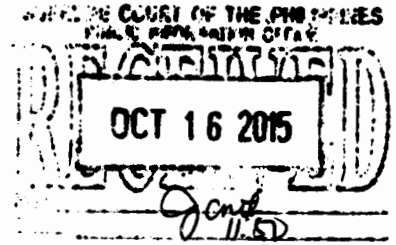




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 16, 2015 which reads as follows:

“G.R. No. 161088 - THE HEIRS OF JOSE PULIDO, JR., specifically: SHEILA PULIDO-GREEN, JOCELYN PULIDO-DEL ROSARIO, JOEMEL PULIDO and JADELYN PULIDO, Petitioners, v. THE COURT OF APPEALS and THE PHILIPPINE ECONOMIC ZONE AUTHORITY (formerly EXPORT PROCESSING ZONE AUTHORITY), Respondents.

The Court is confronted with this petition for *certiorari* under Rule 65 of the Rules of Court imputing grave abuse of discretion on the part of the Honorable Court of Appeals in issuing resolution dated July 10, 2003¹ in CA-G.R. SP No. 70013. In issuing the said resolution, the CA allowed the dismissal of the petition for *certiorari* filed by respondent Philippine Economic Zone Authority (PEZA) and ordered the issuance of a writ of possession in its favor.

This controversy stemmed from the expropriation proceedings initiated by the Export Processing Zone Authority, now the Philippine Export Processing Zone Authority (PEZA), against several land owners of Rosario, Cavite, including the late Spouses Jose Pulido, Sr. and Vicenta Panganiban in the Regional Trial Court (RTC) in Cavite City.² During the pendency of the proceedings, both Jose, Sr. and Vicenta died, leaving their heirs to continue the proceedings in their behalf. Eventually, the parties entered into a compromise agreement dated November 15, 1999,³ which included the following terms:

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¹ *Rollo*, pp. 28-31; penned by Associate Justice Remedios A. Salazar-Fernando and concurred by Associate Justice Conrado M. Vasquez, Jr. (later Presiding Justice/retired/deceased) and Associate Justice Regalado E. Maambong (retired/deceased).

² *CA rollo*, pp. 48-54 (Docketed as Civil Case No. N-4079).

³ *Rollo*, pp. 138-147.

- (a) To swap or exchange of properties comprising of 15,668 square meters between PEZA and the Pulido heirs;
- (b) The Pulido heirs shall donate 5,000 square meters of their lot in favor of PEZA;
- (c) PEZA shall cause the consolidation and segregation of specified lots and the issuance of Torrens titles in the name of the defendants in Civil Case No. N-4079; and
- (d) The parties warranted that the properties swapped/exchanged and donated will be free of structures and improvements within 90 days after the approval of the Compromise Agreement by the court.

After the compromise agreement, which was signed by Director General Lilia B. De Lima, representing PEZA; Avelino Pulido, Modesto Pulido, and Jose Pulido, Jr., as the heirs of Jose, Sr. and Vicenta; Editha Maravilla Toledo, for herself and as the attorney-in-fact of the heirs of Nenita Pulido-Maravilla; Lolita Rodriguez Araga, for herself and as the attorney-in-fact of the heirs of Leonila Pulido-Rodriguez; and Primo Pulido, for himself and as the attorney-in-fact of the heirs of Isabelo Pulido, was approved, the RTC issued the corresponding writ of execution.⁴

On May 22, 2000, PEZA delivered three Torrens titles to the heirs of Jose, Sr. and Vicenta. However, said heirs did not vacate the property and remove their structures erected thereon despite the lapse of 90 days. This prompted PEZA to file in the RTC its urgent motion for the issuance of the writ of possession and writ of demolition in order to enforce the compromise agreement.⁵ PEZA's motion was twice opposed, with one of the oppositions being signed by Jose Pulido, Jr. and the other by Atty. Isidro F. Molina, their lawyer.

However, the RTC denied the motion on June 25, 2001 on the ground that PEZA did not comply with the compromise agreement because the Torrens titles it had delivered were still under the names of Jose Sr. and Vicenta instead of in the names of their individual heirs; and on the further ground that the heirs of Jose Sr. and Vicenta should pay the estate tax for the transfer of the properties to them as individual heirs.⁶

On February 1, 2002, the RTC likewise denied the respective motions for reconsideration of PEZA and the heirs of Jose Sr. and Vicenta, represented by Atty. Molina.⁷

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⁴ Id. at 71-78.

⁵ Id. at 86-88.

⁶ Id. at 34-35.

⁷ Id. at 46.

