



Republic of the Philippines  
 Supreme Court  
 Manila

THIRD DIVISION

REUBEN MIKHAIL P. SABIG,  
 CHRISTOPHER SIAMUNDO,  
 ELLA SALCEDO, KATHERINE  
 JALLORINA, ANTONIO  
 SUGANOB, CHERRIE MAE I,  
 DAVELYN NUQUI, MARILYN  
 GAMBOA, and ROBERT PASCUA  
 as 2017-2021 Directors and Officers  
 of LA COSTA BRAVA  
 HOMEOWNERS’\* ASSOCIATION,  
 INC.,

G.R. No. 278137

Present:

CAGUIOA, J., *Chairperson*,  
 INTING,  
 GAERLAN,  
 DIMAAMPAO, and  
 SINGH, JJ.

Petitioners,

-versus-

COURT OF APPEALS (18<sup>TH</sup>  
 DIVISION – CEBU CITY) and  
 SPOUSES LINLEY and JUVY  
 RETIRADO,

Promulgated:

APR 07 2026

Respondents.

*MicADCDH*

x ----- x

DECISION

CAGUIOA, J.:

Before the Court is a question on the legality of the sanctions that a homeowners’ association may impose upon its delinquent members. Resolving this requires a careful calibration of the respective rights of a homeowners’ association and its delinquent members, under Republic Act No. 9904<sup>1</sup> or the Magna Carta of Homeowners and Homeowners’ Association (Republic Act No. 9904).

\* Referred to as La Costa Brava Homeowners Association, Inc. in the *rollo*.

<sup>1</sup> An Act Providing for a Magna Carta For Homeowners and Homeowners’ Associations, and for Other Purposes (2010).

This question was presented in the instant Petition for *Certiorari*<sup>2</sup> (Petition), under Rule 65 of the Rules of Court, filed by petitioners Reuben Mikhail P. Sabig, Christopher Siamundo, Ella Salcedo, Katherine Jallorina, Antonio Suganob, Cherrie Mae I. Davelyn Nuqui, Marilyn Gamboa, and Robert Pascua, as the 2017-2021 directors and officers of La Costa Brava Homeowners' Association, Inc. (LCBHAI) (collectively, petitioners).

The Petition assails the Resolution<sup>3</sup> dated March 15, 2024 (First Resolution) and Resolution<sup>4</sup> dated September 3, 2024 (Second Resolution) (collectively, Resolutions) of the Court of Appeals, Eighteenth Division, Cebu City (CA) in CA-G.R. SP No. 16524.

The First Resolution dismissed<sup>5</sup> petitioners' Petition for Review on *Certiorari*<sup>6</sup> (CA Petition) under Rule 43 of the Rules of Court, based on procedural grounds. The CA Petition was filed to assail the adverse Decision<sup>7</sup> dated May 25, 2023 of the Human Settlements Adjudication Commission (HSAC) Second Division, and the Resolution<sup>8</sup> dated November 30, 2023 of the HSAC *En Banc*.

The Second Resolution similarly denied petitioners' Motion for Reconsideration.<sup>9</sup>

### **Facts and Antecedent Proceedings**

The facts and antecedent proceedings, which gave rise to the instant Petition, are as follows.

Private respondents Spouses Linley and Juvy Retirado (Spouses Retirado) are homeowners in La Costa Brava Subdivision.<sup>10</sup> From 2016 to 2021, they did not pay the monthly association dues being collected by LCBHAI, which is the homeowners' association of La Costa Brava Subdivision.<sup>11</sup>

As a result, petitioners, who are the directors of LCBHAI, declared the Spouses Retirado as delinquent members and imposed various sanctions

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<sup>2</sup> *Rollo*, pp. 4–33.

<sup>3</sup> Only the Notice of Resolution was attached to the Petition, *id.* at 204–205.

<sup>4</sup> *Id.* at 219–221. Penned by Associate Justice Nancy C. Rivas-Palmones with the concurrence of Executive Justice Pamela Ann Abella Maxino and Associate Justice Ronald Suva Tolentino.

<sup>5</sup> *Id.* at 6, Petition.

