



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**FERNDALE HOMES
HOMEOWNERS ASSOCIATION
INC.,**

G.R. No. 230426

Petitioner,

-versus-

**SPOUSES HARLIN CAST.
ABAYON AND DARYL GRACE
ABAYON,**

Respondents.

X-----X

**SPOUSES HARLIN CAST.
ABAYON AND DARYL GRACE
ABAYON,**

G.R. No. 230476

Members:

Petitioners

**PERLAS-BERNABE, SAJ,
Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
ROSARIO, and
LOPEZ, J., JJ.***

-versus-

**FERNDALE HOMES
HOMEOWNERS ASSOCIATION
INC.,**

Promulgated:

Respondent.

APR 28 2021

X-----X

*Designated Additional member per Special Order No. 2822 dated April 7, 2021.

DECISION

LAZARO-JAVIER, J.:

The Cases

In **G.R. No. 230476**, Spouse Harlin Cast. Abayon and Daryl Grace Abayon (Spouses Abayon) assail the following disquisitions of the Court of Appeals in CA-G.R. SP No. 137780, entitled *Ferndale Homes Homeowners Association Inc. v. Spouses Harlin C. Abayon and Daryl Grace Abayon*:

- 1) **Decision**¹ dated August 9, 2016 dismissing their claim against Ferndale Homes Homeowners Association Inc. (FHHAI) for reimbursement of association dues, damages, attorney's fees, and litigation expenses, and directing them to pay twelve percent (12%) interest per annum and six percent (6%) penalty *per annum* for late payment of association dues; and
- 2) **Resolution**² dated March 8, 2017 denying reconsideration.

In **G.R. No. 230426**, FHHAI assails the same dispositions insofar as the Court of Appeals reduced the award of interest and penalty for late payment from 24% to 12% and 8% to 6% *per annum*, respectively.

Antecedents

The facts are undisputed.

Ferndale Homes is a residential subdivision project located in Barangay Pasong Tamo, Quezon City.³ On various dates, Lots 1 to 8 in Block 2, Phase 4B, Ferndale Homes were sold, as follows:⁴

| Lot | Seller | Purchaser | Date |
|-----|-----------------------------|---------------------------------|-------------------|
| 1 | Ayala Land, Inc. (Ayala) | Salud C. Abayon (Salud) | February 16, 2004 |
| 2 | Fern Realty Corporation | Spouses Abayon | October 8, 2004 |
| 3 | Fern Realty Corporation | Salud | August 11, 2003 |
| 4 | Ayala Land, Inc. | Spouses Abayon | October 15, 2004 |
| 5 | Ayala Land, Inc. | Ladislawa A. Castro (Castro) | May 13, 2003 |
| 6 | Fern Realty Corporation | Spouses Abayon | October 8, 2004 |

¹ Penned by Associate Justice Francisco P. Acosta and concurred in by Associate Justices Noel G. Tijam (now a retired member of the Supreme Court) and Eduardo B. Peralta, Jr., all members of the Fourth Division, *rollo* (G.R. No. 230426), pp. 20-33.

² *Id.* at 35-36.

³ *Id.* at 21.

⁴ *Id.*

| | | | |
|---|-------------------------|----------------|-----------------|
| 7 | Fern Realty Corporation | Castro | May 13, 2003 |
| 8 | Fern Realty Corporation | Spouses Abayon | October 8, 2004 |

By Deed of Exchange of Real Property⁵ dated March 18, 2005, Salud and Castro bartered Lots 1, 3, 5, and 7, Ferndale Homes with the properties of Spouses Abayon in Cebu City.⁶

As lot owners at Ferndale Homes, Spouses Abayon became members of FHHAI. Consequently, they were required to pay association dues, including those that had accrued prior to their acquisition of Lots 1, 3, 4, and 5. FHHAI also charged them 24% interest and 8% penalty *per annum* for late payment.⁷ Thus, they paid the following amounts under protest:⁸

| Lot | Principal Assessment | Interests and Penalties | Total Paid under Protest |
|-----|----------------------|-------------------------|--------------------------|
| 1 | ₱152,902.98 | ₱152,691.33 | ₱305,594.31 |
| 2 | ₱117,817.64 | ₱77,418.12 | ₱195,235.76 |
| 3 | ₱133,301.83 | ₱125,265.84 | ₱258,567.67 |
| 4 | ₱139,043.75 | ₱125,733.58 | ₱264,777.33 |
| 5 | ₱114,174.72 | ₱109,380.03 | ₱223,554.76 |
| 6 | ₱47,349.90 | ₱8,949.13 | ₱56,299.03 |
| 7 | (no allegation) | (no allegation) | (no allegation) |
| 8 | ₱66,467.70 | ₱12,562.40 | ₱79,030.10 |

