

**SAINT LOUIS UNIVERSITY, INC., DEAN ELIZABETH FE-DACANAY,
ATTY. ARNULFO SORIANO, DR. ROBERTO LEGASPI, DR. ANASTACIO
AQUINO, LOURDES JACINTO, DR. JOHN ANTHONY DOMANTA Y, AND
NORA ...**

G.R. No. 162299. March 26, 2014

Ponente: MENDOZA, J.

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MENDOZA, J.:

For assessment and disposition before the Court are the following consolidated petitions for review on certiorari under Rule 45 of the Rules of Court.

In G.R. No. 162299, Saint Louis University (SLU), along with co-petitioners Dean Elizabeth Fe-Dacanay (Dean Dacanay), Rev. Father Paul Van Parijs, Dr. Robert Legaspi, Dr. Anastacio Aquino, Lourdes Jacinto, Dr. John Anthony Domantay, and Nora Ponoc, are challenging the Resolutions, dated November 18, 2003[1] and February 10, 2004,[2] of the Court of Appeals (CA), in CA-G.R. No. SP. 78127, dismissing SLU's petition for certiorari under Rule 65 which sought the reversal of the orders of the Regional Trial Court, Branch 1, Baguio City (RTC), to wit: 1] Order,[3] dated July 18, 2003, directing the petitioners to show cause why they should not be held in contempt of court; 2] Order,[4] dated June 6, 2003,[5] directing compliance with the July 16, 2003 RTC decision; 3] Writ of Execution,[6] dated July 18, 2003, signed by the Branch Clerk of Court, without any motion for its issuance; and 4] Order,[7] dated July 18, 2003, signed by Judge Ayson directing the issuance of a writ of execution pursuant to Section 4, Rule 39 of the Rules of Court, for the reason that no motion for reconsideration was filed before the RTC.

In G.R. No. 174758, Baby Nellie Olarez, Shieryl A. Rebucal, Jenny Riza A. Banta, and Brando B. Badecao (Olarez group) are assailing the April 7, 2006 Decision[8] and the September 11, 2006 Resolution[9] of the CA, in CA-G.R. CR No. 27861, setting aside the July 23, 2003 RTC Order and dismissing the contempt charges against SLU.

The Factual Antecedents

SLU is an educational institution based in Baguio City offering various diploma courses in different fields of study.

Baby Nellie M. Olarez (Olarez), Shieryl A. Rebucal (Rebucal), Jenny Riza Banta (Banta), and Brando Badecao (Badecao), were fourth-year graduating students of SLU's College of Medicine Batch 2002. On March 18, 2002, Olarez and Rebucal filed their Complaint for Mandatory Injunction with Damages and Preliminary Injunction and Temporary Restraining Order before the RTC, against Dean Dacanay, a certain April Lily Bangaoet and other unidentified individuals, referred to as "John Does," challenging the implementation of the revised version of the Comprehensive Oral and Written Examination (COWE), a prerequisite for graduation from SLU's medicine course.[10] The case was docketed as Civil Case No. 5191-R.

In their complaint, Olarez and Rebucal alleged that as a condition for graduation, SLU required their students to complete and pass the COWE and, and if a student would fail, the student concerned may take another remedial exam.[11] Olarez alleged that the then newly designated Dean Dacanay, suddenly devised and revised the COWE by further subjecting the graduating students to additional requirements such as completing Orals 1 and Orals 2, along with added months of medical clerkship (Revised COWE).[12] Contending that the implementation of the Revised COWE was contrary to SLU's Student Handbook and would arbitrarily delay their graduation, they sought injunctive relief from the trial court.

Thereafter, Jenny Riza Banta and Brando B. Badecao intervened in the same proceedings.[13]

In the meantime, on April 2, 2002, after submitting their applications for graduation with waiver, the Olarez group was allowed to attend the graduation rites.

