



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ELEONOR SAROL,

Petitioner,

G.R. No. 244129

Present:

PERALTA, CJ.,

Chairperson,

CAGUIOA,

CARANDANG,

ZALAMEDA, and

GAERLAN, JJ.

- versus -

**SPOUSES GEORGE GORDON
DIAO AND MARILYN A. DIAO,
ET.AL.**

Respondent.

Promulgated:

DEC 09 2020

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DECISION

CARANDANG, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Resolution² dated December 13, 2018 of the Court of Appeals (CA) in CA-G.R. SP No. 12099 which dismissed the Petition for Annulment of Judgment³ filed by petitioner Eleonor Sarol (Sarol) against respondents Spouses George Gordon Diao and Marilyn Diao (Spouses Diao), and Sheriff IV Norman Stephen Tale (Sheriff Tale) of the Regional Trial Court (RTC) of Dumaguete City, Branch 44.

Facts of the Case

Sometime in 2007, petitioner Sarol purchased from a certain Claire Chiu a parcel of land located in Guinsuan, Poblacion, Zamboanguita, Negros Oriental. The parcel of land has an area of 1,217 square meters and is

¹ *Rollo*, pp. 27-53.
² Penned by Associate Justice Dorothy P. Montejo-Gonzaga, with the concurrence of Associate Justices Edgardo L. Delos Santos (now a Member of the Court) and Edward B. Contreras; *id.* at 6-14.
³ *Id.* at 56-72.

designated as Lot No. 7150. Sarol claims to have purchased the property for ₱2,000,000.00, where she initially paid ₱1,800,000.00 and settled the remaining balance amounting to ₱200,000.00 in 2011. On July 20, 2011, the Deed of Sale over the property was executed in view of payment of the remaining balance worth ₱200,000.00. Accordingly, the Original Certificate of Title (OCT) No. FV-44750 registered in the name of Claire Chiu was cancelled and Transfer Certificate of Title (TCT) No. 103-2012000605 was issued in the name of Sarol on February 16, 2012.⁴

Sarol had been in possession of the property since 2007 and began developing a beach resort. She eventually left the Philippines to reside in Germany. Her father, Emproso Sarol, was made to manage all her assets in the Philippines, including the beach resort and Lot No. 7150. Sarol also left Marie Jeane Alanta-ol to manage the beach resort.⁵

Spouses Diao claim that their property is adjacent to Lot No. 7150. Prior the sale of said property to Sarol, Claire Chiu caused to survey the property yielding an area of 1,217 square meters. However, the area, as surveyed, is erroneous because it included 464 square meters of Spouses Diao's property. In 2009, Spouses Diao learned of this overlap. They immediately demanded Claire Chiu and Sarol to return their portion of the property, but to no avail.⁶ In 2015, Spouses Diao filed a complaint⁷ with the RTC Branch 44, Dumaguete City docketed as Civil Case No. 2015-15007 entitled *Spouses George Gordon Diao and Marilyn Diao v. Claire Chiu, joined by her husband Gingham Gamaliel D. Chiu, the Register of Deeds of Negros Oriental and Eleonor Sarol*. Spouses Diao sought to partially cancel the contracts from which Claire Chiu derived ownership over Lot No. 7150, to reconvey an area of 464 square meters from said property in their favor and to hold Claire Chiu and Sarol liable for damages.⁸

Ruling of the Regional Trial Court

In the course of the proceedings for the abovementioned case, summons⁹ was issued for service to Claire Chiu, her husband Gingham Chiu, the Register of Deeds of Negros Oriental, and Sarol. The address of Sarol indicated in the summons states "Guinsuan, Poblacion, Zamboanguita, Negros Oriental,"¹⁰ or the location of the property she purchased from Claire Chiu. On April 16, 2015, respondent Sheriff Tale issued a Sheriff's Return of Summons,¹¹ which states that summons was served on Claire Chiu but could not be served to Sarol "on the ground that she is out of the country."¹² Spouses Diao then moved for the issuance of alias summons.¹³ In the Sheriff's

⁴ Id. at 57-58.

⁵ Id.

⁶ Id. at 105-106.

⁷ Id. at 104-109.

⁸ Id. at 107-108.

⁹ Id. at 120.

¹⁰ Id.

¹¹ Id. at 121.

¹² Id.

¹³ Id. at 122.



