



Republic of the Philippines
Supreme Court
Manila

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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
FEB 05 2018

THIRD DIVISION

EDITHA B. ALBOR,
Petitioner,

G.R. No. 196598

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GISMUNDO, JJ.

COURT OF APPEALS, NERVA
MACASIL joined by her husband
RUDY MACASIL and NORMA
BELUSO, joined by her husband
NOLI BELUSO,
Respondents.

Promulgated:

January 17, 2018

Wilfredo V. Lapitan

X ----- X

DECISION

MARTIRES, J.:

This petition for certiorari under Rule 65 of the Rules of Court seeks to reverse and set aside the 24 September 2009¹ and 15 February 2011² Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 03895. The assailed CA Resolutions dismissed herein petitioner Editha B. Albor's (*Editha*) appeal from the 8 October 2008 Decision³ of the Department of Agrarian Reform Adjudication Board (*DARAB*) in *DARAB* Case No. 13162, for having been filed out of time.

Martires

¹ *Rollo*, pp. 284-285; penned by Associate Justice Amy C. Lazaro-Javier, with Associate Justice Rodil V. Zalameda and Associate Justice Samuel H. Gaerlan, concurring.

² *Id.* at 294-295; penned by Associate Justice Pampio A. Abarintos, with Associate Justice Ramon A. Cruz and Associate Justice Myra V. Garcia-Fernandez, concurring.

³ *Id.* at 64-71.

ANTECEDENTS

Editha was the agricultural lessee of a 1.60 hectare riceland portion and a 1.5110 hectare sugarland portion of Lot 2429 located at Barangay Dinginan, Roxas City. Lot 2429 was covered by Transfer Certificate of Title (*TCT*) No. RT-108 (522),⁴ registered in the name of Rosario Andrada (*Rosario*), married to Ramon Gardose. As agricultural lessee, Editha had been paying rent to the agricultural lessors, the heirs of Rosario. On 22 September 2000, the Municipal Agrarian Reform Officer (*MARO*) of Roxas City, invited Editha to appear before the *MARO* office on 20 October 2000. Editha heeded the invitation and there met respondents who informed her that they had purchased Lot 2429 from the heirs of Rosario. No Deed of Sale, however, was shown to Editha.

On 7 November 2000, Editha was able to obtain from the Clerk of Court of the Regional Trial Court (*RTC*) in Roxas City, a document entitled "Extra-Judicial Settlement with Deed of Sale," purportedly executed by the heirs of Rosario. It appears that on 6 June 1997, the heirs of Rosario adjudicated unto themselves Lot 2429 and thereupon sold the same to respondents for ₱600,000.00. Asserting that she had the right to redeem Lot 2429 from respondents, Editha lodged a complaint for redemption of landholding and damages before the Provincial Agrarian Reform Adjudicator (*PARAD*).

In the main, Editha alleged that under Section 12 of Republic Act (*R.A.*) No. 3844,⁵ as amended by *R.A.* No. 6389, she had the right to redeem Lot 2429 within 180 days from notice in writing of the sale which shall be served by the vendee on all lessees affected and on the Department of Agrarian Reform upon registration of the sale. Considering that the said extrajudicial settlement with deed of sale had not yet been registered with the Register of Deeds of Roxas City, her 180-period for redemption did not commence. Thus, she prayed that judgment be rendered declaring her entitled to redeem the said lot, at the price of ₱60,000.00.

On their part, respondents asserted that prior to the actual sale of Lot 2429, Editha knew that the selling price was ₱600,000.00 and not ₱60,000.00, as misleadingly alleged in her complaint. Respondents stated that on 21 April 1997,⁶ a certain Atty. Alejandro Del Castillo, together with Eva Gardose-Asis, representing the heirs of Rosario, conferred with Editha and her son Bonifacio Albor about the impending sale of Lot 2429. During the conference, Editha was apprised of her right of preemption, and Lot 2429 was offered to her for the price of ₱600,000.00. This notwithstanding,

⁴ Id. at 59.

⁵ *R.A.* No. 3844, otherwise known as the Agricultural Reform Code.

⁶ Erroneously mentioned as 7 April 1997 in the narration of facts in the *PARAD* decision.

Editha did not exercise her preemptive right to buy the lot; consequently, the sale was consummated between the heirs of Rosario and respondents on 6 June 1997.

Respondents further claimed that Editha was well-informed in writing regarding the sale of Lot 2429. They alleged that Felisa Aga-in and Teresita Gardose, acting in behalf of the other heirs of Rosario, executed a notice, dated 16 March 1998, informing Editha that respondents were interested in buying Lot 2429; and that if she so desired, she could still repurchase the property from respondents.

Finally, respondents averred that they sent Editha a written demand for payment of rentals reckoned from 1998. Instead of complying, Editha instituted the complaint for redemption. Accordingly, respondents prayed for collection of back rentals, termination of the agricultural leasehold agreement, moral damages, attorney's fees, and litigation expenses.

In its 30 June 2003 decision,⁷ the PARAD found that Editha was not properly notified of the sale. It observed that the 16 March 1998 notice which respondents presented failed to indicate the terms and particulars of the sale. As such, it ruled that Editha's right of redemption did not prescribe for want of a valid written notice.

While the PARAD sustained Editha's right of redemption, it nevertheless resolved to dismiss her complaint after finding that only ₱216,000.00 was consigned as redemption price. Citing jurisprudence on the matter, the PARAD opined that tender of payment must be for the full amount of the repurchase price; otherwise, the offer to redeem would be held ineffectual. It noted that in the extrajudicial settlement and deed of sale which Editha herself procured, the purchase price stated was ₱600,000.00, and that such price was never disputed. Hence, absent evidence to the contrary, there can be no doubt that ₱600,000.00 was the actual amount that respondents paid for Lot 2429. The decretal portion of the PARAD's decision reads:

WHEREFORE, premises considered, judgement is hereby rendered as follows:

- 1) DISMISSING the complaint for redemption;
- 2) ORDERING the defendants, their agents or representatives and any other persons acting for and in their names to maintain the complainant and the immediate members of her family in peaceful possession, cultivation and enjoyment of the subject land;

⁷ Rollo, pp. 51-63: penned by Provincial Agrarian Reform Adjudicator Myrna O. Del Socorro.

- 3) ORDERING the complainant to pay the defendants ONE HUNDRED (101) CAVANS of clean palay as back rentals for the riceland portion and TWO THOUSAND FIVE HUNDRED (₱2,500.00) PESOS as back rentals for the sugarland portion representing the rentals in arrears for agricultural crop years 1998-1999 to 2001-2002, and thereafter, 50 cavans of palay and ₱1,000.00 pesos annually until the execution of this decision;
- 4) ORDERING the parties to seek the assistance of the Department of Agrarian Reform through its Municipal Office concerned and execute an agricultural lease contract over the subject land;
- 5) DIRECTING the Department of Agrarian Reform through its Provincial and/or Municipal Offices to initiate and conduct mediation between the parties, assist them in the determination and fixing of agricultural lease rentals and in the execution of agricultural lease contract; and
- 6) DIRECTING further the Department of Agrarian Reform through its Provincial and/or Municipal Offices to conduct a survey on the sugarland portion for the determination of its exact area in aid of their fixing of rentals.

All claims and counterclaims are hereby dismissed for lack of evidence.

SO ORDERED.⁸

Aggrieved, Editha filed an appeal before the DARAB. On 10 November 2008, Editha's erstwhile counsel, Atty. Fredicindo A. Talabucon (*Atty. Talabucon*), received a copy of the DARAB's 8 October 2008 decision which affirmed *in toto* the PARAD's ruling.