After a few days or on April 9, 2002, the RTC granted the Writ of Preliminary Injunction preventing SLU and Dean Dacanay from enforcing the Revised COWE.[14]

In their Fourth Amended Complaint,[15] the Olarez group disclosed that they had completed, passed and received their final grades in all the subjects required for the conferment of the degree of doctor of medicine. They were allowed to march and attend the commencement exercises. They received the symbolic diploma and were eventually conferred with the degree, Doctor of Medicine. Similarly, the Association of Philippine Medical Colleges permitted them to attend the twelve-month post graduate internship at the Baguio General Hospital. Subsequently, they obtained clearances from various departments except for two departments, the Administrative Secretary and the Training Officer of SLU. Still, Dean Dacanay refused to issue certifications in their favor. To them, it was unacceptable.

Thus, the Olarez group prayed that Dean Dacanay and SLU be ordered to forward their final grades (SLU Form No. 4) to the Registrar's Office for recording; to issue their clearances, certificate of graduation, diploma and include them in the SLU Registry of Graduates; to cease and desist from exerting pressure on the Association of Philippine Medical Colleges (APMC) to recall their certifications granting their internship and on Baguio General Hospital to pull them out from their internship; to declare the Revised COWE as moot and academic insofar as they were concerned; and to pay them P2,000,000.00 as moral damages, P100,000.00 as nominal damages, P250,000.00 as exemplary damages and P50,000.00 as attorney's fees.[16]

Decision of the RTC

On July 16, 2003, the RTC rendered a decision declaring the Olarez group as graduates of the College of Medicine, SLU.[17] It explained that the Revised COWE became moot and academic for the following reasons: 1] the Regional Director of the Commission on Higher Education (CHED) issued a certification that the Olarez group had completed all the requirements for the Degree of Medicine, notwithstanding the grant of autonomy to SLU by the CHED; and 2] SLU allowed the Olarez group to participate in the graduation rites. The decretal portion of the RTC decision reads:

WHEREFORE, premises considered, Judgment is hereby rendered in favor of plaintiffs Baby Nellie Olarez and Shieryl Rebucal and intervenors Jenny Rizza Banta and Brando Badecao and against the defendants, as follows:

1. Ordering the Administrative Secretary, Training Officer, Hospital Administrator and Medical Director of Saint Louis University Hospital to sign the clearance of plaintiffs and intervenors.
2. Ordering defendants Dean Elizabeth Fe Dacanay and Saint Louis University to issue the Certificate of Graduation to plaintiffs and intervenors;

3. Ordering defendant Dean Dacanay to forward the Final Grades (SLU Form No. 4) of plaintiffs and intervenors submitted to her office to the Office of the Registrar of Saint Louis University for proper recording in the Transcript of Records;
4. Ordering defendants Dean Dacanay and Saint Louis University and all those acting for and in their behalf to issue the diploma and transcript of records of plaintiffs and intervenors and include them in the SLU Registry of Graduates (ROG);
5. Ordering defendants Dean Dacanay and Saint Louis University and all those acting for and in their behalf to cease and desist permanently from exercising pressure on the Association of Philippine Medical Colleges (APMC) to recall the permit issued by it to plaintiffs and intervenors for their internship.
6. Ordering defendants Dean Dacanay and Saint Louis University and all those acting for and in their behalf to cease and desist permanently from exerting pressure on the Baguio General Hospital (BGH) to pull out plaintiffs and intervenors from their internship at BGH or from recalling the same.
7. Declaring the plaintiffs and intervenors as having graduated with the Degree of Doctor of Medicine having completed all the requirements leading to the Degree of Doctor of Medicine as certified to by the Commission on Higher Education (CHED) Director Joseph de los Santos;
8. Declaring the Revised COWE with Orals 1 and 2 with additional two to four months of medical clerkship as moot and academic insofar as plaintiffs and intervenors are concerned since they have already graduated with the Degree of Doctor of Medicine as certified to by the CHED Director Joseph de los Santos;
9. Declaring that the matter of the writ of preliminary injunction (mandatory) prayed for which was agreed upon by the parties to be resolved together with the judgment on the merits of the case in [view] of time constraints is actually deemed resolved herein as, in effect, a final writ of injunction (mandatory) is issued by the Court ordering defendants Dean Dacanay and the Saint Louis University and all those acting for and in their behalf to issue immediately the plaintiffs' and intervenors' clearances, final grades, certificate of graduation, diploma and transcript of records and include them in their Registry of Graduates and certify them as graduates qualified to take the Board examination for Medicine this August, 2003.
10. Dismissing all claims and counterclaims for damages, actual damages, moral damages, nominal damages, exemplary damages and attorney's fees, considering that both the plaintiffs and intervenors on the one hand and the defendants on the other hand acted in good faith in pursuing and advocating with vigor and zeal their respective positions and were not in bad faith.

