



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **27 July 2020** which reads as follows:*

“G.R. No. 252081 (**People of the Philippines v. Rufino Westrimundo Tabayoyong, Jr.**). – After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM** the August 30, 2019² and February 6, 2020³ Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 162068 for failure of petitioner to sufficiently show that the CA committed any reversible error in dismissing its petition for being filed out of time.

As correctly ruled by the CA, the petition was belatedly filed, considering that, based on the records, petitioner received⁴ a copy of the assailed April 12, 2018 Order⁵ of the Regional Trial Court of Urdaneta City, Pangasinan, Branch 46 (RTC) on April 1, 2019,⁶ thereby giving it until May 31, 2019, or sixty (60) days from its receipt thereof, within which to file the petition. However, the petition was filed only on August 22, 2019,⁷ or eighty-three (83) days thereafter, and petitioner has offered no adequate explanation to justify such failure. Moreover, since the assailed Order granting the motion to quash the search warrant is a final order, the proper remedy is to file an appeal and not a petition for *certiorari*.⁸ It is settled that a special civil action for *certiorari* under Rule 65 lies only when there is no appeal nor [any] plain, speedy and adequate remedy in the ordinary course of law. *Certiorari* cannot be allowed when a party to a case fails to appeal a judgment despite the availability of that remedy, *certiorari* not being a substitute for lost appeal.⁹ Perforce, the instant petition must be denied.

¹ *Rollo*, pp. 21-45.

² *Id.* at 51-54. Penned by Associate Justice Walter S. Ong with Associate Justices Pablito A. Perez and Germano Francisco D. Legaspi, concurring.

³ *Id.* at 56-58.

⁴ Through the Office of the Provincial Prosecutor of Urdaneta City.

⁵ *Rollo*, pp. 82-84. Signed by Presiding Judge Tita Rodriguez-Villarin.

⁶ See *id.* at 52.

⁷ See *id.*

⁸ See *Worldwide Web Corporation v. People*, 724 Phil. 18-46 (2014).

⁹ *Republic v. CA*, 379 Phil. 92-102 (2000).

SO ORDERED.”

Very truly yours,


TERESITA AQUINO TIAZON
Deputy Division Clerk of Court

13 AUG 2020

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HON. PRESIDING JUDGE (reg)
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(Crim. Case No. U-23464)

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