In December 2013, Spouses Abayon⁹ filed with the Housing and Land Use Regulatory Board (HLURB) a complaint against FHHAI for sum of money and damages. They essentially argued that they acquired Lots 1, 3 and 5 only on March 18, 2005, and Lot 4, only on October 15, 2004. Consequently, they should be reimbursed for the association dues they paid which accrued prior to acquisition, *viz.*:¹⁰

| Lot | Period to be Reimbursed | Amount |
|-----|---|--------------------------------|
| 1 | 1 st Quarter 2004 – March 17, 2005 | ₱19,327.78 |
| 3 | 4 th Quarter 2003 – March 17, 2005 | ₱24,070.32 |
| 4 | 3 rd Quarter 2004 – October 15, 2004 | ₱947.97 |
| 5 | 4 th Quarter 2003 – March 17, 2005 | ₱24,431.04 |
| | Total | ₱68,777.11¹¹ |

More, FHHAI purportedly had no basis for imposing 24% interest and 8% penalty on late payments. In any case, these rates were excessive,

⁵ *Id.* at 179-183.

⁶ *Id.* at 21.

⁷ *Id.* at 21-22.

⁸ *Rollon* (G.R. No. 230476), pp. 113-114.

⁹ *Id.* at 111.

¹⁰ *Id.* at 114.

¹¹ The Complaint miscalculated the amount at ₱68,775.11.

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unconscionable and unjust, hence, they should get a refund of the amounts they were made to pay.¹²

On the other hand, FHAI riposted that by accepting the lots, Spouses Abayon also accepted the terms of the Deed of Restrictions, as well as the FHAI House Rules and By Laws. Corollarily, it had the right to enforce all restrictions, covenants, liens and charges embodied therein, including the assessment and collection of dues, including the imposition of 24% interest and 8% penalty for late payments.¹³

HLURB Ruling

By Decision¹⁴ dated June 27, 2014, HLURB Regional Office Arbiter Ma. Lorina J. Rigor (HLURB Arbiter Rigor) granted the complaint. She found that though the FHAI By Laws requires the members to pay membership dues, nowhere does it obligate their successors-in-interest to pay the unpaid dues of these previous members or lot owners. Thus, Spouses Abayon should not be held liable to pay membership dues which accrued prior to their acquisition of the subject lots.¹⁵

Too, the 24% interest on late payments was highly excessive. Hence, it was reduced to 6%. As for the 8% penalty, the same was deleted since it served the same purpose as the interest on delayed payments. At any rate, although the 2006 FHAI House Rules bears the imposition of 24% interest and 8% penalty, they could have been validly imposed beginning only in 2007.¹⁶

The aforesaid decision disposed of the complaint, in this wise:

WHEREFORE, in light of the foregoing, judgment is hereby rendered:

1. Reducing the interest rate of 24% per annum for late payments to 6% per annum reckoned from January 2007;
2. Deleting the additional 8% per annum penalty on delinquent accounts stipulated in respondent Association's House Rules and Regulations;
3. Ordering respondent Association to refund to complainants [Spouses] Abayon the payments made representing the interests and penalties paid prior to January 2007;
4. Ordering respondent Association to refund to complainants the payments made before 18 March 2005 representing the association dues, interests and penalties for Lots 1, 3, 5 and 7 with legal interest at the rate of 6% per annum reckoned [from] the date of the filing of the instant action until fully paid;

¹² *Id.* at 112.

¹³ *Id.* at 170.

¹⁴ *Id.* at 169-175.

¹⁵ *Id.* at 172-173.

¹⁶ *Id.* at 173-174.

5. Ordering respondent to refund the complainants the payments made reckoned from January 2007 representing the interests in excess of 6% per annum and penalty of 8% per annum with legal interest at the rate of 6% per annum reckoned from the date of the filing of the instant action until fully paid; and

6. Ordering respondent Association to pay to complainants the amount of P50,000.00 as and by way of exemplary damages; the amount of P25,000.00 as and by way of attorney's fees; and the cost of suit in the amount of filing fees.

