

REPUBLIC ACT NO. 4726

AN ACT TO DEFINE CONDOMINIUM, ESTABLISH REQUIREMENTS FOR ITS CREATION, AND GOVERN ITS INCIDENTS

SECTION 1. The short title of this Act shall be *“The Condominium Act.”*

SEC. 2. A condominium is an interest in real property consisting of separate interest in a unit in a residential, industrial or commercial building and an undivided interest in common, directly or indirectly, in the land on which it is located and in other common areas of the building. A condominium may include, in addition, a separate interest in other portions of such real property. Title to the common areas, including the land, or the appurtenant interests in such areas, may be held by a corporation specially formed for the purpose (hereinafter known as the “condominium corporation”) in which the holders of separate interest shall automatically be members or shareholders, to the exclusion of others, in proportion to the appurtenant interest of their respective units in the common areas.

The real right in condominium may be ownership or any other interest in real property recognized by law, on property in the Civil Code and other pertinent laws.

01. Incorporators of a condominium corporation must be shareholders.

It is an indispensable requirement that all incorporators of a condominium corporation must be shareholders thereof. To be a shareholder, one must necessarily be an owner of a condominium unit.¹

¹Sunset View Condominium Corporation v. Campos, GR No. 52361, April 27, 1981, 104 SCRA 295; Skyworld Condominium Owners Association v. Securities and Exchange Commission, GR No. 95778, July 17, 1992, 211 SCRA 565.

SEC. 3. As used in this Act, unless the context otherwise requires:

(a) **“Condominium”** means a condominium as defined in the next preceding section.

(b) **“Unit”** means a part of the condominium project intended for any type of independent use or ownership, including one or more rooms or spaces located in one or more floors (or part or parts of floors) in a building or buildings and such accessories as may be appended thereto.

(c) **“Project”** means the entire parcel of real property divided or to be divided in condominiums, including all structures thereon.

(d) **“Common areas”** means the entire project excepting all units separately granted or held or reserved.

(e) **“To divide”** real property means to divide the ownership thereof or other interest therein by conveying one or more condominiums therein but less than the whole thereof.

SEC. 4. The provisions of this Act shall apply to property divided or to be divided into condominiums only if there shall be recorded in the Register of Deeds of the province or city in which the property lies and duly annotated in the corresponding certificate of title of the land, if the latter had been patented or registered under either the Land Registration or Cadastral Acts, an enabling or master deed which shall contain, among others, the following:

(a) Description of the land on which the building or buildings and improvements are or are to be located;

(b) Description of the building or buildings, stating the number of storeys and basements, the number of units and their accessories, if any;

(c) Description of the common areas and facilities;

(d) A statement of the exact nature of the interest acquired or to be acquired by the purchaser in the separate units and in the common areas of the condominium project. Where title to or the appurtenant interests in the common areas is or is to be held by a condominium corporation, a statement to this effect shall be included;

(e) Statement of the purposes for which the building or buildings and each of the units are intended or restricted as to use;

(f) A certificate of the registered owner of the property, if he is other than those executing the master deed, as well as of all registered holders of any lien or encumbrance on the property, that they consent to the registration of the deed;

(g) The following plans shall be appended to the deed as integral parts thereof:

(1) A survey plan of the land included in the project, unless a survey plan of the same property had previously been filed in said office;

(2) A diagrammatic floor plan of the building or buildings in the project, in sufficient detail to identify each unit, its relative location and approximate dimensions;

(h) Any reasonable restriction not contrary to law, morals or public policy regarding the right of any condominium owner to alienate or dispose of his condominium.

The enabling or master deed may be amended or revoked upon registration of an instrument executed by the registered owner or owners of the property and consented to by all registered holders of any lien or encumbrance on the land or building or portion thereof. The term “*registered owner*” shall include the registered owners of condominiums in the project. Until registration of a revocation, the provisions of this Act shall continue to apply to such property.

SEC. 5. Any transfer or conveyance of a unit or an apartment, office or store or other space therein, shall include the transfer or conveyance of the undivided interests in the common areas or, in a proper case, the membership or shareholdings in the condominium corporation: *Provided, however,* That where the common areas in the condominium project are owned by the owners of separate units as co-owners thereof, no condominium unit therein shall be conveyed or transferred to persons other than Filipino citizens, or corporations at least sixty percent of the capital stock of which belong to Filipino citizens, except in cases of hereditary succession. Where the common areas in a condominium project are held by a corporation, no transfer or conveyance of a unit shall be valid if the concomitant transfer of the appurtenant membership or stockholding in the corporation will cause the alien interest in such corporation to exceed the limits imposed by existing laws.

