



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 26, 2021** which reads as follows:*

**“G.R. No. 251531 – MA. ELAINE REGINA P. DELA CUESTA, petitioner, versus BPI FAMILY SAVINGS BANK, INC. ET AL., respondent.**

This is a petition for review on *certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated January 23, 2020 of the Court of Appeals (CA) in CA-G.R. CV No. 113250, which affirmed the Decision dated March 24, 2017 of the Regional Trial Court of Quezon City, Branch 220 (RTC) in Civil Case No. Q-09-65694.<sup>3</sup>

After a careful perusal of the petition and its annexes, the Court finds it proper to dismiss the same for lack of merit.

Firstly, the petition is formally defective: 1) petitioner failed to attach a certified copy or duplicate original of the decision appealed from; 2) petitioner failed to attach the material portions of the records, such as the RTC decision; and 3) petitioner failed to submit proof of service on the court *a quo* and on the adverse party, all in

- over – three (3) pages ...

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<sup>1</sup> *Rollo*, pp. 17-43.

<sup>2</sup> *Id.* at 45-52. Penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Gabriel T. Robeniol and Louis P. Acosta.

<sup>3</sup> *Id.* at 19 and 45. Penned by Presiding Judge Jose G. Paneda.

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contravention of Rule 45, Sections 4 and 5 of the Rules of Court.<sup>4</sup>

Further, petitioner raises pure questions of fact (*e.g.*, whether the Mortgage Loan Agreements (MLAs) were validly notarized and whether the notice and publication requirements for the extra-judicial foreclosure were complied with) that are not generally cognizable in a Rule 45 petition.<sup>5</sup> In the case at bar, both the RTC and the CA held that petitioner failed to substantiate her allegations. These evidentiary findings are binding on the Court.

In any event, as the CA correctly held, the mere fact that the MLAs were “ready-made” does not necessarily render them void.<sup>6</sup> As petitioner signed the MLAs and did not even deny having received the loan amounts, the CA correctly held that petitioner is bound to comply with the same.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *9/16/11*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>4</sup> RULES OF COURT, Rule 45, Sec. 4 provides.

Sec. 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. (2a) (Underscoring supplied)

Id. Sec. 5 provides:

Sec. 5. *Dismissal or denial of petition.* — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, 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.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (3a) (Underscoring supplied)

<sup>5</sup> *Angeles v. Pascual*, G.R. No. 157150, September 21, 2011, 658 SCRA 23, 25.

<sup>6</sup> *Rollo*, p. 51.



J.C. YRREVERRE LAW FIRM  
Counsel for Petitioner  
Unit 2307 Cityland 10 Tower 1  
H.V. Dela Costa cor. Valero Streets  
Salcedo Village, 1227 Makati City

Court of Appeals (x)  
Manila  
(CA-G.R. CV No. 113250)

Atty. Michael Angelo S. Lopez  
Counsel for Respondents  
14/F, BPI Building  
Ayala Avenue cor. Paseo de Roxas  
1226 Makati City

The Hon. Presiding Judge  
Regional Trial Court, Branch 220  
1100 Quezon City  
(Civil Case No. Q-09-65694)

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