



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **06 April 2022** which reads as follows:*

**“G.R. No. 257323 (Heirs of Isaac Lumantao, Namely: Andres Lamay, Esteban Lamay, Monica Lamay, Lucia Israel, and Alberto Israel v. Heirs of Domingo Gasque, Namely: Agripina Gasque, Cirila G. Batoy, Bonifacio Gasque, Epifania Daradar, asst. by husband German Daradar; Eufemia Lamay asst. by husband Pedro Lamay, Inocencia Viva, asst. by husband Zenon Viva, and Macario Gasque).** – This resolves the Petition for Review on *Certiorari* (Petition)<sup>1</sup> filed by petitioners Lucia Israel (Lucia) and Alberto Israel (Alberto; collectively, petitioners), seeking to reverse and set aside the Decision<sup>2</sup> dated 31 May 2019 and Resolution<sup>3</sup> dated 09 December 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 09315.

After a judicious review of the case, the Court resolves to **DENY** the Petition and **AFFIRM WITH MODIFICATION** the assailed Decision and Resolution of the CA.

The verification and certification of non-forum shopping attached to the Petition are defective because they were notarized by petitioners’ counsel, who is disqualified from notarizing the Petition pursuant to the 2004 Rules on Notarial Practice.<sup>4</sup> Since the Petition lacks a proper verification, it ought to be treated as an unsigned pleading.<sup>5</sup> Failure to comply with the requirements for a certification of non-forum shopping is also not curable by mere amendment.<sup>6</sup>

<sup>1</sup> *Rollo*, pp. 3-37.

<sup>2</sup> *Id.* at 40-56. Penned by Associate Justice Dorothy P. Montejo-Gonzaga and concurred in by Associate Justices Edgardo L. Delos Santos (now a retired member of this Court) and Marilyn B. Lagura-Yap of the Eighteenth (18<sup>th</sup>) Division, Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 58-60. Penned by Associate Justice Dorothy P. Montejo-Gonzaga and concurred in by Associate Justices Pamela Ann Abella Maxino and Marilyn B. Lagura-Yap of the Special Former Eighteenth (18<sup>th</sup>) Division, Court of Appeals, Cebu City.

<sup>4</sup> See *Horca v. People*, G.R. No. 224316, 10 November 2021.

<sup>5</sup> *Id.*

<sup>6</sup> Section 5, Rule 7 of the Rules of Court.

Moreover, the Petition was filed out of time. The cited financial difficulties occasioned by Alberto's recent diagnosis, albeit unfortunate, do not warrant a relaxation of the rules. Petitioners' present counsel is already their counsel before the CA.<sup>7</sup> If his services were indeed free, as admitted by petitioners,<sup>8</sup> counsel could have timely prepared and filed the Petition, or, at the very least, moved for an extension. Substantial intervention by petitioners in preparing the Petition was not necessary, as counsel was already familiar with the case. A liberal application of the rules may only be applied in proper cases and under justifiable causes and circumstances.<sup>9</sup> None of the exceptions apply here.

At any rate, the Petition must fail because petitioners do not have standing to appeal the CA Decision and Resolution. To have *locus standi*, one must be a real party-in-interest, *i.e.*, one who stands to be benefited or injured by the judgment in the suit, or one entitled to the avails of the suit.<sup>10</sup> An appeal filed by one who is not a real party-in-interest is dismissible.<sup>11</sup>

The real parties-in-interest in this case are Esteban Lamay, Monica Lamay, and Andres Lamay (Lumantao Heirs), they being the heirs of Isaac Lumantao (Isaac). This case would involve an adjudication of their ownership rights vis-à-vis those of the Heirs of Domingo Gasque, namely: Agripina Gasque, Cirila G. Batoy, Bonifacio Gasque, Epifania Daradar, asst. by husband German Daradar; Eufemia Lamay asst. by husband Pedro Lamay, Inocencia Viva, asst. by husband Zenon Viva, and Macario Gasque (collectively, respondents).<sup>12</sup> As such, the Petition may not be resolved without passing upon the Lumantao Heirs' interest in the property. Even the award of damages may not be reversed without showing that the Lumantao Heirs have a superior right to the disputed lot.

While the names of the Lumantao Heirs are included in the caption, the statement of the parties in the body of the pleading only indicates Lucia and Alberto.<sup>13</sup> Similarly, only their names are specified in the verification

<sup>7</sup> *Rollo*, pp. 39, 57, 330.

<sup>8</sup> *Id.* at 4-5.

<sup>9</sup> *Inter-Island Information Systems, Inc. v. Court of Appeals, Eleventh Division*, G.R. No. 187323, 23 June 2021 [Per J. Hernando].

<sup>10</sup> Section 2, Rule 3 of the Rules of Court.

