

FERDINAND A. CRUZ, PETITIONER, VS. JUDGE HENRICK F. GINGOYON,[Deceased] JUDGE JESUS B. MUPAS, ACTING PRESIDING JUDGE, REGIONAL TRIAL COURT BRANCH 117, PASAY CITY, RESPONDENT.

G.R. No. 170404. September 28, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

While there are remedies available to a party adjudged in contempt of court, same may only be availed of when the procedures laid down for its availment are satisfied.

By this Petition for Certiorari,[1] petitioner Ferdinand A. Cruz (petitioner) assails the Order[2] dated November 25, 2005 issued by the now deceased Judge Henrick F. Gingoyon (Judge Gingoyon) of Branch 117, Regional Trial Court (RTC) of Pasay City (respondent court) citing him in direct contempt of court, the dispositive portion of which states:

WHEREFORE, Ferdinand Cruz is hereby found GUILTY beyond reasonable doubt of DIRECT CONTEMPT OF COURT.

Accordingly, he is hereby sentenced to suffer TWO (2) DAYS of imprisonment and to pay a fine of P2,000.00.

SO ORDERED.[3]

Essentially, petitioner prays for this Court to declare the assailed Order void and that Judge Gingoyon abused his discretion in citing him in contempt, as well as in denying his motion to fix the amount of bond.

Antecedent Facts

This case stemmed from a Civil Complaint[4] filed by petitioner against his neighbor, Benjamin Mina, Jr. (Mina), docketed as Civil Case No. 01-0401 in the RTC of Pasay City for abatement of nuisance. In the said case, petitioner sought redress from the court to declare as a nuisance the "basketball goal" which was permanently attached to the second floor of Mina's residence but protrudes to the alley which serves as the public's only right of way.

Mina was declared in default[5] hence petitioner presented his evidence ex-parte.

After trial, Judge Gingoyon, in his Decision[6] dated October 21, 2005, declared the basketball goal as a public nuisance but dismissed the case on the ground that petitioner lacked "locus standi." Citing Article 701 of the Civil Code, Judge Gingoyon ruled that the action for abatement of nuisance should be commenced by the city or municipal mayor and not by a private individual like the petitioner.

In the same Decision, Judge Gingoyon also opined that:

Plaintiffs must learn to accept the sad reality of the kind of place they live in. x x x Their place is bursting with

people most of whom live in cramped tenements with no place to spare for recreation, to laze around or doing their daily household chores.

Thus, residents are forced by circumstance to invade the alleys. The alleys become the grounds where children run around and play, the venue where adults do all sorts of things to entertain them or pass the time, their wash area or even a place to cook food in. Take in a few ambulant vendors who display their wares in their choice spots in the alley and their customers that mill around them, and one can only behold chaos if not madness in these alleys. But for the residents of the places of this kind, they still find order in this madness and get out of this kind of life unscathed. It's because they all simply live and let live. Walking through the alleys daily, the residents of the area have become adept at [weaving] away from the playthings that children at play throw every which way, sidestepping from the path of children chasing each other, dodging and [ducking] from awnings or canopies or clotheslines full of dripping clothes that encroach [on] the alleys. Plaintiffs appear to be fastidious and delicate and they cannot be faulted for such a desirable trait. But they can only do so within their own abode. Once they step outside the doors of their home, as it were, they cannot foist their delicacy and fastidiousness upon their neighbors. They must accept their alleys as the jungle of people and the site of myriad of activities that it is. They must also learn to accept the people in their place as they are; they must live and let live. Unless they choose to live in a less blighted human settlement or better still move to an upscale residential area, their only remaining choice is for them to live in perpetual conflict with their neighbors all the days of their lives.[7]

Petitioner sought reconsideration of the Decision. In his Motion for Reconsideration,[8] he took exception to the advice given by Judge Gingoyon thus:

The 12[th] and 13[th] paragraphs of the assailed decision, though only an advice of the court, are off-tangent and even spouses illegality;

Since when is living in cramped tenements become a license for people to invade the alleys and use the said alley for doing all sorts of things, i.e., as wash area or cooking food? In effect, this court is making his own legislations and providing for exceptions in law when there are none, as far as nuisance is concerned;

