



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 31, 2022, which reads as follows:

“G.R. No. 260812 (*Jean Pangilinan v. Leslie Ann B. Batarao and the Court of Appeals, Fifth Division*) – After a judicious study of the case at bench, the Court resolves to **DISMISS** the instant Petition for *Certiorari*¹ and **AFFIRM** the *Resolution*² dated 11 December 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 166669, which dismissed the Petition for Review³ filed before it for being filed out of time.

First off, petitioner Jean Pangilinan availed of the wrong remedy in assailing the *Resolution*. It is axiomatic that the proper remedy of a party aggrieved by a decision of the CA is a petition for review under Rule 45, and not a petition for *certiorari* under Rule 65 of the Rules of Court. As provided in Rule 45, decisions, final orders or resolutions of the CA in any case, i.e., regardless of the nature of the action or proceedings involved, may be appealed to this Court by filing a petition for review, which in essence is a continuation of the appellate process over the original case.⁴ The impugned *Resolution* is already a final and appealable judgment, considering that it disposed of petitioner’s appeal “in a manner that left nothing more to be done by the CA with respect to the said appeal.”⁵ Toward this end, petitioner should have filed a petition for review under Rule 45.

Considering that she received the challenged *Resolution* on 18 May 2022, petitioner only had until 2 June 2022 within which to file an appeal before this Court. Evidently, the period for her to comply with the said

¹ *Rollo*, pp. 3-25.

² *Id.* at 95-97. Penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Maria Elisa Sempio Diy and Carlito B. Calpatura, concurring.

³ *Id.* at 82-93.

⁴ See *Albor v. Court of Appeals, et al.*, 823 Phil. 901, 909 (2018).

⁵ *Id.* at 910.

deadline had already lapsed when she filed the instant Petition on 7 June 2022. It is well settled that *certiorari* is not and cannot be made a substitute for an appeal where the latter remedy is available but was lost through fault or negligence.⁶

Notably, even assuming that *certiorari* was the correct remedy in this case, it did not escape the attention of the Court that petitioner failed to file any motion for reconsideration before the CA, which, as a general rule, is required before the aggrieved party may resort to *certiorari* proceedings.⁷ While the rule admits of exceptions,⁸ petitioner did not propound any circumstance that may justify such procedural misstep.⁹

Based on the foregoing discourse alone, this Petition should be dismissed.

At any rate, the Petition still fails as there is no showing of any grave abuse of discretion amounting to lack or excess of jurisdiction committed by the CA when it dismissed the petition before it. Verily, the CA astutely observed that the Petition for Review was riddled with procedural infirmities given that *one*, the same was filed several months after the lapse of the reglementary period under Section 1, Rule 42 of the Rules of Court;¹⁰ and *two*, there was no full payment of the docket and other fees before the expiration of the reglementary period.¹¹ The records evince that petitioner filed an Omnibus Motion to Admit Appeal and for Extension of Time to File Petition for Review¹² before the CA only after the trial court denied her Notice of Appeal with Motion to Admit Appeal, mainly for being in itself filed out of time.¹³ It bears stressing that procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in

⁶ Id.

⁷ See *Movertrade Corp. v. Commission on Audit*, G.R. No. 214690, 9 November 2021; *Spouses Aguilar v. Manila Banking Corp.*, 533 Phil. 645, 661 (2006).

⁸ See *Phil. Bank of Communications v. Court of Appeals, et al.*, 805 Phil. 964, 974-975 (2017).

⁹ See *Movertrade Corp. v. Commission on Audit*, *supra* note 8.

¹⁰ Section 1, Rule 42 of the Rules of Court states:

Section 1. How appeal taken; time for filing. — A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

¹¹ *Rollo*, pp. 96-97.

¹² Id. at 52-54.

¹³ Id. at 41 and 52-54.

prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction.¹⁴

SO ORDERED.”

By authority of the Court:

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Division Clerk of Court *by e/sing*

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 274, 1700 Paranaque City
(Civil Case No. 2019-340)

The Presiding Judge
METROPOLITAN TRIAL COURT
Branch 89, 1700 Paranaque City
(Civil Case No. 2019-19)

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¹⁴ *Land Bank of the Phils. v. Court of Appeals, et al.*, 789 Phil. 577, 583-584 (2016).