01. The owner of a unit is considered a shareholder in the condominium corporation.

Section 5 of the Condominium Act expressly provides that the shareholding in the condominium corporation will be conveyed only in a proper case. Section 5 provides:

“Any transfer or conveyance of a unit or an apartment, office or other space therein, shall include the transfer or conveyance of the undivided interests in the common areas or, in a proper case, the membership or shareholding in the condominium corporation . . .”

It is clear then that not every purchaser of a condominium unit is a shareholder of the condominium corporation. The Condominium Act leaves to the Master Deed the determination of when the shareholding will be transferred to the purchaser of a unit. Thus, Section 4 of said Act provides:

“The provisions of this Act shall apply to property divided or to be divided into condominium only if there shall be recorded in the Register of Deeds of the province or city in which the property lies and duly annotated in the corresponding certificate of title of the land . . . an enabling or master deed which shall contain, among others, the following:

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“(d) A statement of the exact nature of the interest acquired or to be acquired by the purchaser in the separate units and in the common areas of the condominium project . . .”

Inasmuch as ownership is conveyed only upon full payment of the purchase price, it necessarily follows that a purchaser of a unit who has not paid the full purchase price thereof is not the owner of the unit and consequently is not a shareholder of the Condominium Corporation.²

²Sunset View Condominium Corporation v. Campos, *supra*.

02. When a person automatically ceases as a stockholder.

That only the owner of a unit is a stockholder of the condominium corporation is inferred from Section 10 of the Condominium Act which reads:

“SEC. 10 . . . Membership in a condominium corporation, regardless of whether it is a stock or non-stock corporation, shall not be transferable separately from the condominium unit of which it is an appurtenance. When a member or stockholder ceases to own a unit in the project in which the condominium corporation owns or holds the common areas, he shall automatically cease to be a member or stockholder of the condominium corporation.”

Pursuant to this provision, ownership of a unit is a condition *sine qua non* to being a shareholder in the condominium corporation. It follows that a purchaser of a unit who is not yet the owner thereof for not having fully paid the full purchase price, is not a shareholder. By necessary implication, the “separate interest” in a condominium, which entitles the holder to become automatically a shareholder in the condominium corporation, as provided in Section 2 of the Condominium Act, can be no other than ownership of a unit. This is so because nobody can be a shareholder unless he is the owner of a unit and when he ceases to be the owner, he also ceases automatically to be a shareholder.³

SEC. 6. Unless otherwise expressly provided in the enabling or master deed or the declaration of restrictions, the incidents of a condominium grant are as follows:

(a) The boundary of the unit granted are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof. The following are not part of the unit bearing walls, columns, floors, roofs, foundations and other common structural elements of the building; lobbies, stairways, hallways, and other areas of common use, elevator equipment and shafts, central heating, central refrigeration and central air-conditioning equipment, reservoirs, tanks, pumps and other central services and facilities, pipes, ducts, flues, chutes, conduits, wires and other utility installations,

³*Ibid.*

wherever located, except the outlets thereof when located within the unit.

(b) There shall pass with the unit, as an appurtenance thereof, an exclusive easement for the use of the air space encompassed by the boundaries of the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time. Such easement shall be automatically terminated in any air space upon destruction of the unit as to render it untenable.

(c) Unless otherwise, provided, the common areas are held in common by the holders of units, in equal shares, one for each unit.

(d) A non-exclusive easement for ingress, egress and support through the common areas is appurtenant to each unit and the common areas are subject to such easements.

(e) Each condominium owner shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his own unit.

(f) Each condominium owner shall have the exclusive right to mortgage, pledge or encumber his condominium and to have the same appraised independently of the other condominiums but any obligation incurred by such condominium owner is personal to him.

(g) Each condominium owner has also the absolute right to sell or dispose of his condominium unless the master deed contains a requirement that the property be first offered to the condominium owners within a reasonable period of time before the same is offered to outside parties;

SEC. 7. Except as provided in the following section, the common areas shall remain undivided, and there shall be no judicial partition thereof.

