

## **ALFREDO DEL ROSARIO, PETITIONER, VS. HON. RASAD G. BALINDONG, ET AL., RESPONDENTS.**

Ponente: CONTRERAS, J.

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### **CONTRERAS, J.:**

This disposes private respondents' Urgent Motion for Reconsideration[1] of our Decision[2] dated April 30, 2013 where we disposed of the case in this wise:

WHEREFORE, premises considered, the instant petition is GRANTED. The Order dated August 28, 2009, issued by the Regional Trial Court, Branch 08, Marawi City is hereby REVERSED and SET ASIDE and a NEW ONE is ENTERED denying private respondents' Urgent Motion for Reconsideration of the Order dated April 29, 2009 filed through counsel Atty. Florida Aisa Boloto.

In their motion, private respondents seek clarification on this Court's observation that the assailed August 28, 2009 Order[3] of RTC, Branch 08, Marawi City was issued despite the absence of a motion for reconsideration of its previous May 26, 2009 Order[4] in which it denied the Urgent Motion for Reconsideration of the Order dated April 29, 2009 filed by private respondents counsel Atty. Florida Aisa V. Boloto. Private respondents also averred that the Court erred when it did not find that the petitioner had likewise failed to appear for pre-trial on December 11, 2008. Lastly, private respondents seeks the liberal application of the Rules so as to give the parties the chance to ventilate their case and be decided on its merits.

On the issuance of the assailed August 28, 2009 Order, private respondent avers that the same was issued on the basis of a Motion for Reconsideration of the Order dated May 26, 2009[5] that they have filed on June 17, 2009 to which the RTC issued on June 30, 2009 an Order requiring the petitioner to comment on the said motion.

At this point, it should be stressed that pursuant to the provision of Section 1, Rule 65 of the Rules of Court, petitioner is mandated to attached all copies of all pleadings and documents relevant and pertinent to the petition. In return, private respondent under Section 6 is required to make a comment on the allegations on the petition. Here, after a careful re-examination of the records, it shows that the said Motion for Reconsideration of the Order dated May 26, 2009 pointed out by private respondents was never mentioned either in the petition or in private respondents' comment. It was never likewise made as part of the parties' attachments. Further, the assailed August 28, 2009 Order of the RTC itself directly resolved the private respondents' Urgent Motion for Reconsideration of the Order dated April 29, 2009 and not its previous May 26, 2009 Order. Hence, our finding that the assailed August 28, 2009 Order of RTC, Branch 08, Marawi City was issued despite the absence of a motion for reconsideration of its previous May 26, 2009 Order. Apparently, the belated submission of said Motion for Reconsideration of the Order dated May 26, 2009 is already too late.

In any case, with or without the recently submitted Motion for Reconsideration of the Order dated May 26, 2009, our ruling in our Decision dated April 30, 2013 that the RTC committed grave abuse of discretion in issuing its assailed August 28, 2009 Order stands. We find no ground to reconsider, much less, reverse our decision as the arguments raised by the private respondents have already been duly considered and passed upon by the Court in

arriving at our assailed decision.

Accordingly, private respondents' Urgent Motion for Reconsideration is DENIED.

**SO ORDERED.**

[\*]Borja, J., Ch., and Contreras, JJ., concur.

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[\*] New member per raffle dated June 5, 2014.

[1] Rollo, pp. 146-157.

[2] Rollo, pp. 135-145

[3] Annex “A” of the petition, rollo, p. 20.

[4] Annex “N” of the petition, rollo, p. 83

[5] Annex “A” of private respondent's Urgent Motion for Reconsideration, rollo, pp. 146-157.

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