<sup>6</sup> *Id.* at 184–203.

<sup>7</sup> *Id.* at 141–157. Penned by Commissioner Michael P. Cloribel with the concurrence of Commissioners Fidel J. Exconde, Jr. and John T. Mahamud.

<sup>8</sup> *Id.* at 171–175. Penned by Commissioner Michael P. Cloribel with the concurrence of Commissioners Sergio E. Yap II, John T. Mahamud, Fidel J. Exconde, Jr., and Executive Commissioner Melzar P. Galicia.

<sup>9</sup> *Id.* at 206–215.

<sup>10</sup> *Id.* at 143, HSAC Second Division Decision.

<sup>11</sup> *Id.* at 143–144.



under Board Resolution Nos. 06-2021<sup>12</sup> and 001-2017<sup>13</sup> (Board Resolutions). These include:

- (1) banning of grass-cutting or maintenance within five meters from the property of the delinquent members, unless requested in writing by the adjacent lot owners; and
- (2) reducing the frequency of garbage collection to once every two weeks.<sup>14</sup>

Petitioners also imposed, under the Board Resolutions, the following sanctions that are subject of the instant case (subject sanctions):

1. banning [of the] delivery of food, packages, construction materials, appliances, gas and other similar items to the residences of delinquent members;
2. banning empty taxis, tricycles or [Grab] vehicles from entering the subdivision and fetching the delinquent members from their residence;
3. banning [of the] entry of guests of delinquent members inside the subdivision; and
4. the imposition of delivery fees from trucks and vehicles delivering supply and materials to the construction site.<sup>15</sup>

### *HSAC*

Thus, the Spouses Retirado filed a Complaint<sup>16</sup> before the HSAC against petitioners for violation of Republic Act No. 9904.

The HSAC Special Adjudicator ruled that the Board Resolutions are contrary to law for restricting the use and passage through the roads, and ordered that petitioners be permanently disqualified from holding any office in LCBHAI.<sup>17</sup>

This was affirmed by the HSAC Second Division in its Decision dated May 25, 2023 and by the HSAC *En Banc* in its Resolution dated November 30, 2023.

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<sup>12</sup> *Id.* at 67.

<sup>13</sup> *Id.* at 87–90.

<sup>14</sup> *Id.* at 67.

<sup>15</sup> *Id.* at 154, HSAC Second Division Decision.

<sup>16</sup> *Id.* at 36–43.

<sup>17</sup> *Id.* at 102–116. Penned by Special Adjudicator Joe Vinson M. Empaces.



### CA

Petitioners appealed to the CA by filing their CA Petition under Rule 43 of the Rules of Court. Notably, petitioners served the CA Petition upon the Spouses Retirado themselves, and not their counsels.<sup>18</sup>

In its First Resolution, the CA dismissed the appeal due to, among others, petitioners' defective service of the CA Petition. This was affirmed by the CA in its Second Resolution.<sup>19</sup>

Hence, to challenge both CA Resolutions, petitioners filed the instant Petition under Rule 65 of the Rules of Court.

### Issue

Whether the CA committed grave abuse of discretion in dismissing petitioners' appeal on the ground of procedural defects.

### The Court's Ruling

The Court is not persuaded.

At the outset, the instant Petition is riddled with fatal procedural defects: (1) petitioners availed of the wrong remedy; and (2) the Petition was belatedly filed.

Nonetheless, even if this Court were to set aside such defects and rule on the merits, the Petition must still be dismissed for the following reasons:

- (1) The CA did not commit grave abuse of discretion in dismissing the CA Petition for its defective service;
- (2) Petitioners may not claim substantial compliance since they did not even prove their service of the CA Petition upon the Spouses Retirado themselves; and
- (3) Petitioners may not claim a liberal application of the rules because the instant case has no merit. The subject sanctions violate the Spouses Retirado's right as delinquent members under Section 7(a) of Republic Act No. 9904. Further, the violations indeed warrant petitioners' permanent disqualification from holding any office in LCBHAI.

The Court shall discuss the procedural and substantive grounds, in the above order.