Return dated July 25, 2015,¹⁴ Sheriff Tale stated his three failed attempts to personally serve the alias summons to Sarol at Guinsuan, Poblacion, Zamboanguita, Negros Oriental. Sheriff Tale narrates that on July 10, 2015, the alias summons was not served because nobody was around the location. In the evening of the same date, he, again, failed to serve the alias summons after receiving information from the caretaker that Sarol left a few days ago. Early morning of July 11, 2015, Sheriff Tale spoke with the caretaker and learned that Sarol arrived the Philippines on July 3, 2015 and left for Germany on July 7, 2015; that the caretaker had no idea of Sarol's return.¹⁵ For this reason, Spouses Diao moved that summons be served by publication in a newspaper of general circulation in the City of Dumaguete and in the Province of Negros Oriental pursuant to Section 15, Rule 14 of the Rules of Court on extraterritorial service of summons.¹⁶ In an Order dated February 5, 2016, the RTC directed service of summons on Sarol by publication in a newspaper of general circulation in the City of Dumaguete and in the Province of Negros Oriental, for two consecutive weeks and to send copies of the summons and of the order by registered mail to the last known address of Sarol in Guinsuan, Poblacion, Zamboanguita Negros Oriental.¹⁷

Claire Chiu filed her answer to the complaint, but failed to appear at the pre-trial proceedings. Sarol, on the other hand, failed to file any pleadings with the RTC. Upon motion of Spouses Diao, Claire Chiu and Sarol were declared in default in an Order¹⁸ dated January 25, 2017. The Order became final and executory allowing Spouses Diao to present their evidence *ex-parte*. On December 13, 2017, the RTC rendered a Decision¹⁹ in favor of Spouses Diao. The dispositive portion of the Decision of the RTC reads,

WHEREFORE, judgment is hereby rendered:

1. Declaring the Deed of Confirmation and Ratification of Sale and the Deed of Absolute Sale partially null and void and of no legal effect insofar as they affect the plaintiffs lot;
2. Ordering the defendants to reconvey to the plaintiff the 464-square-meter portion of Lot No. 7150, Pls-847, identical to Lot No. 2788_B, CSD-07-010295, by executing a deed of conveyance;
3. Ordering the defendants Chiu to pay plaintiff Thirty Thousand Pesos (PHP30,000) as moral damages, and PhP 15,000 as exemplary damages;
4. Ordering defendants Chiu to pay plaintiffs attorney's fees of fifteen thousand Pesos (PHP 15,000) based on *quantum meruit*; and
5. Dismissing the counterclaim for lack of merit;

Costs against the defendants.

¹⁴ Id. at 61.

¹⁵ Id.

¹⁶ Id. at 125-126.

¹⁷ Id. at 130.

¹⁸ Id. at 140.

¹⁹ Penned by Presiding Judge Neciforo C. Enot; id. at 155-160.

SO ORDERED.²⁰ (Emphasis in the original)

The Decision of the RTC attained finality. Thereafter and on motion of Spouses Diao, the RTC issued a Writ of Execution²¹ dated May 2, 2018.

In view of the finality of the Decision of the RTC, Sarol filed a Petition for Annulment of Judgment²² under Rule 47 of the Rules Court with the CA. She sought to invalidate the Decision of the RTC because the court *a quo* did not acquire jurisdiction over her person. Sarol argued that she was not served with any summons relating to the case instituted by Spouses Diao.²³

Ruling of the Court of Appeals

In the assailed Resolution²⁴ dated December 13, 2018, the CA dismissed the petition for annulment of judgment. The CA held that Sarol is a Filipino resident, who was temporarily out of the country. Thus, the rules on service of summons under Section 16, Rule 14 of the Rules of Court is applicable. Under Section 16, service of summons, to a resident defendant, who is temporarily out of the country, may be effected by modes provided for in Section 15, Rule 14 of the Rules of Court. Following Section 15 on extraterritorial service of summons, one of the modes of service may be “effected x x x by publication in a newspaper of general circulation, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant x x x”. The CA found that personal service of the summons and the alias summons could not be effected at Sarol’s address in Guinsuan, Poblacion, Zamboanguita, Negros Oriental because Sarol was out of the country. Thus, Spouses Diao moved for the service of summons by publication which the RTC granted in an Order dated February 5, 2016. The CA held that summons was clearly served on the person of Sarol by publication. Having failed to timely file an answer to the complaint, Sarol was declared in default. Further, the CA held that Sarol failed to show clear facts and laws for the petition for annulment of judgment to prosper.²⁵

