

**ELISA NATIVIDAD AND METHUSELA NATIVIDAD-RAMOS,  
PETITIONERS, VS. HEIRS OF ULYSSES AND TERESA RABINA-ROUS  
AND JUDGE ELIZABETH L. BERDAL, RTC OF URDANETA,  
PANGASINAN, BRANCH 47, RE...**

Ponente: GARCIA-FERNANDEZ, J.

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**GARCIA-FERNANDEZ, J.:**

Acting on the motion for reconsideration of this Court's resolution dated September 30, 2013 dismissing the petition for certiorari filed under Rule 65 of the Rules of Court, as amended, the Court resolved to DENY the motion.[1]

To recapitulate, the petition for certiorari assailed the order dated June 26, 2012 denying the petitioners' motion to dismiss the amended complaint; and the order dated December 10, 2012 denying the motion for reconsideration thereon. Well-settled is the rule that a special civil action for certiorari is not the proper remedy to assail the denial by the trial court of a motion to dismiss. The order of the trial court denying a motion to dismiss is merely interlocutory, as it neither terminates nor finally disposes of a case and still leaves something to be done by the court before a case is finally decided on the merits. Therefore, "the proper remedy in such a case is to appeal after a decision has been rendered." As has been repeatedly ruled, a writ of certiorari is not intended to correct every controversial interlocutory ruling; it is resorted only to correct a grave abuse of discretion or a whimsical exercise of judgment equivalent to lack of jurisdiction. Its function is limited to keeping an inferior court within its jurisdiction and to relieve persons from arbitrary acts – acts which courts or judges have no power or authority in law to perform. It is not designed to correct erroneous findings and conclusions made by the courts.[2]

Further assuming that certiorari is the proper remedy, the trial court did not commit grave abuse of discretion in denying the motion to dismiss. It acted correctly when it issued the questioned orders given that petitioners filed a motion for leave to file answer or responsive pleading, which was granted by the trial court on December 10, 2010, and instead, they filed a motion to dismiss the amended complaint. Hence, this Court finds no cogent reason to modify or reverse the assailed resolution considering that the issues and arguments raised by the petitioners in the present motion have already been given due consideration and resolved.

WHEREFORE, the motion for reconsideration is DENIED.

**SO ORDERED.**

De Leon, M.M., Chairperson and Cruz, S.C., JJ., concur.

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[1] Rollo, pp. 116-121.

[2] Boston Equity Resources, Inc. vs. Court of Appeals and Lolita G. Toledo, G.R. No. 173946, June 19, 2013.

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