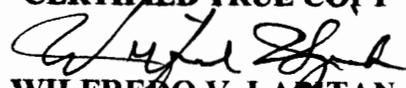




Republic of the Philippines  
 Supreme Court  
 Manila

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LACITAN**  
 Division Clerk of Court  
 Third Division

AUG 17 2015

**THIRD DIVISION**

**RODGING REYES,**  
 Petitioner,

**G.R. No. 193034**

**Present:**

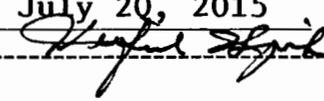
- versus -

VELASCO, JR., *J., Chairperson,*  
 PERALTA,  
 VILLARAMA, JR.,  
 PEREZ,\* and  
 JARDELEZA, *JJ.*

**PEOPLE OF THE PHILIPPINES**  
**and SALUD M. GEGATO,**  
 Respondents.

**Promulgated:**

July 20, 2015

X----------X

**DECISION**

**PERALTA, J.:**

For this Court's resolution is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated August 17, 2010, of petitioner Rodging Reyes assailing the Resolution<sup>1</sup> dated November 23, 2009 of the Court of Appeals in CA-G.R. CR No. 00421-MIN.

The facts are the following:

Petitioner, in a complaint filed by private respondent Salud M. Gegato, was charged with Grave Threats before the Municipal Circuit Trial Court (*MCTC*) of Bayugan and Sibagat, Bayugan, Agusan del Sur, which reads as follows:

\* Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2084 dated June 29, 2015.

<sup>1</sup> Penned by Associate Justice Edgardo A. Carmelo, with Associate Justices Edgardo T. Lloren and Leoncia R. Dimagiba, concurring; *rollo*, pp. 41-47.



That on or about the 16<sup>th</sup> day of October 2001, at about 5:10 o'clock in the afternoon, more or less, in the premises and vicinity, particularly at Avon Store, situated at Atis Street, Poblacion, in the municipality of Bayugan, province of Agusan del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named Accused, with deliberate intent, moved by personal resentment and hatred, did then and there willfully, unlawfully and feloniously threatened the life of Mrs. Salud Gegato, speak and utter by telephone the following threatening words, to wit; "SALUD, UNDANGA ANG IMONG PAGSIGI UG TSISMIS SA AKONG ASAWA, KAY MAULAWAN ANG AKONG ASAWA. WARNINGAN TAKA AYAW PANG HILABOT SA AMONG KINABUHI KAY BASIN PATYON TAKA," meaning (Salud, stop your rumor against my wife because she will be embarrassed. I'm warning you, don't mind our lives for I might kill you), which acts cast fear and danger upon the life of the victim Salud Gegato, to the damage and prejudice consisting of actual, moral and compensatory damages.

CONTRARY TO LAW.

Bayugan, Agusan del Sur, Philippines, October 23, 2001.<sup>2</sup>

Before arraignment, petitioner filed a Motion to Quash based on the ground of jurisdiction and that the crime is not Grave Threats under Article 282 of the Revised Penal Code, but Other Light Threats under Article 285, paragraph 2 of the same Code.

The MCTC, in its Order dated June 3, 2002, denied the motion. Petitioner's motion for reconsideration was also denied by the same court in an Order dated July 25, 2002.

On September 13, 2002, petitioner filed a Motion to Inhibit the presiding judge on the ground that private respondent is the Court Interpreter of the same court, but it was denied in the court's Order dated September 16, 2002 based on the Order of this Court dated July 3, 2002 regarding the same motion for inhibition of the same presiding judge filed earlier by the petitioner with this Court. Based on that Order of this Court, the basis of the inhibition does not fall within the absolute disqualification rule under Section 1, Rule 137 of the Rules of Court, and neither does it appear to be a just or valid reason under paragraph 2 thereof. This Court also ordered the presiding judge to set aside the Order of Inhibition and directed the same presiding judge to hear and decide the case with dispatch applying the Rules on Summary Procedure.<sup>3</sup>



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<sup>2</sup> Rollo, p. 78.