Petitioner’s Arguments

Unsatisfied with the Decision of the CA, Sarol filed the instant petition before this Court reiterating that the RTC did not acquire jurisdiction over her person. Sarol argued that there was a defective service of summons by Sheriff Tale. While she is named a recipient of the summons, the address, Guinsuan, Poblacion, Zamboanguita, Negros Oriental, was incorrect. Sarol argued that she never became a resident at said address. Her last known address in the Philippines was in *Barangay* Tamisu, Bais City, Negros Oriental. She claimed that after her purchase of the subject property from Claire Chiu, she migrated to Germany. Hence, personal service of the summons could not have validly

²⁰ Id. at 220-225.

²¹ Id. at 161-162.

²² Id. at 56-72.

²³ Id. at 71-72.

²⁴ Supra note 2.

²⁵ *Rollo*, pp. 10-13.

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been effected.²⁶

Other modes of service of summons were also not proven to have been successfully executed. The substituted service of summons under Section 7, Rule 14 of the Rules of Court provides that such mode of service may be effected by leaving copies of the summons: (a) at the defendant's residence with some person of suitable age and discretion then residing therein; or (b) at defendant's office or regular place of business with some competent person in charge thereof. Sarol asserted failure on the part of Sheriff Tale to effect service of summons under this rule. If Sarol's residential address was indeed at Guinsuan, Poblacion Zamboanguita, Sheriff Tale could have easily served the alias summons to Sarol's caretaker at the beach resort built on the subject property. In this case, Sarol argued that there was no proof of the successful substituted service of the alias summons.²⁷

Sarol also argued that the RTC erred in allowing the service of summons by publication because none of the rules for such mode of service are applicable. *First*, Section 14, Rule 14 of the Rules of Court provides that service by publication shall be resorted to when: (1) the defendant is unknown or the like; and (2) whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry. None of the foregoing conditions are present in Sarol's case because Spouses Diao knew that she was one of the defendants to the case and that she resided in Germany. *Second*, Section 15, Rule 14 of the Rules of Court on extraterritorial service of summons by publication requires that a copy of the summons and order of the court be sent by registered mail to the last known address of the defendant. Sarol claims that there was no mail to her last address in the Philippines in Barangay Tamisu, Bais City, Negros Oriental or to her residence in Germany. *Third*, Section 16, Rule 14 of the Rules of Court provides that extraterritorial service of summons shall be made when a resident defendant is temporarily out of the Philippines. Sarol argues that this rule is inapplicable because she is a permanent resident in Germany.²⁸ *Finally*, Sarol claims that no affidavit of the publisher, editor or advertising manager was presented as proof of service by publication required under the Rules of Court.²⁹

Respondent's Arguments

In their Comment,³⁰ Spouses Diao claim that there is no truth to Sarol's lack of knowledge of the pendency of the case. They argue that Sarol returns to the beach resort every year, and that the resort caretaker had a pre-arranged agreement with Sheriff Tale to inform the latter when Sarol is in the Philippines. However, when Sheriff Tale made inquiries of Sarol's return to the country, the caretaker had a ready reply that Sarol already left. Sarol clearly evaded the service of summons, leaving Spouses Diao with no other

²⁶ Id. 30-32.

²⁷ Id. at 32-33.

²⁸ Id. at 36-42.

²⁹ Id. at 42-44.

³⁰ Id. at 1306-1307.



choice but to resort to serve summons by publication. Moreover, a Petition for Annulment of Judgment may be resorted when there is no available or adequate remedy. Here, Spouses Diao argue that Sarol lost her opportunity to defend her case for deliberately evading the service of summons.³¹

Ruling of the Court

The proper service of summons is important because it serves to acquire jurisdiction over the person of the defendant or respondent, or to notify said person of the action filed against them and to afford an opportunity to be heard on the claims made against them.³² Logically, in order to effect the proper service of summons it is crucial to furnish the correct address of the defendant or respondent in a complaint. The foregoing is in consonance with the doctrine of due process. A violation of this due process would be a jurisdictional defect.³³ Thus, absent the proper service of summons, the trial court does not acquire jurisdiction and renders null and void all subsequent proceedings and issuances in relation to the case.³⁴

