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 SUPREME COURT
 Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **02 October 2019** which reads as follows:

G.R. No. 227351 — MA. WILHELMINA E. TOBIAS, ROSA ANG, DOLORES ALEJANDRO, EDNA V. DE JESUS, MARINA MANALO, and LYDIA PAULINO, petitioners, versus EMAPALICO HOMES, INC., PURIFICACION CASTAÑEDA, LEANDRO AQUINO, ALWAYNE CARIÑO and REYNALDO SANTIAGO, respondents.

x-----x
 This is a petition for review on *certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the December 22, 2015 Decision² and September 15, 2016 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 135781. The CA 1) reversed the April 24, 2014 Order of the Housing and Land Use Regulatory Board - Board of Commissioners (HLURB-BOC) rendered in HOA-A-131127-0570, and 2) declared as valid the July 12, 2013 special meeting of the Board of Directors of Emapalico Homes, Inc. (EHI) held for the purpose of creating the 2013 EHI Committee on Elections (EHI-COMELEC) and the July 28, 2013 Board elections.⁴

The Facts and Antecedent Proceedings

The instant Petition was filed by Ma. Wilhelmina E. Tobias, Rosa Ang, Dolores Alejandro, Edna V. De Jesus, Marina Manalo, and Lydia Paulino (petitioners), former members of the EHI Board of Directors, claiming that the CA erred in upholding the conduct of a special meeting on July 12, 2013 for the constitution of the EHI-COMELEC and the subsequent EHI Board election on July 28, 2013.⁵ The CA summarized the facts as follows:

In December 2012, Purificacion M. Castañeda (Castañeda), President of Emapalico Homes Inc. (EHI), announced in a letter, dated December 28, 2012, the appointment of Leandro Aquino (Aquino), Alwayne Cariño (Cariño), and Reynaldo Santiago (Santiago) as temporary members of [EHI-COMELEC] that would supervise the election of EHI's Board of Directors scheduled on February 17, 2013.

Thereafter, or on January 18, 2013, EHI-COMELEC issued the *Guidelines for the 2013 Election of Members of EHI Board* which provides, among others, that former officers and directors of the association who have not turned over all the books, monies, and records of the association during their term to the new set of directors and officers and those who refused to comply with lawful orders of the HLURB are disqualified from running as EHI Directors.

¹ *Rolló*, pp. 8-22.

² *Id.* at 23-27. Penned by Associate Justice Normandie B. Pizarro with Associate Justices Samuel H. Gaerlan and Ma. Luisa C. Quijano-Padilla concurring.

³ *Id.* at 52-53.

⁴ *Id.* at 24-25.

⁵ *Id.* at 10-11.

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On January 25, 2013, herein Respondents, namely: Edna C. De Jesus (De Jesus), Jose Ma. Pabalan (Pabalan), and Lydia C. Paulino (Paulino), current members of EHI's Board of Directors, together with Ma. Wilhelmina E. Tobias (Tobias), Dolores Alejandro (Alejandro), Rose-Ang (Ang), and Marina Manalo (Manalo) [petitioners before the Court], all former members of EHI's Board of Directors, filed a letter-complaint before the Homeowner's Association Administration Division of the HLURB (HLURB-HAAD) against EHI, Castañeda, Aquino, Cariño, and Santiago [respondents before the Court]. The [petitioners] averred that the [respondents] might disapprove their candidacies on the basis of the *Guidelines*; and that said *Guidelines* is invalid as it deprives the homeowners from democratically participating in the elections. x x x

Pending the response of HLURB-HAAD in their letter-complaint, [petitioners] Tobias, De Jesus, Manalo, and Ang filed their respective certificates of candidacy on February 5, 2013. [Petitioners] Alejandro, Paulino, and Pabalan filed their x x x certificates two (2) days thereafter. Their certificates of candidacy, however, were disqualified by EHI-COMELEC, *i.e.* Petitioners Aquino, Cariño, and Santiago, on February 10, 2013.

On February 12, 2013, the [petitioners] filed a complaint before the HLURB-Field Office against the [respondents] praying, among others, for the suspension of the scheduled February 17, 2013 election for EHI's Board of Directors.