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<sup>18</sup> *Id.* at 209, Spouses Retirado's Motion for Reconsideration before the CA.

<sup>19</sup> *Id.* at 219–221, CA Second Resolution.



### Procedural Grounds

*The Petition must be dismissed for being the wrong remedy*

Under Rule 65 of the Rules of Court, a petition for *certiorari* may be filed when there is no available appeal.<sup>20</sup> Indeed, it is settled that *certiorari* is not a substitute for a lapsed appeal. As ruled in *Mahinay v. Court of Appeals, et al.*,<sup>21</sup> (*Mahinay*) “[w]here an appeal is available, *certiorari* will not prosper, even if the ground therefor is grave abuse of discretion.”<sup>22</sup>

Here, the CA’s Second Resolution is a final resolution. As such, applying *Mahinay*, the correct remedy was to file a petition for review on *certiorari* under Rule 45 of the Rules of Court. However, petitioners incorrectly filed the instant Petition under Rule 65 of the Rules of Court.

*Even if the Petition were to be treated as one under Rule 45 of the Rules of Court, it must still be dismissed for being belatedly filed*

As discussed in *Mahinay*, even if a petition that is incorrectly filed under Rule 65 of the Rules of Court were to be treated as the correct petition under Rule 45, it must still be dismissed for late filing if it was not filed within the 15-day reglementary period under Rule 45.<sup>23</sup> Indeed, rules on reglementary periods must be strictly applied.<sup>24</sup>

Here, petitioners received the CA’s Second Resolution on October 18, 2024,<sup>25</sup> but filed the instant Petition only on December 17, 2024.<sup>26</sup> Clearly, the 15-day reglementary period under Rule 45 had already lapsed. Petitioners’ filing of the Petition under Rule 65, thus, indicates an attempt to use *certiorari* as a substitute for a lapsed appeal under Rule 45.

Hence, the CA Resolutions are already final.

### Substantive Grounds

*In any case, the CA did not commit grave abuse of discretion in dismissing the CA Petition due to its defective service*

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<sup>20</sup> RULES OF COURT, Rule 65, sec. 1, as amended by A.M. No. 19-10-20-SC, May 1, 2020.

<sup>21</sup> 576 Phil. 170 (2008) [Per J. Azcuna, *En Banc*].

<sup>22</sup> *Id.* at 178.

<sup>23</sup> *Id.* at 178–179.

<sup>24</sup> *Le Soleil Int’l. Logistics Co., Inc., et al. v. Sanchez, et al.*, 769 Phil. 466, 473 (2015) [Per J. Perez, First Division].

<sup>25</sup> *Rollo*, p. 6, Petition.

<sup>26</sup> *Id.* at 4.



This Court has ruled that there is no grave abuse of discretion by the CA when it has justifiable grounds for dismissing a petition based on procedural grounds.<sup>27</sup> In this regard, it is settled that service upon the party, not the counsel, is defective.<sup>28</sup>

Here, as correctly found by the CA, there is no evidence at all that petitioners served a copy of the CA Petition upon the Spouses Retirado's counsels.<sup>29</sup> Instead, petitioners simply claim that they served upon the Spouses Retirado themselves.<sup>30</sup> Applying settled jurisprudence, such service is defective. In turn, the CA has justifiable grounds for dismissing the CA Petition and did not commit grave abuse of discretion in its Resolutions.

Nonetheless, petitioners insist that: (1) their service upon the Spouses Retirado themselves constitutes substantial compliance;<sup>31</sup> and (2) procedural rules must be liberally applied due to the merits of the case.<sup>32</sup> Both are unmeritorious.