<sup>3</sup> *Id.* at 96.

The MCTC, in a Decision<sup>4</sup> dated August 10, 2005, found petitioner guilty beyond reasonable doubt of the crime charged. The dispositive portion of the Decision reads:

In view of the foregoing, this Court finds the Accused GUILTY beyond reasonable doubt of the crime of GRAVE THREATS under Paragraph 1 (2) imposing condition, without the offender attaining his purpose, and is hereby sentenced to suffer imprisonment, considering one (1) mitigating circumstance, the medium period of *arresto mayor* or a period of two (2) months and one (1) day to four (4) months.

In addition, he is ordered to pay Private Complainant [the] following civil liabilities.

a. The amount of ONE HUNDRED THOUSAND (₱100,000.00) Pesos as moral damages.

b. the amount of TWENTY THOUSAND (₱20,000.00) Pesos for litigation expenses and for Attorney's Fees as it is clear from the trials that complainant was assisted by a Private Prosecutor for a fee.

SO ORDERED.

On appeal, the Regional Trial Court, in its Decision<sup>5</sup> dated April 2, 2007, denied petitioner's appeal but found petitioner guilty beyond reasonable doubt of the crime of Other Light Threats under Article 285, par. 2 of the Revised Penal Code, instead of Grave Threats as originally adjudged by the MCTC. The RTC ruled that:

WHEREFORE, accused is hereby sentenced to suffer imprisonment of 10 days of *arresto menor* and the moral damages of ₱100,000.00 be reduced to ₱50,000.00, attorney's fee of ₱20,000.00 stands.

The original decision is hereby modified.

If accused does not file an appeal within the reglementary period, let the entire records be returned back to the Court of origin for proper disposition thereat.<sup>6</sup>

Petitioner filed a Motion for Reconsideration, and in its Amended Decision<sup>7</sup> dated May 16, 2007, the RTC denied the motion and modified its original decision reducing the amount of moral damages to ₱10,000.00 and the attorney's fees to ₱10,000.00.

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<sup>4</sup> Penned by Presiding Judge Eliseo M. Campos, *id.* at 93-118.

<sup>5</sup> Penned by Presiding Judge Hector B. Salise, *id.* at 142-144.

<sup>6</sup> *Id.* at 144.

<sup>7</sup> *Id.* at 150-151.

Thus, petitioner filed with the Court of Appeals a Motion for Extension of Time to File a Petition for Review. However, instead of filing a petition for review within the 15-day period allowed by the CA, petitioner filed a second Motion for Extension of Time asking for another 15 days within which to file his petition for review. After which, petitioner filed his petition.

Thereafter, the CA, in its Resolution<sup>8</sup> dated August 2, 2007, dismissed the petition. The Resolution partly reads, as follows:

Petitioner's first Motion for Extension of Time to File Petition for Review asking for fifteen (15) days from June 6, 2007 or until June 21, 2007 is DENIED for failure to pay the full amount of the docket fees pursuant to Sec. 1, Rule 42 of the Rules of Court. His second motion for extension is likewise DENIED as no further extension may be granted except for most compelling reason.

The petition subsequently filed is, however, NOTED but DISMISSED on the following grounds:

1. Filed beyond the reglementary period;
2. Failure of petitioner to pay complete docket fees as prescribed by law. It is deficient by ₱3,530.00;
3. Failure of petitioner to indicate a complete statement of material dates as required under the Rules. Petitioner did not mention in the body of the petition when he received the RTC's Order dated May 16, 2007 denying his Motion for Reconsideration;
4. Failure of petitioner to attach pertinent documents material in the petition. No copy of the May 16, 2007 Order denying his Motion for Reconsideration was attached to the petition.