All other claims and counterclaims are hereby dismissed.

SO ORDERED.¹⁷

On September 22, 2014, the HLURB Board of Commissioners denied the subsequent appeal of FHAI due to procedural lapses pertaining to its surety bond — FHAI did not sign copies of the Indemnity Agreement and Assignment of Cash deposit, and Spouses Abayon were not furnished a certified true copy of the surety bond.¹⁸ Thus, FHAI elevated the case before the Court of Appeals.

Ruling of the Court of Appeals

In its assailed Decision¹⁹ dated August 9, 2016, the Court of Appeals reversed the HLURB ruling, *viz.*:

WHEREFORE, the Petition is GRANTED. The Decision dated June 27, 2014 of the Housing and Land Use Regulatory Board-Expanded National Capital Region Field Office and Resolution dated September 22, 2014 of the HLURB Board of Commissioners are REVERSED and SET ASIDE and a new one is entered:

1. REDUCING the interest rate of 24% per annum for late payments to 12% per annum;
2. REDUCING the penalty charge of 8% per annum on delinquent accounts to 6% per annum; and
3. ORDERING the Ferndale Homes Homeowners Association to REIMBURSE the Spouses Harlin Cast. and Daryl Grace J. Abayon of the interest and penalty paid in excess of the 12% interest per annum and 6% penalty charge per annum, as herein reduced; and
4. DISMISSING the claims for reimbursement of paid association dues and the claims for damages, attorney's fees and litigation expenses.

The instant case is REMANDED to the HLURB National Capital Region Field Office for appropriate computation of the reimbursable amounts, taking into consideration the foregoing dispositions.

¹⁷ *Id.* at 174-175.

¹⁸ *Id.* at 46-47.

¹⁹ *Id.* at 43.

SO ORDERED.²⁰

The Court of Appeals noted that the FHAI in fact complied with the surety bond requirement under the 2011 Revised Rules of Procedure. FHAI did so by immediately rectifying the supposed defects in the surety bond, as manifested in their Supplemental Memorandum before the HLURB Commissioners.²¹

It also found Spouses Abayon liable for the assessed dues, including those which accrued even before they acquired the lots in question. For under Ferndale Homes' Deed of Restrictions, unpaid assessments constitute liens on the property — liens which Spouses Abayon were deemed to have assumed when they acquired the subject lots.²²

Spouses Abayon further became liable for interest and penalties on late payments. These were already imposed under the 2002 House Rules of FHAI. The astronomical rates, however, had to be reduced from 24% to 12% interest *per annum*, and from 8% to 6% for the penalty, *per annum*.²³

The Court of Appeals likewise deleted the award of damages and attorney's fees for lack of basis.²⁴

Both parties moved for reconsideration which the Court of Appeals denied by Resolution²⁵ dated March 8, 2017.

Present Petitions

GR. No. 230476

Spouses Abayon seek the Court's discretionary appellate jurisdiction and pray for the reinstatement of the HLURB rulings. We synthesize their arguments.

First. Contrary to the findings of the Court of Appeals, the attachments to FHAI's Supplemental Memorandum did not cure its defective appeal before the HLURB Board of Commissioners. Specifically, Section 52, Rule 14²⁶ of the 2011 Revised Rules of Procedure of the HLURB requires an

²⁰ *Id.* at 55.

²¹ *Id.* at 47-48.

²² *Id.* at 48-52.

²³ *Id.* at 52-54.

²⁴ *Id.* at 54.

²⁵ *Id.* at 40.

²⁶ Section 52. Requirements of the Surety Bond.-

(a) Formal Requirements.- A surety bond shall be issued by a reputable bonding company duly accredited by the Supreme Court, and shall be accompanied by original or certified true copies of the following:

(1) A joint declaration under oath by the appellant and the bonding company, attesting that the bond posted is genuine, and shall be in effect until final disposition of the case;

(2) An indemnity agreement between the appellant and bonding company;

(3) Proof of security deposit or collateral securing the bond, provided that a check shall not be considered as an acceptable security;

appellant to post a surety bond accompanied by a joint declaration under oath by the appellant and the bonding company that the bond posted is genuine, among others. As it was, the joint declaration attached to FHHAI's Supplemental Memorandum was only signed by the surety company only, sans the signature of appellant FHHAI itself.²⁷