*Petitioners may not claim substantial compliance because they did not even prove their service of the CA Petition upon the Spouses Retirado*

Under the Rules of Court, service by registered mail must be proven by both the affidavit of service and the registry receipt.<sup>33</sup> In this regard, the original registry receipt itself must be presented; otherwise, the presumption arises that, if produced, the original registry receipt would be prejudicial.<sup>34</sup> Moreover, a mere photocopy of the registry receipt, without the original, lacks an assurance of genuineness.<sup>35</sup> Thus, without the original registry receipt, even the submission of an affidavit of service would still be insufficient.<sup>36</sup>

Here, petitioners failed to establish their supposed service upon the Spouses Retirado, by the requisite proof under the Rules of Court. While petitioners submitted an affidavit of such service,<sup>37</sup> the CA correctly found<sup>38</sup> that petitioners attached a mere photo<sup>39</sup> of the registry receipt of the service via registered mail of the CA Petition to the Spouses Retirado. Applying the rules, without presenting the original registry receipt itself, petitioners did not

<sup>27</sup> See *Oliveros, et al. v. Court of Appeals, et al.*, 885 Phil. 649 (2020) [Per J. Inting, Second Division].

<sup>28</sup> See *Cervantes v. City Service Corp., et al.*, 784 Phil. 694 (2016) [Per J. Peralta, Third Division].

<sup>29</sup> *Rollo*, p. 221, CA Second Resolution.

<sup>30</sup> *Id.* at 22, Petition.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 18.

<sup>33</sup> RULES OF COURT, Rule 13, sec. 17(b), as amended by A.M. No. 19-10-20-SC, May 1, 2020.

<sup>34</sup> *Mangahas, et al. v. Court of Appeals, et al.*, 588 Phil. 61, 81 (2008) [Per J. Chico-Nazario, Third Division].

<sup>35</sup> *Id.* at 81.

<sup>36</sup> *Id.*

<sup>37</sup> *Rollo*, p. 182, Affidavit of Service.

<sup>38</sup> *Id.* at 221, CA Second Resolution.

<sup>39</sup> *Id.* at 216.



prove their supposed service of the CA Petition. As such, their claim of substantial compliance has no basis.

*Petitioners may not invoke a liberal application of procedural rules because the instant case has no merit*

As a rule, the party invoking liberality must reasonably explain the failure to comply with the rules.<sup>40</sup> Here, petitioners did not explain why they did not serve the CA Petition upon the Spouses Retirado's counsel.

Instead, petitioners simply insist that their case has merit, and claim the following:

- (1) The subject sanctions are justified under Republic Act No. 9904;
- (2) The only sanction currently being imposed is the refusal of the security guards to lift the boom gates for the Spouses Retirado,<sup>41</sup> and such sanction does not violate Section 99(k) of the 2021 Implementing Rules and Regulations of Republic Act No. 9904 (IRR);<sup>42</sup>
- (3) They did not commit a serious and grave offense as to warrant permanent disqualification under the IRR;<sup>43</sup>
- (4) The HSAC violated their right to due process for its failure to point out a specific provision in the IRR that was violated;<sup>44</sup> and
- (5) The Special Adjudicator erred in declaring them in default.<sup>45</sup>

These claims are unmeritorious. The Court shall discuss these in the above order.

*The subject sanctions violate Republic Act No. 9904*

The subject sanctions restrict the full right of the Spouses Retirado, despite their delinquency, to use the roads as common areas. As such, the subject sanctions violate Republic Act No. 9904.

This discussion is an opportune time for the Court to delineate the respective rights of a homeowners' association and its delinquent members, under Republic Act No. 9904.

<sup>40</sup> *Le Soleil Int'l. Logistics Co., Inc., et al. v. Sanchez, et al.*, supra note 24, at 473.

<sup>41</sup> *Rollo*, p. 17, Petition.

<sup>42</sup> *Id.* at 30.

<sup>43</sup> Implementing Rules and Regulations of Republic Act No. 9904 (2021), sec. 103.

<sup>44</sup> *Rollo*, p. 25, Petition.

<sup>45</sup> *Id.* at 28.

*Rights of members of a homeowners' association*

*First*, under Section 7(a) of Republic Act No. 9904, association members have two separate “full rights:” (1) the right to avail of and enjoy basic community services and facilities; and (2) the right to use common areas.<sup>46</sup>

The separation of these rights is apparent in Section 3, which separately defines “basic community services and facilities” and “common areas”.