Furnish a copy of this judgment not only to the counsels of defendants but also to the defendants themselves, Dean Elizabeth Dacanay, Saint Louis University and those acting for and in their behalf such as Dr. John Domantay, the Administrative Secretary, Hospital Administrator, Training Officer and Medical Director of the Saint Louis University Hospital of the Sacred Heart for their immediate compliance of the Final Writ of Injunction (Mandatory) issued herein.

SO ORDERED.[18]

The next day or, on July 17, 2003, the Olarez group trooped to SLU and insisted on its immediate compliance with the RTC ruling. Unable to get a favorable reply from SLU, the Olarez group filed, on the same day, a "Very Urgent Motion to Cite Defendants in Contempt" setting the hearing of the motion for July 18, 2003.[19] Meanwhile, SLU filed its Notice of Appeal[20] before the RTC.

In its Order, dated July 18, 2003, the RTC cited Section 4, Rule 39 of the Rules of Court specifying that a judgment in an action for injunction was immediately executory, but reset the hearing on the motion to cite SLU in contempt of court to July 22, 2003 to allow compliance with a technical defect in the motion.[21] In the

order[22] read in open court, it was mentioned that SLU had already filed a notice of appeal. The RTC, however, stressed that its judgment of injunction was immediately enforceable even though SLU interposed an appeal.

On that same day, the Olarez group submitted their “Compliance,” by providing the required verification.[23] Thus, in another Order, dated July 18, 2003, the RTC ordered the issuance of a writ of execution.[24] Afterwards, the Branch Clerk of Court issued a writ of execution.[25]

On July 19, 2003, the RTC sheriff served SLU with the said writ of execution.

On July 21, 2003, SLU moved for the inhibition of Presiding Judge Ayson,[26] but its motion was denied in the Order, dated July 22, 2003.[27] Thereafter, the hearing of the motion to cite SLU in contempt proceeded on the same day without any participation of SLU and its officials.

On the next day, or on July 23, 2003, the RTC found SLU guilty of indirect contempt.[28] The decretal portion of the order reads:

WHEREFORE, the Court finds defendant Dean Elizabeth Dacanay guilty of Indirect Contempt of Court under Sections 3 letter (b) and 7 of Rule 71 in relation to Section 4 and 11 of Rule 39 of the Rules of Court and sentences her to pay a Fine of Thirty Thousand (P30,000.00) Pesos.

Likewise, the Court finds those acting for and in behalf of Dean Elizabeth Dacanay, namely, Administrative Secretary Nora Ponoc, Hospital Administrator Lourdes Jacinto, Training Officer Dr. Anastacio Aquino and Medical Director Dr. Roberto Legaspi, Dr. John Domantay and Acting President Atty. Arnulfo Soriano guilty of Indirect Contempt of Court under Sections 3 letter (b) and 7 of Rule 71 in relation to Sections 4 and 11 of Rule 39 of the Rules of Court and hereby sentences them to pay a fine of One Thousand Pesos (P1,000.00) each.