The court might not be aware that in so doing, he is giving a wrong signal to the defendants and to the public at large that land grabbing, squatting, illegal occupation of property is all right and justified when violators are those people who live in cramped tenements or the underprivileged poor, as the court in a sweeping statement proclaimed that "residents are forced by circumstance to invade the alleys;"

For the enlightenment of the court, and as was proven during the ex-parte presentation of evidence by the plaintiff, Edang estate comprises properties which are subdivided and titled (plaintiffs and defendants have their own titled properties and even the right of way or alley has a separate title) and not the kind the court wrongfully perceives the place to be;

Moreover, the court has no right to impose upon the herein plaintiffs to accept their alleys as a jungle of people and the site of myriad of activities that it is. For the information of the court, plaintiffs have holdings in upscale residential areas and it is a misconception for the court to consider the Pasay City residence of the plaintiffs as a blighted human settlement. Apparently the court is very much misinformed and has no basis in his litany of eye sore descriptions;

Undersigned is at quandary what will this court do should he be similarly situated with the plaintiffs? Will the court abandon his residence, giving way to illegality in the name of live and let live principle?

Nonetheless, what remains bugling [sic] is the fact that the court in his unsolicited advice knows exactly the description of the alley where the complained nuisance is located and the specific activities that the defendants do in relation to the alley. The court should be reminded that the undersigned plaintiff presented his evidence ex-parte and where else can the court gather these information about the alleys aside from the logical

conclusion that the court has been communicating with the defendant, off the record, given that the latter has already been in default.[9] (Emphasis supplied.)

Petitioner requested the respondent court to hear his motion for reconsideration on November 18, 2005.[10]

In an Order[11] dated November 11, 2005, Judge Gingoyon set the motion for hearing on November 18, 2005, a date chosen by petitioner,[12] and directed him to substantiate his serious charge or show cause on even date why he should not be punished for contempt.[13] Judge Gingoyon also opined that:

This court, more specifically this Presiding Judge, has not seen the faintest of shadow of the defendant or heard even an echo of his voice up to the present. Plaintiff Ferdinand Cruz is therefore directed to substantiate his serious charge that he "has been communicating with the defendant off the record, given that the latter has already been declared in default". He is therefore ordered to show cause on November 18, 2005, why he should not be punished for contempt of court for committing improper conduct tending directly or indirectly to degrade the administration of justice.[14]

On November 18, 2005, petitioner, however, did not appear. Judge Gingoyon then *motu proprio* issued an Order[15] in open court to give petitioner another 10 days to show cause. The Order reads:

In his Motion for Reconsideration, plaintiff Ferdinand Cruz specifically prayed that he is submitting his Motion for Resolution and Approval of this court today, Friday, November 18, 2005, at 8:30 A.M. Fridays have always been earmarked for criminal cases only. Moreover, long before plaintiff filed his motion for reconsideration, this court no longer scheduled hearings for November 18, 2005 because there will be no Prosecutors on this date as they will be holding their National Convention. Nevertheless, since it is the specific prayer of the plaintiff that he will be submitting his motion for resolution and approval by the court on said date, the court yielded to his wish and set his motion for hearing on his preferred date.

When this case was called for hearing today, plaintiff did not appear. The court waited until 9:45 A.M. but still no appearance was entered by the plaintiff or any person who might represent himself as an authorized representative of the plaintiff. Instead it was the defendant and his counsel who appealed and who earlier filed an Opposition to Motion for Reconsideration.

x x x x

In view of the failure of the plaintiff to appear in today's hearing, the court considers the motion for reconsideration submitted for resolution. As for the Order of this court for the plaintiff to show cause why he should not be punished for contempt of court, the court [*motu proprio*] grants plaintiff last ten (10) days to show cause why he should not be punished for contempt of court. After the lapse of the said period, the court will resolve the issue of whether or not he should be cited for contempt. x x x[16]

In his Compliance[17] to the Show Cause Order, petitioner maintained that the alleged contumacious remarks he made have a leg to stand on for the same were based on the circumstances of the instant case. He even reiterated his insinuation that Judge Gingoyon communicated with Mina by posing the query: "...where then did this court gather an exact description of the alley and the myriad of [sic] activities that the inhabitants of interior Edang do in relation to the alley, when the defendant was held in default and absent plaintiff's evidence so exacting as the description made by this court in paragraphs 12 and 13 of his Decision dated October 21, 2005." [18]