On 25 November 2008, Editha filed before the CA a motion for extension of time⁹ to file a Rule 43 petition for review. She prayed for an additional fifteen (15) days, or from 25 November 2008 until 10 December 2008.

Shortly thereafter, on 3 December 2008, a motion to withdraw as counsel,¹⁰ dated 28 November 2008, was filed by Atty. Talabucon. It was alleged that Editha decided to engage the services of another counsel and for

⁸ Id. at 62-63; PARAD decision.

⁹ Id at 20-22.

¹⁰ Id. at 24-25.



said reason, Atty. Talabucon was withdrawing his appearance. Editha signified her conformity to the motion to withdraw as counsel.

On 9 December 2008, Editha's new counsel, Atty. Ferdinand Y. Samillano (*Atty. Samillano*), filed with the CA a notice of appearance¹¹ and at the same time moved for an extension of thirty (30) days, or from 10 December 2008 until 9 January 2009, within which to file the petition for review. The second motion for extension of time was grounded on heavy workload and the need for more time to study the case.

Eventually, Editha's petition for review was filed on 5 January 2009.

The Assailed CA Resolutions

In the assailed resolution, dated 24 September 2009, the CA dismissed Editha's petition for review for having been filed out of time. The appellate court ratiocinated that while it may grant Editha's first motion for extension of fifteen (15) days within which to file the petition, it was devoid of authority to grant her second motion for extension which asked for an additional time of thirty (30) days.

Editha filed a motion for reconsideration, which was likewise denied by the CA in its 15 February 2011 resolution. Both resolutions denying Editha's petition for review were anchored on Section 4, Rule 43 of the Rules of Court, *viz*:

Section 4. Period of appeal. — The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

In her bid to undo the CA resolutions, Editha comes before this Court via a Rule 65 petition for certiorari.



¹¹ *Id.* at 26-28.

ISSUE

WHETHER OR NOT THE CA ERRED IN DISMISSING EDITHA'S PETITION FOR REVIEW FOR HAVING BEEN FILED OUT OF TIME.

OUR RULING

Editha's petition fails.

Editha availed of the wrong mode of appeal in bringing her case before this Court.

The proper remedy of a party aggrieved by a decision of the CA is a petition for review under Rule 45; and such is not similar to a petition for certiorari under Rule 65 of the Rules of Court. As provided in Rule 45 of the Rules of Court, decisions, final orders or resolutions of the CA in any case, i.e., regardless of the nature of the action or proceedings involved, may be appealed to this Court by filing a petition for review, which in essence is a continuation of the appellate process over the original case.¹²

On the other hand, a special civil action under Rule 65 is a limited form of review and is a remedy of last recourse.¹³ It is an independent action that lies only where there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law. Certiorari will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court.¹⁴ As long as the court *a quo* acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctible by an appeal or a petition for review under Rule 45 of the Rules of Court.¹⁵

The 24 September 2009 and 15 February 2011 resolutions of the CA were final and appealable judgments. In particular, the resolution dated 24 September 2009 dismissed Editha's Rule 43 petition for review, while the resolution dated 15 February 2011 denied her motion for reconsideration of the earlier resolution. The assailed resolutions disposed of Editha's appeal in a manner that left nothing more to be done by the CA with respect to the said appeal.¹⁶ Hence, Editha should have filed an appeal before this Court by

¹² *PBCOM v. Court of Appeals*, G.R. No. 218901, 15 February 2017.

¹³ *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*, 716 Phil. 500, 513 (2013).

¹⁴ *People v. Chavez*, 411 Phil. 482, 492 (2001).

¹⁵ *Marasigan v. Fuentes, et al.*, 778 SCRA 645, 653.

