



SUPREME COURT OF THE PHILIPPINES
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REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **18 November 2019** which reads as follows:*

***G.R. No. 249235 (Estanislao S. Broces v. Two CS Construction and Owen C. Calma)**

After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM** the March 19, 2019 Decision² and the September 5, 2019 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 153079 for failure of petitioner Estanislao S. Broces (petitioner) to sufficiently show that the CA committed any reversible error in finding that he was not dismissed from employment and in ordering his reinstatement.

As correctly ruled by the CA, the facts and evidence failed to establish that petitioner was dismissed from employment. Aside from petitioner's assertion on the matter, no corroborative and competent evidence were adduced to substantiate his claim of dismissal.⁴ The long-established rule in labor conflicts is that before the employer must bear the burden of proving that the dismissal was legal, the employee must first establish by substantial evidence the fact of his dismissal from service. Succinctly, if there is no dismissal, then there can be no question as to the legality or illegality thereof,⁵ as in this case.

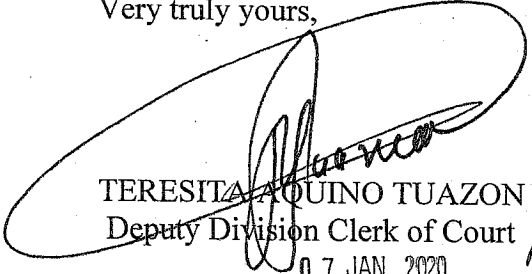
The Court further resolves to: (a) **GRANT** the petitioner's motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on certiorari; and (b) **NOTE** the manifestation with motion to drop party as petitioner in the petition for review on *certiorari* dated October 30, 2019 filed by counsel for petitioner, stating that Roland G. Jomadiao (Jomadiao), personally informed his co-petitioner that he is no longer interested to pursue the instant case; and praying that Jomadiao be dropped as petitioner herein.

¹ *Rollo*, pp. 11-33.
² *Id.* at 39-46. Penned by Associate Justice Jhosep Y. Lopez with Presiding Justice Romeo F. Barza and Associate Justice Franchito N. Diamante, concurring.
³ *Id.* at 48-50. Penned by Associate Justice Jhosep Y. Lopez with Associate Justices Ricardo R. Rosario and Franchito N. Diamante, concurring.
⁴ See *id.* at 43.
⁵ See *Allied Banking Corp. v. Calumpang*, G.R. No. 219435, January 17, 2018, 852 SCRA 1, 18.

11/7

SO ORDERED. (INTING, J., on official leave. HERNANDO, J., on leave. ZALAMEDA, J., designated as Additional Member per Special Order No. 2727 dated October 25, 2019.)”

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
07 JAN 2020 117

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Please notify the Court of any change in your address.
GR249235. 11/18/19(114)URES