The HLURB-Field Office issued a Cease and Desist Order on February 15, 2013. Thus, the EHI Board of Director's election was suspended. Subsequently, or on March 27, 2013, the HLURB rendered a Decision in favor of the [petitioners] x x x.

x x x x

On appeal, the HLURB-BOC modified the above disposition. The decretal portion of its Decision, dated May 24, 2013, is in this wise:

WHEREFORE, the Decision of the Regional Office dated March 27, 2013 is MODIFIED to read as follows: Accordingly:

1. *The Cease and Desist Order dated February 15, 2013 is hereby lifted;*
2. *The selection/composition of the respondent Association's Comelec for the February 17, 2013 [election] is declared election (sic) null and void;*
3. *The respondent Comelec's disqualification of the complainant (sic) from running as members of the Board of Directions of the Association in the February 17, 2013 election is declared of no force and effect; and*
4. *The incumbent officers of the Association are hereby ordered to create or constitute a Committee on Election (sic) in accordance with the 2012 bylaws who (sic) shall immediately call,*

administer[,] and conduct the 2013 election of the members of the Board of the Association[,] also in accordance with the 2012 bylaws.

SO ORDERED.

Pursuant to the foregoing, EHI held a special meeting on July 12, 2013. The same was attended by the majority of its Board of Directors. At the said meeting, [respondents] Aquino and Cariño, as well as Priscila Manaig, were appointed as EHI's COMELEC officers.

On even date, the HLURB-BOC issued an Order, at the instance of the [petitioners] nullifying the above appointments on the grounds that [respondents] Aquino and Cariño "were previous members of the Comelec[,] the constitution/composition of which was declared null and void by this Board" and that the majority of the members of the Board were once again excluded from the meeting. x x x

x x x x

Three (3) days after receipt of the above issuance, or on July 25, 2013, the [respondents] filed a Manifestation before the HLURB-BOC stating, in essence, that the above issuance is already moot or that the July 12, 2013 special meeting be considered as substantial compliance with the same because the special meeting was held before their receipt of the above issuance; that the [petitioners] were notified of said special meeting; that despite the absence of the [petitioners] in said meeting, the latter filed their certificates of candidacy for the election scheduled on July 28, 2013; and that said meeting was held in good faith and in compliance with the HLURB-BOC's May 24, 2013 Decision.

Pending the HLURB-BOC's action on the above Manifestation, the EHI held the elections as scheduled on July 28, 2013.

On October 17, 2013, the HLURB-Field Office issued an Order declaring that the July 12, 2013 special meeting did not substantially comply with the HLURB-BOC's July 12, 2013 Order. x x x

x x x x

The [respondents] appealed the above issuance before the HLURB-BOC. On April 24, 2014, the HLURB-BOC issued the assailed order dismissing the appeal. The *fallo* of its issuance reads:

WHEREFORE, premises considered, the instant appeal and the motion to declare complainants in contempt are **DENIED**.

Further, the Homeowners Association Administration Division (HAAD) of the [Expanded National Capital Region Field Office] [(JENCRFO)] are hereby ordered to designate five members of its staff to the Committee on Election of the Emapalico Homes Homeowners Association that shall call, administer[,] and conduct the election of the members of the Board of Directors and officers of the association in accordance with

its bylaws within thirty (30) days from the receipt of this Decision (sic), unless enjoined by a competent authority. The constituted Comelec if (sic) authorized to perform other tasks as may be necessary to carry out its task and call on other HLURB personnel for assistance in carrying out its duties and responsibilities.

x x x x

*SO ORDERED.*⁶ (Emphasis and italics in the original, underscoring supplied)

Respondents thus filed a petition for review with the CA alleging that the HLURB-BOC itself decreed in its May 13, 2013 Decision that the appointment of EHI's COMELEC officials and the election of its Board should be governed by EHI's 2012 By-Laws.⁷ Hence, the HLURBB-BOC's later pronouncement that the concurrence of the minority group is necessary⁸ for the appointment of members was erroneous as the By-laws merely requires the concurrence of a majority of its Board of Directors.⁹ On the other hand, petitioners aver that respondents are actually seeking a review of the May 24, 2013 Decision of the HLURB-BOC which has become final and executory.¹⁰

The CA ruled in favor of respondents and reversed the April 24, 2014 Decision of the HLURB-BOC.¹¹ The CA held that, contrary to petitioners' stance, respondents are not seeking a review of the May 24, 2013 Decision.¹² Rather, respondents are using said disposition as basis for showing that the HLURB-BOC erred in issuing the April 24, 2014 Decision.¹³

The CA noted that the May 24, 2013 Decision categorically mandated the incumbent EHI officers to "create or constitute a COMELEC and to conduct the 2013 election of the members of EHI's Board in accordance with EHI's 2012 [By-laws]."¹⁴ Despite such pronouncement, the HLURB-BOC issued its April 24, 2014 Decision requiring the HAAD-ENCRFO to designate five members of its staff to the COMELEC of EHI, contrary to the 2012 By-laws.¹⁵ Further, EHI's By-laws only requires that the EHI-COMELEC be organized and created by its President, with the concurrence and vote of the majority members of the Board of Directors.¹⁶ The concurrence of the minority was not required.¹⁷ Hence, EHI complied with the May 24, 2013 Decision when it held a special meeting with the attendance of the majority of the Board.¹⁸

⁶ Id. at 25-31.

