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WHEREFORE, the petition is **DENIED**. The August 17, 2010 and September 6, 2010 Orders of the Regional Trial Court, Branch 106, Quezon City in Sp. Proc. Case No. Q-10-67604 are **AFFIRMED** without prejudice to petitioner's right to avail of proper legal remedies afforded to her by law and related rules.

No costs.

SO ORDERED.

Carpio, Acting C.J., Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, and *Leonen, JJ.,* concur.

Sereno, C.J., on leave.

EN BANC

[G.R. No. 203775. August 5, 2014]

ASSOCIATION OF FLOOD VICTIMS and JAIME AGUILAR HERNANDEZ, *petitioners, vs.* **COMMISSION ON ELECTIONS, ALAY BUHAY COMMUNITY DEVELOPMENT FOUNDATION, INC., and WESLIE TING GATCHALIAN,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; PARTIES; AN ASSOCIATION WHICH IS STILL IN THE PROCESS OF INCORPORATION CANNOT BE CONSIDERED A JURIDICAL PERSON OR AN ENTITY AUTHORIZED BY LAW, WHICH CAN BE A PARTY TO A CIVIL ACTION.— Petitioners do not have legal capacity to

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sue. Under Sections 1 and 2 of Rule 3[of the 1997 Rules of Procedure], only natural or juridical persons, or entities authorized by law may be parties in a civil action, which must be prosecuted or defended in the name of the real party in interest. Article 44 of the Civil Code lists the juridical persons with capacity to sue, thus: Art. 44. The following are juridical persons: xxx. **(2) Other corporations ,institutions and entities for public interest or purpose, created by law; their personality begins as soon as they have been constituted according to law;** xxx. Section 4, Rule 8 of the Rules of Court mandates that "[f]acts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred." In their petition, it is stated that petitioner Association of Flood Victims "is a non-profit and non-partisan organization **in the process of formal incorporation**, the primary purpose of which is for the benefit of the common or general interest of many flood victims who are so numerous that it is impracticable to join all as parties xxx. Clearly, petitioner Association of Flood Victims, which is still in the process of incorporation, cannot be considered a juridical person or an entity authorized by law, which can be a party to a civil action.

2. ID.; ID.; ID.; ABSENT AN ENABLING LAW, AN UNINCORPORATED ASSOCIATION HAS NO JURIDICAL PERSONALITY AND THUS, CANNOT SUE IN THE NAME OF THE ASSOCIATION; ALL MEMBERS OF THE UNINCORPORATED ASSOCIATION MUST BE MADE PARTIES IN THE CIVIL ACTION.— Petitioner Association of Flood Victims is an unincorporated association not endowed with a distinct personality of its own. An unincorporated association, in the absence of an enabling law, has no juridical personality and thus, cannot sue in the name of the association. Such unincorporated association is not a legal entity distinct from its members. If an association, like petitioner Association of Flood Victims, has no juridical personality, then all members of the association must be made parties in the civil action.

3. ID.; ID.; ID.; MEMBERS OF AN UNINCORPORATED ASSOCIATION CANNOT REPRESENT THE ASSOCIATION WITHOUT VALID AUTHORITY.— [O]ther than his bare

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allegation that he is the lead convenor of the Association of Flood Victims, petitioner Hernandez showed no proof that he was authorized by said association. Aside from petitioner Hernandez, no other member was made signatory to the petition. Only petitioner Hernandez signed the *Verification* and *Sworn Certification Against Forum Shopping*, stating that he caused the preparation of the petition. There was no accompanying document showing that the other members of the Association of Flood Victims authorized petitioner Hernandez to represent them and the association in the petition. In *Dueñas v. Santos Subdivision Homeowners Association*, the Court held that the Santos Subdivision Homeowners Association (SSHA), which was an unincorporated association, lacks capacity to sue in its own name, and that the members of the association cannot represent the association without valid authority x x x. More so in this case where there is no showing that petitioner Hernandez is validly authorized to represent petitioner Association of Flood Victims.

