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[G.R. No. 213314, March 23, 2021]

ALLAN DU YAPHOCKUN, ALFREDO HEBRONA, JR., ROGER C. PARE, GENERAL SANTOS CITY-SARANGANI REAL ESTATE BOARD (GENSANSARREB) AND SOUTH COTABATO REAL ESTATE BOARD (SOCOREB), PETITIONERS, VS. PROFESSIONAL REGULATION COMMISSION (PRC), PROFESSIONAL REGULATORY BOARD OF REAL ESTATE SERVICE (PRBRES), AND PHILIPPINE INSTITUTE OF REAL ESTATE SERVICE PRACTITIONERS, INC. (PHILRES), RESPONDENTS.

[G.R. No. 214432, March 23, 2021]

PHILIPPINE ASSOCIATION OF REAL ESTATE BOARDS, INC. (PAREB), REAL ESTATE BROKERS ASSOCIATION OF THE PHILIPPINES, INC. (REBAP), NATIONAL REAL ESTATE ASSOCIATION, INC. (NREA), FEDERATION OF REAL ESTATE SERVICE ASSOCIATIONS, INC. (FRESA), AND JOHN WINSTON JIMENEZ, FOR HIMSELF AND AS ATTORNEY-IN-FACT OF OTHER INDIVIDUAL REAL ESTATE SERVICE PRACTITIONERS, PETITIONERS, VS. PROFESSIONAL REGULATION COMMISSION (PRC), PROFESSIONAL REGULATORY BOARD OF REAL ESTATE SERVICE (PRBRES) AND PHILIPPINE INSTITUTE OF REAL ESTATE SERVICE PRACTITIONERS, INC. (PHILRES), RESPONDENTS.

D E C I S I O N

GESMUNDO, J.:

These consolidated petitions for *certiorari* and prohibition under Rule 65 challenge the validity of Section 3(h), Rule I of the Implementing Rules and Regulations (*IRR*) of Republic Act (*R.A.*) No. 9646, promulgated by public respondents Professional Regulation Commission (*PRC*) and Professional Regulatory Board of Real Estate Service (*PRBRES*).

Antecedents

On June 29, 2009, President Gloria Macapagal-Arroyo signed into law R.A. No. 9646, otherwise known as the "*Real Estate Service Act of the Philippines (RESA)*." The law aims to professionalize the real estate service sector under a regulatory scheme of licensing, registration and supervision of real estate service practitioners ("*RESPs*" for brevity) which include real estate brokers, appraisers, assessors, consultants, and salespersons in the country.

Prior to the RESA, the *RESPs* were under the supervision of the Department of Trade and Industry (*DTI*) through the Bureau of Trade Regulation and Consumer Protection

(BTRCP), in the exercise of its consumer regulation functions. This function has been transferred to the PRC through the PRBRES pursuant to the RESA.^[1]

Section 34 of the RESA provides for the establishment and recognition of an Accredited and Integrated Professional Organization (AIPO) of RESPs as follows:

SEC. 34. Accreditation and Integration of Real Estate Service Associations. All real estate service associations shall be integrated into one (1) national organization, which shall be recognized by the Board, subject to the approval of the Commission, as the only accredited and integrated professional organization of real estate service practitioners.

A real estate service practitioner duly registered with the Board shall automatically become a member of the accredited and integrated professional organization of real estate service practitioners, and shall receive the benefits and privileges appurtenant thereto; x x x. Membership in the accredited and integrated professional organization of real estate service practitioners shall not be a bar to membership in other associations of real estate service practitioners. (emphases supplied)

On July 21, 2010, the PRC and the PRBRES promulgated the Implementing Rules and Regulations (IRR) of the RESA through Resolution No. 02, Series of 2010. Sec. 3(h), Rule I of the said IRR defined the AIPO in the following manner:

*h. "Accredited and Integrated Professional Organization (AIPO)" the national integrated organization of **natural persons** duly registered and licensed as Real Estate Service Practitioners that the Board, subject to the approval by the Commission, shall recognize or accredit as the one and only AIPO, pursuant to Sec. 34, Art. IV of R.A. No. 9646.*

Sec. 34 of Rule IV also provided for the integration of all real estate service associations into one (1) national organization, whereby all RESPs duly registered with the PRBRES shall automatically become members. Sec. 34 reads:

SEC. 34. *Accreditation and Integration of Real Estate Service Associations. All real estate service associations shall be integrated into one (1) national organization, which shall be recognized by the Board, subject to the approval of the Commission, as the only accredited and integrated professional organization of real estate service practitioners pursuant to PRC Res. No. 2004-178, Series of 2004.*

A real estate service practitioner duly registered with the board shall automatically become a member of the accredited and integrated professional organization of real estate service practitioners, and shall receive the benefits and privileges appurtenant thereto; *Provided*, That the Board, subject to approval by the Commission, shall issue a Resolution on the membership and payment of the fee therefor as a requirement for the renewal of the Professional identification Card. The automatic membership in the accredited and integrated professional organization of real estate service practitioners shall not be a bar to membership in other associations of real estate service practitioners.