The Professional Regulation Commission and the Board of Medicine are likewise ordered to conditionally allow if feasible plaintiffs Baby Nellie Olarez, Shierly Rebuca, Jenny Rizza Banta and Brando Badecao to take the Medical Board Examination scheduled on August 2003 until the Judgment (Decision) of the Court dated July 16, 2003 is finally enforced.[29]

The Petition for certiorari

Thereafter, SLU filed a petition for certiorari under Rule 65 of the Rules of Court before the CA, docketed as C.A. G.R. SP No. 78127, questioning the following trial court issuances:

1. Order, dated July 18, 2003, directing the defendants (SLU) to show cause why they should not be cited in contempt;
2. Order, dated June 6, 2003, directing compliance with the July 16, 2003 decision of the RTC;
3. Writ of Execution, dated July 18, 2003, signed by the Branch Clerk of Court without any motion for its issuance; and
4. Order, dated July 18, 2003, signed by Judge Ayson directing the issuance of a writ of execution pursuant to Section 4, Rule 39 of the Rules of Court.

On November 18, 2003, the CA dismissed SLU’s petition outright for its failure to file a prior motion for reconsideration.[30] The CA explained that “a special civil action for certiorari will not lie unless the aggrieved party has no other plain, speedy and adequate remedy in the ordinary course of law, such as a timely filed motion for reconsideration so as to allow the lower court to correct the alleged error.”[31]

SLU moved for reconsideration, but the CA denied the same in its Resolution,[32] dated February 10, 2004.

Unsatisfied, SLU elevated the disputed CA resolutions before the Court via a petition for review on certiorari under Rule 45, docketed as G.R. No. 162299.[33]

The Appeal Proper

Meanwhile, SLU appealed the order of the RTC finding it guilty of indirect contempt before the CA, which was docketed as CA-G.R. CR No. 27861.

Regarding the merits of the appeal in the indirect contempt case, the CA reversed the July 23, 2003 Order of the RTC in its April 7, 2006 Decision.[34] Citing Rule 71 of the Rules of Court, the CA opined that to comply with the procedural requirements of indirect contempt, there must be: (1) a complaint in writing which may either be a motion for contempt filed by a party or an order issued by the court requiring a person to appear and explain his conduct; and, (2) an opportunity for the person charged to appear and explain his conduct.[35]

The CA observed that the second element was lacking as there was haste in the conduct of the proceedings and in issuing orders which deprived SLU of the opportunity to explain the reason for not complying with the mandatory injunction. The CA then stated that “in order for a party to be guilty of indirect contempt, the rules require that he be given enough and reasonable opportunity to explain his side against the alluded contemptuous act. Deprive the party of such opportunity would be to deprive him of due process of law. It is in that non-observance of the constitutional right to due process that we find the order citing the appellants in contempt to be unsustainable due to the unprocedural process and the precipitate issuance of the contempt order.”[36] The dispositive portion of the April 7, 2006 CA decision reads:

IN VIEW OF ALL FOREGOING, THE INSTANT APPEAL is hereby GRANTED, the challenged order dated July 23, 2003 in Civil Case No. 5191-R, RECALLED and SET ASIDE, and a new one entered DISMISSING the assailed contempt charge against herein appellants. No pronouncement as to cost.

SO ORDERED.[37]

Unperturbed, the Olarez group moved for a reconsideration of the said ruling.[38] On September 11, 2006, the CA denied their motion for reconsideration.[39]

Thus, the Olarez group filed a petition review on certiorari under Rule 45, docketed as G.R. No. 174758.[40]

In the Resolution of April 16, 2007, the Court resolved to consolidate the two cases.[41]

The Issues

G.R. No. 162299

THE COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR CERTIORARI ON THE GROUND THAT THE PENDENCY OF AN APPEAL EXCLUDES THE REMEDY OF CERTIORARI.

THE COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR CERTIORARI ON THE GROUND THAT THE PETITIONERS FAILED TO FILE A MOTION FOR RECONSIDERATION OF THE ASSAILED ORDERS OF THE TRIAL COURT.[42]

G.R. No. 174758

I.

