



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated April 19, 2023, which reads as follows:

“G.R. No. 265616 (Hydro-Pipes [Phils.], Inc., *Petitioner* vs. Court of Appeals [Former Sixteenth Division], Regional Trial Court of Malolos, Bulacan, Branch 81, Konka International Plastic Manufacturing Corp., Philippine Business Bank, Registry of Deeds of Bulacan, Green Miles Realty Corp., *Respondents*). – Acting on the instant Petition for *Certiorari*¹ under Rule 65 of the Rules of Court (Rules), the Court resolves to **DISMISS** the petition for being the wrong mode of appeal² to assail the Decision³ dated June 13, 2022, and the Resolution⁴ dated November 7, 2022, of the Court of Appeals (CA) in CA-G.R. SP No. 161745.

In *Kumar v. People*,⁵ the Court emphasized that, pursuant to Section 1⁶ of Rule 45 of the Rules of Court, a Petition for Review on *Certiorari* is the sole procedural vehicle through which appeals may be taken to the Court, except in “criminal cases where the penalty imposed is death, *reclusion perpetua* or life imprisonment.”⁷ Moreover, fundamental is the rule that the extraordinary remedy of *certiorari* will not lie if there is a plain, speedy, and adequate remedy in the ordinary course of law, as in this case.⁸ Accordingly, petitioner Hydro-Pipes (Phils.), Inc. (Hydro-Pipes) should have filed a petition for review on *certiorari* under Rule 45

¹ *Rollo*, pp. 3-35.

² Section 5(f), Rule 56, Rules of Court.

³ *Rollo*, pp. 39-49. Penned by Associate Justice Carlito B. Calpatura as concurred in by Associate Justices Pedro B. Corales and Jose Lorenzo R. Dela Rosa.

⁴ *Id.* at 36-38.

⁵ G.R. No. 247661, June 15, 2020.

⁶ SECTION 1. *Filing of Petition with Supreme Court.* — A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall *raise only questions of law, which must be distinctly set forth*. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

⁷ Sec. 9, Rule 45, Rules of Court.

⁸ *Pichay, Jr. v. Law Department*, G.R. No. 258393 (Notice), January 4, 2022.

within 15 days⁹ from November 23, 2022,¹⁰ the date of *its receipt* of the CA's denial of its motion for reconsideration. Thus, even if the Court were to consider the petition as one filed under Rule 45, the same would still be dismissible for having been filed out of time; the petition was filed only on January 23, 2023.¹¹ Being a statutory privilege, the right to appeal is neither a natural right nor is it a component of due process. Accordingly, it may be exercised only in the manner and in accordance with the provisions of law;¹² in this Hydro-Pipes was remiss.

In any event, even if the instant petition be deemed as the proper remedy, the Court nonetheless finds no grave abuse of discretion on the part of the CA in rendering the assailed Decision and Resolution.

A petition for *certiorari* will prosper only if grave abuse of discretion is alleged and proved to exist. Jurisprudence has squarely settled that:

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction; or the exercise of power in an arbitrary or despotic manner by reason of passion, prejudice, or personal hostility. The abuse must be in a manner so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of the law.¹³

The CA correctly ruled that Hydro-Pipes failed to substantiate its claim that the RTC exercised its power in an arbitrary or despotic manner as may be equated with grave abuse of discretion. On the contrary, the CA found the RTC to have acted in accordance with the Rules and prevailing jurisprudence when it allowed respondent Green Miles Realty Corp. (Green Miles) to intervene in Civil Case No. 07-M-2015 per its Order dated February 11, 2019. It agreed with the RTC that Green Miles had sufficiently complied with Sections 1¹⁴ and 2¹⁵ of Rule 19 of the Rules of Civil Procedure, *ratione* as follows:

First, Green Miles has a legal interest in the subject matter of the case. It is the present occupant of the subject lot and claims to have acquired ownership thereof by way of sale, which the petitioner does

⁹ Section 2, Rule 45, Rules of Court.

¹⁰ *Rollo*, p. 3.

¹¹ The date of filing is even beyond the 60-day period required for the filing of a petition for *certiorari* under Rule 65.

¹² *Lugawe v. Pacific Cebu Resort International, Inc.*, G.R. No. 236161, January 25, 2023.

¹³ *Mercado v. Alphaland Corp.*, G.R. No. 237059 (Notice), February 15, 2022.

