



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 10 June 2020 which reads as follows:*

**“G.R. No. 251694 (Natasha Pauline C. Sarmiento v. Katrina C. Tecson).** – After a judicious study of the case, the Court resolves to **DENY** the instant petition and **AFFIRM** the July 15, 2019 Decision<sup>1</sup> and January 23, 2020 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 111294 for failure of petitioner Natasha Pauline C. Sarmiento (petitioner) to sufficiently show that the CA committed any reversible error in affirming the Regional Trial Court of Muntinlupa City, Branch 276’s (RTC) dismissal<sup>3</sup> of her complaint<sup>4</sup> for failure to prosecute the case for an unreasonable length of time.

As correctly ruled by the CA, the RTC, in dismissing petitioner’s complaint, exercised its discretion under Section 3,<sup>5</sup> Rule 17 of the Rules of Court (Rules), considering petitioner’s failure to appear for her cross-examination three (3) times, notwithstanding notice to counsel, and despite the fact that the last date was suggested by her counsel.<sup>6</sup> It is settled that ‘[t]o constitute failure to prosecute, his non-appearance must be equated with unwillingness to proceed with the trial as when both plaintiff and counsel made no appearance at all, or with the assumption that plaintiff has already lost interest in prosecuting his action, in the same way that should the ground for dismissal be delay[ed], this delay or failure to proceed

<sup>1</sup> *Rollo*, pp. 21-27. Penned by Associate Justice Ricardo R. Rosario with Associate Justices Nina G. Antonio-Valenzuela and Perpetua T. Atal-Paño, concurring.

<sup>2</sup> *Id.* at 20.

<sup>3</sup> Not attached to the *rollo*.

<sup>4</sup> *Id.*

<sup>5</sup> Section 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (Emphases supplied)

<sup>6</sup> See *rollo*, pp. 23-24.

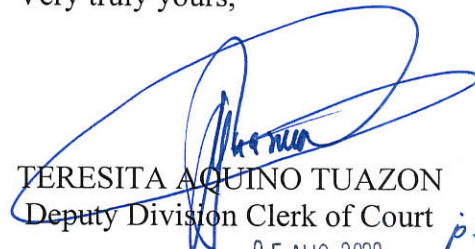
June 10, 2020

must be for an unreasonable length of time beyond the reasonable allowance which by judicial leniency a litigant is normally entitled,<sup>7</sup> as in this case.

Further, the petition is likewise dismissible for petitioner's failure to attach copies of the February 22, 2018 and May 9, 2018 Orders of the RTC, which are material portions of the record, pursuant to Section 4 (d),<sup>8</sup> in relation to Section 5, Rule 45 of the Rules.

**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  
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<sup>7</sup> *Laurel v. Vardeleon*, G.R. No. 202967, August 5, 2015.

<sup>8</sup> Section 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) **be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portions of the record as would support the petition;** and (e) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42. (Emphasis supplied)

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 276  
Muntinlupa City  
(Civil Case No. 16-099)

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*Please notify the Court of any change in your address.*  
GR251694. 06/10/2020(159)URES *NR*