On April 9, 2002, PEZA challenged the orders in the CA by petition for *certiorari*, imputing grave abuse of discretion amounting to lack or excess of jurisdiction to the RTC for denying its motion for the issuance of the writ of possession and writ of demolition.⁸

During the pendency of the proceedings, PEZA filed a *Manifestation and Motion*⁹ alleging that unknown to it, the heirs of Jose Sr. and Vicenta had already paid the estate tax due on the properties on August 3, 2001; and that the titles were already issued under the individual names of said heirs. PEZA prayed that the writ of possession should already issue because no further impediment existed.

On August 12, 2002, the heirs of Jose Sr. and Vicenta, represented by Atty. Molina, filed their own *Manifestation and Motion*,¹⁰ informing the CA that they had agreed with the position taken by PEZA; and that Atty. Molina had withdrawn as their counsel as of April 30, 2002.

On September 10, 2002, the CA promulgated its resolution granting PEZA's *Manifestation and Motion*, and directing the RTC to issue the writ of possession and writ of demolition in favor of PEZA. It further declared the petition for *certiorari* as withdrawn and dismissed.¹¹

On October 14, 2002, the petitioners, who were the heirs of Jose Pulido, Jr. (namely: petitioners Sheila Pulido-Green, Jocelyn Pulido-Del Rosario, Joemel Pulido and Jadelyn Pulido) filed an urgent motion to set aside the resolution of September 10, 2002.¹² Their urgent motion alleged that they had terminated the services of Atty. Molina on June 8, 2001, as evidenced by the RTC's order dated June 8, 2001 allowing the change of counsel from Atty. Molina to the firm of Kathly Centeno Cosca and Associates;¹³ that when PEZA filed its petition for *certiorari* in the CA, it did not serve a copy to them or their lawyer, thereby violating their right to notice; that, accordingly, the September 10, 2002 resolution should be declared invalid; and that, in the alternative, the petition for *certiorari* should be suspended or consolidated with CA-G.R. CV No. 74560.

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⁸ Id. at 2-30.

⁹ CA *rollo*, pp. 158-166.

¹⁰ Id. at 201-203.

¹¹ Id. at 214 -215.

¹² Id. at 225-233.

¹³ *Rollo*, p. 34.

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Eventually, the CA issued the assailed resolutions, which the petitioners now allege to be tainted by grave abuse of discretion; hence, they have instituted their petition for *certiorari*.

Issue

Whether or not the assailed resolutions of the CA directing the issuance of the writ of possession and the dismissal of PEZA's petition for *certiorari* were tainted with grave abuse of discretion.

Ruling of the Court

The petition for *certiorari* has no merit.

The extraordinary remedy of *certiorari* may be availed of only upon a showing that the respondent tribunal or officer exercising judicial or quasi-judicial functions acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. The petitioner should further show that there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law available to him.¹⁴ The two requirements must be shown to be attendant.

The petitioners did not show the attendance of both requirements.

To start with, the CA, by directing the RTC to issue the writ of possession in favor of PEZA, and eventually dismissing the petition for *certiorari* of PEZA, did not do so whimsically or arbitrarily. The RTC had ruled against the issuance of the writ of possession because PEZA had still to comply with the compromise agreement by delivering the Torrens titles already in the names of the individual heirs of Jose, Sr. and Vicenta. Only PEZA assailed the RTC's ruling in the CA on *certiorari*. None of the heirs of Jose, Sr. and Vicenta, formerly represented by Atty. Molina, including the petitioners, challenged the ruling of the RTC, rendering the ruling of the RTC final and binding upon them. Subsequently, the heirs of Jose, Sr. and Vicenta subdivided the lots subject of the swap and the Torrens titles were issued in the names of the individual heirs. When PEZA learned of this subsequent event, it notified both the RTC and the CA thereof, and sought the dismissal of its petition for *certiorari* on the premise that the petition for *certiorari* had thereby ceased to present any justiciable controversy upon which the CA could still exercise its judicial power.

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¹⁴ *Pahila-Garrido v. Tortogo*, G.R. No. 156358, August 17, 2011, 665 SCRA 553, 569.

The occurrence of the supervening event was confirmed by the heirs of Jose, Sr. and Vicenta who were formerly represented by Atty. Molina,¹⁵ and could not be denied by the petitioners because one of them (specifically, Joemel Pulido) was a party and signatory to the document that caused the eventual transfer of the titles in the names of the individual heirs.¹⁶ Under the circumstances, the resolution by the CA of PEZA's petition for *certiorari* would be unnecessary and superfluous. Indeed, a case that no longer presents a justiciable controversy becomes moot and academic, and is generally dismissed by the courts.¹⁷ Accordingly, the CA acted properly in dismissing PEZA's petition for *certiorari*.

