

## TENTH DIVISION

[ CA-G.R. SP No. 132535, February 05, 2015 ]

**MELANIA CALAQUIAN AND JOSEFINA CALAQUIAN-MIRANDA,  
PETITIONERS, VS. FILINVEST I HOMEOWNERS ASSOCIATION,  
INC., RESPONDENT.**

### DECISION

**DIAMANTE, F. N., J.:**

We are tasked to resolve the present Petition For Review<sup>[1]</sup> under Rule 42 of the 1997 Revised Rules of Civil Procedure filed by petitioner Josefina Calaquian-Miranda (Josefina) which seeks to reverse the Office of the President's (OP) April 26, 2013 Decision<sup>[2]</sup> and September 25, 2013 Resolution<sup>[3]</sup> in O.P. Case No. 08-B-062 (HLURB Case No. HOA-A-030515-0027/HLURB Case No. HOA-99-119).

Meantime, this Court would like to remind the herein parties that in a Resolution<sup>[4]</sup> dated May 8, 2014, this Court, without necessarily giving due course to the instant Petition, ordered the respondent, among others, to file its Comment (not a motion to dismiss) within ten (10) days from notice, and for petitioners to file a Reply within five (5) days from receipt of the Comment, if so minded. In the same Resolution, We explicitly announced that upon submission of the said pleadings or the expiration of the period for filing of the same, the present Petition will be deemed submitted for decision, unless this Court requires the filing of Memoranda from the parties. Considering that the respondent had submitted its "*Comment (To Petitioner's Petition for Review dated 12 November 2013)*"<sup>[5]</sup> while the petitioners did not file a Reply thereto (as shown by the verification conducted by the Court of Appeals-Case Management Information System<sup>[6]</sup>), the present case is now deemed submitted for decision pursuant to this Court's May 8, 2014 Resolution.

Moving on, the antecedents, as summarized by the OP, are simple, to wit:

"This resolves the appeal of Melania Calaquian and Josefina Calaquian-Miranda (appellants) from the 15 January 2008 Decision of the Housing and Land Use Regulatory Board (HLURB) – Board of Commissioners, which affirmed the 21 September 2001 Decision of the HLURB Homeowners' Associations Adjudication Task Force (HOAATF). In the main, both decisions had ordered appellants to cease and desist from operating a general or sari-sari store in their residence in Filinvest I Quezon City.

Filinvest I Homeowners' Association, Inc. (FILHAI) is a non-profit, non-stock corporation composed mainly of homeowners of Filinvest I in Batasan Hills, Capitol District, Quezon City. Its Board of Governors, in the exercise of its powers under the bylaws (*sic*), promulgated rules and regulations which, among others, prohibited the establishment, operation

and management of general and/or sari-sari stores or any other business or commercial enterprise in any of the residential units, and authorized the operation of said enterprises only in three designated locations.

In its complaint filed with the HOAATF, FILHAI alleged that respondents violated said prohibition when they constructed on part of their residence a sari-sari store and continued to operate the same despite the demand for them to cease operations, to the detriment and prejudice not only of FILHAI but also of the homeowners who operate their own stores at the designated locations within the subdivision. The prohibition is supposedly annotated on the certificate of title covering the property.

Appellants admitted having been in operation of a *sari-sari* store since 1981, which they transferred in 1995 to the space designated by FILHAI. In 1999, however, they transferred their business back to their residence because they allegedly could not cope with the rental. They posited that the measure was in restraint of trade and amounted to a restriction on the enjoyment of property; that they were unaware of the prohibition; that FILHAI was estopped from enforcing the measure because their business, licensed as it was by the city government whose regulations could never be subordinate to the association's, had been in operation since 1981; that the establishment of the *sari-sari* store did not prejudice the rights of FILHAI but in fact even provided convenience to the other association members; that the enforcement of such arbitrary and oppressive regulation would deprive them of their livelihood; and that even when the limitation is annotated on the title, FILHAI nevertheless had no cause of action because it was not a party to the deed of sale executed by Filinvest Land, Inc. in their favor.

