



**IN RE: ORDER OF REVOCATION AND CANCELLATION OF CERTIFICATE OF FILING OF AMENDED ARTICLES AND INCORPORATION OF BEVERLY HILLS HOMEOWNERS ASSOCIATION, INC. (BBHAI).**

**ARTURO B. CERVANIA and  
 VERONICO C. ERNACIO,**

Petitioners-Appellees,

**DHSUD HOA-121423-0056-RO4A**

**BEVERLY HILLS HOMEOWNERS ASSOCIATION, INC. (BHAI),**  
 represented by its **BOARD OF GOVERNORS,**

Respondents-Appellants,

X ----- X

**NOTICE OF DECISION**

Dear Sir/Madam:

Please take notice that a DECISION dated 11 September 2024 was issued in the above-captioned case, a copy hereto attached and the original of which is now on file with the Appeals Division of the Legal Service.

You are hereby required to inform the Department, through the Legal Service, within five (5) days from receipt hereof, the date of your receipt of this notice which contains a copy of the DECISION.

SO ORDERED.

Quezon City, 12 September 2024.

**Atty. DUNSTAN J. SAN VICENTE**  
 Director

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 OF THE ORIGINAL**

SIGNED REC M

DATE/TIME 13 Sep 2024 2:00 P.M.

**DHSUD LEGAL SERVICE**



**Copy Furnished:**

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DATE/TIME 12 Sep 2024 2:00 P.M.

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**OFFICE OF THE SECRETARY**

**IN RE: ORDER OF REVOCATION AND CANCELLATION OF CERTIFICATE OF FILING OF AMENDED ARTICLES AND INCORPORATION OF BEVERLY HILLS HOMEOWNERS ASSOCIATION, INC. (BBHAI).**

**ARTURO B. CERVANIA and VERONICO C. ERNACIO,**

**Petitioners- Appellees,**

**BEVERLY HILLS HOMEOWNERS ASSOCIATION, INC. (BBHAI), represented by its BOARD OF GOVERNORS,**

**Respondents- Appellants.**

X=====X

**DECISION**

Before this Office are the two (2) appeals filed by the respondents-appellants assailing the Order of the DHSUD Regional Office No. 4-A (DHSUD RO-4A) dated 17 November 2023 Order<sup>1</sup> and the letter- reply dated 24 November 2023, the dispositive portion of the former states:

**WHEREFORE,** premises considered, this Office affirms that Beverly Hills HOA, Inc. has already been dissolved without need of any proceeding. Further, the said Certificate of Filing of Amended Articles of Incorporation issued on 26 February 2015 is hereby **REVOKED/CANCELLED** for having been issued on as [sic] application filed after the corporate term of the association has expired.

Based on the records of this case, the undisputed facts are as follows:

On 29 December 1964, the Securities and Exchange Commission (SEC) issued Certificate of Registration to BBHAI, with a term of existence of fifty (50) years or until 29 December 2014.

On 28 January 2015, BBHAI filed an application of amendment of its Articles of Incorporation extending its corporate life for another fifty (50) years. Corollary, on 26 February 2015 the HLURB- NCR approved and issued a Certificate of Filing of Amended Articles of Incorporation in favor of BBHAI.

On 31 March 2023, the petitioners-appellees filed before the DHSUD RO-4A a Petition for Automatic Dissolution and Cancellation of Registration of BBHAI<sup>2</sup> on the ground that BBHAI has no more legal personality when it filed for an extension of its corporate life on 28 January 2015.

<sup>1</sup> Id., pp. 141-143

<sup>2</sup> Records, pp. 028-032



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While the petition is pending resolution, respondents- appellants on 21 June 2023, filed a letter application for amendment of its Article of Incorporation and By-Laws.

On 17 November 2023, DHSUD RO-4A issued an Order granting the Petition for Automatic Dissolution and Cancellation of Registration of BHHAI and declared that it is deemed dissolved without need of any proceeding and its Certificate of Filing of Amended Articles of Incorporation issued on 26 February 2015 is revoked/ cancelled for having been issued on as [sic] application filed after the corporate term of the association has expired. On 14 December 2023, respondent-appellant filed their first appeal assailing the 17 November 2023 Order of DHSUD RO-4A.

On 24 November 2023, DHSUD RO-4A, in response to the 21 June 2023 application for amendment of its Article of Incorporation and By-Laws of the respondents-appellants, issued a letter-reply reiterating its 17 November 2023 Order, to wit:

This has reference to your application for certificate of filing of amendment of the Articles of Incorporation and by-laws of Beverly Hills Homeowners Association, Inc. filed on 21 June 2023.