On August 14, 2007, petitioner filed a Motion for Reconsideration, but it was denied by the CA in its Resolution dated October 17, 2008 for failure of the petitioner to furnish copies to the Solicitor General and the private respondent.

Thus, petitioner filed a Second Motion for Reconsideration. The CA, in its Resolution dated November 23, 2009, denied the said motion, the dispositive portion of which, reads:



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<sup>8</sup> *Id.* at 254.

ACCORDINGLY, the Court RESOLVES to:

1. DISPENSE with the Offices of the Solicitor General's comment on the petitioner's second Motion for Reconsideration dated 13 November 2008;

2. GRANT the petitioner's second Motion for Reconsideration dated 13 November 2008, and RECONSIDER and SET ASIDE the Court's 17 October 2008 Resolution dismissing the petitioner's first Motion for Reconsideration dated 13 August 2007; and

3. DENY the petitioner's first Motion for Reconsideration dated 13 August 2007; and

4. DISMISS with finality the instant petition for review.

SO ORDERED.<sup>9</sup>

On December 28, 2009, petitioner filed a third Motion for Reconsideration, but was resolved by the CA on June 24, 2010, as follows:

The Court RESOLVES to merely NOTE WITHOUT ACTION the petitioner's third Motion for Reconsideration, in view of Our 23 November 2009 Resolution dismissing this petition with finality.<sup>10</sup>

Hence, the present petition.

Petitioner insists that the CA erred in favoring procedural technicalities over his constitutional right to due process.

It must be remembered that petitioner filed three (3) successive Motions for Reconsideration before the CA on August 14, 2007, November 13, 2008, and December 28, 2009.

In its Resolution dated November 23, 2009, the CA granted the petitioner's second Motion for Reconsideration setting aside its previous Resolution dated October 17, 2008 and dismissing the first Motion for Reconsideration dated August 13, 2007. The CA, in the same Resolution, discussed the other grounds for the dismissal of the petition as contained in its first Resolution dated August 2, 2007. Thus, the CA not only denied the first Motion for Reconsideration dated August 13, 2007 but also dismissed the Petition for Review filed earlier.

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<sup>9</sup> *Id.* at 13.

<sup>10</sup> *Id.* at 20-21.



However, as keenly pointed out by the OSG in its Comment<sup>11</sup> dated January 11, 2011, instead of elevating the present case before this Court within the period provided under Rule 45 of the Rules of Court, petitioner opted to file a third motion for reconsideration, which was filed without leave of court and notwithstanding the express declaration of the CA that petitioner's first Motion for Reconsideration dated August 13, 2007 was denied and the case already dismissed with finality.<sup>12</sup>

At the outset, the Court emphasizes that second and subsequent motions for reconsideration are, as a general rule, prohibited. Section 2, Rule 52 of the Rules of Court provides that "no second motion for reconsideration of a judgment or final resolution by the same party shall be entertained." The rule rests on the basic tenet of immutability of judgments. "At some point, a decision becomes final and executory and, consequently, all litigations must come to an end."<sup>13</sup>

The general rule, however, against second and subsequent motions for reconsideration admits of settled exceptions. In *Neypes v. Court of Appeals*,<sup>14</sup> the Court declared:

In setting aside technical infirmities and thereby giving due course to tardy appeals, we have not been oblivious to or unmindful of the extraordinary situations that merit liberal application of the Rules. In those situations where technicalities were dispensed with, our decisions were not meant to undermine the force and effectivity of the periods set by law. But we hasten to add that in those rare cases where procedural rules were not stringently applied, there always existed a clear need to prevent the commission of a grave injustice. Our judicial system and the courts have always tried to maintain a healthy balance between the strict enforcement of procedural laws and the guarantee that every litigant be given the full opportunity for the just and proper disposition of his cause.<sup>15</sup>

The circumstances surrounding this case do not warrant the relaxation of the rules. Petitioner failed to present compelling justification or reason to relax the rules of procedure. The CA ruled that, "[t]he petitioner's attribution to inadvertence (as the cause) of his failure to indicate a complete statement of material dates and to attach pertinent documents material to the petition is not compelling or reasonable enough for the Court to disregard the mandate in Rule 42, Sec. 3 of the Rules, x x x."<sup>16</sup>

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<sup>11</sup> *Id.* at 319-333.

<sup>12</sup> *Id.* at 324.

<sup>13</sup> *McBurnie v. Ganzon*, G.R. Nos. 178034 and 178117, and 186984-85, October 17, 2013, 707 SCRA 646, 664, citing *Verginesa-Suarez v. Dilag*, 671 Phil. 222, 228 (2011).

<sup>14</sup> 506 Phil. 613. (2005).

<sup>15</sup> *Neypes v. Court of Appeals*, *supra*, at 625-626.

<sup>16</sup> Resolution dated November 23, 2009, p. 5; *rollo*, p. 12.



It must be noted that the CA has acted favorably upon petitioner's second motion for reconsideration. However, that does not mean that petitioner is already right in arguing that the reglementary period for the filing of the present petition before this Court should be reckoned from his receipt of the denial of his third Motion for Reconsideration. As correctly observed by the OSG, “[t]o condone such a procedurally irregular practice would lead into an absurd situation where petitioner would, in effect, be rewarded for unilaterally suspending the running of the reglementary period to appeal by filing prohibited pleadings.”<sup>17</sup> This is in consonance with this Court's ruling in *Securities and Exchange Commission v. PICOP Resources, Inc.*,<sup>18</sup> thus:

The same issue was the focal point in *Obando v. Court of Appeals*.<sup>19</sup> In *Obando*, this Court maintained the prohibitory nature of a second motion for reconsideration and its gnawing implications in the appeal process. Said the court:

x x x [T]he Rules of Court are explicit that a second motion for reconsideration shall not be allowed. In this case, petitioners filed not only a second motion for reconsideration, but a third motion for reconsideration as well. **Since the period to appeal began to run from the denial of the first motion for reconsideration**, the notice of appeal which petitioners filed six months after the denial of their first motion for reconsideration was correctly denied for having been filed late. (Emphasis supplied)

Since the second motion for reconsideration was not allowed, this Court ruled that it did not toll the running of the period to appeal. More so, would a third motion for reconsideration.

In *Dinglasan v. Court of Appeals*,<sup>20</sup> this Court explained the reason why it is unwise to reckon the period of finality of judgment from the denial of the second motion for reconsideration.

To rule that finality of judgment shall be reckoned from the receipt of the resolution or order denying the second motion for reconsideration would result to **an absurd situation** whereby courts will be obliged to issue orders or resolutions denying what is a prohibited **motion in the first place**, in order that the period for finality of judgments shall run, thereby, prolonging the disposition of cases. Moreover, such a ruling would allow a party to forestall the running of the period for finality of judgments by virtue of filing a prohibited pleading; such a situation is not only illogical but also unjust to the winning party.

x x x x



<sup>17</sup> *Rollo*, p. 325.

<sup>18</sup> 588 Phil. 136 (2008).

<sup>19</sup> 419 Phil. 124 (2001).

<sup>20</sup> 533 Phil. 548 (2006).

The overt consequence of the introduction of a prohibited pleading was pointed out succinctly by this Court in *Land Bank of the Philippines v. Ascot Holdings and Equities, Inc.*:<sup>21</sup>

It is obvious that a prohibited pleading cannot toll the running of the period to appeal since such pleading cannot be given any legal effect precisely because of its being prohibited.