“Basic community services and facilities” refer to those that “redound to the benefit of all homeowners.” This includes the “security[,] . . . maintenance, repairs and cleaning of streets[,] [and] garbage collection and disposal.”<sup>47</sup>

“Common areas” refer to “property owned or otherwise maintained, repaired or administered in whole or in part by the association including, but not limited to, roads.”<sup>48</sup>

*Right of homeowners' association to impose sanction upon delinquent members; Limitation*

*Second*, under Sections 9 and 10(1) of Republic Act No. 9904, a homeowners' association has the right to impose sanctions upon members that are declared delinquent in accordance with its bylaws.

*Third*, the right to impose sanctions is not absolute.

An interpretation of Section 22(b) with Section 7(a) of Republic Act No. 9904 reveals a limitation to this right to impose sanctions: while a homeowners' association may deprive the delinquent association members of their right to avail of or enjoy basic community services and facilities, it may not deprive the members of their right to use common areas, such as the roads.

To recall, Section 7(a) provides for the two separate rights of an association member: (1) the right to avail of and enjoy basic community services and facilities; and (2) the right to use common areas.

However, Section 22(b) mentions the first right, and notably omits the second right.

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<sup>46</sup> Republic Act No. 9904 (2010), sec. 7(a) states:

Section 7. *Rights of a Member.* - An association member has full rights: (a) to avail of and enjoy all basic community services and the use of common areas and facilities.

<sup>47</sup> Republic Act No. 9904 (2010), sec. 3(d).

<sup>48</sup> *Id.*, sec. 3(f).



In particular, Section 22(b) provides that it is prohibited “[t]o deprive any homeowner of his/her right to avail of or enjoy basic community services and facilities” when such homeowner has paid the necessary dues.<sup>49</sup> The corollary of this rule is that, where such association member has been declared delinquent for nonpayment of dues, the right to avail of or enjoy basic community services and facilities, under Section 7(a), may be deprived.

Clearly, the right to use the common areas was omitted in Section 22(b). Following the settled rule in statutory construction,<sup>50</sup> this omission must be considered intentional.

Further, considering that the provisions of a statute must be harmonized,<sup>51</sup> the interpretation of Section 22(b), in relation to Section 7(a), presents a valid limitation to the right of homeowners’ associations to impose sanctions upon delinquent, nonpaying members under Sections 9 and 10(1).

*Right of delinquent, nonpaying  
members of a homeowners’  
association*

*Fourth*, an association member, once declared delinquent for nonpayment of dues, still retains the “full right” to use common areas such as the roads, under Section 7(a). Indeed, the omission in Section 22(b) simultaneously limits the right to sanction of a homeowners’ associations and retains a right in favor of delinquent members.

Moreover, given the literal interpretation of “full,”<sup>52</sup> the “full right” to use the common areas such as the roads indicates that the same may be enjoyed to its utmost extent. Clearly then, the “full right” to use the roads necessarily includes the right to freely use the same for purposes of mobile transportation and delivery of basic goods.

*The subject sanctions’ violation of  
Republic Act No. 9904*

Having delineated the rules on the respective rights of a homeowners’ association and its delinquent members under Republic Act No. 9904, the Court shall now discuss the validity of the subject sanctions based on the rules above.

As discussed, interpreting Section 22(b) in relation to Section 7(a), a homeowners’ association may sanction its delinquent, nonpaying members by depriving such members’ right to avail of or enjoy basic community services

<sup>49</sup> *Id.*, sec. 22(b).

<sup>50</sup> *Sps. Delfino v. St. James Hospital, Inc.*, 563 Phil. 797, 801 (2007) [Per J. Chico-Nazario, Special Third Division].

<sup>51</sup> *Philippine International Trading Corp. v. COA*, 635 Phil. 447, 458 (2010) [Per J. Perez, *En Banc*].

<sup>52</sup> MERRIAM-WEBSTER DICTIONARY, “full,” available at <https://www.merriam-webster.com/dictionary/full> (last accessed on October 28, 2025).



and facilities. However, such sanctions may not deprive the delinquent member's right to use common areas, such as the roads.

At this point, it is noteworthy that the other sanctions imposed by LCBHAI—such as the banning of grass-cutting or maintenance within five meters around the delinquent members' property and the reduction of the frequency of garbage collection to once every two weeks—restrict the delinquent member's right to avail of and enjoy basic services and facilities. These are allowed under Republic Act No. 9904.