4. ID.; ID.; ID.; *LOCUS STANDI*, EXPLAINED; A PARTY HAS NO LEGAL STANDING TO BRING AN ACTION WHERE THE SAME FAILS TO ALLEGE ANY PERSONAL OR SUBSTANTIAL INTEREST IN THE QUESTIONED GOVERNMENTAL ACT NOR BE DIRECTLY AFFECTED THEREBY; PETITIONERS HAVE NO *LOCUS STANDI* TO QUESTION THE ISSUANCE OF COMELEC MINUTE RESOLUTION NO. 12-0859.— Since petitioner Association of Flood Victims has no legal capacity to sue, petitioner Hernandez, who is filing this petition as a representative of the Association of Flood Victims, is likewise devoid of legal personality to bring an action in court. Neither can petitioner Hernandez sue as a taxpayer because he failed to show that there was illegal expenditure of money raised by taxation or that public funds are wasted through the enforcement of an invalid or unconstitutional law. Besides, petitioners have no *locus standi* or legal standing. *Locus standi* or legal standing is defined as: x x x a personal and substantial interest in the case such that the party has sustained or will sustain a direct injury as a result of the governmental act that is being challenged. The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental

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interest. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions. In this case, petitioners failed to allege personal or substantial interest in the questioned governmental act which is the issuance of COMELEC Minute Resolution No. 12-0859, which confirmed the re-computation of the allocation of seats of the Party-List System of Representation in the House of Representatives in the 10 May 2010 Automated National and Local Elections. **Petitioner Association of Flood Victims is not even a party-list candidate in the 10 May 2010 elections, and thus, could not have been directly affected by COMELEC Minute Resolution No. 12-0859.**

APPEARANCES OF COUNSEL

Robert David Buluran and *Hector L. Hofilena* and *Orvin M. Diaz* for petitioners.

The Solicitor General for public respondent.

Britanico Britanico & Associates Law Offices for private respondents.

R E S O L U T I O N

CARPIO,[*] *Acting C.J.*:

The Case

This is a Petition for *Certiorari* and/or *Mandamus* under Rule 65 of the Rules of Court, assailing the Minute Resolution No. 12-0859 dated 2 October 2012 of the Commission on Elections (COMELEC). The COMELEC Minute Resolution No. 12-0859, among others, (1) confirmed the re-computation of the allocation of seats of the Party-List System of Representation in the House of Representatives in the 10 May 2010 automated national and local elections, (2) proclaimed Alay Buhay Community Development Foundation, Inc. (Alay-Buhay) Party-List as a

[*] Acting Chief Justice per Special Order No. 1743 dated 4 August 2014.

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winning party-list group in the 10 May 2010 elections, and (3) declared the first nominee [Weslie T. Gatchalian] of Alay Buhay Party-List as its Party-List Representative in the House of Representatives.

The Facts

On 28 August 2012, the Supreme Court affirmed COMELEC Resolution SPP 10-013, dated 11 October 2011, cancelling the certificate of registration of the Alliance of Barangay Concerns (ABC) Party-List which won in the party-list elections in the 2010 national elections. The disqualification of the ABC Party-List resulted in the re-computation of the party-list allocations in the House of Representatives, in which the COMELEC followed the formula outlined in the case of *Barangay Association for National Advancement and Transparency (BANAT) v. Commission on Elections*.[1]

The COMELEC then issued Minute Resolution No. 12-0859, in which it resolved:

1. TO GRANT the September 14, 2012 Urgent Motion for Proclamation of Alay Buhay Community Development Foundation, Inc. (Alay Buhay) Party-List;

2. TO DENY the September 20, 2012 Very Very Urgent *Ex-Parte* Motion of Coalition of Associations of Senior Citizens of the Philippines, Inc. (Senior Citizens) Party-List;

3. TO NOTE the September 24, 2012 Opposition to Senior Citizens Party-List's "Very Very Urgent *Ex-Parte* Motion" of Alay Buhay Community Development Foundation, Inc. (Alay Buhay) Party-List;

4. TO CONFIRM the herein RE-COMPUTATION OF THE ALLOCATION OF SEATS of the Party-List System of Representation in the House of Representatives in the May 10, 2010 Automated National and Local Elections;

5. TO PROCLAIM Alay Buhay Community Development Foundation, Inc. (Alay Buhay) Party-List as a winning party-list group in the Party-List System of Representation in the House of

[1] 604 Phil. 131 (2009) (Decision) and 609 Phil. 751 (2009) (Resolution).

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Representatives in the May 10, 2010 Automated National and Local Elections; and

6. TO DECLARE the First (1st) NOMINEE of Alay Buhay Community Development Foundation, Inc. (Alay Buhay) Party-List, as the FIRST (1st) SITTING REPRESENTATIVE in the Party-List System of Representation in the House of Representatives in accordance with the Order of Nominees per the List appearing in its March 17, 2010 Certificate of Nomination.[2]

On 25 October 2012, petitioners Association of Flood Victims and Jaime Aguilar Hernandez (Hernandez) filed with this Court a special civil action for *certiorari* and/or *mandamus* under Rule 65 of the Rules of Court. Petitioners assert that the COMELEC committed grave abuse of discretion when it issued Minute Resolution No. 12-0859. Furthermore, petitioners pray for the issuance of a writ of *mandamus* to compel publication of the COMELEC Minute Resolution No. 12-0859.