Second. They should not be held liable for association dues on Lots 1, 3, 4, and 5 which had accrued prior to their acquisition of the lots. As HLURB Arbitrator Rigor found, nowhere in the by-laws does it impose upon successors-in-interest the duty and burden to pay the unpaid dues of their predecessors in interest. The supposed liens on the lots were not annotated on their respective titles. Hence, they should be deemed to have acquired the lots free of such encumbrance.²⁸

Third. They should not be held liable for interests and penalties on late payments which FHHAI was not even authorized to impose in the first place. In any event, the rates charged were excessive and exorbitant, hence, should be struck down for being contrary to morals.²⁹

Finally. The Court of Appeals should not have deleted the award of exemplary damages and attorney's fees since the FHHAI itself never questioned this award on appeal.³⁰

In its Comment,³¹ FHHAI counters that Spouses Abayon merely stepped into the shoes of their predecessors when they purchased the subject lots. Thus, they assumed the obligation to pay for delinquent dues, interests and penalties. It is usual practice for subdivision developers to include such stipulation in the Deed of Restriction which in turn is annotated on the title of the property.³²

(4) Certificate of authority from the Insurance Commission;

(5) Certificate of registration from the Securities and Exchange Commission;

(6) Certificate of authority to transact surety business from the Office of the President;

(7) Certificate of accreditation and authority from the Supreme Court; and,

(8) Notarized board resolution or secretary's certificate from the bonding company showing its authorized signatories and their specimen signatures.

(b) Validity.- An appeal bond in cash or surety shall be valid and effective from the date of deposit or posting until the case is finally decided, resolved, or terminated, or the award satisfied. This condition shall be deemed incorporated in the terms and conditions of the surety bond, and shall be binding on the appellant and the bonding company.

The appellant shall furnish the appellee with a certified true copy of the said surety bond with all the above-mentioned supporting documents. The appellee shall verify the regularity and genuineness thereof and immediately report any irregularity to the Board of Commissioners. Upon verification by the Board of Commissioners that the bond is irregular or not genuine, the Board of Commissioners shall cause the immediate dismissal of the appeal, and censure or cite in contempt the responsible parties and their counsels, or subject them to reasonable fine or penalty.

²⁷ *Rollo* (G.R. No. 230476), pp. 22-23

²⁸ *Id.* at 23-27.

²⁹ *Id.* at 27-31.

³⁰ *Id.* at 31-34.

³¹ G.R. No. 230426, *rollo*, p. 255-262.

³² *Id.* at 255-257.

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As for its power to impose interests and penalties, this is found in Section 10³³ of Republic Act No. 9904³⁴ on the rights and powers of a homeowners' association. Meanwhile, the 24% *per annum* interest rate on late payments and the 8% *per annum* penalty are not exorbitant for they serve as effective deterrents against non-payment or late payment of association dues. It is essential that members pay their dues on time since these revenues are the lifeblood of their village.³⁵

More, the Court of Appeals correctly deleted the award for exemplary damages and attorney's fees. This was the necessary consequence of the dismissal of the complaint of Spouses Abayon.³⁶

Finally, the finding of the Court of Appeals that there was actual compliance with the requirements under the 2011 Revised Rules of Procedure of the HLURB is correct.³⁷

In their subsequent reply, Spouses Abayon posit³⁸ that there is no categorical provision in the Deed of Restriction obligating the buyers to pay the association dues, interests, and penalties which had already accrued prior to their acquisition of the lots concerned.³⁹

G.R. No. 230426

FHHAI, too, assails the dispositions of the Court of Appeals insofar as it reduced the interest and penalties imposed against Spouses Abayon. It cites jurisprudence where the Court did not reduce the 24% interest and 12% penalty per annum imposed on defaulted loans. Thus, its imposition of 24% interest and 8% penalty per annum could not be considered exorbitant and iniquitous.⁴⁰ Spouses Abayon, on the other hand, maintain otherwise.⁴¹

Threshold Issues

³³ **Section 10. Rights and Powers of the Association.** - An association shall have the following rights and shall exercise the following powers:

x x x x

(i) Impose or collect reasonable fees for the use of open spaces, facilities, and services of the association to defray necessary operational expenses, subject to the limitations and conditions imposed under the law, the regulations of the board and the association's bylaws;

x x x x

³⁴ "AN ACT PROVIDING FOR A MAGNA CARTA FOR HOMEOWNERS AND HOMEOWNERS' ASSOCIATIONS, AND FOR OTHER PURPOSES."