¹⁶ *Sps. Dycoco v. Court of Appeals*, 715 Phil. 550, 561 (2013).



way of a petition for review on certiorari under Rule 45, not a petition for certiorari under Rule 65.¹⁷

Editha received the 15 February 2011 resolution denying her motion for reconsideration on 28 February 2011. Under the rules, she had until 15 March 2011 to file a petition for review on certiorari with this Court. Editha allowed the period to lapse without filing an appeal and, instead, filed this petition for certiorari on 29 April 2011. Certiorari is not and cannot be made a substitute for an appeal where the latter remedy is available but was lost through fault or negligence.¹⁸ Where the rules prescribe a particular remedy for the vindication of rights, such remedy should be availed of.¹⁹ Accordingly, adoption of an improper remedy already warrants outright dismissal of this petition.²⁰

***Even if the Court looks beyond
Editha's procedural misstep,
her petition must fail.***

Editha imputes grave abuse of discretion on the part of the CA and argues that it was too technical and constricted in applying the rules of procedure. She insists that Section 4, Rule 43 of the Rules of Court admits of an exception, as the said provision states that a second extension may be granted for compelling reason.

Editha posits that there is a compelling reason to grant a second extension of time because on 3 December 2008, Atty. Talabucon suddenly withdrew as her counsel. It was only on 9 December 2008 that she hired a new counsel, Atty. Samillano. Having just entered the picture, Atty. Samillano needed more time to study the case, and he could not be expected to finish drafting the petition for review in just one (1) day before the expiration of the 15-day extension granted by the CA. In this accord, Editha contends that the filing of the second motion for extension of time was justified; and that the CA's dismissal of her petition for review impinged on her substantive right to due process.

The arguments proffered are specious and deserve scant consideration.

It is doctrinally entrenched that the right to appeal is a statutory right and the one who seeks to avail of that right must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary

¹⁷ Id.

¹⁸ *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*, supra note 13 at 513.

¹⁹ Id. at 512.

²⁰ *Mercado v. Valley Mountain Mines Exploration, Inc.*, 677 Phil. 13, 51 (2011).

period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well.²¹ The failure to perfect the appeal within the time prescribed by the Rules of Court unavoidably renders the judgment final as to preclude the appellate court from acquiring the jurisdiction to review the judgment.²²

It bears stressing that the statutory nature of the right to appeal requires the appealing party to strictly comply with the statutes or rules governing the perfection of an appeal, as such statutes or rules are instituted in order to promote an orderly discharge of judicial business. In the absence of highly exceptional circumstances warranting their relaxation, the statutes or rules should remain inviolable.²³

The Court quotes the relevant portion of Section 4, Rule 43 of the Rules of Court:

Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

The provision is straightforward. While the CA enjoys a wide latitude of discretion in granting a first motion for extension of time, its authority to grant a further or second motion for extension of time is delimited by two conditions: *First*, there must exist a most compelling reason for the grant of a further extension; and *second*, in no case shall such extension exceed fifteen (15) days.

So narrow is the discretion accorded to the CA in granting a second extension of time that the word “most” was utilized to underscore the compelling reason demanded by the rule. Editha maintains that the filing of the second motion for extension of time was prompted by the sudden withdrawal of her previous counsel. The CA, however, did not appreciate such predicament as a most compelling reason to grant her plea for further extension of time. On this score, the Court similarly finds no compelling reason to deviate from the sound conclusion of the CA.



²¹ *De Leon v. Hercules Agro Industrial Corp.*, 734 Phil. 652, 660 (2014).

²² *Prieto v. CA*, 688 Phil. 21, 29 (2012).

²³ *Id.* at 29-30.

