

## **EMMA MAXIMA T. DECLINES, PETITIONER, VS. HON. PRESIDING JUDGE, MUNICIPAL TRIAL COURT OF BAROTAC NUEVO AND BEATRIZ B. NADALA, RESPONDENTS.**

Ponente: LOPEZ, J.

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### **LOPEZ, J.:**

Before the Court is a Petition for Review[1] filed under Rule 42 of the Rules of Court with prayer for the issuance of Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction (WPI).

The following are NOTED:

1. Petitioner's Motion for Reconsideration[2] filed on 1 October 2014 has not yet been resolved by the trial court.
2. Payment for the docket and other legal fees is in excess of P850.00.

Section 1, Rule 42 of the Rules of Court mandates that Petition for Review shall be filed within fifteen (15) days from notice of decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. However, without awaiting the trial court's resolution on her motion for reconsideration, Petitioner filed the present Petition for Review directly with this Court. Consequently, the filing of the present petition was premature. The trial court must be given a chance to rectify such errors or mistakes it may have committed into before resort to this Court can be had.

Moreover, Petitioner also committed a violation of her certification against forum-shopping filed with this Court. It should be pointed out that Petitioner is bound by her Certification[3] with this Court that – “to the best of her knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency; that if there is any such other action or proceeding which is either pending or may have been terminated, she shall state the status thereof.”[4] However, the records are clear that Petitioner has a pending motion for reconsideration filed with the trial court. Therefore, she violated her certification against forum shopping with this Court, which has been held to be a ground for dismissal of an action distinct from forum-shopping itself.[5]

WHEREFORE, the Court hereby resolves to:

- 1.) DENY the present Petition for Review; and
- 2.) DIRECT the Accounting Office of this Court to return to Petitioner the excess payment of the docket and other legal fees amounting to P850.00, and for Petitioner to coordinate with the said office for the return of the excess payment.

**SO ORDERED.**

Delos Santos, E.L., Chairperson., and Lagura-Yap, M.B., JJ., concur.

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[1] Rollo, pp. 7-27.

[2] Ibid., pp. 34-36.

[3] Rollo, p. 28.

[4] Section 5, Rule 7, Rules of Court.

[5] Phil. Postal Corporation vs. CA and De Guzman, G.R. No. 173590, December 9, 2013 citing Collantes vs. CA, G.R. No. 169604, March 6, 2007.

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