³⁵ G.R. No. 230426, *rollo*, pp. 257-258.

³⁶ *Id.* at 259-260.

³⁷ *Id.* at 261.

³⁸ *Id.* at 307-317.

³⁹ *Id.* at 308-310.

⁴⁰ *Id.* at 8-11.

⁴¹ *Id.* at 280.

1. Did FHHAI comply with the bond requirement under the 2011 Revised Rules of Procedure of the HLURB?
2. Are Spouses Abayon liable for association dues which accrued prior to their acquisition of the lots?
3. Are Spouses Abayon liable for interests and penalties on late payment of association dues? If so, at what rates?
4. Are Spouses Abayon entitled to damages and attorney's fees?

Ruling

We deny the petitions.

FHHAI complied with the bond requirement under the HLURB rules

Disposing of the procedural issue first, we agree with the Court of Appeals that FHHAI actually complied with the bond requirement under Section 52, Rule 14 of the 2011 Revised Rules of Procedure of the HLURB. As borne in the records, the Supersedeas Bond⁴² dated July 25, 2014 was jointly signed by FHHAI President Atty. Felipe P. Cruz (Atty. Felipe) and Edwin V. Salvan, representing the bonding company.

Though Atty. Felipe admitted that he initially failed to sign the endorsement portion of the Supersedeas Bond through inadvertence, he later corrected this omission and attached copies of the duly signed Supersedeas Bond to FHHAI's Comment (to the motion for leave to file supplemental counter memorandum)⁴³ before the HLURB Board of Commissioners. Spouses Abayon were served copy of said Comment. Thus, the defects earlier noted by the HLURB Commissioners had already been cured.

Spouses Abayon are liable for association dues which accrued prior to their acquisition of Lots 1, 3, 4 and 5.

The Court of Appeals did not err when it reversed the rulings of the HLURB and dismissed Spouses Abayon's claim for reimbursement. This ruling is in accordance with Ferndale Home's Deed of Restrictions which Spouses Abayon had notice of when they acquired the lots.

At the outset, we clarify that though Spouses Abayon question the imposition of interests and penalties on the late payment of association dues on Lots 1 to 8, they are only claiming the refund of association dues on Lots 1, 3, 4 and 5.⁴⁴

⁴² *Id.* at 137.

⁴³ *Id.* at 134.

⁴⁴ *Id.* at 114.

To recall, Salud purchased Lot 1 from Ayala Land, Inc. under Deed of Absolute Sale⁴⁵ dated February 16, 2004 and Lot 3 from Fern Realty Corporation under Deed of Absolute Sale⁴⁶ dated August 11, 2003. Meanwhile, Castro purchased Lot 5 from Ayala Land, Inc. under Deed of Absolute Sale⁴⁷ dated May 13, 2003. These deeds uniformly ordain:⁴⁸

6. Title and Ownership

The title, right and interest to be conveyed shall be subject to the provisions of Presidential Decree No, 957, as amended, [and] its implementing regulations, the Deed of Restrictions, the Articles of Incorporation and the By-Laws of the HOMEOWNERS' ASSOCIATION for the project to be organized by the SELLER pursuant to Section 11 (the "Association") its rules and regulations, zoning regulations, other restrictions on the use of the Lot as may be imposed by governmental and other authorities having jurisdiction over them, and the restrictions and easements of record, by all of which the PURCHASER hereby agrees to be bound.

x x x x

9. HOMEOWNERS' ASSOCIATION

x x x x

9.2. From the date at which the Association have been organized and the PURCHASER shall have paid in full the purchase price of the Lot, the **PURCHASER shall automatically become a member of the Association, shall pay to the latter all the dues and assessments duly levied and imposed, and shall comply with its Articles of Incorporation, By-Laws and rules and regulations.** (Emphases supplied)

A similar restriction on ownership is reflected on the Deed of Absolute Sale⁴⁹ dated October 15, 2004 between Ayala Land, Inc. and Spouses Abayon concerning Lot 4, thus:

This sale is **subject to the terms, conditions, restrictions and other limitations provided for in the Contract to Sell, Deed Restrictions, the Articles of Incorporation and By-Laws of the Homeowners' Association** to be organized at a later date, the rules and regulations thereof and any amendments to the foregoing. This sale is likewise subject to the provisions of Presidential Decree No. 957, as amended, and its implementing regulations, the provisions of such other laws which are pertinent or applicable to subdivision projects, zoning regulations, restrictions imposed with respect to the use and occupancy of the unit and/or lot herein purchased as may be imposed by the government and other authorities having jurisdiction thereon, and the restrictions, limitations and easements of record. (emphasis added)

⁴⁵ *Rollo* (G.R. No. 230426), p. 146-149.