SEC. 8. Where several persons own condominiums in a condominium project, an action may be brought by one or more such persons for partition thereof by sale of the entire project, as if the owners of all of the condominiums in such project were co-owners of the entire project in the same proportion as their interests in the common areas: *Provided, however,* That a partition shall be made only upon a showing:

(a) That three years after damage or destruction to the project which renders material part thereof unit for its use prior thereto, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or

(b) That damage or destruction to the project has rendered one-half or more of the units therein untenable and that condominium owners holding in aggregate more than thirty percent interest in the common areas are opposed to repair or restoration of the project; or

(c) That the project has been in existence in excess of fifty years, that it is obsolete and uneconomic, and that condominium owners holding in aggregate more than fifty percent interest in the common areas are opposed to repair or restoration or remodeling or modernizing of the project; or

(d) That the project or a material part thereof has been condemned or expropriated and that the project is no longer viable, or that the condominium owners holding in aggregate more than seventy percent interest in the common areas are opposed to continuation of the condominium regime after expropriation or condemnation of a material portion thereof; or

(e) That the conditions for such partition by sale set forth in the declaration of restrictions, duly registered in accordance with the terms of this Act, have been met.

SEC. 9. The owner of a project shall, prior to the conveyance of any condominium therein, register a declaration of restrictions relating to such project, which restrictions shall constitute a lien upon each condominium in the project, and shall insure to and bind all condominium owners in the project. Such liens, unless otherwise provided, may be enforced by any condominium owner in the project or by the management body of such project. The Register of Deeds shall enter and annotate the declaration of restrictions upon the certificate of title covering the land included within the project, if the land is patented or registered under the Land Registration or Cadastral Acts.

The declaration of restrictions shall provide for the management of the project by anyone of the following management bodies: a condominium corporation, an association of the condominium owners, a board of governors elected by condominium owners, or a management agent elected by the owners or by the board named

in the declaration. It shall also provide for voting majorities quorums, notices, meeting date, and other rules governing such body or bodies.

Such declaration of restrictions, among other things, may also provide:

- (a) As to any such management body;**
 - (1) For the powers thereof, including power to enforce the provisions of the declarations of restrictions;**
 - (2) For maintenance of insurance policies, insuring condominium owners against loss by fire, casualty, liability, workmen's compensation and other insurable risks, and for bonding of the members of any management body;**
 - (3) Provisions for maintenance, utility, gardening and other services benefiting the common areas, for the employment of personnel necessary for the operation of the building, and legal, accounting and other professional and technical services;**
 - (4) For purchase of materials, supplies and the like needed by the common areas;**
 - (5) For payment of taxes and special assessments which would be a lien upon the entire project or common areas, and for discharge of any lien or encumbrance levied against the entire project or the common areas;**
 - (6) For reconstruction of any portion or portions of any damage to or destruction of the project;**
 - (7) The manner for delegation of its powers;**
 - (8) For entry by its officers and agents into any unit when necessary in connection with the maintenance or construction for which such body is responsible;**
 - (9) For a power of attorney to the management body to sell the entire project for the benefit of all of the owners thereof when partition of the project may be authorized under Section 8 of this Act, which said power shall be binding upon all of the condominium owners regardless of whether they assume the obligations of the restrictions or not.**

(b) The manner and procedure for amending such restrictions: *Provided*, That the vote of not less than a majority in interest of the owners is obtained.

(c) For independent audit of the accounts of the management body;

(d) For reasonable assessments to meet authorized expenditures, each condominium unit to be assessed separately for its share of such expenses in proportion (unless otherwise provided) to its owners fractional interest in any common areas;

(e) For the subordination of the liens securing such assessments to other liens either generally or specifically described;

(f) For conditions, other than those provided for in Sections eight and thirteen of this Act, upon which partition of the project and dissolution of the condominium corporation may be made. Such right to partition or dissolution may be conditioned upon failure of the condominium owners to rebuild within a certain period or upon specified inadequacy of insurance proceeds, or upon specified percentage of damage to the building, or upon a decision of an arbitrator, or upon any other reasonable condition.

SEC. 10. Whenever the common areas in a condominium project are held by a condominium corporation, such corporation shall constitute the management body of the project. The corporate purposes of such a corporation shall be limited to the holding of the common areas, either in ownership or any other interest in real property recognized by law, to the management of the project, and to such other purposes as may be necessary, incidental or convenient to the accomplishment of said purposes. The articles of incorporation or by-laws of the corporation shall not contain any provision contrary to or inconsistent with the provisions of this Act, the enabling or master deed, or the declaration of restrictions of the project. Membership in a condominium corporation, regardless of whether it is a stock or non-stock corporation, shall not be transferable separately from the condominium unit of which it is an appurtenance. When a member or stockholder ceases to own a unit in the project in which the condominium corporation owns or holds the common areas, he shall automatically cease to be a member or stockholder of the condominium corporation.