On November 25, 2005, Judge Gingoyon issued an Order[19] finding petitioner guilty of direct contempt of court. The Order reads:

Ferdinand Cruz was ordered to substantiate with facts his serious charge that the Judge "has been communicating with the defendant off the record". But instead of presenting proof of facts or stating facts, Cruz simply shot back with a query: "Where then did this court gather an exact description of the alley and the

myriad activities that the inhabitants of interior Edang do in relation to the alley, when the defendant was held in default and absent plaintiff's evidence so exacting as the description made by this court..." By this token, Cruz adamantly stood pat on his accusation, which now appears to be wholly based on suspicion, that the Judge has been communicating with the defendant off the record.

The suspicion of Ferdinand Cruz may be paraphrased thus: The only way for the Judge [to] know the blight in his place in Pasay City is for the Judge to communicate with the defendant. It is only by communicating with the defendant and by no other means may the Judge know such blight.

Blinded by his suspicion, Cruz did not consider that as State Prosecutor, the Judge was detailed in Pasay City in 1991 and that he has been a judge in Pasay City since 1997. The nuisance that Cruz complained of, or the blight of his place, is not a unique feature of that particular place. It is replicated in many other places of the city. Indeed, it is but a microcosm of what is prevalent not only within the urban areas within Metro Manila but also in many other highly urbanized areas in the country. Judges are no hermits that they would fail to witness this blight. Cruz did not care to make this allowance for the benefit of preserving the dignity of the court.

Cruz's open accusation without factual basis that the judge is communicating with the defendant is an act that brings the court into disrepute or disrespect; or offends its dignity, affront its majesty, or challenge its authority. It constitutes contempt of court. (People vs. De Leon, L-10236, January 31, 1958). x x x By alleging that the judge communicated with the defendant, Cruz is in effect charging the judge of partiality. Since there is not an iota of proof that the judge did the act complained of, the charge of partiality is uncalled for and constitutes direct contempt (Salcedo vs. Hernandez, 61 Phil. 724; Lualhati vs. Albert, 57 Phil.86; Malolos vs. Reyes, 111 Phil. 1113).

WHEREFORE, Ferdinand Cruz is hereby found GUILTY beyond reasonable doubt of DIRECT CONTEMPT OF COURT.

Accordingly, he is hereby sentenced to suffer TWO (2) DAYS of imprisonment and to pay a fine of P2,000.00.

SO ORDERED.[20]

An Order of Arrest[21] was issued against the petitioner on even date.

On December 1, 2005, at 10:00 A.M., petitioner filed an Urgent Ex-Parte Motion to Post Bond and Quash Warrant of Arrest (Ex-Parte Motion)[22] with the respondent court. In said Ex-Parte Motion, petitioner averred that:

x x x x

2. To date, undersigned has already filed a Petition for Certiorari before the Supreme Court;

x x x x

The respondent court denied the Ex-Parte Motion in its Order[23] dated December 1, 2005 based on petitioner's failure to attach the alleged duly filed Petition for Certiorari with the Supreme Court. The respondent court held that unless petitioner has shown proof of filing said petition for certiorari, he cannot avail of the remedy provided in Section 2, Rule 71 of the Rules of Court.

Meanwhile, Judge Gingoyon was slain on December 31, 2005. In a Resolution[24] dated February 1, 2006, this Court directed the incumbent Judge of Branch 117, RTC of Pasay City, Judge Jesus B. Mupas, to submit a comment on the petition "inasmuch as direct or indirect contempt pertains to the misbehavior or disrespect committed towards the court and not to judges in their personal capacities." [25]

Issues

Petitioner raises the following issues:

A.

WHETHER X X X PETITIONER [IS] GUILTY OF CONTEMPT OF COURT.

B.

WHETHER RESPONDENT COURT HAS ENOUGH FACTUAL BASIS FOR CITING PETITIONER IN CONTEMPT.

C.

WHETHER THE RESPONDENT COURT ABUSED ITS DISCRETION IN DENYING PETITIONER'S MOTION TO FIX BOND.[26]

The issues may be summed up as follows: whether the respondent court properly adjudged petitioner in direct contempt of court and whether abuse of discretion was committed by respondent court in denying the Ex-Parte Motion.