⁴⁶ *Id.* at 154-158.

⁴⁷ *Id.* at 162-165.

⁴⁸ *Id.* at 147-148, 155-156, and 163-164.

⁴⁹ *Id.* at 159-160.

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As stated, the titles and rights of Salud to Lots 1 and 3, and Castro, to Lot 5, as well as Spouses Abayon's title and rights to Lot 4 were subject to the conditions contained in Ferndale Homes' Deed of Restrictions. Among these conditions is the payment of association dues, *viz.*:⁵⁰

THE FERNDALE HOMES ASSOCIATION

The Owner shall automatically be a member of the Association. No other person shall be a member of the Association. Membership in the Association shall not be transferable separately from the Lot to which it pertains.

The Owner must abide by the rules and regulations laid down by the Association in the interest of sanitation, security, aesthetics and the general welfare of the community. **The Association is authorized to collect dues or make assessments to meet its expenses, which will constitute as a lien on the property, junior only to liens of the government for taxes and voluntary mortgages for sufficient consideration entered into in good faith.** Each Owner shall be required the Association of the sale or lease of his Lot to another party within fifteen (15) days from the date of execution of the contract covering such sale or lease. (emphasis and underscoring supplied)

Verily, association dues are collectible against the registered owner of Ferndale properties. Should an owner fail to pay his or her association dues, such dues become liens on the property in favor of FHAI. *People v. Togonon*⁵¹ elucidated on the concept of a lien, thus:

A "lien" is a charge on property usually for the payment of some debt or obligation. A "lien" is a qualified right or a proprietary interest, which may be exercised over the property of another. It is a right which the law gives to have a debt satisfied out of a particular thing.

As liens, unpaid association dues attach to the properties themselves, regardless of whoever is their owner. When said properties get transferred, the liens remain but the obligation to pay them is transferred to the new owner.

Here, Lot 4 had unpaid association dues before Spouses Abayon acquired it on October 15, 2004. It is also undisputed that Salud and Castro neglected to pay association dues from the first quarter of 2004 to March 17, 2005 for Lot 1, and from the fourth quarter of 2003 to March 17, 2005 for Lots 3 and 5. These unpaid association dues constituted liens on Lots 1, 3, 4, and 5 — liens which remained subsisting when Spouses Abayon subsequently acquired these lots on October 15, 2004 and March 18, 2005, respectively. FHAI was well within its right when it enforced the liens by collecting the unpaid association dues from Spouses Abayon.

Spouses Abayon nevertheless deny liability on ground that their titles to the lots were allegedly free of any annotation in relation to the supposed lien.

⁵⁰ *Id.* at 107.

⁵¹ 258-A Phil. 68, 76 (1989).



We are not convinced.

Preliminarily, we note that Spouses Abayon failed to attach to their petition here copies of their titles to the subject lots. Thus, the Court cannot ascertain whether said titles were indeed free of any lien or encumbrance as Spouses Abayon claim them to be.

At any rate, the following circumstances preclude Spouses Abayon from denying knowledge of the existing liens.

First. Spouses Abayon knew as early as October 8, 2004, before they acquired Lots 1, 3, 4, and 5, that ownership rights over to the lots in Ferndale Homes are subject to the terms and conditions in the Deed of Restrictions, including the attachment of liens on properties for unpaid association dues.

To be sure, Lots 1, 3, 4, and 5 were **not** Spouses Abayon's first properties in Ferndale Homes. They earlier purchased Lot 6 directly from Fern Realty on October 8, 2004 while they acquired Lot 4 on October 15, 2004 and Lots 1, 3 and 5 on March 18, 2005 only.