It also appears that the challenged resolutions of the CA (directing the issuance of the writ of possession, which was the ultimate relief prayed for by PEZA, and dismissing the petition for *certiorari*) were in the nature of final orders by virtue of their having completely disposed of the matter before the CA. As final orders, the resolutions should have been appealed in due course to the Court by petition for review on *certiorari*.¹⁸ It is pointed out that the remedy of appeal was available to the petitioners at the time of the issuance of the resolutions, and they could have duly appealed if they disagreed from the resolutions. Not having appealed, they are now prohibited from resorting to the special civil action for *certiorari*, which, as an extraordinary remedy, could not be a substitute for an available ordinary remedy like appeal. They did not even show that they came under any of the recognized exceptions allowing the resort to *certiorari* despite the availability of an appeal, or any plain, speedy and adequate remedy in the ordinary course of law.¹⁹

The petitioners anchor their petition for *certiorari* solely on the fact that they had not been furnished a copy of PEZA's petition for *certiorari*, arguing that their right to notice was thereby impaired.

The petitioners' argument has no substance. Neither Rule 65 nor Rule 46 of the *Rules of Court* requires the *certiorari* petitioner to furnish a copy of the petition to the *certiorari* respondents. The obligation to

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¹⁵ CA rollo, pp. 184-187.

¹⁶ Id. at 177-183.

¹⁷ See *Mendoza v. Villas*, G.R. No. 187256, February 23, 2011, 664 SCRA 347, 357.

¹⁸ *Republic v. Sandiganbayan (Fourth Division)*, G.R. No. 152375, December 13, 2011, 662 SCRA 152.

¹⁹ According to *Mallari v. Banco Filipino Savings & Mortgage Bank*, (G.R. No. 157660, August 29, 2008, 563 SCRA 664, 668-669), the Court in some instances has allowed a petition for *certiorari* to prosper notwithstanding the availability of an appeal, such as (a) when public welfare and the advancement of public policy dictate it; (b) when the broader interest of justice so requires; (c) when the writs issued are null; and (d) when the questioned order amounts to an oppressive exercise of judicial authority.

furnish the copy of the petition pertains to the CA.²⁰ The petitioners could have confused their situation with the situation of the respondent under Rule 45 of the *Rules of Court*, a rule that requires the petitioner to serve a copy of the petition for review on *certiorari* on the adverse party.²¹ The explanation for the distinction is that the special civil action for *certiorari* under Rule 65 is an original action in relation to which the court needs to acquire personal jurisdiction over the parties through the service of compulsory process or voluntary appearance; but an appeal by petition for review under Rule 45, being a mode of appeal, is a mere continuation of the proceedings below, in relation to which the appellate court acquires personal jurisdiction over the parties by the mere filing of the petition for review and the payment of the docket fees.²²

At any rate, that the petitioners were not furnished the copy of PEZA's petition for *certiorari* did not necessarily mean that their right to notice was violated. The filing of their motion to set aside the resolution, and of their motion for reconsideration equated to their voluntary appearance, thereby vesting jurisdiction over their persons in the CA, and opened the way for them to be heard. Such filing surely cured whatever procedural defects that PEZA might have committed, rendering futile and inane their insistence on having been deprived of the right to notice.

WHEREFORE, the Court **DISMISSES** the petition for *certiorari*; and **ORDERS** the petitioners to pay the costs of suit.

SO ORDERED."

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
6/16/15

²⁰ Section 6, Rule 65 of the *Rules of Court* states:

Section 6. *Order to comment.* — If the petition is sufficient in form and substance to justify such process, the court shall issue an order requiring the respondent or respondents to comment on the petition within ten (10) days from receipt of a copy thereof. **Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.**

In petitions for *certiorari* before the Supreme Court and the Court of Appeals, the provisions of section 2, Rule 56, shall be observed. Before giving due course thereto, the court may require the respondents to file their comment to, and not a motion to dismiss, the petition. Thereafter, the court may require the filing of a reply and such other responsive or other pleadings as it may deem necessary and proper. (6a)

²¹ Section 3, Rule 45 of the *Rules of Court* provides:

Section 3. *Docket and other lawful fees; proof of service of petition.* — Unless he has theretofore done so, the petitioner shall pay the corresponding docket and other lawful fees to the clerk of court of the Supreme Court and deposit the amount of ₱500.00 for costs at the time of the filing of the petition. **Proof of service of a copy thereof on the lower court concerned and on the adverse party shall be submitted together with the petition.** (1a)

²² Feria, J. & Noche, *Civil Procedure Annotated*, 2013 edition, Central Book Store, Quezon City. pp. 669-700.

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