



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated March 3, 2021, which reads as follows:

G.R. No. 251451 (*Kabatuhan Compound I Homeowner's Association, Inc., represented by its President Apolinario G. Acebuche v. Spouses Alberto and Evelyn Habla*). — The Court EXCLUDES the Regional Trial Court, Branch 284, Valenzuela City; and the Court of Appeals, Manila, as respondents from the title this case pursuant to Section 4(a), Rule 45 of the 2019 Amended Rules of Court.

In the Resolution¹ dated October 14, 2020, the Court declared this case CLOSED and TERMINATED considering that petitioner Kabatuhan Compound I Homeowner's Association, Inc. (petitioner) has not filed the Petition for Review within the extended period granted in the February 24, 2020 Resolution² which expired on March 14, 2020. The Court then directed that an Entry of Judgment be issued immediately. Consequently, an Entry of Judgment³ was issued in this case.

On October 26, 2020, petitioner filed a Manifestation and Motion to Admit Petition for Review on *Certiorari*,⁴ attaching therewith the Petition for Review on *Certiorari*.⁵ Petitioner explained that the last day of the extended period to file petition, March 14, 2020, fell on a Saturday, hence, it has until March 16, 2020, Monday, to file the petition. Allegedly, on March 16, 2020, petitioner filed its petition through private courier, Air 21-Malinta, Valenzuela City Branch (Air 21) because the National Capital Region was already placed under Community Quarantine during that time and it was only Air 21 which accepted the aforesaid mail matter. Petitioner further alleged that sometime in the second week of October 2020, the staff of its counsel received an advice from Air 21 personnel that the copies of the mail

¹ *Rollo*, p. 10.

² *Id.* at 7-8.

³ *Id.* at 12.

⁴ *Id.* at 21-23.

⁵ *Id.* 31-44.

matter addressed to the Court were returned unserved “for lack of Department.” Hence, the filing of the Motion to Admit Petition with the attached Petition for Review.

On December 4, 2020, petitioner filed a Motion for Reconsideration⁶ of the Court’s October 14, 2020 Resolution which declared the case closed and terminated. Petitioner stated that it received said Resolution only on November 19, 2020. Petitioner then offered the same justification and explanation it alleged in its earlier-filed Manifestation and Motion to Admit Petition, as to why the petition was filed belatedly, and prayed that its petition filed be admitted and considered.

The plea of petitioner cannot be granted.

A perusal of the Motion for Reconsideration and Motion to Admit Petition shows that petitioner failed to substantiate its allegation that it filed the Petition for Review through private courier Air 21 on March 16, 2020 or within the extended period granted by the Court. Notably, petitioner failed to attach any proof that it actually filed the intended petition. What were only attached to petitioner’s motions were the airway bills and shipment tracking documents of mail matters addressed to the opposing party, to the Court of Appeals and to the Regional Trial Court.⁷ Likewise, other than its bare allegation, there is no proof of petitioner’s claim that it subsequently received an “advice” from Air 21 personnel that the petition allegedly filed with the Court on March 16, 2020 was “returned unserved for lack of Department” thereby necessitating another filing of the petition as attached in its motion to admit petition filed belatedly on October 26, 2020. The aforesaid “advice” or any proof to that effect was not attached to its motions. Following the basic rule that mere allegation is not evidence and is not equivalent to proof,⁸ the Court cannot give credence to petitioner’s claims.

In view of the foregoing, the Court finds no “exceptional, special or meritorious circumstances” that will excuse the belated filing of the Petition for Review on *Certiorari*. Accordingly, there is no basis for the Court to reconsider the October 14, 2020 Resolution or to recall the Entry of Judgment issued pursuant thereto.

WHEREFORE, the Court resolves to **DENY** the Motion for Reconsideration of the Resolution dated October 14, 2020,⁹ which declared this case **CLOSED and TERMINATED** for failure of petitioner Kabatuban Compound I Homeowner’s Association, Inc. to file the Petition for Review within the extended period granted. Considering that an Entry of Judgment has already been issued in this case, the Court further resolves

⁶ Id. at 314-318.

⁷ Id at 24-28.

⁸ See *Republic v. Cantor*, 723 Phil. 114, 128 (2013), citing *Guidungen v. Wooden*, 682 Phil. 112, 124 (2012).

⁹ *Rollo*, p. 9.

to **NOTE WITHOUT ACTION** petitioner's Manifestation and Motion to Admit Petition for Review on *Certiorari* and the attached Petition.

No further pleadings or motions will be entertained.

SO ORDERED. (*Leonen, J., on leave; Lopez, J., no part; Carandang, J., additional member per Raffle dated February 10, 2021*).

By authority of the Court:

Mis+DCBatt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *By*
6/30/21

Atty. Arthur C. Coroza
Counsel for Petitioner
Rm. 302, 3/F Holy Cross Savings & Credit
Cooperative Building, Maysan Road
1440 Malinta, Valenzuela City

COURT OF APPEALS
CA G.R. SP No. 158974
1000 Manila

Atty. Jeffrey P. Peralta
Counsel for Respondents
Rms. 2114 & 2115, Cityland Herrera Tower
98 V.A. Rufino cor. Valero Sts., Ayala
North, 1200 Makati City

The Presiding Judge
REGIONAL TRIAL COURT
City of Valenzuela
[Civil Case No. 233-V-17]

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila