



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated January 26, 2021 which reads as follows:

“G.R. No. 232563 – Integra Asia Konstruct, Inc., petitioner, versus Dr. Joseph Roland O. Mejia, Dr. Gary U. Ong, Dr. Francisco C. Beltran, Cristina T. Lopez, Nirina M. Gomez, Dr. Edgardo T. De Vera and Dr. Delfin Gubatan, Jr., respondents.

Before the Court is a Petition for Review on Certiorari¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated January 10, 2017 and the Resolution³ dated June 27, 2017 of the Court of Appeals⁴ (CA) in CA-G.R. SP No. 143882, which denied petitioner’s appeal and affirmed *in toto* the Decision⁵ dated October 2, 2014 of the Regional Trial Court of Dagupan City, Branch 42 (RTC) in Civil Case No. 2008-0255-D. The RTC Decision denied the petition for *certiorari* with damages filed by petitioner for lack of merit, there being no showing of grave abuse of discretion by respondents.

Petitioner’s arguments call for a review of the factual determinations of the lower courts which is not allowed in a Rule 45 *certiorari* petition. Petitioner argues anew that its evidence clearly demonstrated that respondents failed to timely deliver signed and approved plans to petitioner. Also, petitioner reiterates that it was not accorded due process before respondents terminated their contract with petitioner. The lower courts have passed upon these matters and

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¹ *Rollo*, pp. 32-57, excluding Annexes.

² *Id.* at 59-73. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Jose C. Reyes, Jr. (retired Member of the Court) and Ramon Paul L. Hernando (now a Member of the Court) concurring.

³ *Id.* at 75-77.

⁴ Fifth Division and Former Fifth Division.

⁵ *Rollo*, pp. 151-156. Penned by Presiding Judge A. Florentino R. Dumlao, Jr.

both have concluded that respondents had factual basis to cancel the contract and demand the return of the mobilization fund and that respondents did not act with grave abuse of discretion.

The CA did not commit any reversible error.

The CA, at the outset, noted that a petition for *certiorari* is the proper remedy when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal, nor any plain, speedy and adequate remedy at law.⁶

The CA correctly ruled that respondents committed no grave abuse of discretion and correctly held that the evidence on record has clearly shown that there was a valid ground on respondents' part to cancel the contract for the construction project. It is undisputed that there was delay in the commencement of the project when, after petitioner was informed in a Letter dated April 24, 2008 that all the requirements including the approved plans for the construction of the OPD Building were ready and available since April 4, 2008, petitioner, for unknown reasons, failed to claim and retrieve the plans in order to commence the project, prompting the issuance of Resolution No. 039 S. 2008 recommending the cancellation of the Contract Agreement and the immediate return of the mobilization fund amounting to ₱599,756.84.⁷

Likewise, the CA correctly held that petitioner was not deprived of due process when the Contract Agreement was canceled by respondents. Petitioner was duly informed of the grounds for terminating the contract since they were indicated in Resolution No. 039 S. 2008. Again, in the Notice to Terminate, petitioner was notified and informed of the grounds for the cancellation of the contract. In fact, petitioner was even directed in that Notice to explain in writing why the contract should not be terminated. Petitioner was thus able to defend itself when it filed a Position Paper dated July 17, 2008, to which respondents answered.⁸

Indeed, petitioner failed to show that respondents acted with grave abuse of discretion pursuant to the Court's pronouncement in *Yu v. Reyes-Carpio*,⁹ viz.:

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⁶ Id. at 64. Citation omitted.

⁷ Id. at 65-67.

⁸ Id. at 70-72.

⁹ G.R. No. 189207, June 15, 2011, 652 SCRA 341.

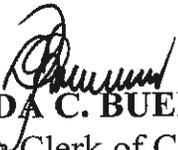
The term “grave abuse of discretion” has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a “capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.” The abuse of discretion must be so patent and gross as to amount to an “evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.” Furthermore, the use of a petition for *certiorari* is restricted only to “truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void.” From the foregoing definition, it is clear that the special civil action of *certiorari* under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. x x x¹⁰

Petitioner’s allegations of grave abuse of discretion committed by respondents do not approximate the threshold of capriciousness or whimsicality, evasion of a positive duty or virtual refusal to perform a legal duty, and arbitrariness or despotism by reason of passion and hostility that jurisprudence mandates.

Given the foregoing, the present Petition is hereby **DENIED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *dk 111*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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¹⁰ Id. at 348. Citations omitted.



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Court of Appeals (x)
Manila
(CA-G.R. SP No. 143882)

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The Hon. Presiding Judge
Regional Trial Court, Branch 42
Dagupan City, 2400 Pangasinan
(Civil Case No. 2008-0255-D)

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