

SPECIAL FOURTH DIVISION

[CA-G.R. SP No. 135787, April 24, 2015]

**VICENTE PARADO, PETITIONER, VS. NORTH SUSANA
HOMEOWNER'S ASSOCIATION, INC., RESPONDENT.**

D E C I S I O N

ABDULWAHID, J.:

This is a *petition for review*^[1] filed under Rule 43 of the 1997 Rules of Civil Procedure by petitioner Vicente Parado, seeking to review the following decision and resolution rendered by the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. NCR-HOA-070110-1351, to wit: (1) *Decision*^[2] promulgated on March 14, 2013, ordering petitioner to pay respondent the unpaid monthly dues as of February 28, 2010; and (2) *Resolution*^[3] promulgated on April 22, 2014, dismissing outright petitioner's appeal thereof for failure to file the required appeal bond.

Respondent North Susana Homeowners Association, Inc. (NSHAI) is a domestic, non-stock, non-profit corporation composed of homeowners of North Susana Executive Village (NSEV), existing under Philippine laws and duly registered with the HLURB and represented by its president Mr. Roberto S. Montellano. It was organized to manage the affairs of NSEV homeowners and to provide basic community services and facilities such as security, maintenance of subdivision roads and open spaces, drainage and sewerage system, lighting facilities, garbage collection, and sports and health campaigns. In turn, its members are obligated to pay annual and monthly membership dues.

However, petitioner, as member of respondent NSHAI, failed to pay his annual and monthly membership dues plus interest of twelve percent (12%) compounded annually, which, as of February 28, 2010, totaled to One Hundred Ten Thousand Five Hundred Seventy Five Pesos and 11/100 Centavos (Php110,575.11), despite verbal and written demands to pay. Thus, on July 1, 2010, respondent filed with the HLURB a complaint against petitioner for the collection of membership fee and unpaid monthly dues.^[4]

On March 14, 2013, the HLURB rendered the assailed *Decision*,^[5] ordering petitioner to pay respondent Php110,575.11, representing his unpaid monthly dues as of February 28, 2010. The HLURB declared that the benefits received and the enjoyment of the services rendered by the homeowners' association carries with it the correlative obligation to pay the monthly dues regardless of whether the authority of officers sitting as Board of Directors is questionable.

Petitioner appealed the decision, but the HLURB, in the assailed *Resolution*^[6] promulgated on April 22, 2014, dismissed the appeal outright for petitioner's failure

to post the required appeal bond. The HLURB declared that there is no compelling ground to relax the application of the Rules as to reverse or modify the decision appealed from.

Aggrieved, petitioner filed the instant petition for review, raising the following issues, to wit:^[7]

I.

WHETHER THE HLURB BOARD OF COMMISSIONERS ERRED IN DISMISSING PETITIONER'S APPEAL FOR FAILURE TO POST APPEAL BOND;

II.

WHETHER THE HLURB BOARD OF COMMISSIONERS GRAVELY ERRED IN FINDING PETITIONER LIABLE TO PAY RESPONDENT THE AMOUNT OF ONE HUNDRED TEN THOUSAND FIVE HUNDRED SEVENTY FIVE PESOS AND 11/100 CENTAVOS (Php110,575.11) AS UNPAID MONTHLY DUES AS OF 28 FEBRUARY 2010; and

III.

WHETHER THE HLURB BOARD OF COMMISSIONERS ERRED GRAVELY IN FINDING PETITIONER TO PAY THE RESPONDENT ATTORNEY'S FEES AND COST OF SUIT. (Emphasis ours)

Petitioner claims that the HLURB Rules of Procedure on the posting of an appeal bond should be relaxed on the ground of substantial justice.^[8] Further, petitioner maintains that the computation of the subject association dues is erroneous because the assessment was pegged at Six Hundred Pesos (Php600.00) per month, contrary to the HLURB Order^[9] dated September 9, 2009, which ruled that only Three Hundred Fifty Pesos (Php350.00) should be collected as association dues, pending appeal on the propriety of the increase of the said dues. Moreover, the authority of the NSHAI Board of Directors to collect the monthly and annual association dues is questionable on the ground of the cease and desist order, declaring that the latter's authority is limited to day-to-day ministerial and administrative functions only. Consequently, the assessment and collection of the said dues are beyond the authority of respondent, hence, should be declared *ultra vires*.^[10]

The petition is partly meritorious.

With respect to the first issue, we find that the HLURB did not err in dismissing petitioner's appeal for his failure to post an appeal bond, as required by Section 51 (i), Rule 14 of the 2011 Revised Rules of Procedure of the HLURB. Neither did petitioner advanced any compelling ground to relax the application of the said Rule. It should be noted that petitioner raised his alleged serious financial distress and urgent need of funds only at the time he filed this petition with this Court.

Anent the second issue, we rule that the assessment of Six Hundred Pesos (Php600.00) cannot yet be implemented, pending resolution of the issue on the propriety of the increase in the association dues. As a general rule, only final judgment may be executed. An exception to this rule is an execution of a judgment pending appeal, which must be founded on "good reason."^[11] In this case, it