



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 August 2021** which reads as follows:*

**“G.R. No. 255913 (HP Fashion & Apparel Manufacturing Corporation v. APL Logistics Philippines, Inc.).** – For the Court’s resolution are: (1) Most Respectful Motion for Extension of Time to File Petition for Review on *Certiorari*;<sup>1</sup> and (2) Petition for Review on *Certiorari*.<sup>2</sup>

The Court grants the Motion for Extension of Time to File the Petition, but resolves to deny the instant petition for lack of reversible error on the part of the Court of Appeals (CA) in its Decision<sup>3</sup> dated June 30, 2020 and Resolution<sup>4</sup> dated February 19, 2021. The CA granted the petition for *certiorari* filed by respondent and ordered the remand of the case to Branch 67 Regional Trial Court (RTC) of Pasig City.

*First*, contrary to the argument of petitioner, APL Logistics Philippines, Inc. (respondent) is correct in not filing an appeal under Rule 41 of the Rules of Court, but a petition for *certiorari* under Rule 65 of the Rules of Court to assail the RTC Order dated November 27, 2018. It must be emphasized that the dismissal by the RTC was without prejudice. Under Section 1,<sup>5</sup> Rule 41 of the Rules of Court, an order

<sup>1</sup> *Rollo*, pp. 3-6.

<sup>2</sup> *Id.* at 10-25.

<sup>3</sup> *Id.* at 26-35; penned by Associate Justice Danton Q. Bueser with Associate Justices Geraldine C. Fiel-Macaraig and Alfredo D. Ampuan, concurring.

<sup>4</sup> *Id.* at 36-38.

<sup>5</sup> Section 1. *Subject of appeal.* -- An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

dismissing an action without prejudice is not appealable; and where the judgment or final order is not appealable, the *aggrieved* party may file an appropriate special civil action under Rule 65 of the Rules of Court.

*Second*, the CA is correct in granting the petition and in finding that the RTC failed to consider the absence of intent on the part of respondent to delay the proceedings. As correctly held by the CA, the RTC arbitrarily dismissed the complaint despite the presence of the following circumstances: (1) the showing of a valid cause and excusable consideration for respondent’s failure to attend the previous hearing on October 5, 2018, as provided in its motion for postponement of the pre-trial conference; (2) as reflected in the Minutes of the November 27, 2018 hearing, the counsel for respondent appeared in court although she arrived at around 9:07 a.m. rather than 8:30 a.m.; and (3) respondent has authorized its counsel to appear on its behalf.

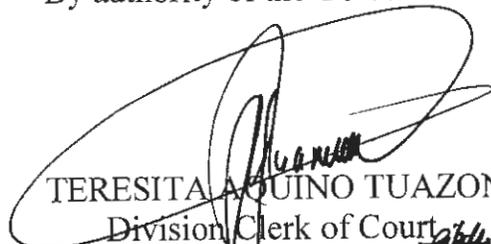
The Court finds no sufficient reason to reverse the findings of the CA. Thus, the RTC should have been more circumspect in its disposition to dismiss the complaint especially considering that the complaint deals with the proprietary rights of APL Logistics.

**WHEREFORE**, the Court resolves to **GRANT** petitioner’s Motion for Extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

The Court resolves to **DENY** the Petition. The Decision dated June 30, 2020 and the Resolution dated February 19, 2021 of the Court of Appeals in CA-G.R. SP No. 160541 are **AFFIRMED**.

**SO ORDERED.” (ROSARIO, J., Additional Member).**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
18 SEP 2021

x x x x.

(h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

ATTY. JOSE PAOLO C. ARMAS (reg)  
Counsel for Petitioner  
Unit K, No. 1143 San Francisco  
Del Monte Avenue Barangay Paltok  
1105 Quezon City

BULATAO LAW OFFICE (reg)  
Counsel for Respondent  
2<sup>nd</sup> Floor, Casa Maritima  
651 General Luna Street  
Intramuros, Manila

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 67  
Pasig City (San Juan City Station)  
(Civil Case No. R-PSG-17-02826-CV)

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Supreme Court, Manila

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*Please notify the Court of any change in your address.*  
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