However, the subject sanctions violate Republic Act No. 9904 because they clearly restrict the use of the roads for mobile transportation and delivery of basic goods.

To recall, the subject sanctions ban the use of the roads to deliver basic goods, such as food and gas, to the residence of the Spouses Retirado.<sup>53</sup> These also ban the use of the roads for the entry of the Spouses Retirado's guests and the entry of empty taxis, tricycles, and Grab vehicles to fetch the Spouses Retirado from their residence.<sup>54</sup>

Applying the rule above, petitioners violated the full right of the Spouses Retirado to the use of the roads, under Section 7(a) of Republic Act No. 9904.

Nonetheless, petitioners insist that the subject sanctions are justified by: (1) Section 10(l) of Republic Act No. 9904 because it allows a homeowners' association to impose sanctions upon members for violation of rules;<sup>55</sup> and (2) Section 22(b) of Republic Act No. 9904 because, under this provision, a homeowners' association is prohibited from depriving a homeowner's right to avail of or enjoy basic community and services only when the latter has paid the dues.<sup>56</sup> Both claims are wrong.

The subject sanctions cannot be justified by Section 10(l). As discussed, the right of a homeowners' association to impose sanctions under Section 10(l) upon its delinquent members is limited. It may not consist of restricting the latter's full right to use the roads.

The subject sanctions also cannot be justified by Section 22(b) because it is entirely inapplicable. As discussed, Section 22(b) clearly refers only to an association member's right to avail of or enjoy basic community services and facilities, and omits the member's separate and distinct right to use the common areas.

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<sup>53</sup> *Rollo*, p. 154, HSAC Second Division Decision.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at 15, Petition.

<sup>56</sup> *Id.*



Here, the subject sanctions clearly restrict the right to use the roads as common areas. As such, Section 22(b) is inapplicable. To invoke this inapplicable provision is to mischaracterize the nature of the subject sanctions.

Having discussed that the subject sanctions indeed violate Republic Act No. 9904, the Court shall now discuss the other unmeritorious claims of petitioners.

*Petitioners' claim that the non-lifting of the boom gates is the only sanction currently being imposed is irrelevant*

Petitioners claim that the only penalty currently being imposed by LCBHAI is the refusal of the security guards to lift the boom gates for the Spouses Retirado,<sup>57</sup> that such penalty does not prevent entry,<sup>58</sup> and does not violate Section 99(k) of the IRR of Republic Act No. 9904.<sup>59</sup> These deserve scant consideration.

To be sure, this tongue in cheek reasoning is misleading because nothing in the records shows that the other sanctions are no longer being imposed. Further, regardless of whether they are now no longer imposed will not remove petitioners' liability for their accomplished acts.

*Petitioners' claim that their violation of Republic Act No. 9904 does not warrant permanent disqualification is misleading and wrong*

Petitioners claim that they did not commit a serious and grave offense as to warrant permanent disqualification, under the IRR,<sup>60</sup> from holding any office in LCBHAI. Petitioners' theory is that an offense is "grave" when there is an element of corruption, which is absent in the instant case. To support this, they claim that, in *Office of the Ombudsman v. Delos Reyes*,<sup>61</sup> "grave" refers to an element of corruption.<sup>62</sup>

This is misleading. The cited case is clearly inapplicable because it refers to an administrative case for gross neglect of duty,<sup>63</sup> whereas the instant Petition is a case of violation of Republic Act No. 9904.

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<sup>57</sup> *Id.* at 17.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.* at 30.

<sup>60</sup> Implementing Rules and Regulations of Republic Act No. 9904 (2021), sec. 103.

<sup>61</sup> 781 Phil. 297 (2016) [Per J. Leonen, Second Division].

<sup>62</sup> *Rollo*, pp. 25–27, Petition.

<sup>63</sup> *Office of the Ombudsman v. Delos Reyes*, *supra* note 61.



