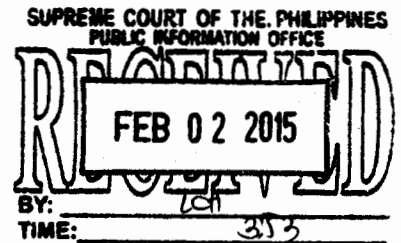




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated November 24, 2014 which reads as follows:*

**“G.R. No. 214657** (Geralda Lanoy-Lauren, *petitioner*, v. Bonifacio Tamonan, Jennifer Solis, Maria Bella Dela Peña, Remedios Solano, Vesminda T. Leros, Losanto J. Capangpangan, Teresita Cantuja, Narcisa Oloverio, Ma. Luz Amoyo, Josielyn Pisalbon, Caridad Tampos and Eulogio Barillo, *respondents*.)

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision and Resolution of the Court of Appeals (CA), Cagayan De Oro City in CA-G.R. SP No. 04011-MIN dated 30<sup>1</sup> July 2013 and 3 September 2014,<sup>2</sup> respectively. Contrary to the provisions of the Rules of Court, however, petitioner did not attach in her petition a copy of the aforesaid CA Decision for this Court’s perusal and reference. Thus, we are constrained to merely rely on the factual contentions in the instant petition.

As alleged by petitioner, in October 1991, a Deed of Conditional Sale was entered into by and between petitioner (as vendor) and Shepherds Happy Home Association, Inc. (as vendee) involving over a 2,037 square meter-parcel of land covered by Transfer Certificate of Title No. T-30218

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<sup>1</sup> *Rollo*, p. 9; Petitioner appears confused as to the date the assailed decision of the CA was rendered considering that its allegation in the petition mentioned of a 20 July 2013 CA decision. See paragraph 25 of the Petition, *vis-a-vis* Annex “A-1” (CA Resolution dated 3 September 2014), *rollo*, p. 26.

<sup>2</sup> *Id.* at 26-28.

situated in Brgy. Calumpang, General Santos City, in the total amount of ₱509,250.00, on installment basis. Significantly, it has a provision, among others, that in case of failure on the part of the vendee to pay any three (3) of the installments of the purchase price or pay to the vendor the minimum monthly amortization of ₱5,000.00, the said Deed “shall automatically and without any further formality become null and void, and all sums so paid by the vendee by reason thereof shall be considered as rentals and the vendor shall then and there be free to enter into the premises, take possession thereof or sell the property to any other party.” Thereafter, in 1993, for the alleged constant default for more than 3 months in the monthly amortizations, petitioner decided to cancel the Deed of Conditional Sale and considered the amount previously paid as rentals, upon informing the members of the association thereof.<sup>3</sup>

Eventually, sometime in 1999,<sup>4</sup> an ejectment case was lodged by petitioner against the respondents before the Office of the Brgy. Calumpang, General Santos City, but the latter refused and continuously refuse to vacate the same. Hence, a certificate to file action was issued.

The case of Unlawful Detainer, Damages and Attorney’s Fees petitioner filed against respondents before the Municipal Trial Court in Cities (MTCC), Branch 3, General Santos City, was dismissed on 24 July 2009 on the ground that she had no cause of action to cause said ejectment until petitioner exercises the options granted to her by law pursuant to Articles 448 and 546 of the Civil Code of the Philippines.

However, on appeal, Branch 37, Regional Trial Court (RTC) of General Santos City found petitioner’s position meritorious, and thus, reversed the aforesaid MTCC’s ruling and directed the respondents to vacate the property and surrender possession thereof to petitioner. Thereafter, respondents’ motion for reconsideration thereof was denied in the 8 December 2010 Resolution of the RTC.

Aggrieved, respondents appealed before the CA. Consequently, the appellate court reversed the RTC’s decision and resolution, and pronounced that respondents shall instead pay petitioner the balance of the purchase price plus interest; that petitioner shall execute a deed of absolute sale upon full payment and deliver the certificate of title in favor of respondents; and that in case of failure to pay within sixty (60) days from

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<sup>3</sup> Id. at 7.