SEC. 11. The term of a condominium corporation shall be co-terminus with the duration of the condominium project, the provisions of the Corporation Law to the contrary notwithstanding.

SEC. 12. In case of involuntary dissolution of a condominium corporation for any of the causes provided by law, the common areas owned or held by the corporation shall, by way of liquidation, be transferred pro-indiviso and in proportion to their interest in the corporation to the members or stockholders thereof, subject to the superior rights of the corporation creditors. Such transfer or conveyance shall be deemed to be a full liquidation of the interest of such members or stockholders in the corporation. After such transfer or conveyance, the provisions of this Act governing undivided co-ownership of, or undivided interest in, the common areas in condominium projects shall fully apply.

SEC. 13. Until the enabling or the master deed of the project in which the condominium corporation owns or holds the common area is revoked, the corporation shall not be voluntarily dissolved through an action for dissolution under Rule 104 of the Rules of Court except upon a showing:

(a) That three years after damage or destruction to the project in which the corporation owns or holds the common areas, which damage or destruction renders a material part thereof unfit for its use prior thereto, the project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or

(b) That damage or destruction to the project has rendered one-half or more of the units therein untenable and that more than thirty percent of the members of the corporation, if non-stock, or the shareholders representing more than thirty percent of the capital stock entitled to vote, if a stock corporation, are opposed to the repair or reconstruction of the project; or

(c) That the project has been in existence in excess of fifty years, that it is obsolete and uneconomical, and that more than fifty percent of the members of the corporation, if non-stock, or the stockholders representing more than fifty percent of the capital stock entitled to vote, if a stock corporation, are opposed to the repair or restoration or remodelling or modernizing of the project; or

(d) That the project or a material part thereof has been condemned or expropriated and that the project is no longer viable, or that the members holding in aggregate more than seventy percent interest in the corporation, if non-stock, or the stockholders representing more than seventy percent of the capital stock entitled to vote, if a stock corporation, are opposed to the continuation of

the condominium regime after expropriation or condemnation of a material portion thereof; or

(e) That the conditions for such a dissolution set forth in the declaration of restrictions of the project in which the corporation owns or holds the common areas, have been met.

SEC. 14. The condominium corporation may also be dissolved by the affirmative vote of all the stockholders or members thereof at a general or special meeting duly called for the purpose: *Provided, That*, all the requirements of Section sixty-two of the Corporation Law are complied with.

SEC. 15. Unless otherwise provided for in the declaration of restrictions upon voluntary dissolution of a condominium corporation in accordance with the provisions of Sections thirteen and fourteen of this Act, the corporation shall be deemed to hold a power of attorney from all the members or stockholders to sell and dispose of their separate interests in the project and liquidation of the corporation shall be effected by a sale of the entire project as if the corporation owned the whole thereof, subject to the rights of the corporate and of individual condominium creditors.

SEC. 16. A condominium corporation shall not, during its existence, sell, exchange, lease or otherwise dispose of the common areas owned or held by it in the condominium project unless authorized by the affirmative vote of all the stockholders or members.

SEC. 17. Any provision of the Corporation Law to the contrary notwithstanding, the by-laws of a condominium corporation shall provide that a stockholder or member shall not be entitled to demand payment of his shares or interest in those cases where such right is granted under the Corporation Law unless he consents to sell his separate interest in the project to the corporation or to any purchaser of the corporation's choice who shall also buy from the corporation the dissenting member or stockholder's interest. In case of disagreement as to price, the procedure set forth in the appropriate provision of the Corporation Law for valuation of shares shall be followed. The corporation shall have two years within which to pay for the shares or furnish a purchaser of its choice from the time of award. All expenses incurred in the liquidation of the interest of the dissenting member or stockholder shall be borne by him.

SEC. 18. Upon registration of an instrument conveying a condominium, the Register of Deeds shall, upon payment of the

proper fees, enter and annotate the conveyance on the certificate of title covering the land included within the project and the transferee shall be entitled to the issuance of a “condominium owner’s” copy of the pertinent portion of such certificate of title. Said “condominium owner’s” copy need not reproduce the ownership status or series of transactions in force or annotated with respect to other condominiums in the project. A copy of the description of the land, a brief description of the condominium conveyed, name and personal circumstances of the condominium owner would be sufficient for purposes of the “condominium owner’s” copy of the certificate of title. No conveyance of condominiums or part thereof, subsequent to the original conveyance thereof from the owner of the project, shall be registered unless accompanied by a certificate of the management body of the project that such conveyance is in accordance with the provisions of the declaration of restrictions of such project.

