



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **18 January 2021** which reads as follows:*

**“G.R. No. 254754 (Sumifru [Philippines] Corporation v. Secretary of the Department of Labor and Employment [DOLE], Regional Director of DOLE Regional Office No. XII, Jose Felix Castor and Rolly Palma, Ernie M. Alamo, Marlon F. Apayart, and Mark S. Ala, Kilusang Manggagawa ng T’boli Associated Union Congress of the Philippines [KMT-ALU-TUCP]) –** After a judicious study of the case, the Court resolves to **DENY** the instant petition<sup>1</sup> and **AFFIRM** the Decision<sup>2</sup> dated October 17, 2019 and the Resolution<sup>3</sup> dated September 23, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 08974-MIN for failure of petitioner Sumifru (Philippines) Corporation (SPC) to sufficiently show that the CA committed any reversible error in upholding the denial of its motion to suspend the execution proceedings.

As correctly ruled by the CA, since SPC’s appeal<sup>4</sup> to the Department of Labor and Employment (DOLE) Secretary was procedurally infirm for failure to file its Memorandum of Appeal with the DOLE Regional Office that issued the Compliance Order as provided under Section 3,<sup>5</sup> Rule XV of Department Order No. 131-B, Series of 2016, the running of the reglementary period to appeal was not tolled. As such, the DOLE Regional Director’s Compliance Order<sup>6</sup> dated January 6, 2017 became final and executory by operation of law. Consequently, the DOLE Regional Director’s notice of finality and writ of execution<sup>7</sup> were

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<sup>1</sup> *Rollo*, pp. 3-26.

<sup>2</sup> *Id.* at 34-44. Penned by Associate Justice Florencio M. Mamauag, Jr. with Associate Justices Edgardo T. Lloren and Oscar V. Badelles, concurring.

<sup>3</sup> *Id.* at 45-46.

<sup>4</sup> See Memorandum of Appeal dated February 13, 2017; *id.* at 208-226.

<sup>5</sup> See Section 3, Rule XV of Department Order No. 131-B, series of 2016, entitled “Revised Rules on Labor Laws Compliance System,” which reads:

Section 3. Where to File the Appeal. – The appeal shall be filed with the Regional Office which issued the Compliance Order. The filing of Memorandum Appeal with any other office or agency shall not toll the running of the reglementary period for filing the same. (Emphasis supplied)

<sup>6</sup> *Rollo*, pp. 334-370.

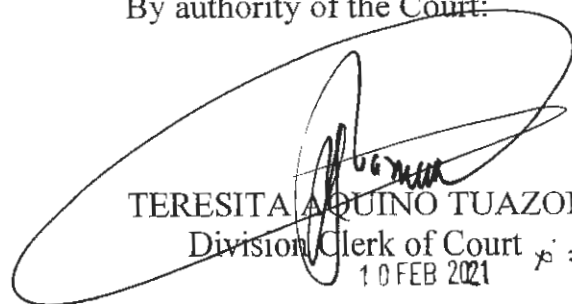
<sup>7</sup> *Id.* at 298-303.

properly issued being in accordance with Section 5<sup>8</sup> of the same Rules.<sup>9</sup> In this relation, since the appeal before the DOLE Secretary was improper, the latter cannot be said to have committed an unlawful neglect in the performance of its duty to warrant the grant of the extraordinary writ of *mandamus*. It is well to emphasize that “the right to appeal is not a natural right but a statutory privilege, and it may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the Rules. Failing to do so, the right to appeal is lost,”<sup>10</sup> as in this case.

With the denial of the instant petition, the SPC’s prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction is necessarily **DENIED**.

**SO ORDERED.** (Rosario, *J.*, designated additional member per Special Order No. 2797 dated November 5, 2020; on official leave).”

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
10 FEB 2021 p. 2/10

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<sup>8</sup> Section 3, Rule XV of Department Order No. 131-B, series of 2016 reads:

Section 5. Perfection of Appeal; Effect Thereof. – An appeal is deemed perfected upon filing of the Memorandum of Appeal together with the appeal bond within the period specified in Section 1 of this Rule.

Failure to perfect an appeal in the manner and within the period prescribed in this Rule shall render the Compliance Order final and executory, in which case the Regional Director shall, on his/her own initiative, issue a Notice of Finality and Writ of Execution. (Emphasis supplied)

<sup>9</sup> *Rollo*, pp. at 38-43.

<sup>10</sup> *Sibayan v. Costales*, 789 Phil. 1, 9 (2016); citations omitted.

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*Please notify the Court of any change in your address.*  
GR254754. 01/18/2021(229)URES *MLP*