

IGMEDIO ALBAO, PLAINTIFF-APPELLANT, VS. ROMEO MENDOZA, JOINED BY HIS WIFE PACITA MABALLO, DEFENDANTS-APPELLEES.

Ponente: AZCARRAGA-JACOB, J.

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AZCARRAGA-JACOB, J.:

In Our Resolution[1] dated 04 September 2013, We noted that plaintiff-appellant Igmedio Albao was indicated in the notices sent to him as already deceased, and consequently We directed the heir/s or legal representative/s of plaintiff-appellant Albao to manifest before the Court any interest to appear and to be substituted in the instant case within thirty (30) days from notice in accordance with Section 16, Rule 3 of the 1997 Rules of Civil Procedure.

However, as per JRD Verification Report[2] dated 28 February 2013, no compliance has been made by any of the heir(s) and/or legal representative(s) of plaintiff-appellant Albao despite receipt of a copy of Our Resolution dated 04 September 2013 by one Trinidad Calooy on 21 October 2013. Said Resolution was sent to the heirs of plaintiff-appellant Albao to the address of the deceased Albao at Barangay Sta. Ana, La Paz, Leyte

WHEREFORE, in view of such non-compliance and pursuant to Section 3, Rule 42[3] in relation to Section 1(h), Rule 50[4] of the Revised Rules of Court, the instant Petition for Review is hereby DISMISSED.

SO ORDERED.

Hernando, and Quijano-Padilla, JJ., concur.

[1] Rollo, pp. 64-65

[2] Id. at 29 (dorsal portion)

[3] Rule 42, Sec. 3. Effect of failure to comply with requirements. — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof. [Emphasis supplied]

[4] Section 1(h), Rule 50, 1997 Rules of Civil Procedure - Grounds for Dismissal of Appeal. – Failure of the appellant to appear at the preliminary conference under Rule 48 or to comply with orders, circulars, or directives of the court without justifiable cause. [Emphasis supplied]

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