As borne by the Deed of Absolute Sale⁵² dated October 8, 2004 between Fern Realty Corporation and Spouses Abayon over Lot 6:

This sale is subject to the terms, conditions, restrictions and other limitations provided for in the Contract to Sell, Deed Restrictions, the Articles of Incorporation and By-Laws of the Homeowners' Association to be organized at a later date, the rules and regulations thereof and any amendments to the foregoing. This sale is likewise subject to the provisions of Presidential Decree No. 957, as amended, and its implementing regulations, the provisions of such other laws which are pertinent or applicable to subdivision projects, zoning regulations, restrictions imposed with respect to the use and occupancy of the unit and/or lot herein purchased as may be imposed by the government and other authorities having jurisdiction thereon, and the restrictions, limitations and easements of record. (emphasis and underscoring supplied)

Verily, Spouses Abayon are charged with knowledge of the Deed of Restrictions, including its contents and effects, prior to their acquisition of Lots 1, 3, 4 and 5. This should have impelled them to inquire on whether the lots they bartered with Salud and Castro, as well as the lot they purchased from Ayala were subject to the same restrictions. Had Spouses Abayon inspected the Deed of Absolute Sale of subject lots in favor of Salud and Castro, they would have discovered that the rights of these former owners, were also subject to the Deed of Restrictions in the same way that their ownership over Lot 6 was so restricted.

⁵² *Id.* at 167.

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Second. Spouses Abayon would have discovered the existing liens had they exercised the prudence and due diligence expected of a buyer in good faith before acquiring Lots 1, 3, 4, and 5. *Dy v. Aldea*⁵³ is apropos:

The prudence required of a buyer in good faith is not that of a person with training in law, but rather that of an average man who 'weighs facts and circumstances without resorting to the calibration of our technical rules of evidence of which his knowledge is nil.' A buyer in good faith does his homework and verifies that the particulars are in order — such as the title, the parties, the mode of transfer and the provisions in the deed/contract of sale, to name a few. To be more specific, such prudence can be shown by making an ocular inspection of the property, checking the title/ownership with the proper Register of Deeds alongside the payment of taxes therefor, or inquiring into the minutiae such as the parameters or lot area, the type of ownership, and the capacity of the seller to dispose of the property, which capacity necessarily includes an inquiry into the civil status of the seller to ensure that if married, marital consent is secured when necessary. In fine, for a purchaser of a property in the possession of another to be in good faith, he must exercise due diligence, conduct an investigation, and weigh the surrounding facts and circumstances like what any prudent man in a similar situation would do.

Here, the requirement of due diligence on the part of Spouses Abayon necessarily included an inquiry with FHHAI as regards the status of the lots they sought to acquire. Had they exercised due diligence, they would have been informed by the association of the existing liens and the liability they would incur for the unpaid dues of their predecessors-in-interest.

Third. Spouses Abayon's rights cannot exceed those of their predecessors-in-interest. This is pursuant to Article 1311⁵⁴ of the Civil Code which states that contracts take effect between the parties **and their assigns**.

The spring cannot rise higher than its source. No one can transfer to another a right greater than that which one has. Consequently, just as Salud and Castro's ownership rights over Lots 1, 3 and 5 were subject to the Deed of Restrictions, so too, must be rights of their subsequent owners in the person of Spouses Abayon.

Finally. Any claim for reimbursement Spouses Abayon may have for paying the unpaid dues attached to Lots 1, 3, and 5 should be directed at Salud and Castro, not FHHAI. This is clear under the Deed of Exchange dated March 18, 2005, *viz.*:⁵⁵

⁵³ 816 Phil. 657, 669 (2017).

⁵⁴ **Article 1311.** Contracts take effect only between the parties, their assigns and heirs, except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law. The heir is not liable beyond the value of the property he received from the decedent. If a contract should contain some stipulation in favor of a third person, he may demand its fulfillment provided he communicated his acceptance to the obligor before its revocation. A mere incidental benefit or interest of a person is not sufficient. The contracting parties must have clearly and deliberately conferred a favor upon a third person.

⁵⁵ *Rollo* (G.R. No. 230426), p. 182.

BOTH PARTIES HEREBY warrant unto the other, full title and ownership over their respective real properties, with the right to dispose of the same, **free from all liens and encumbrances of whatever nature, in favor or any person or entity.** (emphasis supplied)

As for Lot 4, suffice it to state that Spouses Abayon agreed to be bound by the terms and conditions embodied in the Deed of Restrictions, including the provision on liens, when they signed the Deed of Absolute Sale dated October 15, 2004.

All told, the Court of Appeals did not commit any reversible error when it dismissed Spouses Abayon's plea for reimbursement. Considering, too, that Spouses Abayon's claim for reimbursement has no leg to stand on, the Court of Appeals likewise properly deleted the award of exemplary damages and attorney's fees.