⁷ Id. at 32.

⁸ Id. at 82, Decision dated April 24, 2014.

⁹ Id. at 32.

¹⁰ Id. at 33.

¹¹ Id. at 36.

¹² Id. at 33.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id. at 34.

¹⁷ Id.

¹⁸ Id.

Further, the CA held that petitioners were estopped from questioning the July 12, 2013 special meeting as they filed certificates of candidacy for the election scheduled on July 28, 2013.¹⁹

Petitioners filed the instant petition claiming that the CA erred in declaring the July 12, 2013 special meeting and the July 28, 2013 elections valid,²⁰ because the same effectively modified the final and executory Decision of the HLURB-BOC dated May 24, 2013.²¹

Issue

Whether the CA erred in granting the appeal.

The Court's Ruling

The Petition lacks merit.

The dispositive part of the May 24, 2013 Decision of the HLURB-BOC required the incumbent EHI officers to create or constitute a COMELEC and to conduct the 2013 election in accordance with EHI's 2012 By-laws.²²

The CA found that EHI's By-laws only required that the EHI-COMELEC be organized and created by its President, with the concurrence and vote of the majority members of the Board of Directors.²³ Hence, the CA correctly held that there was no basis for the HLURB-BOC 1) to require the presence or concurrence of the minority members of the Board, or 2) to require the HAAD-ENCRFO to designate five members of its staff to the EHI-COMELEC,²⁴ as the same were not required by the By-laws. Contrary to petitioners' argument, the CA's reasoning does not conflict with, nor modify the May 24, 2013 Decision but, in fact, enforces the same by requiring that the EHI-COMELEC be constituted and the election be conducted, *in accordance with the By-Laws*.

Although petitioners claim that respondents repeatedly violated the 2012 By-laws and the May 24, 2013 Decision of the HLURB-BOC, the CA categorically found that respondents substantially complied with the same.²⁵ It bears emphasis that "the Supreme Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial. The resolution of factual issues is the function of lower courts, whose findings thereon are received with respect and are binding on the Supreme Court subject to certain exceptions."²⁶

¹⁹ Id.

²⁰ Id. at 12.

²¹ Id. at 9.

²² Id. at 33.

²³ Id. at 34.

²⁴ Id.

²⁵ Id. at 35.

²⁶ *Angeles v. Pascual*, 673 Phil. 499, 505 (2011).

In any event, petitioners manifestly failed to substantiate their claims. Section 4, Rule 45 of the Rules of Court expressly requires that the material portions of the records be attached to the Petition, *viz.*:

Section 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42.

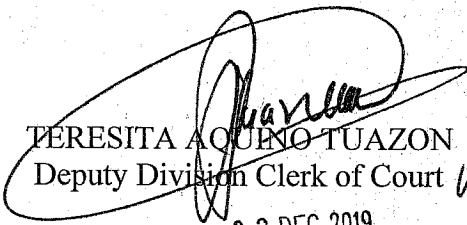
Although petitioners seek a review of the CA's findings, they never submitted the EHI's By-laws nor the May 24, 2013 Decision of the HLURB-BOC to the Court. Hence, even if the Court were inclined to review the factual findings of the CA, it is unable to do so as the documents purportedly supporting petitioners' claims were never made available for re-examination. Attaching the material portions of the record is not a pointless requirement. Compliance therewith allows the Court to fully evaluate the propriety of giving due course to a petition and to expeditiously resolve the merits of the case.

It bears reiterating that a review by the Court, even of legal questions, is never a matter of right but of sound judicial discretion.²⁷ In a Rule 45 petition for certiorari, the petitioner always bears the burden of showing that there are compelling reasons warranting review. Petitioners have failed to discharge this burden.

WHEREFORE, the Petition is **DENIED**. The December 22, 2015 Decision and September 15, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 135781 are hereby **AFFIRMED**.

SO ORDERED.

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *with 12/2*
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²⁷ RULES OF COURT, Rule 45, Sec. 6.

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