The HOAATF ruled in favor [of] FILHAI. On appeal, the HLURB Board of Commissioners affirmed and upheld the validity of the contested rules and regulations. It also pointed out that appellants are estopped by their own deed and admission from questioning the validity of the prohibition as well as from claiming unawareness thereof, because they had been operating their sari-sari store business in the places designated by FILHAI between 1995 and 1999.”<sup>[7]</sup>

When appealed, the OP rendered the now-assailed Decision and affirmed the January 15, 2008 Decision of the Housing Land and Use Regulatory Board-Board of Commissioners (HLURB-Board). In sustaining the validity of the Rules and Regulations issued by Filinvest I Homeowners' Association, Inc. (FILHAI) concerning the operation of a *sari-sari* store within the subdivision, the OP declared that the measure imposed by FILHAI is a regulation and not a prohibition against the operation of general merchandise stores in the subdivision, hence, the petitioners' claims for unfair competition, restraint in trade and curtailment of proprietary enjoyment is baseless. It added that FILHAI merely implemented the deed of restrictions annotated in the titles of all homeowners to which the latter had acceded upon the execution of the deeds of absolute sale in their favor. The OP pointed out that in accordance with the by-laws of FILHAI, it is authorized to promulgate Rules and Regulations and the same are valid as long as they are not contrary to existing laws or suffer from other substantive and procedural infirmities.

The OP continued to ratiocinate that with the petitioners' admission (that between the year 1995 and 1999, they had actually rented one of the commercial spaces designated by FILHAI for their *sari-sari* store business), they are now estopped from questioning the validity of said Regulation. The OP also stressed that on July 28, 1999, the FILHAI demanded them to cease and desist from operation of their *sari-sari* store at their residence under pain of immediate legal action. Thereafter, they obtained a business permit from the Quezon City Government in relation with the present action and the same apparently only proves that they wanted to use their property for business, a violation of the intent of the deed of restrictions.

Both of the herein petitioners moved to reconsider the foregoing findings but was denied by the OP.<sup>[8]</sup> Thereafter, the present Petition was filed by Josefina only (sans the other petitioner Melania Calaquian) on grounds that the OP committed grave abuse of discretion when it: ***a) affirmed the decision of the HLURB-HOA Task Force--finding the same to be supported by substantial evidence and declaring reasonable the Rules and Regulations of FILHAI; and, b) stated that the findings of fact of the Administrative Agencies should be generally accorded great respect.***<sup>[9]</sup>

In the main, Josefina wanted Us to rule on whether the FILHAI's Rules and Regulations concerning the prohibition against the operation of a *sari-sari* store in the residential area within the subdivision is valid. In effect, she wanted to impress upon Us that the OP's findings were misplaced considering that the authority of FILHAI's Board of Governors to promulgate, adopt and prescribe Rules and Regulations cannot prevail over the provisions of the Constitution, Local Government Code (specifically the Zoning Ordinance of Quezon City) and Penal Laws.<sup>[10]</sup>

We are not impressed.

This Court is not unaware that FILHAI is properly registered with the Securities and Exchange Commission (SEC) as a non-profit, non-stock corporation. Although its corporate name had undergone a series of amendments, still, its purpose to promote and safeguard the best interests, well-being or welfare of the residents and owners of property units in Filinvest I, Quezon City, has remained. Noticeably, all homeowners in the said subdivision automatically become members of FILHAI. It did not escape Our attention that its affairs are managed and controlled by a seven (7)-member Board of Governors which is empowered to promulgate, adopt and prescribe Rules and Regulations concerning the use or occupancy of the properties within the subdivision. Relative to these powers, the FILHAI, through its Board of Governors, promulgated Rules and Regulations prohibiting the establishment, operation and management of general merchandise and/or *sari-sari* stores in any of the residential houses in the subdivision but authorized the operation of the same within designated areas only.

Undoubtedly, Josefina, as a homeowner, must abide by the Rules and Regulations issued by FILHAI. In this regard, We quote with approval the OP's view on the matter when it said:

"xxx [t]he reasonableness of such rules and regulations will be measured only against the legitimate goals sought to be attained by the association. These goals are in fact clearly deducible from the pertinent