Petitioner contends that the alleged contumacious remark is merely a fair observation or comment and a logical conclusion made based on the detailed description given by the respondent court of what has been happening in the alley subject of the civil case. Petitioner avers that no other conclusion can be had except that Judge Gingoyon was communicating with the defendant off the record, since the exact description of what was happening in the alley was not adduced in evidence during trial. Further, petitioner contends that fair and logical conclusion founded on circumstances of the case cannot be considered contemptuous.

Petitioner likewise insists that the respondent court abused its discretion when it denied his motion to fix bond, therefore violating due process.

Our Ruling

We find the petition unmeritorious.

A pleading containing derogatory, offensive or malicious statements submitted to the court or judge wherein proceedings are pending is considered direct contempt.

"[C]ontemptuous statements made in pleadings filed with the court constitute direct contempt." [27] "[A] pleading x x x containing derogatory, offensive or malicious statements submitted to the court or judge in which the proceedings are pending x x x has been held to be equivalent to 'misbehavior committed in the presence of or so near a court or judge as to interrupt the proceedings before the same' within the meaning of Rule 71, § 1 of the Rules of Court and, therefore, constitutes direct contempt." [28]

Based on the abovementioned facts and consistent with the foregoing principles set forth, we agree with the finding of respondent court that petitioner is guilty of direct contempt of court.

The Motion for Reconsideration filed by petitioner with the respondent court contained a serious allegation that Judge Gingoyon has been communicating with the defendant off the record, which is considered as a grave offense. This allegation is unsubstantiated and totally bereft of factual basis. In fact, when asked to adduce proof of the allegation, petitioner was not able to give any, but repeatedly argued that it is his "fair observation or conclusion." [29]

Petitioner vehemently stood by his suspicion and repeated the allegation in the Compliance to the show-cause Order dated November 11, 2005 which he filed with the respondent court. The allegation was repeated despite Judge Gingoyon's outright denial of communicating with the defendant and explanation in the Order[30] dated November 25, 2005 that Judge Gingoyon was familiar with the area as he was detailed in Pasay City since 1991 as State Prosecutor, and thereafter, as judge since 1997.

Instead of showing proof of the alleged communication between Judge Gingoyon and the defendant off the record, petitioner stubbornly insisted that there is nothing contumacious about his allegation against the Judge as he was just giving his fair and logical observation. Clearly, petitioner openly accused Judge Gingoyon of wrongdoing without factual basis. Suffice it to say that this accusation is a dangerous one as it exposes Judge Gingoyon to severe reprimand and even removal from office.

On the other hand, a careful perusal of the description as provided by Judge Gingoyon in the Decision shows but a general description of what is normally seen and what normally happens in places such as Edang Street, to wit: "x x x place is bursting with people most of whom live in cramped tenements with no place to spare for recreation, to laze around or [do] their daily household chores x x x. The alleys become the grounds where children run around and play, the venue where adults do all sorts of things to entertain [themselves] or pass the time, their wash area or even a place to cook food in x x x. Ambulant vendors who display their wares in the alley and their customers that mill around them; x x x children chasing each other, dodging and [ducking] from awnings or canopies; x x x clotheslines full of dripping clothes that encroach [on] the alleys x x x." [31]

The act of petitioner in openly accusing Judge Gingoyon of communicating with the defendant off the record, without factual basis, brings the court into disrepute. The accusation in the Motion for Reconsideration and the Compliance submitted by the petitioner to the respondent court is derogatory, offensive and malicious. The accusation taints the credibility and the dignity of the court and questions its impartiality. It is a direct affront to the integrity and authority of the court, subjecting it to loss of public respect and confidence, which ultimately affects the administration of justice.

Furthermore, assuming that the conclusion of petitioner is justified by the facts, it is still not a valid defense in cases of contempt. "Where the matter is abusive or insulting, evidence that the language used was justified by the facts is not admissible as a defense. Respect for the judicial office should always be observed and enforced." [32]

Moreover, the charge of partiality is uncalled for, and there being no scintilla of proof that Judge Gingoyon did the act complained of, petitioner's act amounts to direct contempt of court.[33]

Denial of the Ex-Parte Motion to Post Bond and Quash Warrant of Arrest is proper; there is no abuse of discretion on the part of respondent court.

