



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 23, 2022**, which reads as follows:*

“G.R. No. 218973 (Tongonan Holdings and Development Corporation, petitioner v. Hon. James Clinton R. C. Nuevo [Executive Judge of the Regional Trial Court of Ormoc City (RTC)], Atty. Maria Pamela Oliver [Clerk of Court VI, RTC Office of the Clerk of Court], Land Bank of the Philippines Ormoc City Branch, thru its Manager, and Atty. Francisco Escaño, Jr., respondents) – For resolution are:

- (1) Petitioner Tongonan Holdings and Development Corporation’s (petitioner) Omnibus Motion (For Substitution of Counsel and For Withdrawal of the Instant Petition);¹
- (2) Petitioner’s Compliance with Motion for Speedy Resolution of Petitioner’s Omnibus Motion Dated March 2, 2018;² and
- (3) The electronic mails of Christopher Gavino A. Diano (Christopher) and Dennis Napoleon A. Diano (Dennis) requesting for resolution of the petition.³

In the omnibus motion, petitioner declares that it terminated the services of Atty. Flor Amor A. Opon (Atty. Opon). Petitioner also alleges that the petition is no longer necessary because of respondent Executive Judge James Clinton R. C. Nuevo’s (EJ Nuevo) death.⁴ On the other hand, Christopher and Dennis, claiming to be the children of petitioner’s president, Antonio Diano (Antonio), seeks the resolution of the petition on the merits.⁵

¹ Dated March 2, 2018. *Rollo*, pp. 236–239.

² Id. at 289–291.

³ Id. at 251–253-A.

⁴ Id. at 236–237.

⁵ Id. at 251–253-A.

This case involves a petition for *mandamus*⁶ to compel EJ Nuevo of the Regional Trial Court of Ormoc City (RTC) to release the amount deposited with Land Bank of the Philippines (Land Bank) pertaining to the remaining judgment amount representing just compensation in an eminent domain case ruled in favor of petitioner.⁷ Sometime in April 2015, petitioner inquired from Atty. Maria Pamela Oliver (Atty. Oliver), Clerk of Court of the RTC, about the requirements for the release of the judgment award.⁸ On April 17, 2015, Atty. Oliver filed a Manifestation⁹ before the Office of the Executive Judge stating that the required documents have been submitted.¹⁰ Nevertheless, EJ Nuevo refused to release the amount in an Order¹¹ dated April 21, 2015.¹²

On December 14, 2017, the Court issued a Resolution¹³ requiring petitioner to inform the Court of its counsel's address. Instead of complying with the Court's resolution, petitioner filed the omnibus motion. Meanwhile, petitioner's then counsel of record, Atty. Opon, manifested that she could no longer represent petitioner in view of her appointment as an RTC judge.¹⁴

The Court grants the motion to withdraw the petition for *mandamus*.

The issuance of a writ of *mandamus* is rendered moot by the death of EJ Nuevo. A *mandamus* petition cannot prosper without showing that the public officers' successors have adopted, continued, or threatened to continue the action of their predecessors.¹⁵ In *Del Rosario v. Shaikh*,¹⁶ the Court gave a clear definition of *mandamus* and the requisites for its filing, thus:

Mandamus has been defined as a writ commanding a tribunal, corporation, board or person to do the act required to be done when it or he unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station, or unlawfully excludes another from the use and enjoyment of a right or office or which such other is entitled, there being no other plain, speedy, and adequate remedy in the ordinary course of law. Under Section 3, Rule 65 of the Rules of Court, a person aggrieved by the unlawful neglect or refusal of [a] tribunal, corporation, board, officer or person to perform their legal duty may ask the court to compel the required performance.

From this Rule, there are two situations when a writ of *mandamus* may issue: (1) when any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law

⁶ Id. at 4-17.

⁷ Id. at 11-13.

⁸ Id. at 8.

⁹ Id. at 76-77.

¹⁰ Id. at 76.

¹¹ Id. at 19-20.

¹² Id. at 10 and 19-20.

¹³ Id. at 227.

¹⁴ Id. at 276-278.

¹⁵ See *Del Rosario v. Shaikh*, G.R. No. 206249, December 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66052>>, citing *Heirs of Galvez v. CA*, 325 Phil. 1028, 1048 (1996).

¹⁶ Id.

specifically enjoins as a duty resulting from an office, trust, or station; or (2) when any tribunal, corporation, board, officer or person unlawfully excludes another from the use and enjoyment of a right or office to which the other is entitled.

It must be stressed, however, that the extraordinary remedy of *mandamus* lies to compel the performance of duties that are purely ministerial in nature only. The peremptory writ of *mandamus* would not be available if, in the first place, there is no clear legal imposition of a duty upon the office or officer sought to be compelled to act, or if it is sought to control the performance of a discretionary duty.

For *mandamus* to lie, the following requisites must be present: (a) the plaintiff has a clear legal right to the act demanded; (b) it must be the duty of the defendant to perform the act, because it is mandated by law; (c) the defendant unlawfully neglects the performance of the duty enjoined by law; (d) the act to be performed is ministerial, not discretionary; and (e) there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.¹⁷

In this case, petitioner had a clear legal right to compel the discharge of the judgment award, which was hampered by EJ Nuevo's refusal to release the deposit with Land Bank. However, upon the death of EJ Nuevo, his successor, Presiding Judge Girlie M. Borrel-Yu, already ordered the release of the remaining judgment amount to petitioner in an Order¹⁸ dated September 5, 2014.¹⁹ Thus, the subject of *mandamus* already ceased to exist.

Similarly, Christopher and Dennis' prayer for resolution of the petition on the merits lacks basis. Christopher and Dennis, as Antonio's children, have no legal standing since they are not parties to this case. By jurisprudence, standing requires a personal and substantial interest in the case such that petitioner has sustained, or will sustain, direct injury as a result of the violation of its rights.²⁰ Notably, the petition for *mandamus* was filed in the name of Tongonan Holdings and Development Corporation as represented by its president, Antonio. There is no showing that Christopher and Dennis have any material and direct interest in the corporation, from which they may derive standing to come before the Court.

FOR THE STATED REASONS, the motion to withdraw is **GRANTED**. The petition for *mandamus* is **DISMISSED**, and the case is declared **CLOSED and TERMINATED**.

¹⁷ Id.; citations omitted.

¹⁸ Rollo, pp. 63–68.

¹⁹ Id. at 68.

²⁰ *Pimentel v. Legal Education Board*, G.R. Nos. 230642 and 242954, September 10, 2019, 918 SCRA 287, 419, citing *Bayan (Bagong Alyansang Makabayan) v. Zamora*, 396 Phil. 623, 646 (2000); and *Kilosbayan, Incorporated v. Morato*, 316 Phil. 652, 695–696 (1995).

SO ORDERED.”

By authority of the Court:

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