<sup>11</sup> *Malayan Insurance Co., Inc. v. Piccio*, G.R. No. 193681, 06 August 2014 [Per J. Perlas-Bernabe]; *See also Magallanes v. Palmer Asia, Inc.*, G.R. No. 205179, 18 July 2014 [Per J. Carpio].

<sup>12</sup> *See Vilorio v. Heirs of Gaetos*, G.R. No. 206240, 12 May 2021 [Per J. Hernando]: "An action for quieting of title is essentially a common law remedy grounded on equity. The competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best."

<sup>13</sup> *Rollo*, p. 4.

and certification attached to the Petition.<sup>14</sup> There is no indication whatsoever that the Petition is being filed on behalf of the Lumantao Heirs.

Records do not show that petitioners are acting as the Lumantao Heirs' agents. Rather, they are suing in their own names.<sup>15</sup> Lucia claims to be the current administrator of the property, but she is not the legal administrator contemplated under the Rules of Court.<sup>16</sup> Rather, based on petitioners' own allegations, Matilde Lumantao merely entrusted the properties to Lucia's mother so that the lands may be cultivated and the real property taxes may be paid, as Isaac's family already moved to Davao.<sup>17</sup> Otherwise put, the alleged role of Lucia's mother was that of a caretaker, which was merely continued by Lucia.<sup>18</sup> Meanwhile, her son merely followed Lucia's orders. Both do not claim to be the owners of the property. Lucia, as alleged administrator of the property, and Alberto, as Lucia's son, do not have any ownership interests in the property. Petitioners may not assert the Lumantao Heirs' rights on their behalf in the absence of authorization to do so.

As the real parties-in-interest did not file any appeal before the Court, the CA Decision and Resolution had attained finality as to them. Thus, the findings of the CA, particularly the Lumantao Heirs' inferior claim to the disputed property, may no longer be disturbed. This is in view of the corollary principle that a court cannot proceed to rule on the merits without the presence of indispensable parties, their presence being mandatory for the exercise of judicial power.<sup>19</sup> Without the Lumantao Heirs, there cannot be a resolution of the dispute of the parties before the Court which is effective, complete, or equitable.<sup>20</sup>

Hence, for petitioners' failure to file their appeal on time and for lack of standing, the Petition is denied. The assailed CA Decision and Resolution are deemed final and executory. Nonetheless, the CA Decision should be modified to include legal interest of six percent (6%) per *annum* from the finality of the Court's Resolution until fully paid.<sup>21</sup> The inclusion of interest is not barred by the principle of immutability of judgment because it is compensatory interest arising from a final judgment.<sup>22</sup>

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<sup>14</sup> Id. at 33.

<sup>15</sup> Id. at 4, 33.

<sup>16</sup> Rule 78 of the Rules of Court.

<sup>17</sup> *Rollo*, pp. 117-118.

<sup>18</sup> Id. at 192.

<sup>19</sup> *Heirs of Dinglasan v. Ayala Corp.*, G.R. No. 204378, 05 August 2019 [Per J. Peralta].

<sup>20</sup> See *Federal Express Corp. v. Airfreight 2100, Inc.*, G.R. No. 225050, 04 September 2021 [Per J. Gesmundo].

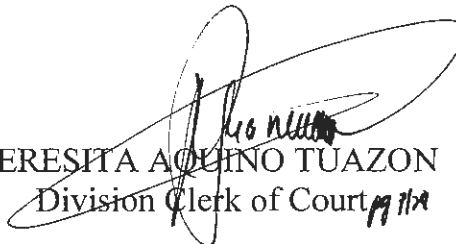
<sup>21</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

<sup>22</sup> *Consolidated Distillers of the Far East, Inc. v. Zaragoza*, 833 Phil. 888 (2018).

**WHEREFORE**, premises considered, the Petition for Review on *Certiorari* is **DENIED**. The Decision dated 31 May 2019 and Resolution dated 09 December 2020 of the Court of Appeals in CA-G.R. SP No. 09315 are **AFFIRMED WITH MODIFICATION**, in that the monetary award of PhP 93,600.00, by way of actual damages, shall earn legal interest of six percent (6%) per *annum* from finality of this Resolution until fully paid.

**SO ORDERED.”**

By authority of the Court:

  
 TERESITA AQUINO TUAZON  
 Division Clerk of Court

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\*AGRIPINA GASQUE (reg)  
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 \*BONIFACIO GASQUE (reg)  
 \*EPIFANIA DARADAR (reg)  
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 \*INOCENCIA VIVA (reg)  
 \*MACARIO GASQUE (reg)  
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ANDRES LAMAY  
 Petitioner  
 (deceased)

HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 2  
 6300 Tagbilaran City, Bohol  
 (Civil Case No. 8413)

COURT OF APPEALS (reg)  
 Visayas Station  
 Cebu City  
 CA-G.R. SP No. 09315

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\*with a copy of the CA Decision dated May 31, 2019  
*Please notify the Court of any change in your address.*  
 GR257323. 4/06/2022(126)URES