¹⁴ Section 1. *Who may intervene.* — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding. (2[a], [b]a, R12)

¹⁵ Section 2. *Time to intervene.* — The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties. (n)

not deny. The petitioner's only contention as to the acquisition of the 1/3 portion of the subject lot is that Green Miles failed to acquire it in the manner intended by the original owners of the property, and that is, in observance of the precedence of the Right of First Refusal. *Since the pending case before the trial court seeks to resolve issues of PBB's ownership and its mode of acquisition of the subject lot, Green Miles, as PBB's successor-in-interest, thus, stands to be affected by the trial court's disposition of the case directly, materially, and immediately.* Having alleged ownership of the 1/3 disputed subject lot, Green Miles undoubtedly has a legal interest in the outcome of the litigation before the trial court.

More significantly, Green Miles, as a subsequent buyer of the 1/3 portion in the subject [lot], has obtained the same rights, claims, and defenses available to PBB and Konka, being its predecessors-in-interest, as against the petitioner.

Therefore, *prosecuting Green Miles' interest in the subject lot in another proceeding as against the petitioner would defeat the intent of the rules on intervention to limit, if not avoid, the multiplicity of suits and the further clogging of the court dockets.* A separate proceeding would amount to a reassessment of the original parties' rights, retarding what the trial court may adjudge in this case since both Green Miles and the petitioner base their respective claims on the title of the subject lot. It is only proper that Green Miles' intervention is injected into the case pending before the trial court, which would best litigate its interest.

Second, [the] Civil Case No. 07-M-2015 had been pending for almost four (4) years when Green Miles moved for intervention, the filing was still within the period allowed under Section 2 of Rule 19. By the petitioner's averment, the presentation of evidence in the case was just about to commence when Green Miles moved for intervention; there was as yet no right determined or claim adjudged by the trial court for the original parties, far from the proscribed delay of the principal action. Accordingly, Green Miles' filing of the intervention complied with the requirements under Section 2.¹⁶ (Emphasis supplied; citations omitted)

Anent Hydro-Pipes' assertion that it was denied due process when the RTC denied its motion for reconsideration without considering its Reply to Green Miles' Comment/Opposition thereto, the CA found the argument to be specious. It held that the records bear out that Hydro-Pipes failed to show that Green Miles had raised new matters in its comment or opposition to the motion for reconsideration; Hydro-Pipes' Reply merely alluded to matters already raised by Green Miles in its Motion for Intervention. Hence, the CA held that under Section 10,¹⁷ Rule 6 of the 1997 Rules of Civil Procedure, there being no new matters raised in Green Miles' comment or opposition, Hydro-Pipes'

¹⁶ *Rollo*, pp. 45-46.

¹⁷ Section 10. *Reply*. — A reply is a pleading, the office or function of which is to deny, or allege facts in denial or avoidance of new matters alleged by way of defense in the answer and thereby join or make issue as to such new matters. If a party does not file such reply, all the new matters alleged in the answer are deemed controverted.

If the plaintiff wishes to interpose any claims arising out of the new matters so alleged, such claims shall be set forth in an amended or supplemental complaint. (11)

Reply appears to be more of a superfluity as new matters raised in the answer would be deemed controverted even without the filing of a reply.

Further, the CA emphasized that the Court's policy on the filing of a Reply is now explicitly stated under Section 2,¹⁸ Rule 6 of the 2019 Amendments to the 1997 Rules of Civil Procedure¹⁹ which requires the filing of a reply only if the defending party attaches an actionable document to the answer. The CA thus did not err when it ruled that, having been given every opportunity to be heard, Hydro-Pipes' invocation of denial of due process must necessarily fail.²⁰

In view of the foregoing disquisitions, Hydro-Pipes' prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction has likewise no leg to stand on for lack of legal and factual basis; Hydro-Pipes failed to sufficiently demonstrate the existence of an actual and existing right to be protected and the grave and irreparable injury that it purportedly stands to suffer absent the injunctive reliefs sought.

WHEREFORE, the petition is **DISMISSED**.

SO ORDERED."

By authority of the Court:

Misael Battung
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

*3/17/23
04/19/23*

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¹⁸ Section 2. *Pleadings allowed*. — The claims of a party are asserted in a complaint, counterclaim, cross-claim, third (fourth, etc.)-party complaint, or complaint-in-intervention.

The defenses of a party are alleged in the answer to the pleading asserting a claim against him or her.

An answer may be responded to by a reply only if the defending party attaches an actionable document to the answer.

¹⁹ A.M. No. 19-10-20-SC 2019, which became effective on May 1, 2020.

²⁰ *Rollo*, pp. 46-47.

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