



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 2, 2020** which reads as follows:*

“G.R. No. 246152 – *Davao Insular Hotel Company, Inc. v. Maricelle B. Diente doing business under the name and style Diente General Merchandise*

Davao Insular Hotel Company, Inc. (DIHCI) filed a Petition for Review under *Certiorari* under Rule 45 of the Rules of Court assailing the Decision¹ dated May 31, 2018 and Resolution² dated January 28, 2019 of the Court of Appeals-Cagayan de Oro City (CA-Min) in CA-G.R. CV No. 04779-MIN which denied DIHCI’s appeal and affirmed with modification the Decision of the Regional Trial Court (RTC) Davao City, Branch 16.

On June 17, 2017, the Court issued a Resolution denying DIHCI’s petition for lack of a proper verification in accordance with Section 1, Rule 45 in relation to Section 4, Rule 7 of the Rules, and a valid certification of non-forum shopping in accordance with Section 5, Rule 7 of the Rules, the attached verification and certification against forum shopping having been signed by Almira L. Molina (Molina), without proof of authority to sign for petitioner.³

Petitioner is now before the Court *via* a Motion for Reconsideration stating that it inadvertently failed to attach the hard copy of the Secretary’s Certificate dated August 28, 2012, which authorized Molina to sign the verification and certification of non-forum shopping in its behalf. In any event, there was substantial

- over – four (4) pages ...

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¹ Penned by Associate Justice Oscar V. Badelles, with Associate Justices Romulo V. Borja and Tita Marilyn Payoyo-Villordon, concurring; *rollo*, pp. 21-30.

² Id. at 32-33.

³ Id. at 105.

compliance with the Rules on its part, thus, it prays for a relaxation of the procedural requirements in order that the case be resolved on the merits.⁴

The Court agrees that procedural rules may be relaxed for the most persuasive of reasons so as to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.⁵

However, the Court still rules to **DENY** DIHCI's petition for failure to sufficiently show any reversible error in the assailed judgment to warrant the exercise of this Court's discretionary appellate jurisdiction.

The sole issue raised by DIHCI in its petition is whether the CA "*manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion.*"⁶

DIHCI maintains that the CA gravely erred in not rescinding the contract for the safety deposit boxes for the reasons that: El Safe was the ordered brand; and DIHCI sufficiently proved that it did not order and had no knowledge of the delivery of L Safe safety deposit boxes.⁷

It is settled that petitions for review on *certiorari* under Rule 45 of the Rules of Court are limited to questions of law. This is because questions of fact are beyond the ambit of a petition under Rule 45 because this Court is not a trier of facts and it is not our function to examine, review or evaluate evidence all over again. While there are recognized exceptions, such as when the conclusion is a finding grounded entirely on speculation, surmises or conjectures, when the inference made is manifestly mistaken, when the findings of fact are conflicting, etc., none of the recognized exceptions are herein present.⁸

Both the RTC and the CA were in agreement that based on the testimonial and documentary evidence presented, DIHCI received, through its employees, stamped receipt of the L-Safe deposit boxes without contest. The copy of the Delivery Receipt dated February 20, 2011, in particular, showed that DIHCI through its employees

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⁴ Id. at 108.

⁵ *Cortal v. Inaki A. Larrazabal Enterprises*, 817 Phil. 464, 476 (2017).

⁶ *Rollo*, p. 9.

⁷ Id. at 9.

⁸ *Spouses Batalla v. Prudential Bank*, G.R. No. 200676, March 25, 2019.

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received the safety deposit boxes without any complaint. It was only a year later, on January 18, 2012 and February 23, 2012, that DIHCI wrote letters to Diente, about the erroneous delivery of the L-Safe brand.⁹

The CA further noted that even the evidence presented by DIHCI supported Diente's claim that DIHCI was aware that what would be delivered were of the "L-Safe" and not "El-Safe" brand. Diente's email with quotation showed images of two models of the L-Safe boxes, with statement that what would be delivered were L-Safe. DIHCI did not send any communication to manifest non-conformity with the intended delivery. Instead, what is on record is that when the goods were eventually delivered on February 20, 2011, DIHCI through its employees, received the items without any contest.

Considering that there is no substantial argument to warrant a modification of this Court's Resolution, we resolve to deny DIHCI's motion for reconsideration with finality.

WHEREFORE, the Motion for Reconsideration is **DENIED** with **FINALITY**.

No further pleadings or motions shall be entertained.

Let an entry of judgment in this case be issued immediately.

SO ORDERED." *Peralta, C.J., on official business.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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⁹ *Rollo*, pp. 27, 39-40.

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