In cases of condominium projects registered under the provisions of the Spanish Mortgage Law or Act 3344, as amended, the registration of the deed of conveyance of a condominium shall be sufficient if the Register of Deeds shall keep the original or signed copy thereof, together with the certificate of the management body of the project, and return a copy of the deed of conveyance to the condominium owner duly acknowledged and stamped by the Register of Deeds in the same manner as in the case of registration of conveyances of real property under said laws.

SEC. 19. Where the enabling or master deed provides that the land included within a condominium project are to be owned in common by the condominium owners therein, the Register of Deeds may, at the request of all the condominium owners and upon surrender of all their “condominium owner’s” copies, cancel the certificates of title of the property and issue a new one in the name of said condominium owners as pro-indiviso co-owners thereof.

SEC. 20. An assessment upon any condominium made in accordance with a duly registered declaration of restrictions shall be an obligation of the owner thereof at the time the assessment is made. The amount of any such assessment plus any other charges thereon, such as interest, costs (including attorney’s fees) and penalties, as such may be provided for in the declaration of restrictions, shall be and become a lien upon the condominium assessed when the management body causes a notice of assessment to be registered with the Register of Deeds of the city

or province where such condominium project is located. The notice shall state the amount of such assessment and such other charges thereon a may be authorized by the declaration of restrictions, a description of the condominium, unit against which same has been assessed, and the name of the registered owner thereof. Such notice shall be signed by an authorized representative of the management body or as otherwise provided in the declaration of restrictions. Upon payment of said assessment and charges or other satisfaction thereof, the management body shall cause to be registered a release of the lien.

Such lien shall be superior to all other liens registered subsequent to the registration of said notice of assessment except real property tax liens and except that the declaration of restrictions may provide for the subordination thereof to any other liens and encumbrances.

Such liens may be enforced in the same manner provided for by law for the judicial or extra-judicial foreclosure of mortgages of real property. Unless otherwise provided for in the declaration of restrictions, the management body shall have power to bid at foreclosure sale. The condominium owner shall have the same right of redemption as in cases of judicial or extra-judicial foreclosure of mortgages.

SEC. 21. No labor performed or services or materials furnished with the consent of or at the request of a condominium owner or his agent or his contractor or subcontractor, shall be the basis of a lien against the condominium of any other condominium owner, unless such other owners have expressly consented to or requested the performance of such labor or furnishing of such materials or services. Such express consent shall be deemed to have been given by the owner of any condominium in the case of emergency repairs of his condominium unit. Labor performed or services or materials furnished for the common areas, if duly authorized by the management body provided for in a declaration of restrictions governing the property, shall be deemed to be performed or furnished with the express consent of each condominium owner. The owner of any condominium may remove his condominium from a lien against two or more condominiums or any part thereof by payment to the holder of the lien of the fraction of the total sum secured by such lien which is attributable to his condominium unit.

SEC. 22. Unless otherwise provided for by the declaration of restrictions, the management body, provided for herein, may acquire and hold, for the benefit of the condominium owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the condominium owners in the same proportion as their respective interests in the common areas. A transfer of a condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property.

SEC. 23. Where, in an action for partition of a condominium project or for the dissolution of condominium corporation on the ground that the project or a material part thereof has been condemned or expropriated, the Court finds that the conditions provided for in this Act or in the declaration of restrictions have not been met, the Court may decree a reorganization of the project, declaring which portion or portions of the project shall continue as a condominium project, the owners thereof, and the respective rights of said remaining owners and the just compensation, if any, that a condominium owner may be entitled to due to deprivation of his property. Upon receipt of a copy of the decree, the Register of Deeds shall enter and annotate the same on the pertinent certificate of title.

SEC. 24. Any deed, declaration or plan for a condominium project shall be liberally construed to facilitate the operation of the project, and its provisions shall be presumed to be independent and severable.

SEC. 25. Whenever real property has been divided into condominiums, each condominium separately owned shall be separately assessed, for purposes of real property taxation and other tax purposes to the owners thereof and the tax on each such condominium shall constitute a lien solely thereon.

SEC. 26. All Acts or parts of Acts in conflict or inconsistent with this Act are hereby amended insofar as condominium and its incidents are concerned.

SEC. 27. This Act shall take effect upon its approval.

Approved: June 18, 1966