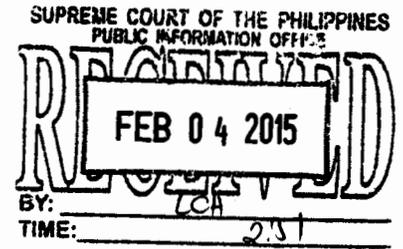




Republic of the Philippines  
Supreme Court  
Manila  
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 10, 2014** which reads as follows:*

**“G.R. No. 214930 [formerly UDK-15168] (Engr. Cresencio C. Milla v. Sps. Engr. George and Anita Luis, Gloria Cervas, Wilma Obcemea, Michael Fajardo, Aracelie Arceo, and others for whom they acted as Attorney-in-Fact, namely:” Tranquilino Dalija, Cecilia De Guzman, Margaret Ong, Noemi & Peter Ong, Sps. Jean and Willy Chua, Vanessa Postigo, Jesusa Minano, Ma. Luisa Barangan, Dante & Felisima Duaso, Victor & Nelson Leung, Sps. Phil & Elvira Fadul, Loida Rillo, and Felicissima Canoy).**- The petitioner’s first and second motions for extension totaling thirty-five (35) days within which to file a petition for review on certiorari are **GRANTED**, counted from the expiration of the reglementary period.

After a careful perusal of the records, the Court resolves to **DENY** the instant petition and **AFFIRM** the November 25, 2013 Decision<sup>1</sup> and September 5, 2014 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 101791 for failure of Engr. Cresencio C. Milla (petitioner) to show that the CA committed any reversible error in upholding the Regional Trial Court’s (RTC) jurisdiction over him and in dismissing his petition for annulment of judgment for being an improper remedy.

- over – three (3) pages .....

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<sup>1</sup> *Rollo*, pp. 45-56. Penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Magdangal M. de Leon and Marlene Gonzales-Sison, concurring.

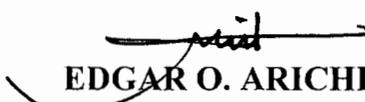
<sup>2</sup> *Id.* at 59-61.

As correctly ruled by the CA, the voluntary appearance and participation of petitioner, through his counsel, during the temporary restraining order application hearing had already cured any defect in the alleged improper service of summons upon him. Verily, Section 20, Rule 14 of the Rules of Court<sup>3</sup> provides that a defendant's voluntary appearance in the action is equivalent to service of summons, as in this case.

Likewise, the CA correctly held that petitioner had erroneously resorted to the remedy of filing a petition for annulment of judgment, instead of an appeal or a motion to lift the order of default. Case law explains that "[a] petition for annulment of judgment is a remedy in equity so exceptional in nature that it may be availed of only when other remedies are wanting, and only if the judgment, final order or final resolution sought to be annulled was rendered by a court lacking jurisdiction or through extrinsic fraud."<sup>4</sup> Petitioner failed to convincingly show circumstances that warrant the application of said exceptional remedy in this case.

**SO ORDERED.** BERSAMIN, J., on official leave; REYES, J., designated acting member per S.O. No. 1892 dated November 28, 2014. PEREZ, J., on official leave; CARPIO, J., designated acting member per S.O. No. 1899 dated December 3, 2014.

Very truly yours,

  
EDGAR O. ARICHETA  
Division Clerk of Court *pk/112*

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- over -

<sup>3</sup> Section 20, Rule 14 of the Rules of Court provides:

SEC. 20. *Voluntary appearance.* – The defendant's voluntary appearance in the action shall be equivalent to service of summons. The inclusion in a motion to dismiss of other grounds aside from lack of jurisdiction over the person of the defendant shall not be deemed a voluntary appearance.

<sup>4</sup> *Dare Adventure Farm Corporation v. CA*, G.R. No. 161122, September 24, 2012, 681 SCRA 580, 586-587.

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The Hon. Presiding Judge  
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(Civil Case Nos. Q-03-51236 & Q-03-  
51272)

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