



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. 257072 (Ellen Corre, Maricel Calagos, Evelinda Magallano, Rochelle Corre, Jerry Solis, Ramil Mananquil, Jovelyn Jegillos, Von Ryann Bulatao, and Imelda Ravancho v. Sheriff Leonardo Calalang, Branch 52 Metropolitan Trial Court, Caloocan City and Roqueta Dimson). – Before the Court is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court assailing the decision² dated October 30, 2020, of the Court of Appeals (CA) in CA-G.R. CV No. 112237 and its Resolution³ dated June 21, 2021, denying the motion for reconsideration thereof. The assailed Decision dismissed the appeal and affirmed the Resolution⁴ dated January 9, 2018 and the Order dated November 12, 2018, of the Regional Trial Court (RTC) of Caloocan City, Branch 122 in SCA Case No. C-1026 and Civil Case No. C-22652, dismissing the petitioners’ complaint against the respondents, for failure to prosecute.⁵

Preliminarily, the Court notes that the instant petition has been belatedly filed. Records reveal that the petitioners Ellen Corre, Maricel Calagos, Evelinda Magallano, Rochelle Corre, Jerry Solis, Ramil Mananquil, Jovelyn Jegillos, Von Ryann Bulatao, and Imelda Ravancho (petitioners), were granted a period of fifteen (15) days from July 27, 2021, or until August 11, 2021 within which to file their petition for review.⁶ On August 11, 2021, the petitioners filed a second motion for extension⁷ requesting for another fifteen (15) days or until August 26, 2021 within which to file their petition. Even if the Court were to grant the second motion, it is to be noted that the present petition was still filed belatedly on October 25, 2021.

¹ *Rollo*, pp. 22-35.

² *Id.* at 58-65; penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Franchito N. Diamante and Florencio Mallanao Mamauag, Jr., concurring.

³ *Id.* at 67-69; penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Elihu A. Ybañez and Florencio M. Mamauag, Jr., concurring.

⁴ *Id.* at 52-57; rendered by Presiding Judge Georgina D. Hidalgo.

⁵ *Id.* at 59, and 61.

⁶ *Id.* at 3-4, 13.

⁷ *Id.* at 15-16.

At any rate, adjudging on the merits, the Court resolves to deny the petition on account of the petitioners' failure to show that the CA committed any reversible error. Under Section 3, Rule 17 of the Rules of Court, a complaint may be dismissed for failure to prosecute in any of the following instances: (1) when the plaintiff fails to appear on the date of presentation of his or her evidence in chief on the complaint; (2) when the plaintiff fails to prosecute his or her action for an unreasonable length of time; and (3) when the plaintiff fails to comply with the Rules of Court or any order of the court.

The first and second instances obtain in this case. As noted by both the RTC and the CA, despite having been given ample time and leniency, the petitioners were only able to present one (1) witness in a span of more than five (5) years. Significantly, the testimony of this lone witness had been stricken out from the records on account of the petitioners' failure to present the witness for cross examination, despite numerous resetting.⁸ Despite several opportunities given by the RTC and despite warning, Atty. Raymond Alis (Atty. Alis), the counsel for the petitioners, still failed to appear on the scheduled date for the presentation of their evidence. To justify his absence, Atty. Alis explained that he attended to other equally important cases on the subject dates. To the Court, such excuse is unacceptable. For one, it is the responsibility of Atty. Alis to ensure the proper scheduling of his cases. Significant too as well, the Court notes that it was Atty. Alis who prayed for and requested the hearing to be set on April 19, 2017, but nevertheless he still failed to appear. Clearly, the prevailing circumstances indicate "want of due diligence in failing to proceed with reasonable promptitude."⁹ The Decisions of the RTC and the CA dismissing the complaint on the ground of failure to prosecute must, therefore, be sustained.

WHEREFORE, the instant petition for review on *certiorari* is **DENIED**. Accordingly, the Decision dated October 30, 2020 and the Resolution dated June 21, 2021 of the Court of Appeals, in CA-G.R. CV No. 112237 are hereby **AFFIRMED**.

SO ORDERED."

By authority of the Court:

MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court

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⁸ Id. at 56, and 64.

⁹ *Soliman v. Fernandez*, 735 Phil. 45, 51 (2014).

COURT OF APPEALS
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The Presiding Judge
REGIONAL TRIAL COURT
Branch 122, Caloocan City
SCA Case No. C-1026
(Civil Case No. C-22652)

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