Petitioner avers that the respondent court abused its discretion in denying his Ex-Parte Motion. Petitioner insists that the respondent court should have granted his Ex-Parte Motion since he already filed a Petition for Certiorari before this Court pursuant to Rule 71 of the Rules of Court. He further avers that respondent court violated his right to due process by fixing the bond only on December 5, 2005 or 10 days after the Orders of contempt and arrest were issued.

Petitioner's contention lacks merit.

The respondent court was well within the bounds of its authority when it denied petitioner's Ex-Parte Motion.

A person may be adjudged in direct contempt of court pursuant to Section 1, Rule 71 of the Rules of Court[34]

without need of a hearing but may thereafter avail of the remedies of certiorari or prohibition.[35]

Section 2, Rule 71 of the Rules of Court provides:

Section 2. Remedy therefrom. - The person adjudged in direct contempt by any court may not appeal therefrom, but may avail himself of the remedies of certiorari or prohibition. The execution of the judgment shall be suspended pending resolution of such petition, provided such person files a bond fixed by the court which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him. (Emphasis supplied.)

In this case, we find that the respondent court properly denied petitioner's Ex-Parte Motion there being no proof that he already filed a petition for certiorari. Notably, the Ex-Parte Motion was filed with the respondent court on December 1, 2005 at 10:00 A.M.[36] and therein petitioner stated that he already filed a Petition for Certiorari with this Court. However, perusal of the records would show that the Petition for Certiorari was filed with the Supreme Court on the same day but at 1:06 P.M.[37] Clearly, when the motion was filed with the respondent court, it cannot be accurately said that a petition for certiorari was already duly filed with this Court. Significantly, the records show that respondent court was furnished a copy of the Petition for Certiorari by registered mail and which was received only on December 5, 2005.[38] It is therefore clear that at the time that petitioner filed the Ex-Parte Motion with the respondent court, he has not yet availed of the remedy of certiorari. In fact, it was only after filing the Ex- Parte Motion with respondent court that petitioner filed the Petition for Certiorari with the Supreme Court. This explained why no proof of such filing was presented by petitioner to the respondent court thus prompting it to declare that unless petitioner has shown proof of filing said petition for certiorari, he cannot avail of the remedy provided in Section 2, Rule 71 of the Rules of Court.[39] Petitioner thus cannot attribute abuse of discretion on the part of respondent court in denying the Ex-Parte Motion. To reiterate, at the time the said Ex-Parte Motion was filed and acted upon by the respondent court, petitioner was not yet entitled to the remedy prayed for. Clearly, the respondent court did not commit error, nor did it overstep its authority in denying petitioner's Ex-Parte Motion.

All told, we take a similar stand as Judge Gingoyon and affirm the Order adjudging petitioner guilty of direct contempt. However, as to the penalty imposed upon petitioner, we find the fine of P2,000.00 commensurate with the acts committed.

We also find the necessity to emphasize strict observance of the hierarchy of courts. "A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of extraordinary writs against first level ('inferior') courts should be filed with the [RTC], and those against the latter, with the Court of Appeals (CA). A direct invocation of the Supreme Court's original jurisdiction to issue extraordinary writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition." [40] For the guidance of the petitioner, "[t]his Court's original jurisdiction to issue writs of certiorari (as well as prohibition, mandamus, quo warranto, habeas corpus and injunction) is not exclusive." [41] Its jurisdiction is concurrent with the CA, and with the RTC in proper cases. [42] "However, this concurrence of jurisdiction does not grant upon a party seeking any of the extraordinary writs the absolute freedom to file his petition with the court of his choice. This Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and immemorial tradition." [43] Unwarranted demands upon this Court's attention must be prevented to allow time and devotion for pressing matters within its exclusive jurisdiction.

Adhering to the policy on judicial hierarchy of courts, "[w]here the issuance of an extraordinary writ is also within the competence of the [CA] or a [RTC], it is in either of these courts that the specific action for the writ's procurement must be presented." [44] In consequence, the instant petition should have been filed with the CA as there is no allegation of any special or compelling reason to warrant direct recourse to this Court. However, to

avoid further delay, we deem it practical to resolve the controversy.

