



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **17 February 2021** which reads as follows:*

“**UDK-15502 (Danilo Custodio and Jucelo B. Caderao v. Pableto Peteros)**. — This is a Petition for Review on *Certiorari*¹ assailing the Court of Appeals’ (CA) Decision² dated December 11, 2015 in CA-G.R. SP No. 140161 which dismissed the special civil action for *certiorari* questioning the Labor Arbiter’s (LA) Order³ dated November 7, 2014 that denied the third-party claims.

Considering the allegations, issues, and arguments adduced in the petition for review on *certiorari*, the Court finds no cogent reason to deviate from the CA’s Decision dismissing the special civil action for *certiorari*. As the Rule now stands, petitions for *certiorari* must be filed **strictly within sixty (60) days** from notice of judgment or from the order denying a motion for reconsideration. There can no longer be any extension of the 60-day period within which to file a petition for *certiorari*.⁴ Here, petitioners Danilo Custodio and Jucelo B. Caderao (petitioners) received the LA’s Order dated November 7, 2014 on November 12, 2014. From receipt of the said Order, petitioners have 60 days or until January 12, 2015 to file a petition for *certiorari*. However, petitioners filed the petition for *certiorari* before the CA only on April 27, 2015 or 166 days late and way beyond the reglementary period as provided under the Rules of Court. Thus, the CA correctly dismissed the petition for having been filed out of time. Accordingly, the LA’s Order dated November 7, 2014 is now deemed final and executory.

Moreover, it is settled that the special civil action for *certiorari* is not a substitute for lost appeal. In the ordinary course of law, a party aggrieved by any Order of the LA issued during execution proceedings is

¹ *Rollo*, pp. 7-27.

² *Id.* at 28-40; penned by Associate Justice Ramon R. Garcia, with the concurrence of Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez (now a Member of this Court).

³ *Id.* at 71-74.

⁴ *Laguna Metts Corp. v. CA*, 594 Phil. 530, 536-537 (2009).

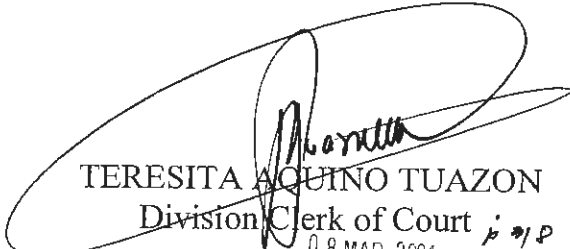
to file a verified petition for Extraordinary Remedy before the National Labor Relations Commission (NLRC). Notably, petitioners availed this remedy but was dismissed for non-perfection due to failure to attach the required documents. As the CA aptly observed, “[h]aving lost their remedy through their own fault, petitioners cannot now seek refuge in a petition for certiorari.”⁵

Lastly, the CA correctly ruled that the LA did not commit any grave abuse of discretion in denying the third-party claims. Rule XI, Section 14 of the 2011 NLRC Rules of Procedure is explicit that a third-party claim must comply with the requirement of “[p]osting of a cash or surety bond equivalent to the amount of the claim or judgment award.” Yet, petitioners did not post a cash or surety bond. Verily, the mere act of filing third-party claims without posting the required bond is insufficient to cause the suspension of the execution sale of the levied properties. At any rate, petitioners failed to show any meritorious or exceptional ground to warrant the liberal application of rules.⁶

FOR THESE REASONS, the petition is DENIED.

SO ORDERED.

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court
08 MAR 2021

⁵ Rollo, p. 35.

⁶ *Intertranz Container Lines, Inc. v. Bautista*, 639 Phil. 86, 95 (2010).

DANILO CUSTODIO (reg)
JUCELO B. CADERAO (reg)
Petitioners
2637 F. B. Harrison
1000 Manila

JASO DORILLO & ASSOCIATES (reg)
Counsel for Respondent
Unit 216, Cityland 8 Condominium
98 Sen. Gil J. Puyat Avenue
1200 Makati City

NATIONAL LABOR RELATIONS COMMISSION (reg)
PPSTA Building, Banawe Street cor. Quezon Avenue
1100 Quezon City
(NLRC-NCR Case No. 12-17186-09;
NLRC LAC No. 10-002504-10)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 140161

Please notify the Court of any change in your address.
UDK-15502. 2/17/2021(193)URES *jsf*