Clearly, a second motion for reconsideration does not suspend the running of the period to appeal and neither does it have any legal effect.<sup>22</sup>

Hence, the CA did not commit any error when it properly noted without action the petitioner's third motion for reconsideration for being a prohibited pleading, as well as merely a reiteration of his arguments in his first motion for reconsideration. Therefore, the said motion for reconsideration is a mere scrap of paper that does not deserve any consideration and the filing of the same did not toll the running of the prescriptive period for filing a petition based on Rule 45.<sup>23</sup>

It is significant to emphasize that the CA dismissed the petition due to the following procedural infirmities: (1) it was filed beyond the reglementary period; (2) petitioner failed to pay the complete docket fee; (3) the petition failed to indicate a complete statement of material dates since petitioner did not mention in the body of the petition when he received the RTC's Order dated May 16, 2007 denying his Motion for Reconsideration; and (4) petitioner failed to attach pertinent documents material in the petition as no copy of the May 16, 2007 Amended Decision was attached to the petition.

Section 1, Rule 42 of the Rules of Court states the need to pay docket fees, thus:

Section 1. *How appeal taken; time for filing.* - A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of ₱500.00 for costs, x x x.

The rule is that payment in full of the docket fees within the prescribed period is mandatory.<sup>24</sup> In *Manchester v. Court of Appeals*,<sup>25</sup> it was held that a court acquires jurisdiction over any case only upon the payment

<sup>21</sup> 562 Phil. 974 (2007).

<sup>22</sup> *Securities and Exchange Commission v. PICOP Resources, Inc.*, *supra*, at 151-153.

<sup>23</sup> Rules of Court, Rule 37, Section 2, last paragraph.

<sup>24</sup> *The Heirs of the late Ruben Reinoso, Sr. v. Court of Appeals, et al.*, 669 Phil. 272, 280 (2011), citing *Pedrosa v. Hill*, 327 Phil. 153, 158 (1996).

<sup>25</sup> 233 Phil. 579 (1987).

of the prescribed docket fee. The strict application of this rule was, however, relaxed two (2) years after in the case of *Sun Insurance Office, Ltd. v. Asuncion*,<sup>26</sup> wherein the Court decreed that where the initiatory pleading is not accompanied by the payment of the docket fee, the court may allow payment of the fee within a reasonable period of time, but in no case beyond the applicable prescriptive or reglementary period. This ruling was made on the premise that the plaintiff had demonstrated his willingness to abide by the rules by paying the additional docket fees required.<sup>27</sup> Thus, in the more recent case of *United Overseas Bank v. Ros*,<sup>28</sup> the Court explained that where the party does not deliberately intend to defraud the court in payment of docket fees, and manifests its willingness to abide by the rules by paying additional docket fees when required by the court, the liberal doctrine enunciated in *Sun Insurance Office, Ltd.*, and not the strict regulations set in *Manchester*, will apply.

Admittedly, this rule is not without recognized qualifications. The Court has declared that in appealed cases, failure to pay the appellate court docket fee within the prescribed period warrants only discretionary as opposed to automatic dismissal of the appeal and that the court shall exercise its power to dismiss in accordance with the tenets of justice and fair play, and with great deal of circumspection considering all attendant circumstances.<sup>29</sup>

In that connection, the CA, in its discretion, may grant an additional period of fifteen (15) days only within which to file the petition for review upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period and that no further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.<sup>30</sup> Therefore, the grant of any extensions for the filing of the petition is discretionary and subject to the condition that the full amount of the docket and lawful fees are paid before the expiration of the reglementary period to file the petition. In its Resolution dated November 23, 2009, the CA clearly explained its denial of petitioner's motion for extension of time to file a petition for review, thus:

Clearly, there are pre-requisites before a motion for extension to file a Rule 42 petition for review could even be granted. The petitioner must pay the full amount of the docket and other lawful fees and the

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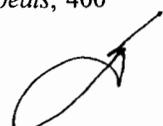
<sup>26</sup> 252 Phil. 280 (1989).

<sup>27</sup> *Sun Insurance Office Ltd., v. Asuncion, supra*, at 291.

<sup>28</sup> 556 Phil. 178, 197 (2007).

