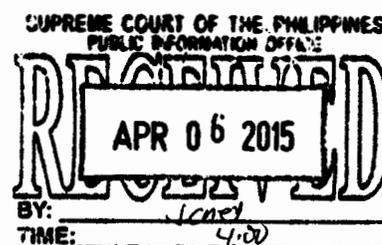




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 16, 2015** which reads as follows:*

“G.R. No. 215071 (Makar Properties Development, Inc. v. Star Two [SPV-AMC], Inc.). – The petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **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 May 19, 2014 Decision¹ and September 26, 2014 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 05255 for failure of Makar Properties Development, Inc. (petitioner) to show any reversible error committed by the CA in dismissing its complaint for injunction, specific performance, and damages.

As the CA correctly pointed out, petitioner’s failure to present even a single witness for more than ten (10) years since the filing of its complaint reasonably shows that it is not interested in the early resolution of its case, and that its case is unmeritorious from inception. The burden to show that there are compelling reasons that would make a dismissal of the case unjustified is on the petitioner.³ However, petitioner merely argued that it

- over - three (3) pages

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¹ *Rollo*, 47-56. Penned by Associate Justice Edgardo T. Lloren with Associate Justices Romulo V. Borja and Edward B. Contreras, concurring.

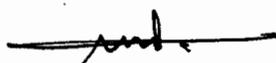
² *Id.* at 58-59.

³ *Eloisa Merchandising, Inc. v. Banco de Oro Universal Bank*, G.R. No. 192716, June 13, 2012, 672 SCRA 533, 545.

should not be faulted for resettings secured by mutual agreement of the parties, by the illness or absence of the presiding judge, or by the substitution of the original defendant Rizal Commercial Banking Corporation to its assignee, Star Two (SPV-AMC), Inc. (respondent), none of which excuses it from its obligation to proceed with its case with promptitude. Undoubtedly, petitioner would not be prejudiced by the prolonged deferment of the case because it has secured in 2002 a writ of preliminary injunction against the sale of its mortgaged properties. Yet, despite the directive issued by this Court in A.M. No. 99-10-05-0, *Re: Procedure in Extrajudicial or Judicial Foreclosure of Real Estate Mortgages*,⁴ that the disposition of the case shall be speedily resolved where a writ of preliminary injunction had been issued, the Regional Trial Court (RTC) exhibited unreasonable leniency towards petitioner and allowed the case to drag on for more than a decade in clear violation of respondent's right to sell the mortgaged properties, with the view of applying the proceeds to the payment of the obligation that petitioner defaulted from. This Court has held that a disagreement between the parties as to the amount of the secured loan that remains unpaid, or even an allegation of unconscionable interest being imposed on the loan by the mortgagee, shall no longer suffice to support an injunction; hence, the necessity to abide by the strict guidelines in the foreclosure of real estate mortgages.⁵ The RTC, thus, clearly abused its discretion in refusing to dismiss petitioner's case for its failure to prosecute the same for an unreasonable length of time, and the CA correctly rectified such error.

SO ORDERED.” SERENO, C.J., on official travel. **BRION, J.**, designated acting member per S.O. No. 1947 dated March 12, 2015.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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- over -

⁴ *Philippine National Bank v. Castalloy Technology Corporation*, G.R. No. 178367, March 19, 2012, 668 SCRA 415, 423.

⁵ *Id.* at 424.

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