THE HONORABLE COURT OF APPEALS FORMER THIRD DIVISION COMMITTED GRAVE ABUSE OF DISCRETION AND IT SERIOUSLY ERRED IN ITS FINDING THAT THE THREE-DAY NOTICE RULE WAS VIOLATED, DESPITE THE FACT THAT PRIVATE RESPONDENTS AND THE LEAD COUNSEL ATTY. ARNULFO SORIANO, IN HIS CAPACITY AS THE SLU VICE-PRESIDENT FOR

ADM[I]NISTRATION AND ALSO THEN ACTING PRESIDENT OF THE PRINCIPAL RESPONDENT SAINT LOUIS UNIVERSITY, INC., WERE PERSONALLY SERVED COPIES ON JULY 19, 2003 OF THE NOTICE OF HEARING SET ON JULY 22, 2003 AT 8:30 A.M.

II.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ITS FINDING THAT THE PRIVATE RESPONDENTS WERE DENIED DUE PROCESS OF LAW WHEREIN ALLEGEDLY THEY “WERE FOUND NOT TO HAVE BEEN AFFORDED REASONABLE OPPORTUNITY FOR THE APPELLANTS TO APPEAR AND EXPLAIN THEIR CONDUCT”—AS A GROUND FOR REVERSING THE ORDER OF THE REGIONAL TRIAL COURT WHICH FOUND RESPONDENTS GUILTY OF CONTEMPT.

III.

THAT THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN ITS FINDING THAT THE INITIATORY PLEADING COULD NOT BE TREATED AS A MOTION FOR EXECUTION.[43]

The Court’s Ruling

G.R. No. 162299

SLU contends that the CA erred in dismissing its petition for certiorari for filing it without a prior motion for reconsideration which, according to it, constituted a fatal infirmity.

The petition is bereft of merit.

The general rule is that a motion for reconsideration is a condition sine qua non for the filing of a petition for certiorari.[44] Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case.[45] It is not, however, an ironclad rule. There are recognized exceptions such as (a) where the order is a patent nullity, as where the court a quo had no jurisdiction; (b) where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceedings were ex parte, or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.[46]

Under the circumstances, the Court is not convinced that SLU’s explanation constitutes sufficient ground for the application of the exception to the rule. In the same vein, petitioners may not arrogate to themselves the determination of whether a motion for reconsideration is necessary or not.[47] It should be emphasized that procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are, thus, enjoined to abide strictly by the rules. Although the Court, in some cases, permits a relaxation in the application of the rules, this was never intended to forge a bastion for erring litigants to violate the rules with impunity. It is true that litigation is not a game of technicalities, but it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice.[48]

In this case, a liberality in the application of the rules of procedure may not be invoked if it will result in the wanton disregard of the rules or cause needless delay in the administration of justice. For it is equally settled that, except for the most persuasive of reasons, strict compliance is enjoined to facilitate the orderly administration of

justice.[49]

G.R. No. 174758

The Olarez group argues that the CA erred in ruling that SLU and its officials were denied of due process as they were not given the opportunity to comment and be heard on the contempt charges against them.[50]

The group's petition is bereft of merit.

Indirect contempt is defined by and punished under Section 3, Rule 71 of the Rules of Court, which provides:

Section 3. Indirect contempt to be punished after charge and hearing. — After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

- (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
- (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
- (f) Failure to obey a subpoena duly served;
- (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings. (3a)

In contempt, the intent goes to the gravamen of the offense.[51] Thus, the good faith or lack of it, of the alleged contemnor is considered.[52] Where the act complained of is ambiguous or does not clearly show on its face that it is contempt, and is one which, if the party is acting in good faith, is within his rights, the presence or absence of a contumacious intent is, in some instances, held to be determinative of its character.[53] A person should not be condemned for contempt where he contends for what he believes to be right and in good faith institutes proceedings for the purpose, however erroneous may be his conclusion as to his rights.[54] To constitute contempt, the act must be done wilfully and for an illegitimate or improper purpose.[55]

The supposed inaction of the SLU and its officials when the Olarez group visited the school on July 17, 2003 to demand their compliance with the decision was not borne out of a contumacious conduct tending, directly or indirectly, to hinder the implementation of a judgment. A conduct, to be contumacious, implies willfulness, bad faith or with deliberate intent to cause injustice, which is clearly not the case here. On the contrary, SLU was well within its rights to appeal the decision and not immediately heed the demand of the Olarez group.

