



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 11, 2023**, which reads as follows:*

**“G.R. No. 255011 (Apollo Colmenar, Petitioner v. Vicente Ferrer Poblete, Jr., Respondent).** — The Court **NOTES:**

- (1) the Letter dated June 21, 2022 of Atty. Rowena B. Austria-Generoso, counsel for respondent, stating that she went to the Court of Appeals (CA) to secure a certificate of finality of the case, however, she was informed that petitioner elevated the CA’s Decision to the Supreme Court, and requesting that she be allowed to photocopy the records of the case so she may be able to file the necessary/appropriate pleading; and
- (2) petitioner’s Compliance dated August 10, 2022, with the Resolution dated April 5, 2022, submitting the verified declaration of electronic submission of the soft copy of the petition for review on *certiorari* and the verification of the petition.

This Court resolves to **DENY** the instant Petition for Review on *Certiorari*<sup>1</sup> and **AFFIRM** the Decision<sup>2</sup> and the Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 112487 for failure of Apollo Colmenar (petitioner) to show that the CA committed any reversible error in dismissing his petition.

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<sup>1</sup> *Rollo*, pp. 14-37.

<sup>2</sup> *Id.* at 38-56. The Decision dated February 21, 2020 was penned by Associate Justice Apolinario D. Bruselas, Jr. with the concurrence of Associate Justices Pedro B. Corales and Perpetua Susana T. Atal-Paño.

<sup>3</sup> *Id.* at 57-59.

Petitioner theorizes that the challenged Decision of the CA is void since he was deprived of due process when it decided his appeal on the basis of his exhibits.

Petitioner’s thesis does not inspire assent.

It is primal that a decision is void for lack of due process if, as a result, a party is deprived of the opportunity of being heard.<sup>4</sup> On this score, the Court has, time and again, held that where the opportunity to be heard, either through verbal arguments or pleadings, is accorded, and the party can “present its side” or defend its “interest in due course,” there is no denial of due process.<sup>5</sup> In the instant case, records evince that the CA decided the appeal on the basis of the pleadings and exhibits presented not only by respondent but by petitioner as well.

In synthesis, the CA committed no reversible error in affirming the dismissal of the petitioner’s complaint filed before the trial court, as its decision<sup>6</sup> had long become final and executory and, therefore, is immutable and unalterable.<sup>7</sup>

**THE FOREGOING PREMISES CONSIDERED,** the instant Petition for Review must be denied.

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court* 05-08-23

<sup>4</sup> See *Central Realty and Development Corporation v. Solar Resources, Inc., et al.*, G.R. No. 229408, November 9, 2020 [Per J. Lazaro-Javier], Second Division].

<sup>5</sup> See *National Power Corporation v. Sps. Asoque*, 795 Phil. 19, 38 (2016) [Per J. Leonen, Second Division].

<sup>6</sup> *Rollo*, pp. 100-102. The Decision dated October 18, 2012 in LRC Case No. 5964-011-12 was penned by Executive Judge Aurelio G. Icasiano.

<sup>7</sup> See *Bigler v. People, et al.*, 782 Phil. 158, 166 (2016) [Per J. Perlas-Bernabe, First Division].

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 23, Trece Martires City  
(LRC-Case No. 5964-011-12)

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**G.R. No. 255011** 

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