Relative thereto, this Office issued an Order affirming that based on the corporate records of your association, it has been registered with the Securities and Exchange Commission (SEC) on 29 December 1964 with a term of existence of fifty (50) years. Therefore, its term of existence [had] already expired on 29 December 2014. Hence, your application for Certificate of Filing of Amended of the Articles of Incorporation and By-Laws has been denied outright pursuant to Section 20 of the 2021 Revised Implementing Rules and Regulations of RA 9904, which states the associations whose term of existence as provided in its Articles of Incorporation has expired shall be deemed dissolved without need of any proceedings.

On 06 February 2024, respondents- appellants filed its second appeal on the aforesaid letter-reply of DHSUD RO-4A. On 08 February 2024, petitioners -appellees filed a Motion to Deny Due Course to Appeal and Enter Judgment<sup>3</sup>. On 12 February 2024, BHHAI filed its reply thereto.

### ISSUE

Stripped of the non-essentials, the issues are the following:

- I. Whether the two (2) appeals have been filed within the reglementary period and;
- II. Whether the DHSUD RO-4A committed irreversible error in denying the BHHAI letter application for amendment of Article of Incorporation and By-Law filed by the latter on 21 June 2023, extending its corporate life for another fifty (50) years<sup>3</sup>

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<sup>3</sup> Id., pp. 213-215

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DATE/TIME 20 Feb 2024 2:00 P.M.

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RULING

Section 102 of the "2021 Revised Implementing Rules and Regulations of Republic Act No. 9904, otherwise known as the Magna Carta for Homeowners Associations", provides that:

*"Section 102. Appeal From an Order or Issuance of the Regional Director. An appeal may be taken from an order or issuance of the Regional Director in the exercise of regulatory functions, on any legal ground and upon payment of the Appeal Fee, by filing an Appeal Memorandum, In Triplicate, with the Regional Office within fifteen (15) days from the receipt of the assailed order or issuance. Within five (5) days from the receipt of the appeal memorandum, the Regional Office shall elevate to the Office of the DHSUD Secretary through the Legal Service the records of the association relevant to the issues involved with a summary of the proceedings taken on the subject matter of the investigation." (Emphasis and underscoring ours).*

As to the first appeal: Respondent-appellant admittedly averred in their first Memorandum Appeal that they received the assailed Order on 29 November 2023. Thus, they claimed that they have until 14 December 2023 to file an appeal. While respondents- appellants filed their memorandum of appeal on 14 December 2023, or the last day for filing of the same, they however failed to pay the jurisdictional requirement of filing fee. The filing fee was paid on 02 February 2024 or fifty (50) days from the reglementary period.

In a litany of cases ruled by the honorable Supreme Court, it is an elementary rule that, *"xxx time and again, this Court has consistently held that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal."* Although exceptionally meritorious reasons may exempt why the appellate docket fees were not timely paid such as when the cause is not entirely attributable to the fault or negligence of the party. However, in this appeal, there is no meritorious reason to afford the respondents-appellants of such exemption.

Therefore, failure to pay the jurisdictional requirement of appeal fee within the reglementary period does not toll the running of the prescriptive period to perfect an appeal. Thus, this Office did not acquire jurisdiction over the subject matter of the instant appeal.

As to the second appeal: Respondents-appellants asserted that they received the assailed 24 November 2023 letter-reply of DHSUD RO-4A on 19 January 2024, hence they have until 03 February 2024 to perfect their appeal. They further claimed that since 03 February 2024 falls on a Saturday, they can still file their appeal on 05 February 2024 (Monday).

The assertions of the respondents-appellants are correct. However, the appeal has been filed and perfected on 06 February 2024. Hence, the second appeal is likewise filed out of time.

It is however worthy to emphasize, for purposes of discussion, that the DHSUD RO-4A assailed letter-reply dated 24 November 2023 merely affirmed its Order dated 17 November 2023 and reiterated that the term of existence of BBHAI has already expired, resulting in the outright denial of the latter's application for Certificate of Amended Articles of Incorporation and By-laws pursuant to Section 60 of the 2021 Revised Implementing Rules and Regulations of RA 9904.

<sup>4</sup> Fil-Estate Properties, Inc. v. Judge Homena, 224 Phil. 214, 220 (2001); St. Louis University v. Cordero, 478 Phil. 739, 750 (2004), the Court intoned that

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Clearly, the second appeal emanated from the same cause of action / subject matter of the first appeal or the Order dated 17 November 2023 issued by the DHSUD RO-4A. Thus, this Office treats the second appeal filed by the respondents-appellants as a mere scrap of paper.

WHEREFORE, premises considered, the Order of DHSUD RO-4A dated 17 November 2023 is hereby **AFFIRMED**. The two (2) appeals filed by the respondents-appellants are hereby **DENIED**.

SO ORDERED.

Quezon City, SEP 11 2024.

By Authority of the Secretary:

  
ATTY. GARRY V. DE GUZMAN, CPA  
Undersecretary

Copy Furnished:

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