The Issues

The issues raised in this case are: (1) whether the COMELEC committed grave abuse of discretion in issuing Minute Resolution No. 12-0859, and (2) whether the COMELEC may be compelled through *mandamus* to publish Minute Resolution No. 12-0859.

The Ruling of the Court

We dismiss the petition.

Petitioners do not have legal capacity to sue. Sections 1 and 2, Rule 3 of the 1997 Rules of Civil Procedure read:

SECTION 1. *Who may be parties; plaintiff and defendant*. – Only natural or juridical persons, or entities authorized by law may be parties in a civil action. The term "plaintiff" may refer to the claiming party, the counter-claimant, the cross-claimant, or the third (fourth, *etc*.) -party plaintiff. The term "defendant" may refer to the original defending party, the defendant in a counterclaim, the cross-defendant, or the third (fourth, *etc*.) -party defendant.

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[2] *Rollo*, pp. 71-72.

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SECTION 2. *Parties in interest.* – A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

Under Sections 1 and 2 of Rule 3, only natural or juridical persons,or entities authorized by law may be parties in a civil action, which must be prosecuted or defended in the name of the real party in interest. Article 44 of the Civil Code lists the juridical persons with capacity to sue, thus:

Art. 44. The following are juridical persons:

(1)The State and its political subdivisions;

(2)Other corporations, institutions and entities for public interest or purpose, created by law; <u>their personality begins as soon as they have been constituted according to law</u>;

(3)Corporations, partnerships and **associations for private interest or purpose to which the law grants a juridical personality, separate and distinct from that of each shareholder, partner or member.** (Emphasis supplied)

Section 4, Rule 8 of the Rules of Court mandates that "[f]acts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred."

In their petition, it is stated that petitioner Association of Flood Victims "is a non-profit and non-partisan organization **in the process of formal incorporation**, the primary purpose of which is for the benefit of the common or general interest of many flood victims who are so numerous that it is impracticable to join all as parties," and that petitioner Hernandez "is a Tax Payer and the Lead Convenor of the Association of Flood Victims."[3] Clearly, petitioner Association of Flood Victims, which is still in the process of incorporation, cannot be considered a

[3] *Id*. at 12. (Emphasis supplied).

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juridical person or an entity authorized by law, which can be a party to a civil action.[4]

Petitioner Association of Flood Victims is an unincorporated association not endowed with a distinct personality of its own. An unincorporated association, in the absence of an enabling law, has no juridical personality and thus, cannot sue in the name of the association.[5] Such unincorporated association is not a legal entity distinct from its members. If an association, like petitioner Association of Flood Victims, has no juridical personality, then all members of the association must be made parties in the civil action.[6] In this case, other than his bare allegation that he is the lead convenor of the Association of Flood Victims, petitioner Hernandez showed no proof that he was authorized by said association. Aside from petitioner Hernandez, no other member was made signatory to the petition. Only petitioner Hernandez signed the *Verification* and *Sworn Certification Against Forum Shopping*,[7] stating that he caused the preparation of the petition. There was no accompanying document showing that the other members of the Association of Flood Victims authorized petitioner Hernandez to represent them and the association in the petition.

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[4] In the case of *Anti-Chinese League v. Felix* [77 Phil. 1012 (1947)], the Court held that petitioner, which is a civic organization or association representing a group of Filipino citizens, but does not constitute a juridical person or entity, cannot be a party in the naturalization proceeding nor institute the action for *mandamus* since only natural or juridical persons may be parties in either civil actions or special proceedings.

[5] Although an entity without juridical personality cannot sue under the name by which it is commonly known, such entity may be sued under certain circumstances. This is allowed under Section 15, Rule 3 of the 1997 Rules of Civil Procedure which provides that:

SECTION 15. *Entity without juridical personality as defendant.* – When two or more persons not organized as an entity with juridical personality enter into a transaction, they may be sued under the name by which they are generally or commonly known.

In the answer of such defendant, the names and addresses of the persons composing said entity must be revealed.

[6] 1 J. FERIA & M.C. NOCHE, *Civil Procedure Annotated* 222 (2001).

[7] *Rollo*, p. 44.

