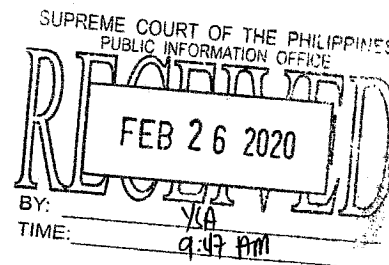




REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 03 February 2020 which reads as follows:*

“G.R. No. 241362 (Exequiel Sigre, Rodrigo Dabon, Edgardo Llarena, Ricardo Atazan, Marvin Vera, *et al.* v. Provincial Government of Zamboanga Del Sur, represented by Antonio H. Cerilles). – The Court NOTES and DEEMS AS SERVED by substituted service pursuant to Section 8, Rule 13 of the 1997 Rules of Civil Procedure, as amended, the returned and unserved copy of the Resolution dated June 3, 2019 (which, among others, noted the comment on the petition) sent to counsel for respondent Provincial Government of Zamboanga Del Sur (respondent), Atty. Benison Mahawan, at 3<sup>rd</sup> Floor, Provincial Capitol Complex, Urro Street, Pagadian City with notation, “RTS, moved out, addressee is not connected at given address.”

After a judicious study of the case, the Court resolves to DENY the instant petition<sup>1</sup> and AFFIRM the February 20, 2018<sup>2</sup> and July 4, 2018<sup>3</sup> Resolutions of the Court of Appeals (CA) in CA-G.R. SP No. 08470-MIN for failure of petitioners Exequiel Sigre, Rodrigo Dabon, Edgardo Llarena, Ricardo Atazan, Marvin Vera, *et al.* (petitioners) to sufficiently show that the CA committed any reversible error in dismissing their petition<sup>4</sup> outright for non-compliance with the provisions of Rule 42 of the Rules of Court,<sup>5</sup> particularly, for the belated filing of their petition, as well as their failure to pay the correct amount of docket fees.

The established rule is that the date of delivery of pleadings to a private letter-forwarding agency is not to be considered as the date of filing thereof in court; in such cases, the date of actual receipt by the court, and not the date of delivery to the private carrier, is deemed the date of filing of that pleading.<sup>6</sup> As correctly found by the CA, petitioners filed their petition *via* LBC, a private courier, which delivered the pleading to the CA only on December 14, 2017, a day

<sup>1</sup> *Rollo*, pp. 10-26.

<sup>2</sup> *Id.* at 31-32. Penned by Associate Justice Tita Marilyn Payoyo-Villordon with Associate Justices Romulo V. Borja and Oscar V. Badelles, concurring.

<sup>3</sup> *Id.* at 33-35.

<sup>4</sup> Not attached to the *rollo*.

<sup>5</sup> See Rule 42 of the Rules of Court.

<sup>6</sup> *Charter Chemical and Coating Corporation v. Tan*, 606 Phil. 75, 81 (2009).

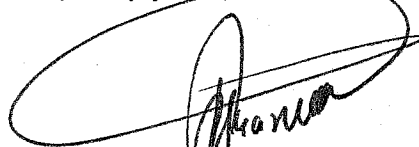
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after the last day of filing.<sup>7</sup> Clearly, the petition was filed out of time. Further, as pointed out by the CA, its receipt of the deficient amount in the docket fees will not cure the defect in the belated filing of the petition.<sup>8</sup>

Even on the merits, petitioners' appeal must fail. A requisite for a valid cause of action in an unlawful detainer case is that possession must be originally lawful, and such possession must have turned unlawful only upon the expiration of the right to possess. If the claim is that such possession is by mere tolerance of respondent, the acts of tolerance must be proved, as in this case.<sup>9</sup> Here, it has been established that petitioners' possession of the subject property, while originally lawful, was conditioned upon the approval of the proposed housing project of respondent. Unfortunately, despite the support from the local governments concerned, the housing project did not materialize for failure to secure approval from the Department of Environment and Natural Resources and the Department of Public Works and Highways. Thus, petitioners' occupation over the subject property was only by mere tolerance of respondent and their refusal to vacate the premises despite demand rendered their possession unlawful.

**SO ORDERED.** (Hernando, *J.*, on official leave.)”

Very truly yours,



TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court

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<sup>7</sup> See *rollo*, p. 32.

<sup>8</sup> See *id.* at 35.

<sup>9</sup> *Spouses Santiago v. North Knitting, Inc.*, 502 Phil. 502, 509 (2017).