



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 15 July 2020 which reads as follows:*

“G.R. No. 251643 (*Irmina and Mr. Cabral v. Spouses Lyn and Allan Co, represented by their attorney-in-fact, Jane Ong*). – After a judicious study of the case, the Court resolves to **DENY** the instant petition<sup>1</sup> and **AFFIRM** the Resolutions dated 22 December 2016<sup>2</sup> and 29 January 2020<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 148558 for failure of petitioners Irmina Cabral and Mr. Cabral (collectively, Spouses Cabral) to show that the CA committed any reversible error in dismissing their Petition for *Certiorari* for being a wrong remedy.

The Court in *Samson v. Judge Fiel-Macaraig*,<sup>4</sup> held that:

The appellate court correctly ruled that the petition for *certiorari* was not the proper remedy. A writ of *certiorari* lies only for an error of jurisdiction. It can be availed of only if the lower tribunal has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and if there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law. Where the error is not one of jurisdiction but an error of law or fact which is a mistake of judgment, *certiorari* is not available. In such case, the remedy is appeal.

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The remedy to obtain reversal or modification of the judgment on the merits is appeal. This is true even if the error, or one of the errors, ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave

<sup>1</sup> See Petition for Review on *Certiorari* dated 1 March 2020; *rollo*, pp. 30-52.

<sup>2</sup> Penned by Associate Justice Ramon Paul L. Hernando (now a Member of this Court), with Associate Justices Jose C. Reyes, Jr. (now a Member of this Court) and Stephen C. Cruz, concurring; *id.* at 58-61.

<sup>3</sup> Penned by Associate Justice Stephen C. Cruz, with Associate Justices Marie Christine Azcarraga-Jacob and Louis P. Acosta, concurring; *id.* at 195-199.

<sup>4</sup> 625 Phil. 184 (2010).

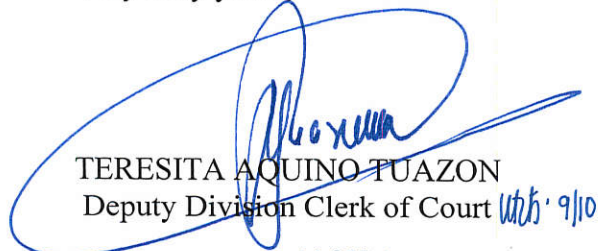
abuse of discretion in the findings of fact or of law set out in the decision. The availability of the right to appeal precludes recourse to the special civil action for *certiorari*. The RTC Order subject of the petition was a final judgment which disposed of the case on the merits; hence, it was a subject for an ordinary appeal, not a petition for *certiorari*.<sup>5</sup>

Since, the 6 June 2016 Decision<sup>6</sup> of the Regional Trial Court (RTC) of Olongapo City, Branch 72 was a final judgment which disposed of the case on the merits, the remedy of Spouses Cabral was to file an ordinary appeal before the CA, and not a Petition for *Certiorari*. Assuming for the sake of argument that *certiorari* may lie in the instant case, Spouses Cabral miserably failed to show that the RTC judge acted without or in excess of jurisdiction, or gravely abused her discretion amounting to lack or excess of jurisdiction.

The other issues raised in this petition involve questions of fact as it requires an examination of the evidence on record, hence, not proper in this petition. The Court is not a trier of facts and the function of the Court in petitions for review on *certiorari* is limited to reviewing errors of law that may have been committed by the lower courts.<sup>7</sup>

**SO ORDERED.**” (*Hernando, J., no part; Lopez, J., designated Additional Member per Raffle dated 8 June 2020. Gaerlan, J., designated Additional Member per Special Order No. 2780 dated 11 May 2020.*)

Very truly yours,

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *with 9/10*  
10 SEP 2020

<sup>5</sup> Id. at 189-190.

<sup>6</sup> Penned by Presiding Judge Richard A. Paradeza; *rollo*, pp. 156-163.

<sup>7</sup> *Torreda v. Investment and Capital Corporation of the Philippines*, G.R. No. 229881, 5 September 2018.

ATTY. BIENVENIDO N. QUIÑONES (reg)  
Counsel for Petitioners  
161-B Shaw Boulevard  
1550 Mandaluyong City

ATTY. MARIA SOLEDAD M. SANTOS (reg)  
Counsel for Respondent  
Suites 4 & 5, 2<sup>nd</sup> Floor, Doña Macariola Building  
2284 Rizal Avenue, East Bajac-Bajac  
2200 Olongapo City

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 72  
Olongapo City  
(Civil Case No. 31-0-15)

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Supreme Court, Manila

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Ermita, 1000 Manila  
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*Please notify the Court of any change in your address.*  
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