Here, the summons and *alias* summons issued by the court *a quo* to Sarol indicated her residential address at “Guinsuan, Poblacion, Zamboanguita, Negros Oriental.”³⁵ The address is undisputedly the location of the property, which is the subject matter of this case. We find that in the complaint for reconveyance³⁶ filed by Spouses Diao with the RTC of Dumaguete City, Branch 44, Sarol was included as a party-defendant for being the purchaser of the disputed property from co-defendant Claire Chiu.³⁷ To Our mind, as Sarol purchased the disputed property located in Guinsuan, Poblacion, Zamboanguita, Negros Oriental, Spouses Diao considered the location of the property to be Sarol’s place of residence. However, the records pertaining to Sarol’s claim over the subject property reveal that her place of residence is in Tamisu, Bais City, Negros Oriental. The Deed of Sale³⁸ dated July 20, 2011 between Sarol and Claire Chiu indicates that Sarol’s residence is in “Tamisu, Bais City.”³⁹ TCT No. 103-2012000605⁴⁰ or the transfer certificate of title registered under Sarol’s name for the subject property also indicates that Sarol’s place of residence is in “Tamisu, Bais City, Negros Oriental Central Visayas.”⁴¹ Absent any allegation and evidence to prove otherwise, We give credence to Sarol’s position that her place of residence is **not** in Guinsuan, Poblacion, Zamboanguita, Negros Oriental. For this reason, the service of summons should have been made in Tamisu, Bais City, Negros

³¹ Id.

³² Herrera, O., *Remedial Law Vol. 1*, 2000 Ed., p. 665, citing *Ablaza v. CIR*, 211 Phil. 425, 431 (1983); *Paramount Insurance Corporation v. Judge Japzon*, 286 Phil. 1048, 1055 (1992); *Toyota Cubao, Inc. v. CA*, 346 Phil. 181, 186 (1997).

³³ *De Pedro v. Romasan Development Corp.*, 748 Phil. 706, 726 (2014).

³⁴ Herrera, O., *Remedial Law Vol. 1*, 2000 Edition, p. 665, citing *Toyota Cubao, Inc. v. CA*, 346 Phil. 181, 187 (1997), which cited *Keister v. Judge Navarro*, 167 Phil. 567, 572 (1977).

³⁵ *Rollo*, p. 369.

³⁶ Id. at 104-109.

³⁷ Id. at 104-105.

³⁸ Id. at 329.

³⁹ Id.

⁴⁰ Id. at 338.

⁴¹ Id.

Oriental.

The preferred mode of service of summons shall be done personally upon the defendant or respondent.⁴² However, our rules set out other modes of service. Section 7, Rule 14⁴³ of the Rules of Court allows the substituted service of summons if, for justifiable causes, the defendant cannot be served within a reasonable time. It shall be effected by leaving copies of the summons: (a) at the defendant's residence with some person of suitable age and discretion residing therein; or (b) at the defendant's place of business with some competent person in charge thereof. "Dwelling house" or "residence" refers to the place where the person named in the summons is living at the time when the service is made, even though he may be temporarily out of the country at the time. Similarly, the terms "office" or "regular place of business" refer to the office or place of business of defendant at the time of service⁴⁴ As discussed, We found that the address in Guinsuan, Poblacion, Zamboanguita, Negros Oriental is not Sarol's place of residence. Therefore, service of summons to Sarol, even by substituted service, should have been effected in Tamisu, Bais City, Negros Oriental. Assuming that Guinsuan, Poblacion, Zamboanguita, Negros Oriental is Sarol's regular place of business, We find that there was no substituted service effected. The Sheriff's Return of Summons⁴⁵ dated April 16, 2015 and Sheriff's Return of Alias Summons⁴⁶ dated July 25, 2015 report the unsuccessful service to Sarol because she is out of the country. Sheriff Tale accounted in the Return of Alias Summons that he merely inquired from the caretaker the whereabouts of Sarol.⁴⁷ From the foregoing, the returns of the sheriff do not state that substituted service of summons was made to the designated persons provided under Section 7, Rule 14.

Spouses Diao are not totally without recourse as the rules allow summons by publication and extraterritorial service. These are extraordinary modes which require leave of court.⁴⁸ In fact, in view of Sheriff Tale's reports of failure to serve summons on Sarol, Spouses Diao moved for the extraterritorial service of summons by publication under Section 15,⁴⁹ Rule

⁴² Supra note 33 at 727.