The Court of Appeals correctly reduced the interests and penalties imposed

FHHAI had authority to impose interests and penalties for late payment of association dues. As stated in the Deed of Restrictions, the lot owners agree to "abide by the rules and regulations laid down by the [Homeowners] Association". Meanwhile, FHHAI had been imposing interests and penalties on late payments of association dues as early as August 9, 2002.⁵⁶ Its House Rules pertinently reads:

21. ASSESSMENT

21.1 All homeowners and/or lessees shall be proportionately liable for the common expenses which shall be assessed quarterly against each one of them and paid to the Homeowner's Association.

21.2. Late payment of accounts of members shall be charged an interest rate of 24% per annum. In addition, a penalty at the rate of 8% per annum shall be charged on delinquent accounts. The 24% interest shall be imposed on paid accounts on the 21st day of the corresponding quarter until fully paid. The 8% penalty shall be imposed on delinquent accounts starting [on the] first day of the succeeding quarter until fully paid.

x x x x

Contrary to FHHAI's claim, Section 10 of Republic Act No. 9904 could not have been the source of FHHAI's right to impose interests and penalties in 2003 since said law only became effective on January 7, 2010. Be that as it may, the House Rules, by itself, already constitutes sufficient basis for FHHAI to impose interests and penalties.

As for the amount of interests and penalties, we agree with the Court of Appeals that the 24% interest and 8% penalty must be reduced to 12% and 6% per annum, respectively. Article 1229 of the Civil Code ordains:

⁵⁶ *Id.* at 90.

Article 1229. The judge shall equitably reduce the penalty when the principal obligation has been partly or irregularly complied with by the debtor. Even if there has been no performance, the penalty may also be reduced by the courts if it is iniquitous or unconscionable.

In *MCMP Construction, Co. v. Monark Equipment Corp.*,⁵⁷ the Court found the stipulated interest of 24% *per annum* and penalty of 3% per month (equivalent to 36% *per annum*) to be highly unconscionable and exorbitant. Hence, the Court reduced these rates to 12% and 6% *per annum*, respectively.

Verily, the reduction made by the Court of Appeals is in accordance with law and jurisprudence. Spouses Abayon, therefore, are entitled to a refund of the interests and penalties they paid for Lots 1 to 8 in excess of these reduced rates. More, the amounts they are entitled to recover shall earn 6% interest per annum from finality of this Decision until fully paid pursuant to *Nacar v. Gallery Frames*.⁵⁸ The ruling of the Court of Appeals should therefore be modified in this respect.

ACCORDINGLY, the petitions are **DENIED**, for utter lack of merit. The Decision dated August 9, 2016 and Resolution dated March 8, 2017 of the Court of Appeals in CA-G.R. SP No. 137780 are hereby **AFFIRMED with MODIFICATION**.

The interest rate for late payments of 24% per annum and penalty charge of 8% *per annum* are **REDUCED to twelve percent (12%) and six percent (6%) per annum**, respectively. Consequently, Ferndale Homes Homeowners Association Inc. is **ORDERED to REIMBURSE** Spouses Harlin and Daryl Grace Abayon of the interests and penalties previously paid for Lots 1 to 8 in excess of these new reduced rates.

The case is **REMANDED** to the HLURB National Capital Region Field Office for computation of the reimbursable amount. This amount shall earn **six percent (6%) interest per annum** from finality of this Decision until fully paid.

All other claims for reimbursement, damages, and attorney's fees are **DISMISSED**.

SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

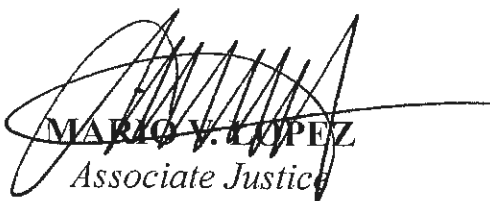
⁵⁷ 746 Phil. 383, 393 (2014).

⁵⁸ 716 Phil 267, 283 (2013).

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



MARIO V. LOPEZ
Associate Justice

RICARDO R. ROSARIO
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

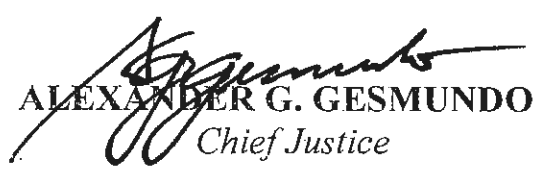
I attest that the conclusion in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice