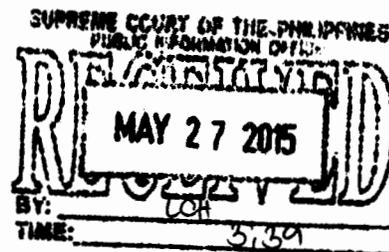




Republic of the Philippines
Supreme Court
Baguio City
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 20, 2015 which reads as follows:

“G.R. No. 217178 (William B. Ting and Mariana B. Acosta v. Napico Homeowners Association III, Inc., represented by its Vice President, Roseller D. Fortich, Honorable Commissioners Rea Corazon Golez-Cabrera, Rolando B. Faller, and Domnina T. Rances of the HLURB Board of Commissioners Third Division, and Honorable Housing and Land Use Arbiter Joselito F. Melchor of the HLURB Expanded National Capital Region Field Office). - After a judicious review of the records, the Court resolves to **DISMISS** the instant petition for *certiorari* considering that the January 21, 2010 Decision¹ of the Housing and Land Use Regulatory Board (HLURB) Expanded National Capital Region Field Office sought to be reviewed had already attained finality and, thus, beyond the Court’s appellate review.

Records show that the said Decision had been elevated before the HLURB Board of Commissioners, the Court of Appeals, and the Court in G.R. No. 202402, and had become final and executory on October 25, 2012 for failure of William B. Ting and Mariana B. Acosta (petitioners) to file their petition within the extended period granted to it. The rule is well-settled that *certiorari* is not and cannot be made a substitute for an appeal which was available but was lost through fault or negligence.² Moreover,

- over - three (3) pages

209

¹ Rollo, p. 18. See Petition for Certiorari with Prayer for the Issuance of Preliminary Mandatory Injunction and/or Temporary Restraining Order.

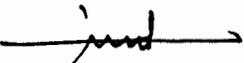
² *K&G Mining Corporation v. Acoje Mining Company, Incorporated*, G.R. No. 188364, February 11, 2015.

petitioners failed to allege and prove the circumstances surrounding their counsel's purported negligence to justify an exception from the general rule that the negligence of the counsel binds the client. Consequently, it is beyond the Court's power to enjoin the implementation of the Writ of Execution³ dated January 27, 2012 and the 2nd Notice to Vacate⁴ dated March 19, 2015.

The petition is also dismissible due to the following procedural defects: (a) lack of statement of material date of receipt of the January 27, 2012 Writ of Execution pursuant to Section 4, Rule 65 of the Rules of Court (Rules) in relation to Section 3(2), Rule 46 of the same Rules; (b) failure to accompany petition with clearly legible duplicate original or certified true copies of the March 19, 2015 2nd Notice to Vacate and the January 27, 2012 Writ of Execution, in violation of Section 1, Rule 65 and Section 3, Rule 46, in relation to Section 2, Rule 56 of the same Rules; (c) failure to show competent evidence of identity considering that the petitioners did not indicate the number of their voter's identification cards in the verification and certification of non-forum shopping, and the affiant in the affidavit of service, *i.e.*, petitioner merely presented his Community Tax Certificate instead of exhibiting at least one current identification document, conformably with Sections 6 and 12, Rule II of the 2004 Rules on Notarial Practices, as amended by the February 19, 2008 Court *En Banc* Resolution in A.M. No. 02-8-13-SC; (d) failure of the petitioners to indicate their contact details in accordance with the July 10, 2007 *En Banc* Resolution in A.M. No. 07-6-5-SC; and (e) the petition is not accompanied by a verified declaration required under A.M. Nos. 10-3-7-SC (Re: Proposed Rules on E-filing) and 11-9-4-SC (Re: Efficient Use of Paper Rule) in relation to Section 5(e), Rule 56 of Rules.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court ms/v
209

- over -

³ *Rollo*, pp. 24-25. Signed by Housing and Land Use Arbiter Joselito F. Melchor.

⁴ *Id.* at 22. Signed by Sheriff IV Roderic P. Bernardo, Marco S. Boco, and Bienvenido V. Calindas.

Mr. William B. Ting and
Ms. Mariana B. Acosta
Petitioners
c/o Mr. Armando Canlas
1522 Monggo St., NAPICO
Manggahan 1600 Pasig City

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Judgment Division (x)
Supreme Court

The Hon. Commisioners
HLURB Board of Commissioners
Third Division
Respondents
Housing and Land Use
Regulatory Board
HLURB Bldg., Kalayaan Ave.
Diliman 1128 Quezon City
(HLURB Case No. NCRHOA-012407-
815)

Hon. Joselito F. Melchor
Respondent
Housing Land Use and Regulatory
Board
Expanded National Capital Region
Field Office
Kalayaan Ave. cor. Mayaman St.
Diliman 1128 Quezon City

NAPICO Homeowners Association
III, Inc.
Respondent
c/o Roseller D. Fortich
437 Chico St., NAPICO
Manggahan 1600 Pasig City

209

SR