



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 19, 2021** which reads as follows:*

“G.R. No. 252742 - Thelma T. Terrill and Don C. Terrill, petitioners, versus Teofilo-Leo B. Bueno, Veronica B. Bueno, represented by their Attorney-in-Fact and also party in interest, Demetria Bueno, respondents. – The petitioners’ motion for an extension of forty-five (45) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

Before the Court is a Petition for Review on Certiorari with Leave of Court to Admit the Petition¹ (Petition) under Rule 45 of the Rules of Court (Rules) assailing the Decision² dated October 29, 2019 (Decision) and Resolution³ dated June 15, 2020 of the Court of Appeals⁴ (CA) in CA-G.R. SP No. 161136, which dismissed petitioners’ Rule 65 *certiorari* petition and denied their motion for reconsideration, respectively.

At the outset, the Court notes the candidness of petitioners in admitting that they filed their Petition on September 23, 2020 or beyond the September 14, 2020 extension they had earlier sought. Their counsel, due to heavy workload and oversight, thought that the Petition would be due on September 24, 2020 instead of September 14, 2020. Thus, petitioners seek its admission in the interest of justice and equity.⁵

- over – four (4) pages ...

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¹ *Rollo*, pp. 12-39, excluding Annexes.

² *Id.* at at 41-49. Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Nina G. Antonio-Valenzuela and Louis P. Acosta concurring.

³ *Id.* at 51-52.

⁴ Seventh Division and Former Seventh Division.

⁵ *Rollo*, p. 15.

The excuse of petitioners' counsel is too lame to merit any consideration. Besides, in seeking the strict implementation of the Judicial Affidavit Rule⁶ (JAR), petitioners should be expected to meet the same exacting standard in the admission of their belatedly filed Petition. They cannot have their cake and eat it too. For having been filed late, the Petition can be denied outright.

Even if the Petition is to be scrutinized on the merits, it will still be denied because the CA committed no reversible error.

Petitioners question the admission of the judicial affidavit (JA) of Engr. Adora Joy Jarilla (Engr. Jarilla) by the Regional Trial Court (RTC) because the documents attached thereto had not been authenticated therein. On this point, the CA correctly observed that the authentication of the documents attached to the JA may be done at the time the witness is presented in court and what the JAR⁷ requires is that, as with all documents presented in court as evidence, the same should be authenticated pursuant to Rule 132(B) of the Rules.⁸ Moreover, the CA noted that the JA of Engr. Jarilla mentioned that she conducted a personal inspection of the property involved in the case below and that she prepared written reports attached to her JA (*Subject: Justification; Subject: Labor and Materials Estimate*) which were presented and admitted by her and which signatures appearing on the said documents, she also acknowledged as hers. The JA also showed that the documents, including her signatures, were requested to be marked as Exhibits "EE" and "FF" for the documents and "EE-1" and "FF-1" for the signatures. Thus, as correctly held by the CA, Engr. Jarilla, by her own attestation, authenticated the documents attached to her JA to be the ones she prepared and signed.⁹

As to petitioners' contention that the purpose for presenting the witness should have been stated in the JA and that the RTC erred in admitting the JA of Engr. Jarilla despite the lack of purpose stated

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⁶ A.M. No. 12-8-8-SC, September 4, 2012.

⁷ Section 3 of the JAR provides:

SEC. 3. *Contents of Judicial Affidavit.* – A judicial affidavit shall be prepared in the language known to the witness, if not in English or Filipino, accompanied by a translation in English or Filipino, and shall contain the following:

x x x x

(d) Questions asked of the witness and his corresponding answer, consecutively numbered, that:

x x x x

(3) Identify the attached documentary and object evidence and establish their authenticity in accordance with the Rules of Court;

x x x x

⁸ *Rollo*, pp. 46-47.

⁹ *Id.* at 47.

therein, the CA correctly agreed with the ruling of the RTC that the purpose of the testimony can be done orally during the trial since the JAR is not clear whether or not it should be part or incorporated in the JA of the witness.¹⁰

Section 6 of the JAR states:

SEC. 6. *Offer of and objections to testimony in judicial affidavit.* – The party presenting the judicial affidavit of his witness in place of direct testimony shall state the purpose of such testimony at the start of the presentation of the witness. The adverse party may move to disqualify the witness or to strike out his affidavit or any of the answers found in it on ground of inadmissibility. The court shall promptly rule on the motion and, if granted, shall cause the marking of any excluded answer by placing it in brackets under the initials of an authorized court personnel, without prejudice to a tender of excluded evidence under Section 40 of Rule 132 of the Rules of Court.

As correctly explained by the CA, the language of the JAR in Section 6 that “the purpose of such testimony” be made “at the start of the presentation of the witness” only means that the purpose for the testimonial evidence is offered when the JA is presented in court in place of the direct testimony, consistent with the following Sections of Rule 132(C) on Offer and Objection of the Rules, to wit:

SEC. 34. *Offer of evidence.* – The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

SEC. 35. *When to make offer.* – As regards the testimony of a witness, the offer must be made at the time the witness is called to testify.

Documentary and object evidence shall be offered after the presentation of a party’s testimonial evidence. Such offer shall be done orally unless allowed by the court to be done in writing.

Section 6 of the JAR indeed, as correctly observed by the CA, contemplates the presentation of the JA with the witness during the actual court hearing for it even provides that should the adverse party move to disqualify the witness, the court should promptly rule on the motion.

Given the foregoing, the CA committed no reversible error. Hence, the Petition is **DENIED**.

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¹⁰ Id.

The motion of Atty. Krisven Mae R. Obedo of Marasigan and Dangazo Law Offices, counsel for petitioners, to admit the petition for review on certiorari, with leave of Court, stating that the counsel filed a motion for extension to file a petition for review on certiorari, asking for an extension until September 14, 2020 to file the petition for review on certiorari, but counsel overlooked the said deadline for reasons stated therein, and prays that the petition be admitted by the Court, is **GRANTED**; the petitioners are hereby required to **SUBMIT**, within five (5) days from notice hereof, a verified declaration of the motion for extension of time to file a petition for review on certiorari; and Honorable Edgardo B. Bellosillo, Presiding Judge, Regional Trial Court, Branch 95, Quezon City, is hereby **DROPPED** as party respondent in this case pursuant to Sec. 4, Rule 45, 1997 Rules of Civil Procedure, as amended.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court
9911

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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Court of Appeals (x)
Manila
(CA-G.R. SP No. 161136)

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The Hon. Presiding Judge
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(Civil Case No. Q-08-63926)

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