⁴³ RULE 14 – Summons

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Section 7. *Substituted service.* – If, for justifiable causes, the defendant cannot be served within a reasonable time as provided in the preceding section, service may be effected (a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof.

⁴⁴ *Express Padala (Italia) S.P.A v. Ocampo*, 817 Phil. 911, 919, (2017), citing *Keister v. Judge Navarro*, 167 Phil. 567, 573-574 (1977).

⁴⁵ *Rollo*, p. 370.

⁴⁶ *Id.* at 61.

⁴⁷ *Id.*

⁴⁸ RULES OF COURT, Rule 14, Section 17; supra note 44 at 920.

⁴⁹ Section 15. *Extraterritorial service.* – When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under section 6; or by publication in a newspaper of general circulation in such places and for such

14 of the Rules of Court.⁵⁰ Under this rule, one of the modes to effect the extraterritorial service of summons is by publication in a newspaper of general circulation in such places and for such time as the court may order, **in which case a copy of the summons and order of the court shall be sent by registered mail to the last known correct address of the defendant.** Furthermore, to avail this mode, the action or complaint filed against a non-resident defendant: (1) affects the personal status of the plaintiff or relates to; or (2) the subject of which, is property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent; or (3) in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein; or (4) the property of the defendant has been attached within the Philippines. We emphasize that it is the duty of the court to require the fullest compliance with all the requirements of the statute permitting service by publication. Where service is obtained by publication, the entire proceeding should be closely scrutinized by the courts and a strict compliance with every condition of law should be exacted.⁵¹

Here, as Sarol is out of the country and the action pertains to her interest over a parcel of land located in the Philippines, the RTC granted the extraterritorial service on Sarol by publication in a newspaper of general circulation in the City of Dumaguete and in the Province of Negros Oriental, for two consecutive weeks and to send copies of the summons and of the order of the court *a quo* by registered mail to the last known address of Sarol in Guinsuan, Poblacion, Zamboanguita Negros Oriental.⁵² Following the provisions of Section 15, Rule 14 of the Rules of Court and the aforementioned order of the court, publication must be duly observed and copies of the summons and order of the court be served at Sarol's last known correct address by registered mail, as a complement to the publication. The failure to strictly comply with the requirements of the rules regarding the mailing of copies of the summons and the order for its publication is a fatal defect in the service of summons. Considering that Sarol's last known address is in Tamisu, Bais City, Negros Oriental, copies of the summons and order of the court must be sent to this address. As Spouses Diao furnished an address in Guinsuan, Poblacion, Zamboanguita, Negros Oriental, service of summons by publication is defective in view of the failure to mail the requirements of Section 15, Rule 14 to the correct address of Sarol. Relatedly, the findings of the CA on service of summons by publication under Section 16,⁵³ Rule 14 of the Rules of Court cannot be considered proper because this rule also follows the same procedures set out in Section 15, Rule 14 of the Rules of Court on publication and mailing to the last known correct address of the defendant or respondent. Spouses Diao only assert compliance with publication of

time as the court may order, in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient. Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer.

⁵⁰ *Rollo*, pp. 125-126.

⁵¹ *Acance v. Court of Appeals*, 493 Phil. 676, 688 (2005), citing *Dulap v. CA*, 149 Phil. 636, 649 (1971).

⁵² *Rollo*, p. 130.

⁵³ Section 16. Residents temporarily out of the Philippines. — When any action is commenced against a defendant who ordinarily resides within the Philippines, but who is temporarily out of it, service may, by leave of court, be also effected out of the Philippines, as under the preceding section.

summons in Dumaguete City and Negros Oriental. There were no records presented showing proof of service by registered mail of the summons and the order of the court to the last known address of Sarol as required under the rules by the court *a quo* in this case.