Editha's situation is not unique. In *Spouses Jesus Dycoco v. CA*,²⁴ petitioner-spouses (*Sps. Dycoco*) received on 3 April 2000, a copy of the DARAB decision they sought to assail. Thus, the *Sps. Dycoco* had until 18 April 2000 to file an appeal. They filed a motion in the CA praying for an extension of thirty (30) days within which to file their intended petition. The CA granted them an extension of fifteen (15) days, or until 3 May 2000 to file their petition. Despite the extension, the *Sps. Dycoco* filed their petition by registered mail only on 8 May 2000. Not surprisingly, their petition was denied due course and dismissed by the CA.²⁵

Like Editha, the *Sps. Dycoco* erroneously elevated their case to the Court via a Rule 65 petition for certiorari. Seeking liberality, the *Sps. Dycoco* contended that their appeal was filed after the extension granted by the CA because, on 10 April 2000, they secured the services of a new counsel who still had to study the voluminous records. In dismissing the *Sps. Dycoco*'s petition for certiorari, the Court held that:

Petitioner-spouses caused their own predicament when they decided to change horses in midstream and engaged the services of their present counsel on April 10, 2000 or just a week before the expiration of the period to appeal in the Court of Appeals, discharging the services of their former counsel who handled the case from the level of the Provincial Adjudicator to the DARAB. They cannot escape the consequences of a belated appeal caused by the need of their new counsel for more time to study voluminous records and familiarize himself with the case.²⁶

In juxtaposition, it was alleged in the motion to withdraw as counsel that Editha had decided to engage the services of another counsel; and that for said reason, Atty. Talabucon was withdrawing his appearance. The Court notes that the motion to withdraw as counsel bore Editha's signature²⁷ which signified her conformity. At this point, the striking parallelism between the present petition and the case of the *Sps. Dycoco* becomes manifest. The records reveal that it was Editha herself who caused her predicament. As such, her petition for certiorari cannot escape the same outcome entered by the Court in *Spouses Jesus Dycoco v. CA*.

Also, it may be well to recall the Court's pronouncement in *Cesar Naguit v. San Miguel Corp.*²⁸ The petitioner Cesar Naguit (*Naguit*) failed to timely file before the CA his petition for certiorari against an adverse decision rendered by the National Labor Relations Commission. In his Rule 45 petition for review, Naguit invoked liberality in the construction of the rules. He argued that the CA should not have dismissed his petition by

²⁴ Supra note 16.

²⁵ Id. at 558-559.

²⁶ Id. at 568-569.

²⁷ *Rollo*, p. 25.

²⁸ *Naguit v. San Miguel Corporation*, 761 Phil. 184 (2015).

simply denying his motion for extension of time to file the same. To support his plea, Naguit asserted that due to the unavailability of his former lawyer, he retained the services of a new counsel who had a heavy workload; and that the records were forwarded to the latter only a week before the expiration of the period for filing of the petition with the CA.²⁹

The Court, unconvinced by Naguit's explanation, reiterated:

Suffice it to say that workload and resignation of the lawyer handling the case are insufficient reasons to justify the relaxation of the procedural rules.

In addition, it is also the duty of petitioner to monitor the status of his case and not simply rely on his former lawyer whom he already knew to be unable to attend to his duties as counsel. It is settled that litigants represented by counsel should not expect that all they need to do is sit back and relax, and await the outcome of their case. They should give the necessary assistance to their counsel, for at stake is their interest in the case.³⁰

Apropos, even if the Court were to believe that Atty. Talabucon's withdrawal was "sudden" as alleged by Editha, it cannot be gainsaid that the corresponding motion to withdraw as counsel was filed with at least seven (7) days remaining from the 15-day extension granted by the CA. Ordinary prudence should have impelled Editha to seek the assistance of a new counsel immediately after signing her conformity to Atty. Talabucon's motion to withdraw as counsel. Yet, regrettably, she hired her new counsel only one (1) day before the expiration of the 15-day extension granted to her. Hence, for failure to exercise vigilance in the prosecution of her case, Editha must be prepared to accept whatever adverse judgment may be rendered against her.