Records reveal that the Olarez group violated the three-day notice rule on hearing of motions as provided in

Section 4,[56] Rule 15 of the Rules of Court when they scheduled the hearing on their “Very Urgent Motion to Cite Defendants In Contempt” on July 18, 2003 or just one day after they filed the said pleading on July 17, 2003. As a rule, any motion that does not comply with the requirements of Rule 15 should not be received for filing[57] and, if filed, is not entitled to judicial cognizance,[58] subject only to some exceptions, such as where a rigid application of the rule will result in a manifest failure or miscarriage of justice[59] or if there was substantial compliance.[60]

Under the attendant circumstances, there was no substantial compliance with procedural due process because although the hearing on the said motion was reset to July 22, 2003, the disputed writ of execution was actually issued on July 18, 2003 and served on SLU and its officials on July 19, 2003 before the rescheduled hearing date. while their counsels on record received their copies on July 21, 2003. In due process, the parameter required is the presence of an opportunity to be heard, as well as the time to study the motion and meaningfully oppose or controvert the grounds upon

which it is based.[61] This was not properly afforded to SLU.

The power to declare a person in contempt of court and in dealing with him accordingly is an inherent power lodged in courts of justice, to be used as a means to protect and preserve the dignity of the court, the solemnity of the proceedings therein and the administration of justice from callous misbehavior, offensive personalities and contumacious refusal to comply with court orders.[62] This contempt power, plenary it may seem, however, must be exercised judiciously and sparingly with highest self--restraint with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retribution or vindication.[63]

It should not be availed of unless necessary in the interest of justice.[64]

Thus, the Court finds no cogent reason to deviate from the CA decision to absolve SLU and its officials from the contempt charges filed against them.

WHEREFORE, in G.R. No. 162299, the petition is DENIED. Accordingly, the Resolutions, dated November 18, 2003 and February 10, 2004, of the Court of Appeals, in CA-G.R. No. SP 78127, are AFFIRMED.

In G.R. No. 174758, the petition is DENIED. Accordingly, the April 7, 2006 Decision and the September 11, 2006 Resolution of the Court of Appeals (CA), in CA-G.R. CR No. 27861, are AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Villarama, Jr.,[*] JJ., concur.

[*] Designated Acting Member in lieu of Associate Justice Marvic Mario Victor F. Leonen per Special Order No. 1653 dated March 21, 2014.

[1] Rollo (G.R. No. 162299), pp. 114-116. Penned by Associate Justice Regalado E. Maambong, with Associate Justice Buenaventura J. Guerrero and Associate Justice Andres B. Reyes, Jr., concurring.

[2] Id. at 118-1200.

[3] Id. at 157-160.

[4] Id. at 161-162.

[5] The date of the order was erroneously dated as June 06, 2013, but was corrected in the Amended Order of July 21, 2003 (that the Order dated June 6, 2013 should have been July 18, 2003), Records, pp. 1556-1557.

- [6] Rollo (G.R. No. 162299), pp. 163-165.
- [7] Id. at 166-167.
- [8] Rollo (G.R. No. 174758), pp. 29-52.
- [9] Id. at 54-55.
- [10] Records, Volume I, pp. 16-40.
- [11] Id. at 17.
- [12] Id. at 22.
- [13] Id. at 184-188.
- [14] Id. at 246-262.
- [15] Records, Volume II, pp. 997-1067.
- [16] Id. at 1064-1066.
- [17] Rollo (G.R. No. 162299), pp. 121-154; (G.R. No. 174758), pp. 63-96.
- [18] Id. at 152-154; id. at 94-96.
- [19] Rollo (G.R. No. 174758), p. 97.
- [20] Records, Volume III, pp. 1535-1536.
- [21] Rollo (G.R. No. 174758), pp. 105-108.
- [22] Erroneously dated as June 06, 2013, rollo (G.R. No. 162299), pp. 161-162.
- [23] Rollo (G.R. No. 174758), pp. 99-103.
- [24] Records, Volume III, pp. 1551-1552.
- [25] Rollo (G.R. No. 162299), pp. 163-165; (G.R. No. 174758), pp. 109-111.
- [26] Records, Volume III, pp. 1558-1565.
- [27] Id. at 1573-1582.
- [28] Id. at 1583-1600.
- [29] Id. at 1600.
- [30] Rollo (G.R. No. 162299), pp. 114-116. Penned by Associate Justice Regalado E. Maambong, with Associate Justice Buenaventura J. Guerrero and Associate Justice Andres B. Reyes, Jr., concurring.
- [31] Id. at 115.
- [32] Id. at 118-120.
- [33] Id. at 71-112.
- [34] Rollo (G.R. No. 174758), pp. 29-52. Penned by Associate Justice Conrado M. Vasquez, Jr., with Associate Justice Mariano C. Del Castillo and Associate Justice Magdangal M. De Leon, concurring.