We reiterate that the service of summons is vital and indispensable to defendant's right to due process.⁵⁴ A violation of this due process is a jurisdictional defect⁵⁵ which renders null and void all subsequent proceedings and issuances in relation to the case.⁵⁶ Thus, the judgment⁵⁷ and the Writ of Execution⁵⁸ issued by the RTC of Dumaguete City, Branch 44 in Civil Case No. 2015-15007 is null and void. In which case, We find that Sarol's availment of the petition for annulment of judgment under Rule 47 of the Rules of Court⁵⁹ is proper. Our rules explicitly provide that lack of jurisdiction is one of the grounds in a petition for annulment of judgment.⁶⁰ Lack of jurisdiction on the part of the trial court in rendering the judgment or final order is either lack of jurisdiction over the subject matter or nature of the action, or lack of jurisdiction over the person of the petitioner.⁶¹ In cases involving jurisdiction over the subject matter, We have recognized denial of due process as a valid ground to file a petition for annulment of judgment.⁶² Section 1⁶³ of Rule 47 of the Rules of Court provides that this remedy shall be available where the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. Further, a petition for annulment of judgment because of lack of jurisdiction over the person or subject matter may be proved at most by the evidence on record but never by extraneous evidence.⁶⁴ Had there been the proper service of summons, Sarol would have had such remedies as, a motion for new trial, appeal, *certiorari*, petition for relief from judgment, among others, to assail the Decision of the RTC of Dumaguete City, Branch 44. In view of the failure to properly serve summons, Sarol could not have learned of the instant case and had no other recourse but to file a petition under the extraordinary remedy of annulment of judgment provided in Rule 47 of the Rules of Court.

⁵⁴ *San Pedro v. Ong*, 590 Phil. 781, 795 (2008).

⁵⁵ *Supra* note 33.

⁵⁶ *Supra* note 34.

⁵⁷ *Supra* note 19.

⁵⁸ *Supra* note 21.

⁵⁹ *Rollo*, p. 57.

⁶⁰ Section 2, Rule 47 of the Rules of Court.

Section 2. *Grounds for annulment.* – The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

⁶¹ *Mangubat v. Morga-Seva*, 773 Phil. 399, 409 (2015), citing *Pinausukan Seafood House, Roxas Blvd., Inc. v. Far East Bank & Trust Co.*, 725 Phil. 19, 35 (2014).

⁶² *Arrieta v. Arrieta*, G.R. No. 234808, November 19, 2018.

⁶³ RULE 47 – Annulment of Judgments of Final Orders and Resolutions

Section 1. *Coverage.* – This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

⁶⁴ Herrera, O., *Remedial Law Vol. II*, 2000 Ed., p. 697, citing *Arcelona v. Court of Appeals*, 345 Phil. 250 (1997).

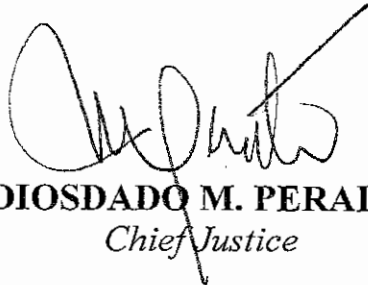
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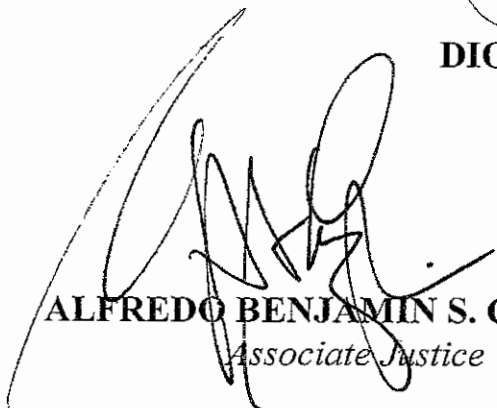
WHEREFORE, the petition is **GRANTED**. The Resolution dated December 13, 2018 of the Court of Appeals in CA-G.R. SP No. 12099 is **REVERSED** and **SET ASIDE**. The Decision dated December 13, 2017 and the Writ of Execution dated May 2, 2018 of the Regional Trial Court of Dumaguete City, Branch 44 in Civil Case No. 2015-15007 are declared **NULL** and **VOID**.

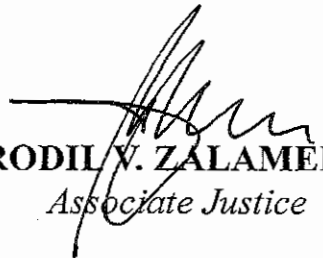
SO ORDERED.


ROSMARID. CARANDANG
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice

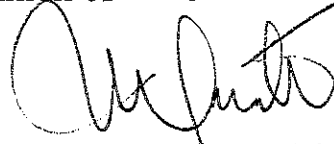

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice