

**REDEL S. SADIASA, PETITIONER, VS. HON. TITA BUGHAO ALISUAG,
CHINESE GROCERS ASSOCIATION, REPRESENTED BY SHERLAND M.
SANTILLAN, ROMUALDO DELA CRUZ, ROMEO D. CORNITO AND THE
REGIS...**

Ponente: DICDICAN, J.

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DICDICAN, J.:

A cursory examination of the petition filed in this case discloses that the said petition deserves to be dismissed outright.

For one, it has not validly alleged a specific act or acts which constitute grave abuse of discretion committed by the respondent judge. What the petitioner has set forth in the petition as an act allegedly constituting grave abuse of discretion is the issuance by the respondent judge of an order on October 12, 2013 denying due course to his appeal from an order issued by the said judge on July 4, 2013 denying his motion for reconsideration of the order issued on April 10, 2013 which denied his motion for leave to intervene in Civil Case No. 11-126301. Such an act of the respondent judge does not constitute grave abuse of discretion. He acted correctly and in accordance with the Rules of Court in denying due course to the petitioner's appeal because Section 9 of Rule 37 of the Rules of Court is very explicit in stating that an order denying a motion for reconsideration is not appealable, the remedy being an appeal from the judgment or final order. So, the allegation set forth by the petitioner in his petition that the respondent judge acted with grave abuse of discretion in denying due course to his notice of appeal is a mere conclusion without any factual basis. Thus, we cannot give it an imprimatur for being a mere conjecture or surmise. As we already know, the sea of conjectures or surmises has no shore and a court that will embark on it is without rudder or compass.

Of course, the petitioner tried to allege in his petition that the respondent judge purportedly committed grave abuse of discretion in denying his motion for leave to intervene in Civil Case No. 11-126301. However, this is of no moment already because he did not file the petition within 60 days from his receipt on April 23, 2013 of a copy of said order denying his motion for intervention. He filed the petition in this case only on April 8, 2014.

For another, as far as a cause of action for mandamus is concerned which is also set forth in the petition, the petitioner has not also validly alleged that the law or the Rules of Court had imposed upon the respondent judge a duty to give due course to his appeal or to his motion for intervention. On the other hand, it appears that the respondent judge is actually given discretion whether or not to give due course to petitioner's appeal or his motion for intervention.

WHEREFORE, in view of the foregoing premises, we hereby DISMISS outright the petition filed in this case.

SO ORDERED.

Elbinias and Paredes, JJ., concur.

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