[35] Id. at 44.

[36] Id. at 45-47.

[37] Id. at 51.

[38] Id. at 56-62.

[39] Id. at 54-55.

[40] Id. at 5-27.

[41] Rollo (G.R. No. 162299), p. 253.

[42] Id. at 92.

[43] Rollo (G.R. No. 174758), p. 15.

[44] Office of the Ombudsman v. Laja, 522 Phil. 532, 538-539 (2006).

[45] Estate of Salvador Serra v. Heirs of Primitivo Hernaez, 503 Phil. 736, 743 (2005); National Housing Authority v. Court of Appeals, 413 Phil. 58, 64 (2001).

[46] Metro Transit Organization, Inc. v. Court of Appeals, 440 Phil. 743, 751 (2002).

[47] Cervantes v. Court of Appeals, 512 Phil. 210, 217 (2005).

[48] Asian Spirit Airlines v. Spouses Bautista, 491 Phil. 476, 483-484 (2005).

[49] El Reyno Homes, Inc. v. Ong, 445 Phil. 621, 618 (2003).

[50] Rollo (G.R. No. 174758), p. 17.

[51] Lorenzo Shipping Corporation v. Distribution Management Association of the Philippines, G.R. No. 155849, August 31, 2011, 656 SCRA 331, 349, citing In Re People in the Interest of Murley, 239 P. 2d 706; 124 Colo. 581.

[52] Id., citing Hoffmeister v. Tod, 349 S. W. 2d 5.

[53] Id., citing N. L. R. B. v. Whittier Mills Co., C. C. A. 5, 123 F. 2d 725; In Re Cottingham, 182 P. 2, 66 Colo. 335.

[54] Id. at 349-350, citing Bender v. Young, 252 S.W. 691, 693.

[55] Id. at 350, citing General Motors Corporation v. United Elec. Radio & Mach. Workers of America, C.I.O., Local 717, 17 Ohio Supp. 19.

[56] SECTION 4. Hearing of motion. – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

[57] Pallada v. Regional Trial Court of Kalibo Aklan Br. 1, 364 Phil. 81, 89 (1999).

[58] Cruz v. Court of Appeals, 436 Phil. 641, 651 (2002).

[59] *People v. Leviste*, 325 Phil. 525, 535 (1996).

[60] *Presyler, Jr. v. Manila Southcoast Development Corporation*, G.R. No. 171872, June 28, 2010, 621 SCRA 636, 642, citing *Somera Vda. De Navarro v. Navarro*, CA No. 501, February 11, 1946. See also *Jehan Shipping Corporation v. National Food Authority*, 514 Phil. 166, 174 (2005).

[61] *Jehan Shipping Corporation v. National Food Authority*, 514 Phil. 166, 174 (2005).

[62] *Office of the Court Administrator v. Paderanga*, 505 Phil. 143, 157 (2005).

[63] *Commissioner Rodriguez v. Judge Bonifacio*, 398 Phil. 441, 468 (2000).

[64] *Quinio v. Court of Appeals*, 390 Phil 852, 861 (2000).

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