Finally, it must be pointed out that on April 28, 2010, we directed petitioner to cause the entry of appearance of his counsel^[45] within 15 days from notice. Petitioner failed to comply hence we directed him to show cause why he should not be disciplinarily dealt with in our Resolution dated September 6, 2010.^[46] Still, petitioner failed to comply hence he was fined P1,000.00 in our Resolution dated January 17, 2011^[47] which was increased to P3,000.00 in our Resolution of June 29, 2011. Consequently, petitioner is hereby directed to pay said fine of P3,000.00 otherwise he would be dealt with more severely.

WHEREFORE, the Petition for Certiorari is DISMISSED. The Order dated November 25, 2005 of Branch 117 of the Regional Trial Court of Pasay City finding petitioner Ferdinand A. Cruz guilty of direct contempt is AFFIRMED with MODIFICATION. Petitioner is hereby sentenced to pay a fine of P2,000.00. In addition, petitioner is ordered to PAY a fine of P3,000.00 for his repeated failure to heed the directives of this Court. Petitioner is sternly WARNED that a repetition of the same or similar act shall be dealt with more severely.

SO ORDERED.

Leonardo-De Castro, (Acting Chairperson), Bersamin, Perez,^[*]and Mendoza,^[**] JJ., concur.

[*] In lieu of Associate Justice Martin S. Villarama, Jr., per Special Order No. 1080 dated September 13, 2011.

[**] In lieu of Chief Justice Renato C. Corona, per Special Order No. 1093 dated September 21, 2011.

[1] Rollo, pp. 3-12.

[2] Exhibit "A" of the Petition, id. at 12-14.

[3] Id. at 14.

[4] Records, pp. 1-8.

[5] Id. at 214.

[6] Id. at 257-264.

[7] Id. at 259-260.

[8] Id. at 267-273.

[9] Id. at 271-272.

[10] Id. at 273

[11] Exhibit "D" of the Petition, id. at 26.

[12] See the Notice of Hearing in the Motion for Reconsideration, Exhibit "B" of the Petition, id. at 21.

[13] In the same Order, Judge Gingoyon denied the allegation of the petitioner that he was communicating with the defendant off the record, thus: "x x x This court, more specifically this Presiding Judge, has not seen the faintest shadow of the defendant or heard even an echo of his voice up to the present. x x x."

[14] Records, p. 274

[15] Id. at 304.

- [16] Id.
- [17] Id. at 311-313.
- [18] Id. at 312.
- [19] Id. at 316-318.
- [20] Id. at 317-318.
- [21] Id. at 319.
- [22] Id. at 320-322.
- [23] Id. at 327.
- [24] Rollo, p. 31.
- [25] Id.
- [26] Id. at 86.
- [27] Atty. Ante v. Judge Pascua, 245 Phil. 745, 747 (1988).
- [28] Wicker v. Hon. Arcangel, 322 Phil. 476, 483 (1996), citing Ang v. Judge Castro, 221 Phil. 149, 153 (1985) and Atty. Ante v. Judge Pascua, 245 Phil. 745 (1988).
- [29] Rollo, pp. 83-89.
- [30] Id. at 12-14.
- [31] Id. at 24-25.
- [32] Salcedo v. Hernandez, 61 Phil. 724, 729 (1935), citing In re Stewart, 118 La., 827; 43 S., 455.
- [33] Malolos v. Hon. Reyes, 111 Phil. 1113 (1961).
- [34] Section 1. Direct contempt punished summarily. A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both, if it be the Regional Trial Court or a court of equivalent or higher rank, or by a fine not exceeding two hundred pesos or imprisonment not exceeding one (1) day, or both, if it be a lower court.
- [35] Rules of Court, Rule 71, Section 2.
- [36] See the RTC's stamped receipt on the motion, records, p. 320.
- [37] See the Supreme Court's stamped receipt on the petition, rollo, p. 3.
- [38] See the RTC's stamped receipt on a copy of the petition, records, p. 328.
- [39] Id. at 327.
- [40] People v. Cuaresma, 254 Phil. 418, 427 (1989).
- [41] Id. at 426.

[42] *Ouano v. PGGT International Investment Corp.*, 434 Phil 28, 34 (2002).

[43] *Id.*, citing *Vergara, Sr. v. Judge Suelto*, 240 Phil. 719, 732 (1987).

[44] *Vergara, Sr. v. Judge Suelto*, 240 Phil. 719, 733 (1987).

[45] *Rollo*, p. 121.

[46] *Id.* at 123.

[47] *Id.* at 124.

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