Pending the accreditation of an integrated professional organization of RESPs, the PRC issued Resolution No. 2009-538, Series of 2009 recognizing the Federation of Real Estate Service Associations (*FRESA*) as an *Interim* AIPO.^[2] Subsequently, two (2) organizations filed their petitions for recognition and accreditation as permanent AIPO, namely the *FRESA* and the Philippine Institute of Real Estate Service Practitioners, Inc. (*PHILRES*).

On October 21, 2011, the PRBRES issued Resolution No. 19, Series of 2011 granting the petition of *PHILRES* to be recognized as the AIPO.^[3]

However, controversy arose regarding the composition of the AIPO pursuant to Sec. 3(h) of the IRR. The principal author of the RESA, former Congressman Rodolfo G. Valencia (*Congressman Valencia*), wrote PRC Chairperson Teresita R. Manzala (*PRC Chairperson Manzala*), advising her that "the lawmakers envision[ed] an umbrella organization of all legitimate and real estate service associations national in scope and character" which means that "the AIPO is to be constituted by associations, possessing juridical personality, composed of duly licensed RESPs who are natural persons."^[4] This interpretation was contradictory to the position taken by the PRC.

In March 2012, the PRC issued a Position Paper^[5] asserting that it was not the intent of the law to integrate only "associations" and not natural persons because if that were so, then it would be impossible to have an integrated professional organization of RESPs who are defined under the law as natural persons and not juridical entities. Furthermore, the second paragraph of Sec. 34 of the RESA would be a surplusage if the membership of the AIPO pertains to associations and not individual practitioners.

The PRC's position appeared to have gained support from the House of Representatives when it passed Resolution No. 299^[6] on October 17, 2012.

On January 21, 2014, PRC Chairperson Manzala issued a Memorandum^[7] to the Registration Division of the PRC Manila and Regional Offices directing them to require all applicants for registration of RESPs to submit, among others, a Certificate of Membership in Good Standing issued by the *PHILRES*.

On July 28, 2014, petitioners in **G.R. No. 213314** namely: Allan Du Yaphockun (licensed civil engineer and holder of licenses in real estate service as broker, appraiser and consultant); Alfredo Hebrona, Jr. (founder of the online Facebook group *GUAPORESP*^[8] or the "Genuine and United Accredited Professional Organization of Real Estate Services Professionals"; the *GENSANSARREB*; the *SOCOREB*, represented by Yapkochun as its immediate past President, filed in this Court the first petition for *certiorari*, prohibition and mandamus, challenging the validity of Sec. 3(h), Rule I of the IRR of the RESA.^[9]

On October 15, 2014, the Philippine Association of Real Estate Boards, Inc. (*PAREB*), Real Estate Brokers Association of the Philippines, Inc. (*REBAP*), National Real Estate Association, Inc. (*NREA*), *FRESA*, and John Winston, filed the second petition (**G.R. No. 214432**) also assailing the same provision in the IRR.^[10]

Since both G.R. Nos. 213314 and 214432 question the validity of Sec. 3(h), Rule I of the IRR for being contrary to Sec. 34 of the RESA, the Court issued a Resolution consolidating the two (2) petitions.^[11]

Petitioners' Arguments

G.R. No. 213314

Petitioners Yaphockun, *et al.*, argue that the PRC and the PRBRES cannot alter, *via* a mere implementing rule, Sec. 34 of the RESA which provides for the integration of real estate associations into an AIPO. They posit that accreditation of PHILRES should be revoked because its tasks include the implementation of the invalid provision in the IRR relating to the integration of real estate individual practitioners only.^[12]

Petitioners maintain that the first paragraph of Sec. 34 explicitly provides that the AIPO shall be an integration of all real estate associations. The provision on automatic membership under the second paragraph shall refer only to those RESPs who are not members of any real estate association and are deemed automatic members of the AIPO by operation of law.^[13]