<sup>4</sup> Id. at 8; Factual assertion of petitioner as to the period she allegedly lodged an ejectment case before the Office of *Barangay* Calumpang, General Santos City, appears to be inconsistent and not in proper order as to the material dates mentioned in the succeeding allegations. See paragraphs 14-16 of the Petition.

finality of decision, respondents shall immediately vacate the premises without need of further demand and all their payments shall constitute rental for the subject property. The assailed 3 September 2014 Resolution of the appellate court was rendered against petitioner for lack of merit.

Dissatisfied, petitioner filed the instant petition with the following issues raised for this Court's consideration:

- (a) Whether or not the CA erred in declaring that judicial act or notice of cancellation through notarial act is necessary in order to validly rescind or cancel a contract to sell;
- (b) Whether or not the CA erred in relying upon the findings of the trial court that [petitioner] failed to prove that it made a demand from the [respondents] for payment of the balance of the purchase price; and
- (c) Whether or not the CA erred in declaring that the demand letter is not the same and does not serve, as the notice of cancellation or demand for rescission by a notarial act required by R.A. No. 6552.<sup>5</sup>

A perusal of the instant petition however reveals that it lacks verified statement indicating the material date of receipt of the assailed CA decision; and that petitioner failed to attach thereto a clearly legible duplicate original, or a certified true copy of the assailed CA decision.

Relevant thereto, Section 5, Rule 45 of the Rules of Court categorically provides that "the failure of the petitioner to comply with any of the foregoing requirements regarding the x x x contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof." Clearly therefore, since petitioner failed to indicate the material date of her receipt of the alleged CA decision assailed before this Court, and to attach in the petition for review the same, the same constitute valid grounds for its dismissal.

It bears emphasis that this Court has invariably ruled that "the right to appeal is not a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in

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<sup>5</sup> Id. at 10.

accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost.”<sup>6</sup> Stated differently, the right is unavoidably forfeited by the litigant who does not comply with the manner thus prescribed. So it is with petitioner.

To emphasize, while it is true that rules of procedure are not cast in stone, it is equally true that “strict compliance with the Rules is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business.”<sup>7</sup> Unfortunately for petitioner, she is not relieved from her own duty to strictly comply with the Rules of Court and to be vigilant in protecting her rights, thereby making the relief prayed for unavailing.

Although we are not unaware that the Court, in the interest of equity and justice, sometimes allows a liberal reading of the rules, so long as the petitioner is able to prove the existence of cogent reasons to excuse its non-observance,<sup>8</sup> we do not however find a justification to warrant such relaxation in the present case. Significantly, we could not render any competent judicial pronouncement on the subject matter as there is no basis therefor. To repeat, petitioner failed to submit a most vital document, the copy of the decision being questioned.

**WHEREFORE**, premises considered, the petition is hereby **DENIED**.

Moreover, the petition must likewise fail for submitting a defective verification of the petition, the same being based on petitioner’s own knowledge, belief and authentic records, in violation of Sec. 4, Rule 7, 1997 Rules of Civil Procedure, as amended.

The petitioner is hereby **DIRECTED** to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF file of the signed petition for review on certiorari and annexes pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC; and the counsel for petitioner is likewise hereby **DIRECTED** to **COMPLY** within five (5) days from notice hereof with A.M. No. 07-6-5-SC dated July 10, 2007 re : statement of contact

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<sup>6</sup> *Villanueva v. CA*, G.R. No. 99357, 27 January 1992, 205 SCRA 537, 544 citing *Tropical Homes, Inc. v. National Housing Authority*, 236 Phil. 580 (1987); *Borre v. Court of Appeals*, 242 Phil. 345 (1988); *Ozaeta v. Court of Appeals*, 259 Phil. 428 (1989).


<sup>7</sup> *Id.* at 545 citing *Alvero vs. Dela Rosa*, 76 Phil. 428 (1946).

<sup>8</sup> *Delos Santos v. Elizalde*, 543 Phil. 12, 29 (2007).

details (e.g., telephone number, fax number, cellular phone number or e-mail address) of parties or their counsels in all papers and pleadings filed with the Supreme Court

**SO ORDERED.” PERLAS-BERNABE, J.,** on leave;  
**VILLARAMA, JR., J.,** acting member per S.O. No. 1885 dated  
November 24, 2014.

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court <sup>per</sup>

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The Hon. Presiding Judge  
Regional Trial Court, Br. 37  
General Santos City 9500  
(Civil Case No. 7934)

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