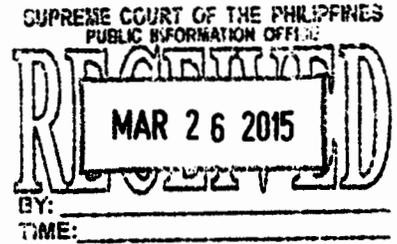




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 25, 2015 which reads as follows:

“G.R. No. 215679 (Elizabeth Lozano Victa-Que v. Martiniano J. Que). - 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 judicious review of the records, the Court resolves to **DENY** the instant petition and **AFFIRM** the December 1, 2014 Resolution¹ of the Court of Appeals (CA) in CA-G.R. SP No. 137646 for failure of Elizabeth Lozano Victa-Que (petitioner) to show that the CA erred in upholding the dismissal of her Petition for Relief from Judgment.

As correctly ruled by the CA, petitioner failed to establish the existence of extrinsic fraud to warrant the grant of the Petition for Relief from Judgment, considering that she was validly served with summons thru publication as she was no longer a resident of her given address and that her present address was unknown. Verily, extrinsic fraud that will justify a petition for relief from judgment is that fraud which prevailing party caused to prevent the losing party from being heard on his action or defense.² However, such fraud was not proven by petitioner in this case. Besides, petitioner’s *certiorari* petition before the CA suffered from several procedural defects,³ warranting its dismissal altogether.

- over - two (2) pages

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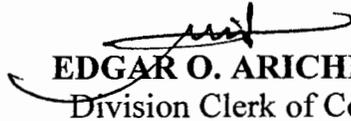
¹ Rollo, pp. 33-44. Penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Rodil V. Zalameda and Maria Elisa Sempio Diy, concurring.

² *AFP Mutual Benefit Association, Inc. v. Regional Trial Court of Marikina City, Branch 193*, G.R. No. 183906, February 14, 2011, 642 SCRA 720, 727; citation omitted.

³ Rollo, pp. 38-39.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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Court of Appeals (x)
Manila
(CA-G.R. SP No. 137646)

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The Hon. Presiding Judge
Regional Trial Court, Br. 113
1300 Pasay City
(Civil Case No. R-PSY-10-04504-CV)

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