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In *Dueñas v. Santos Subdivision Homeowners Association*,[8] the Court held that the Santos Subdivision Homeowners Association (SSHA), which was an unincorporated association, lacks capacity to sue in its own name, and that the members of the association cannot represent the association without valid authority, thus:

> There is merit in petitioner's contention. Under Section 1, Rule 3 of the Revised Rules of Court, only natural or juridical persons or entities authorized by law may be parties in a civil action. Article 44 of the Civil Code enumerates the various classes of juridical persons. Under said Article, an association is considered a juridical person if the law grants it a personality separate and distinct from that of its members. The records of the present case are bare of any showing by SSHA that it is an association duly organized under Philippine law. It was thus error for the HLURB-NCR Office to give due course to the complaint in HLURB Case No. REM-070297-9821, given SSHA's lack of capacity to sue in its own name. Nor was it proper for said agency to treat the complaint as a suit by all the parties who signed and verified the complaint. The members cannot represent their association in any suit without valid and legal authority. Neither can their signatures confer on the association any legal capacity to sue. Nor will the fact that SSHA belongs to the Federation of Valenzuela Homeowners Association, Inc., suffice to endow SSHA with the personality and capacity to sue. Mere allegations of membership in a federation are insufficient and inconsequential. The federation itself has a separate juridical personality and was not impleaded as a party in HLURB Case No. REM-070297-9821 nor in this case. Neither was it shown that the federation was authorized to represent SSHA. Facts showing the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. Hence, for failing to show that it is a juridical entity, endowed by law with capacity to bring suits in its own name, SSHA is devoid of any legal capacity, whatsoever, to institute any action.[9]

More so in this case where there is no showing that petitioner Hernandez is validly authorized to represent petitioner Association of Flood Victims.

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[8] G.R. No. 149417, 4 June 2001, 431 SCRA 76.

[9] *Id.* at 86-87.

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Since petitioner Association of Flood Victims has no legal capacity to sue, petitioner Hernandez, who is filing this petition as a representative of the Association of Flood Victims, is likewise devoid of legal personality to bring an action in court. Neither can petitioner Hernandez sue as a taxpayer because he failed to show that there was illegal expenditure of money raised by taxation[10] or that public funds are wasted through the enforcement of an invalid or unconstitutional law.[11]

Besides, petitioners have no *locus standi* or legal standing. *Locus standi* or legal standing is defined as:

> x x x a personal and substantial interest in the case such that the party has sustained or will sustain a direct injury as a result of the governmental act that is being challenged. The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.[12]

In this case, petitioners failed to allege personal or substantial interest in the questioned governmental act which is the issuance of COMELEC Minute Resolution No. 12-0859, which confirmed the re-computation of the allocation of seats of the Party-List System of Representation in the House of Representatives in the 10 May 2010 Automated National and Local Elections. **Petitioner Association of Flood Victims is not even a party-list candidate in the 10 May 2010 elections, and thus, could not have been directly affected by COMELEC Minute Resolution No. 12-0859.**

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[10] *Francisco, Jr. v. Hon. Fernando*, 537 Phil. 391 (2006).

[11] *Land Bank of the Philippines v. Cacayuran*, G.R. No. 191667, 17 April 2013, 696 SCRA 861.

[12] *Integrated Bar of the Phils. v. Hon. Zamora*, 392 Phil. 618, 632-633 (2000).

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In view of our holding that petitioners do not have legal capacity to sue and have no standing to file the present petition, we shall no longer discuss the issues raised in this petition.

WHEREFORE, we **DISMISS** the petition.

SO ORDERED.

Velasco, Jr., Leonardo-de Castro, Brion, Peralta, Bersamin, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, and *Leonen, JJ.,* concur.

Del Castillo, J., no part.

Sereno, C.J., on leave. The *Acting C.J.* certifies that *C.J.* Sereno left her vote concurring with this *ponencia*.

EN BANC

[G.R. No. 212953. August 5, 2014]

JOSE TAPALES VILLAROSA, *petitioner, vs.* **ROMULO DE MESA FESTIN and COMMISSION ON ELECTIONS,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI;* NOT PROPER REMEDY TO ASSAIL THE INTERLOCUTORY ORDER ISSUED BY A DIVISION OF THE COMELEC IN AN ELECTION PROTEST, BUT THE AGGRIEVED PARTY MUST SEEK A REVIEW OF THE INTERLOCUTORY ORDER DURING THE APPEAL OF THE DECISION OF THE DIVISION IN DUE COURSE.— Petitioner's recourse, aside from being unsound in substance, is procedurally infirm. The governing provision is Section 7, Article IX of the 1987 Constitution x x x. In the instructive case of *Ambil v. Commission on Elections*,