***Finally, even on the merits,
Editha's petition has no leg to
stand on.***

Both the PARAD and the DARAB found that Editha only consigned the amount of ₱216,000.00 as redemption price for Lot 2429. As aptly observed in the PARAD's decision, it was Editha herself who secured a copy of the extrajudicial settlement and deed of sale from the Clerk of Court of the RTC in Roxas City. The purchase price stated in the deed of conveyance was ₱600,000.00, and the administrative tribunals correctly held that absent sufficient evidence to the contrary, it must be accepted the reasonable price of the land as purchased by the respondents.



²⁹ Id. at 191.

³⁰ Id. at 191-192.

The full amount of the redemption price should be consigned in court.³¹ As explained in *Quiño v. CA*:

Only by such means can the buyer become certain that the offer to redeem is one made seriously and in good faith. A buyer cannot be expected to entertain an offer of redemption without the attendant evidence that the redemptioner can, and is willing to accomplish the repurchase immediately. A different rule would leave the buyer open to harassment by speculators or crackpots, as well as to unnecessary prolongation of the redemption period, contrary to the policy of the law in fixing a definite term to avoid prolonged and anti-economic uncertainty as to ownership of the thing sold. Consignation of the entire price would remove all controversies as to the redemptioner's ability to pay at the proper time.³²

The redemption price Editha consigned falls short of the requirement of the law, leaving the Court with no choice but to rule against her claim.


In fine, there is an abundance of reasons, both procedural and substantive, which has proved fatal to Editha's cause.³³

WHEREFORE, the petition for certiorari is **DISMISSED**. The assailed CA Resolutions in CA-G.R. SP No. 03895 are hereby **AFFIRMED**.

SO ORDERED.


SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

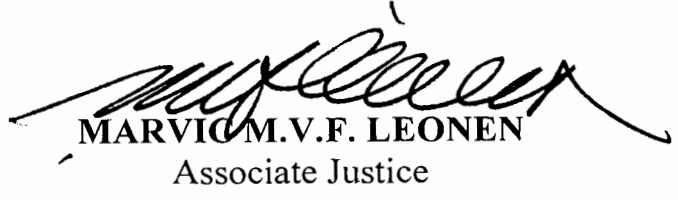

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

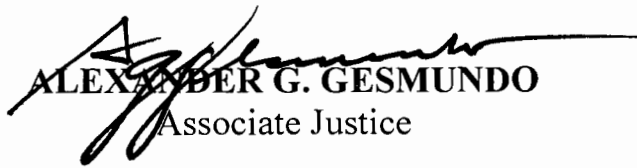
³¹ *Quiño v. CA*, 353 Phil. 499, 458 (1998).

³² *Id.* at 458-459.

³³ *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*, supra note 13 at 518.

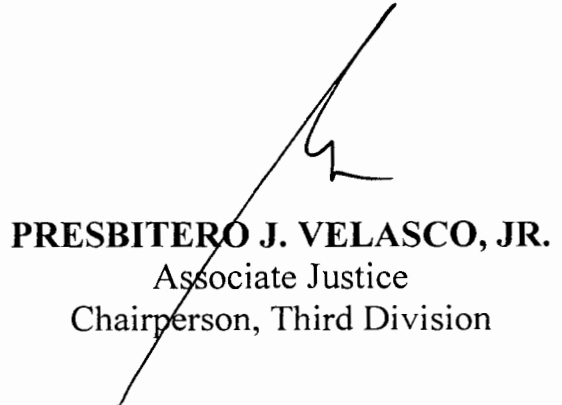

LUCAS P. BERSAMIN
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


ALEXANDER G. GESMUNDO
 Associate Justice

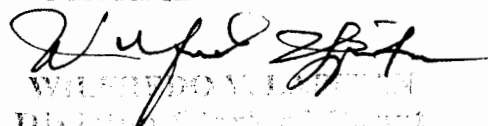
ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY

WILFRIDO Y. LANTION
 Division Clerk of Court
 Third Division


MARIA LOURDES P. A. SERENO
 Chief Justice

FEB 05 2018