



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 13 July 2020 which reads as follows:

“G.R. No. 252313 (Rolando Ennace and Rosario Damolo v. Heirs of Regina Abellana, represented by Caridad Abellana). – After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM with MODIFICATION** the June 27, 2019² and January 9, 2020³ Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 12779 for failure of petitioners Rolando Ennace and Rosario Damolo (petitioners) to sufficiently show that the CA committed any reversible error in dismissing the petition on procedural grounds, namely: (a) the failure of petitioners to indicate the specific material dates showing that it was timely filed, as required under Section 2,⁴ Rule 42 of the Rules of Court (Rules), in relation to Section 3,⁵ Rule 42 of the same Rules; (b) there was no Affidavit of Service, in violation of Section 13,⁶ Rule 13 of the Rules; (c) there was lack of explanation on why the preferred personal mode of service was not resorted to, in violation of Section 11,⁷ Rule 13 of the Rules; (d) the Verification and Certification against Forum Shopping did not contain any competent evidence of the identity of petitioner Damolo, in

¹ *Rollo*, pp. 3-7.

² *Id.* at 60-62. Penned by Associate Justice Emily R. Aliño-Geluz with Associate Justices Pamela Ann Abella Maxino and Dorothy P. Montejo-Gonzaga, concurring.

³ *Id.* at 69-70.

⁴ Section 2. *Form and contents.* – The petition shall x x x (b) indicate the specific material dates showing that it was filed on time[.]

⁵ Section 3. *Effect of Failure to Comply with Requirements.* – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

⁶ Section 13. *Proof of service.* – Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with Section 7 of this Rule[.]

⁷ Section 11. *Priorities in modes of service and filing.* – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

July 13, 2020

violation of Section 12,⁸ Rule II of the 2004 Rules on Notarial Commission; and (e) the Notarial Certificate in the Verification and Certification against Forum Shopping did not indicate the province or city where the notary public was commissioned, which is in violation of Section 2 (c),⁹ Rule VIII of the 2004 Rules on Notarial Practice. It is settled that procedural requirements, which have often been disparagingly labeled as mere technicalities, have their own valid *d'etre* in the orderly administration of justice. To summarily brush them aside may result in arbitrariness and injustice.¹⁰ Further, being the party who sought to appeal, petitioners must comply with the requirements of the relevant rules; otherwise, they would lose their statutory right to appeal.¹¹

Even on the merits, petitioners' appeal¹² before the CA had no leg to stand on, in light of the fact that respondents Heirs of Regina Abellana, represented by Caridad Abellana (respondents), are the true owners of the subject property – and hence, entitled to the possession thereof – in light of the notarized Extrajudicial Settlement of Regina Abellana's estate, which remained undisputed, as well as the title issued to her. However, in light of prevailing jurisprudence,¹³ the adjudged unpaid rentals shall earn a corresponding interest of six percent (6%) per annum, to be computed from the filing of the complaint¹⁴ on January 29, 2013¹⁵ until finality of this Resolution. Thereafter, an interest at the legal rate of 6% per annum from the date of the finality of this Resolution until full payment.

SO ORDERED. (Gaerlan, J., designated Additional Member per Special Order No. 2780 dated May 11, 2020.)”

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
05 AUG 2020 p 915

⁸ See Rule II, Section 12 of the 2004 Rules on Notarial Practice.

⁹ See Section 2 (c), Rule VIII of the 2004 Rules on Notarial Practice.

¹⁰ *Magsino v. Ocampo*, 741 Phil. 394, 409 (2014).

¹¹ *Id.*

¹² *Rollo*, pp. 54-58.

¹³ See *Nissan Car Lease Philippines, Inc. v. LICA Management, Inc.*, 778 Phil. 146-168 (2016).

¹⁴ *Rollo*, pp. 10-12.

¹⁵ See *id.* at 3.

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*HEIRS OF REGINA ABELLANA (reg)
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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 65
Talisay City, Cebu
(Civil Case No. 1568)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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CA-G.R. CEB-SP No. 12779

*with copies of Resolutions dated 27 June 2019 & 9
January 2020.

Please notify the Court of any change in your address.
GR252313. 07/13/2020(161)URES