



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **26 August 2020** which reads as follows:*

“G.R. No. 252468 (Heirs of Spouses Mateo S. Ventura and Rosita Felipe-Ventura, represented by Spouses Jose Ventura and Luzviminda Melchor-Ventura v. Spouses Hilario Melchor and Loreta Melchor, Court of Appeals, Manila, Regional Trial Court Branch 15, Ilocos Norte). – After a judicious review of the records, the Court resolves to **DISMISS** the Petition for Review on *Certiorari*¹ for being the wrong mode of appeal in assailing the Decision² dated May 31, 2019 and Resolution³ dated February 4, 2020 of the Court of Appeals (CA).

While the present Petition is denominated as a Petition for Review on *Certiorari*, the averments of the Heirs of Spouses Mateo S. Ventura and Rosita Felipe-Ventura, represented by Spouses Jose Ventura and Luzviminda Melchor-Ventura (petitioners), are characteristic of a petition for *certiorari* under Rule 65. Specifically, petitioners allege that both the Regional Trial Court (RTC) and the CA committed grave abuse of discretion which is tantamount to excess or lack of jurisdiction in rendering their respective decisions. Petitioners further allege that under the circumstances, there is no appeal, neither any plain, speedy, nor adequate remedy in the ordinary course of law than thru the present petition.

In *Mercado v. Valley Mountain Mines Exploration, Inc.*,⁴ the Court ruled that the proper remedy of a party aggrieved by a decision of the

¹ *Rollo*, pp. 5-24.

² *Id.* at 59-71; penned by Associate Justice Edwin D. Sorongon with Associate Justices Sesonando E. Villon and Tita Marilyn B. Payoyo-Villordon, concurring.

³ *Id.* at 73-75; penned by Associate Justice Edwin D. Sorongon with Associate Justices Nina G. Antonio-Valenzuela and Tita Marilyn B. Payoyo-Villordon, concurring.

⁴ 677 Phil. 13 (2011).

CA is a petition for review under Rule 45 which is not similar to a petition for *certiorari* under Rule 65 of the Rules of Court. The Court explained that as provided in Rule 45 of the Rules of Court, 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 the Court by filing a petition for review, which would be but a continuation of the appellate process over the original case. On the other hand, a special civil action under Rule 65 is an independent action based on the specific grounds therein provided and, as a general rule, cannot be availed of as a substitute for the lost remedy of an ordinary appeal, including Rule 45.⁵

Here, petitioners are assailing the Decision⁶ dated May 31, 2019 and Resolution⁷ dated February 4, 2020 of the CA which affirmed the RTC's dismissal of their complaint before the Municipal Circuit Trial Court (MCTC). Thus, the proper remedy is a petition for review on *certiorari* under Rule 45.

Further, even if the present Petition⁸ is to be considered as a petition for review on *certiorari* under Rule 45, it would still be dismissed for having been filed out of time. As admitted by petitioners, they received the CA Resolution⁹ dated February 4, 2020 which denied their Motion for Reconsideration on February 19, 2020. Thus, they only had 15 days or until March 5, 2020 within which to file their petition before the Court. However, they failed to do so as they filed the present petition only on June 8, 2020 *via* registered mail. Petitioners cannot invoke the COVID-19 crisis as an excuse for their belated filing. Under the Court's Administrative Circular No. 31-2020, the extension granted to litigants for the filing of their submissions in view of the rising COVID-19 infections applies only to those submissions that fall due during the period from March 15, 2020 until April 2020. Administrative Circular No. 31-2020 provides in part:

6. The filing of petitions and appeals, complaints, motions, pleadings, and other court submissions that fall due during the period from 15 March 2020 until 15 April 2020 is EXTENDED for THIRTY (30) calendar days counted from 16 April 2020. x x x x.

⁵ *Id.* at 51.

⁶ *Rollo*, pp. 59-71.

⁷ *Id.* at 73-75.

⁸ *Id.* at 5-24.

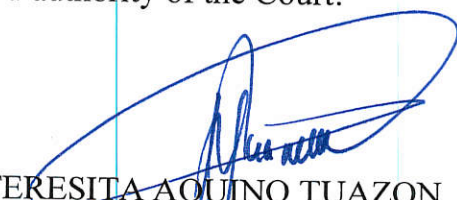
⁹ *Id.* at 73-75.

- Consequently, the subsequent issuance of the Court, *i.e.*, Administrative Circular No. 39-2020¹⁰ issued on May 14, 2020 that grants another extension to the filing of submissions that fall due up to May 31, 2020 in areas under the Modified Enhanced Community Quarantine, does not apply to petitioners.

IN VIEW OF THE FOREGOING, the petition is **DISMISSED**. The Decision dated May 31, 2019 and Resolution dated February 4, 2020 of the Court of Appeals are **AFFIRMED**.

SO ORDERED." (BALTAZAR-PADILLA, *J.*, on official leave.)

Bu authority of the Court:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
30 SEP 2020 *urh*
9/29

¹⁰ Administrative Circular No. 39-2020 provides in part:

4. The filing of petitions, appeals, complaints, motions, pleadings and other submissions that fall due up to 31 May 2020 before the courts in areas under MECQ areas is extended for 30 calendar days, counted from 1 June 2020 x x x x.

Resolution

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G.R. No. 252950
August 26, 2020

ATTY. BERNARDO T. CONSTANTINO (reg)
Counsel for Petitioner
YMCA Dormitory Gen. Antonio Luna
Laoag City, Ilocos Norte

ATTY. MELCHOR B. GUILLEN (reg)
Counsel for Respondent
G/F, Old Far East Bank Building
Tres Martires St. 2300 Laoag City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 15
2900 Laoag City
(Civil Case No. 16850-15)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 152245

Please notify the Court of any change in your address.
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