

Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **December 5, 2019** which reads as follows:

**“G.R. No. 249336 – DR. NATIVIDAD V. UNCIANO and DR. NATALIE V. UNCIANO, petitioners, versus HON. HONORIO E. GUANLAO, JR., Presiding Judge of the Regional Trial Court of Makati City, Branch 57, DR. MIRANDO V. UNCIANO, JR., and DR. ESTRELITA V. UNCIANO-JOVEN, respondents.**

After reviewing the instant Petition and its annexes, the Court finds the instant Petition unmeritorious. The Regional Trial Court (RTC) of Makati City, Branch 57 did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the first assailed Order<sup>1</sup> dated March 26, 2019 and the second assailed Order<sup>2</sup> dated July 11, 2019.

First and foremost, the petitioners violated the doctrine of hierarchy of courts when they decided to directly file their Rule 65 Petition before the Court. The petitioners could have filed the same before the Court of Appeals. There is no cogent reason that warrants the direct filing of the instant Petition before the Court. As unanimously held by the Court in *Gios-Samar, Inc. v. Department of Transportation and Communications*,<sup>3</sup> strict observance of the doctrine of hierarchy of courts should not be a matter of mere policy.

Second, the Court finds that there was no grave abuse of discretion on the part of the RTC when it dismissed the petitioners’ Motion to Dismiss Amended Petition<sup>4</sup> (MTD) dated February 19,

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<sup>1</sup> Rollo, p. 20. Penned by Presiding Judge Honorio E. Guanlao, Jr.

<sup>2</sup> Id. at 21.

<sup>3</sup> G.R. No. 217158, March 12, 2019.

<sup>4</sup> Rollo, pp. 28-32.

2019 for violating the notice of hearing rule under Rule 15 of the Rules of Court.

According to Section 4, Rule 15 of the Rules of Court, every prejudicial motion shall be set for hearing by the applicant. Such motions 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 days before the date of hearing. Under Section 5 of the same Rule, the notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than 10 days after the filing of the motion.

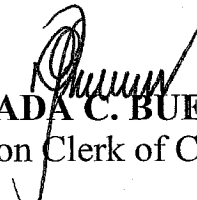
As readily admitted by the petitioners themselves in the instant Petition, the MTD filed before the RTC "*did not bear the notice of hearing* on February 27, 2019[.]"<sup>5</sup> As correctly explained by the RTC in the first assailed Order, citing *Cabrera v. Ng*,<sup>6</sup> a motion that does not comply with the notice of hearing requirement is a worthless piece of paper which the clerk of court has no right to receive and which the court has no authority to act upon.<sup>7</sup>

In any case, even if the aforementioned procedural grounds are swept aside, the MTD similarly lacks merit. The petitioners assert that dismissal of the Guardianship Petition is warranted due to the alleged non-payment of the correct amount of docket fees. The Court in *Sun Insurance Office, Ltd. v. Asuncion*<sup>8</sup> has already held that the non-payment of docket fees is not *per se* a ground for dismissal and that the court may allow the payment of docket fees within a reasonable time.<sup>9</sup>

Therefore, the Court **DISMISSES** the instant Petition for lack of merit.

**SO ORDERED.**" *Inting, J., additional member per Special Order 2726 dated October 25, 2019.*

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court mtb

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<sup>5</sup> Id. at 6. Emphasis and underscoring supplied.  
<sup>6</sup> 729 Phil. 544 (2014).  
<sup>7</sup> Id. at 550. Citation omitted.  
<sup>8</sup> 352 Phil. 280 (1989).  
<sup>9</sup> Id. at 291.



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