Furthermore, petitioners point out the Report^[14] of the Bicameral Conference Committee on the disagreeing provisions of House Bill (*HB*) No. 3514 (filed March 12, 2008) and Senate Bill (*SB*) No. 2963 (filed Dec. 9, 2008 and approved June 29, 2009) (re: Real Estate Service Act) dated May 9, 2009, that showed the legislative intent was for the AIPO to be a national organization of real estate associations. Even the main author of the law, former Congressman Valencia, shared this view. However, respondents PRC and PRBRES failed and refused to rectify their mistake to the detriment of the huge majority of RESPs in the country who have rightly refused to be part of the illegally accredited AIPO.^[15]

G.R. No. 214432

Petitioners PAREB, *et al.* raise the sole ground that:

PUBLIC RESPONDENTS PRC AND PRBRES COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING RULE 1, [SEC. 3(H)] OF THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF R.A. [NO.] 9646 REQUIRING THE INTEGRATION OF NATURAL PERSONS IN THE ACCREDITED AND INTEGRATED PROFESSIONAL ORGANIZATION (AIPO) FOR REAL ESTATE SERVICE PROFESSIONS DESPITE THE FACT THAT THE SAID PROVISION OF THE IRR IS CLEARLY VOID FOR BEING AGAINST THE MANDATE OF SECTION 34 OF R.A. [NO.] 9646 DIRECTING THE INTEGRATION OF REAL ESTATE SERVICE ASSOCIATIONS.^[16]

Petitioners manifest that they have raised continuing objections against Sec. 3(h), Rule 1 of the IRR, and moved for its correction. However, despite several consultations and discussions to thresh out the matter, no final resolution had been reached until the PRC accredited PHILRES as the official AIPO. As a result of the non-inclusion of all real estate associations in the integration process, PHILRES has attracted only 20% of the total RESPs in the country despite its repeated advisories and threats against the RESPs that their professional licenses would not be renewed.

^[17]

They also posit that the By-Laws of PHILRES contain discriminatory provisions against petitioners and all other real estate associations. For instance, Sec. 3(g),

Article III of PHILRES By-Laws, provides that real estate associations can be removed anytime "for whatever reason," while Sec. 37, par. 16, Article VIII thereof provides that the said entities cannot engage in activities (e.g. training seminars) that will compete with those conducted by PHILRES.^[18]

Petitioners also share the view of the petitioners in G.R. No. 213314, that Sec. 34 of the RESA intended the AIPO to be a national organization of integrated real estate associations. Congressman Valencia had emphasized during the Bicameral Conference Committee proceedings that the AIPO will be similar to a "federation." Even the Amended Articles of Incorporation of PHILRES provide that among its primary purposes is to unite and integrate all licensed and registered real estate service practitioners, as well as associations in the Philippines, into one national body. Petitioners conclude that by excluding real estate service associations, PHILRES is an illegal creation with a flawed mandate coming from a wrongfully crafted IRR of the PRBRES and the PRC.^[19]

Respondents' Arguments

In their Consolidated Comment,^[20] respondents through the Office of the Solicitor General (OSG) argue that the present petitions are not proper remedies to assail the IRR which respondents PRC and PRBRES issued in the exercise of their quasi-legislative and administrative functions. Petitioners had also disregarded the hierarchy of courts when they filed their petitions directly before this Court.^[21]

The OSG contends that the present cases essentially partake of a petition for declaratory relief by asking this Court to declare Sec. 3(h), Rule I of the IRR as illegal. To declare the assailed provision in the IRR as illegal is beyond the province of a *certiorari* which is confined only to a determination of the existence of grave abuse of discretion amounting to lack or excess of jurisdiction.^[22]

Even if procedural flaws were to be overlooked, the OSG argues that Sec. 3(h), Rule I of the IRR is not contrary to Sec. 34 of the RESA. As members of the AIPO, the individual RESPs will have direct responsibility to the profession and there will be no layering through the real estate associations. As such, the PRBRES and the PRC will be more effective in performing their regulatory functions over the real estate profession. The OSG emphasizes that such arrangement is consistent with the other professions being regulated by the PRC where the corresponding AIPO is comprised of individual members and not associations.^[23]

Issues

Based on the conflicting opinions of the parties, the Court shall resolve the following issues: 1) May the present petitions be dismissed for being an improper remedy and for violating the rule on hierarchy of courts? and 2) Does Sec. 3(h) of Resolution No. 2, Series of 2010 of the PRC and the PRBRES contravene Sec. 34 of the RESA?

The Court's Ruling

The Court denies both petitions for lack of merit.

Procedural Issues

The OSG argues that petitioners erroneously resorted to filing petitions for *certiorari* because Sec. 3(h), Rule I of the IRR which they lament as invalid, was issued by the