



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 February 2022** which reads as follows:*

“**G.R. No. 256628 (Marilyn Dorado y Tena v. People of the Philippines)**. – After a judicious study of the case, the Court resolves to **DISMISS** the instant petition<sup>1</sup> outright for petitioner Marilyn Dorado y Tena’s (petitioner) failure to comply with the Court’s directive in its Resolution<sup>2</sup> dated July 12, 2021.

At the outset, it bears stressing that the instant petition failed to comply with some procedural requirements for filing a petition for *certiorari* under Rule 65 of the Rules of Court (Rules), specifically: (a) the sheriff’s trust fund fee was not paid;<sup>3</sup> (b) the certified true copies of the ruling of the Regional Trial Court were not attached to the petition;<sup>4</sup> (c) the verification of the petition lacks certain attestations;<sup>5</sup> and (d) the *jurat* of the certification against forum shopping was improperly accomplished.<sup>6</sup> Consequently, the Court, in the aforesaid Resolution, directed petitioner to rectify the foregoing procedural infirmities within five (5) days from notice. Despite the lapse of several months, petitioner has not complied with such directive. Thus, the Court is constrained to dismiss the instant petition pursuant to Section 2, Rule 56, in relation to Section 3, Rule 46 of the Rules.<sup>7</sup>

In any event, the Court of Appeals (CA) did not gravely abuse its discretion in dismissing the petition before it due to various procedural flaws. It is settled that the right to appeal is a mere statutory privilege which may be exercised only in accordance with the requirements set by law and the relevant rules of procedure, otherwise, the appeal is lost.<sup>8</sup> While the Court may suspend strict adherence to

<sup>1</sup> See Petition for *Certiorari* dated June 21, 2021; *rollo*, pp. 7-16.

<sup>2</sup> *Id.* at 21-22.

<sup>3</sup> See Rule 56, Sec. 2, in relation to Rule 46, Sec. 3. See also *rollo*, p. 2.

<sup>4</sup> *Id.* See also Rule 65, Sec. 1.

<sup>5</sup> *Id.* The verification does not include attestations pertaining to: (a) the filing of the pleading not being for harassment, unnecessary delay or needlessly increase the cost of litigation; and (b) the factual allegations having evidentiary support.

<sup>6</sup> The *jurat* in the certification against forum shopping does not indicate petitioner’s proof of identity which she presented to the notary public. Further, no such proof of identity was attached to the present petition.

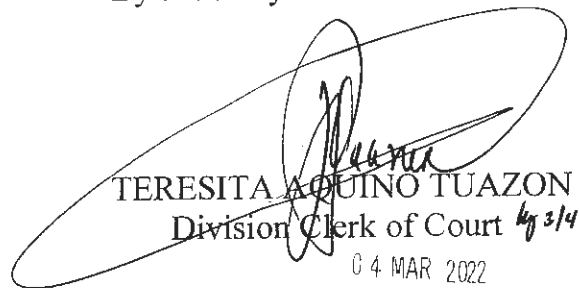
<sup>7</sup> Rule 46, Sec. 3 of the Rules of Court provides that ‘failure of the petitioner to comply any of the requirements shall be sufficient ground for the dismissal of the petition.’

<sup>8</sup> See *Kumar v. People*, G.R. No. 247661, June 15, 2020; citing *Gabriel v. CA*, 561 Phil. 673, 681-682 (2007).

procedural rules,<sup>9</sup> it is incumbent upon petitioner to provide a justifiable cause or explanation to excuse her non-compliance.<sup>10</sup> In the present case, petitioner's excuse of alleged 'oversight' for the non-payment of the proper docket and legal fees and failure to provide her counsel's updated Mandatory Continuing Legal Education Compliance Certificate Number and its date of issuance is unpersuasive. Similarly, no acceptable excuse was proffered for her failure to implead the People of the Philippines in her petition.<sup>11</sup> Worse still, no reason was provided for petitioner's failure to append copies of the pleadings and other material portions of the record to her petition, in violation of Section 2,<sup>12</sup> Rule 42 of the Rules. Clearly, petitioner failed to provide a meritorious reason which would warrant the relaxation of the rules of procedure for her case. Hence, the CA correctly dismissed her petition, in accordance with Section 3,<sup>13</sup> Rule 42 of the Rules.

**SO ORDERED.**"

By authority of the Court:

  
TERESITA AQUINO TUZON  
Division Clerk of Court *by 3/4*  
04 MAR 2022

<sup>9</sup> The following have been accepted as acceptable reasons for the relaxation of procedural rules: (a) matters of life, liberty, honor, or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and (f) the other party will not be unjustly prejudiced thereby. (*Barnes v. Padilla*, 500 Phil. 303, 311 (2005), citing *Sanchez v. CA*, 452 Phil. 665, 674 [2003]).

<sup>10</sup> See *Land Bank of the Phils. v. CA*, 789 Phil. 577, 583 (2016).

<sup>11</sup> See *Mudarang v. CA*, 501 Phil. 608, 616 (2005).

<sup>12</sup> Rule 42, Sec. 2. *Form and contents*. — The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. xxx

<sup>13</sup> Rule 42, Sec. 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.

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