<sup>29</sup> *Julian v. Development Bank of the Philippines and the City Sheriff*, 678 Phil. 133, 144 (2011), citing *Meatmasters International Corporation v. Lelis Integrated Development Corporation*, 492 Phil. 698, 702-703 (2005), citing *La Salette College v. Pilotin*, 463 Phil. 785, 794 (2003); *American Express International, Inc. v. Sison*, 591 Phil. 182, 191 (2008), citing *Spouses Buenaflor v. Court of Appeals*, 400 Phil. 395, 401-402 (2000).

<sup>30</sup> Rule 42, Section 1.



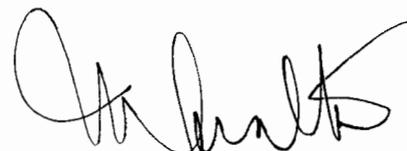
deposit for costs before the expiration of the reglementary period. This requirement was not met by the petitioner as the docket fees he had paid are actually deficient by Three Thousand Five Hundred Thirty Pesos (₱3,530.00). Granting the petitioner's two (2) motions for extension of time to file petition for review would have been beyond the pale of the limits allowed by the Rules for the Court in that instance, considering that the petitioner failed to fulfill a requirement.<sup>31</sup>

Petitioner now begs this Court for leniency in the interest of justice. While there is a crying need to unclog court dockets, on the one hand, there is, on the other, a greater demand for resolving genuine disputes fairly and equitably,<sup>32</sup> for it is far better to dispose of a case on the merit which is a primordial end, rather than on a technicality that may result in injustice.<sup>33</sup> However, [i]t is only when persuasive reasons exist that the Rules may be relaxed to spare a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure.<sup>34</sup> In the present case, petitioner failed to convince this Court of the need to relax the rules and the eventual injustice that he will suffer if his prayer is not granted.

Nevertheless, granting that this Court would decide the merits of this case, the petition would still be denied. In its petition, the arguments presented by petitioners are factual in nature. The well-entrenched rule is that only errors of law and not of fact are reviewable by this Court in petitions for review on *certiorari* under Rule 45 under which this petition is filed. It is not the Court's function under Rule 45 to review, examine and evaluate or weigh once again the probative value of the evidence presented.<sup>35</sup>

**WHEREFORE**, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, dated August 17, 2010, of petitioner Rodging Reyes is hereby **DENIED** for lack of merit. Thus, the Resolution dated November 23, 2009 of the Court of Appeals is hereby **AFFIRMED**.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

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<sup>31</sup> Rollo, p. 12.

<sup>32</sup> *Santos v. Court of Appeals*, 323 Phil. 762, 770 (1996).

<sup>33</sup> *The Heirs of the late Ruben Reinoso, Sr. v. Court of Appeals, et al.*, *supra* note 24, at 281.

<sup>34</sup> *Sebastian v. Hon. Morales*, 445 Phil. 595, 605 (2003).

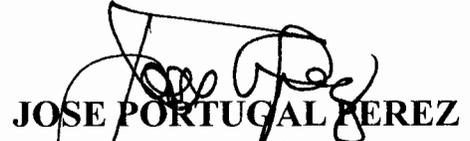
<sup>35</sup> *Lorenzo v. People*, 514 Phil. 644, 653 (2005).

**WE CONCUR:**

**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson

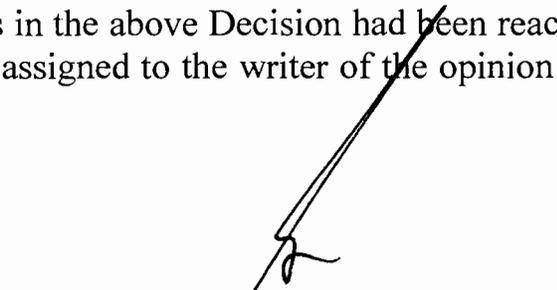
  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

**ATTESTATION**

I attest 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.

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

  
**ANTONIO T. CARPIO**  
Acting Chief Justice

AUG 17 2015