More than misleading, the argument is also wrong. Given the literal interpretation of “serious”<sup>64</sup> and “grave,”<sup>65</sup> such an offense refers to a violation that produces great harm and dangerous consequences. Here, petitioners’ act of violating the Spouses Retirado’s full right to use the roads produces great harm and dangerous consequences because it hampers the use of roads even for its basic purposes such as the delivery of basic goods for survival, and mobile transportation. Thus, their offense is serious and grave.

*Petitioners’ claim that the HSAC violated their right to due process is misleading*

Petitioners claim that the HSAC violated their right to due process for its failure to point out a specific provision in the IRR that was violated.<sup>66</sup> This is misleading. It is clear from the records that the HSAC Second Division,<sup>67</sup> as affirmed by the HSAC *En Banc*,<sup>68</sup> found that petitioners violated Section 7(a) of Republic Act No. 9904.

*Petitioners’ claim that they were wrongfully declared in default has been rendered moot*

Petitioners claim that the Special Adjudicator erred in declaring them in default.<sup>69</sup> This is now moot. As correctly held by the CA, petitioners were still able to raise their defenses on appeal, as allowed by Section 43 of the HSAC Rules of Procedure.<sup>70</sup>

Thus, all told, the Petition must be dismissed. It is not only riddled with fatal procedural defects, but also substantively unmeritorious.

**A final note.** Republic Act No. 9904 provides a framework for the rights and obligations of homeowners’ associations and its delinquent, nonpaying members, to wit:

- (1) *First*, under Section 7(a), association members have two separate full rights: (1) the right to avail of and enjoy basic community services and facilities; and (2) the right to use common areas such as the roads;

<sup>64</sup> MERRIAM-WEBSTER DICTIONARY, “serious,” available at <https://www.merriam-webster.com/dictionary/serious> (last accessed on October 28, 2025).

<sup>65</sup> MERRIAM-WEBSTER DICTIONARY, “grave,” available at <https://www.merriam-webster.com/dictionary/grave> (last accessed on October 28, 2025).

<sup>66</sup> *Rollo*, p. 25, Petition.

<sup>67</sup> *Id.* at 153, HSAC Second Division Decision.

<sup>68</sup> *Id.* at 174, HSAC *En Banc* Resolution.

<sup>69</sup> *Id.* at 28, Petition.

<sup>70</sup> *Id.* at 150, HSAC Second Division Decision.



- (2) *Second*, under Sections 9 and 10(1), a homeowners' association has the right to impose sanctions upon members that are declared delinquent in accordance with its bylaws;
- (3) *Third*, interpreting Section 22(b) in relation to Section 7(a) reveals a limitation to the right to sanction of homeowners' associations: while they may deprive the delinquent association members of their right to avail of or enjoy basic community services and facilities, they may not deprive the latter of their right to use common areas, such as the roads; and
- (4) *Fourth*, interpreting Section 22(b) in relation to Section 7(a), delinquent, nonpaying members retain the full right to use common areas such as the roads.

While a homeowners' association is well within its right to sanction its members' delinquency due to nonpayment of dues, the exercise of such right must fall within the framework crafted under Republic Act No. 9904. Here, petitioners failed to do so.


**ACCORDINGLY**, the Petition for *Certiorari* is **DISMISSED**. The Resolutions dated March 15, 2024 and September 3, 2024 of the Court of Appeals, Eighteenth Division, Cebu City in CA-G.R. SP No. 16524 are **AFFIRMED**.

**SO ORDERED.**




**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

WE CONCUR:



**HENRI JEAN PAUL B. INTING**  
Associate Justice



**SAMUEL H. GAERLAN**  
Associate Justice



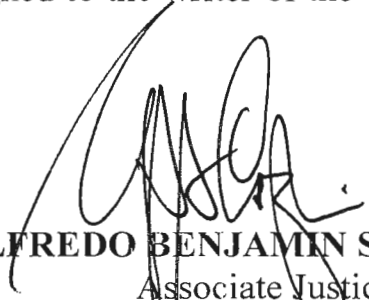
**JAPAR B. DIMAAMPAO**  
Associate Justice



**MARIA EILOMENA D. SINGH**  
Associate Justice

**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.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice