homeowners Association Clearance
- * Deed of Sale
- * Certification from MDCC/PHILVOCS⁴⁷

⁴⁶ See *Biraogo v. Philippine Truth Commission*, 651 Phil. 374 (2010) [Per J. Mendoza, En Banc], citing *Senate of the Philippines v. Ermita*, 522 Phil. 1 (2006) [Per. J. Carpio Morales, En Banc]; and *Francisco v. House of Representatives*, 460 Phil. 830, 842 (2003) [Per J. Carpio Morales, En Banc].

⁴⁷ *Rollo*, p. 13. Lifted from the Petition. The ordinance was not attached to the records.

Here, respondent Katarungan refused to issue petitioner the required clearance until he has applied for membership and paid up the assessments amounting to ₱72,000.00, which, petitioner argues, “had nothing to do with the zoning, classification purpose of the Ordinance.”⁴⁸ Because petitioner could not secure the clearance, the City of Muntinlupa refused to process his application for a building permit.

Republic Act No. 9904, or the Magna Carta for Homeowners and Homeowners’ Associations, prohibits any person from compelling a homeowner to join the association unless it is made a condition precedent in the “the title of the property; the contract for the purchase of a lot in the subdivision project; or an award under a CMP project or a similar tenurial arrangement[.]”⁴⁹ Under Section 9 of its Implementing Rules and Regulations, membership is optional “[u]nless otherwise provided in the Contract to Sell, Deed of Sale, or other instruments of conveyance, or annotated in the title of the property[.]”

If petitioner’s allegation that the deed of sale for his property has no provision on automatic membership is true, respondent Katarungan could have possibly violated Republic Act No. 9904 when it imposed membership as a prerequisite for issuing a clearance. Clearly, petitioner’s cause of action is against respondent Katarungan, not the City of Muntinlupa. However, petitioner did not attach any document to support his claim that there is no provision on automatic membership. He merely alleged:

When petitioner purchased his property in Katarungan Village, Muntinlupa City, there was no annotation showing his automatic membership in the [association]. Thus, no privity of contract arising from the title certificate exists between petitioner and respondent [Katarungan].⁵⁰

Further, petitioner did not state whether the assessments imposed were for membership fees alone. It is entirely possible that part of the ₱72,000.00 worth of assessments included payment for the issuance of the clearance along with basic services and facilities. Petitioner has the right to disassociate or not become a member of the association, but he cannot refuse to pay for basic services and facilities. Section 5 of Republic Act No. 9904 provides:

SECTION 5. *Rights and Duties of Every Homeowner.* — Every homeowner has the right to enjoy the basic community services and

⁴⁸ Id.

⁴⁹ Republic Act No. 9904 (2009), sec. 22(a) provides:

SECTION 22. *Prohibited Acts.* — It shall be prohibited for any person:

(a) To compel a homeowner to join the association, without prejudice to the provisions of the deed of restrictions, its extensions or renewals as approved by the majority vote of the members or as annotated on the title of the property; the contract for the purchase of a lot in the subdivision project; or an award under a CMP project or a similar tenurial arrangement[.]

⁵⁰ *Rollo*, p. 21.


facilities: *Provided*, That he/she pays the necessary fees and other pertinent charges.

In any case, it was well within respondent City of Muntinlupa's police power to require clearance from a homeowners' association as a prerequisite for granting a building permit.

A homeowners' association is empowered by law, among others, to cause compliance with the provisions of the National Building Code or refuse the establishment of institutions which may disrupt the privacy and security of its homeowners. Section 10(j) and (k) of Republic Act No. 9904 state:

SECTION 10. Rights and Powers of the Association. — An association shall have the following rights and shall exercise the following powers:

- (j) Cause compliance with regard to height regulations, easements, use of homes, buildings, edifices, or structures that may be built within the subdivision, in accordance with the National Building Code, zoning laws, HLURB rules and regulations, existing local ordinances, and existing deeds of restriction;
- (k) Subject to consultation and with the approval of a simple majority of the association members, allow the establishment of certain institutions such as, but not limited to, schools, hospitals, markets, grocery stores and other similar establishments that will necessarily affect the character of the subdivision/village in terms of traffic generation, and/or opening the area to outsiders which may result in the loss of privacy, security, safety, and tranquility to its residents, in accordance with the National Building Code, zoning laws, existing local ordinances, HLURB rules and regulations, and existing jurisprudence: *Provided*, That such prior approval shall not be necessary for the establishment of sari - sari stores, home industries and similar small-scale business enterprises within the subdivision/village classified as socialized housing[.]

The Ordinance's requirement to secure a homeowners' association clearance applies to all homeowners' associations in Muntinlupa City, and not just respondent Katarungan. While the requisites for securing a clearance from respondent Katarungan may seem violative of Republic Act No. 9904 for allegedly forcing petitioner to become a member, it does not follow that the requirements for the issuance of a clearance by *all* other homeowners' associations within Muntinlupa City violate the law. 

Petitioner's cause of action, therefore, was not the result of the alleged invalidity of Section 10 of Muntinlupa City Ordinance No. 02-047, but the alleged illegality of respondent Katarungan's clearance requirements. His

case can be resolved in the proper proceeding without passing upon the constitutional question.

III

The trial court did not err in ruling that the Housing and Land Use Regulatory Board has primary jurisdiction over the case. In *JAKA Investments Corporation v. Urdaneta Village Association, Inc.*,⁵¹ this Court held that “[c]ases involving intra-association controversies fall under the jurisdiction of the Housing and Land Use Regulatory Board, the government agency with the technical expertise on the matter.”⁵²

Section 20(d) of Republic Act No. 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 Blg. 68 and Executive Order No. 535, Series of 1981, as amended, the HLURB shall:

....

(d) Hear and decide intra-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[.]

Section 4(w) of the law’s Implementing Rules and Regulations defines an “intra-association dispute”:

(w) *Intra-association dispute* refers to a controversy which arises out of the relations between and among members of the association; between any or all of them and the association of which they are members; and between such association and the State insofar as it concerns their individual franchise or right to exist. *It refers also to a controversy which is intrinsically connected with the regulation of associations or dealing with the internal affairs of such entity.* (Emphasis supplied)

The next question that may be asked is whether the Housing and Land Use Regulatory Board has jurisdiction even if petitioner is not a member of the homeowners’ association.

We answer in the affirmative.

⁵¹ G.R. Nos. 204187 and 206606, April 1, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65203>> [Per J. Leonen, Third Division].

⁵² Id.

Republic Act No. 9904 differentiates between a homeowner and a member. Section 3(j) defines a homeowner:

(j) “Homeowner” refers to any of the following:

- (1) An owner or purchaser of a lot in a subdivision/village;
- (2) An awardee, usufructuary, or legal occupant of a unit, house and/or lot in a government socialized or economic housing or relocation project and other urban estates; or
- (3) An informal settler in the process of being accredited as beneficiary or awardee of ownership rights under the CMP, LTAP, and other similar programs.

“Member” is not specifically defined, but Section 6 of the law states that “[a] homeowner as defined under this Act shall be qualified to be a member of an association[.]”

The issue in this case may be considered a matter involving the internal affairs of the association. For internal affairs of the association, the Implementing Rules and Regulations does not mention that at least one of the parties to the dispute must be a member of the association.

Moreover, in 2017, the Housing and Land Use Regulatory Board promulgated HLURB Resolution No. 963-17, or the Revised Rules of Proceedings Before Regional Arbiters:⁵³

Rule 2
Regional Arbiters

....

6.2. Jurisdiction over homeowners and homeowners associations.
The Arbiters shall exercise exclusive jurisdiction to hear and decide cases involving homeowners associations, as follows:

....

⁵³ HLURB Resolution No. 963-17 (2017), available at <<https://hlurb.gov.ph/wp-content/uploads/Board%20Resolutions/2017%20Board%20Resolutions/R-963%20s.%202017.pdf>> (last accessed January 19, 2021). Its Rule 1, sec. 3(3.3) defines an arbiter as follows:
3.3. *Arbiter* refers to the officer authorized by law, rules and regulations to take hear and resolve disputes filed in accordance with this Rules. By designation, Arbiters may either be —
3.3.1. *Regional Arbiter* who exercises jurisdiction within the territorial boundaries of the Regional Field Office to which he/she is assigned, or
3.3.2. *LSG Arbiters* who exercises the same functions as the Regional Arbiter except that they are not bound by the confines of the territorial jurisdiction of any Regional Field Office and hears and decides cases only when the Regional Arbiter has recused or to assist in the disposition of cases pending before the Regional Field Offices.




6.2.4. Disputes or controversies between the association and the homeowners or other beneficial users relating to the exercise of their respective rights, duties and obligations[.]⁵⁴


Based on its current rules of procedure, the Housing and Land Use Regulatory Board has jurisdiction over disputes between a non-member homeowner and the homeowners' association.

WHEREFORE, the Regional Trial Court's September 5, 2014 and January 9, 2015 Orders in Civil Case No. 3930 are **AFFIRMED**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

On official leave
RICARDO R. ROSARIO
Associate Justice

⁵⁴ HLURB Resolution No. 963-17 (2017), Rule 2, sec. 6.2.4.

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.

**MARVIC M.V.F. LEONEN**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.

**DIOSDADO M. PERALTA**

Chief Justice