



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **11 November 2020** which reads as follows:*

**“G.R. No. 231300 (*Gerard S. Paray, Jr. and Genevieve S. Paray v. Helen Cervantes Chua and Nancy Cervantes Chua*). - The Court DENIES the petition for failure to sufficiently show that the Court of Appeals committed reversible error in rendering the assailed dispositions as to warrant the exercise of the Courts discretionary appellate jurisdiction.**

Whether a verbal demand was validly made or that there was prior liquidation of the obligation is a factual issue which is not proper under Rule 45. This Court is not a trier of facts, hence, it is beyond its function to re-examine and weigh anew the parties’ respective evidence.<sup>1</sup> Also, this Court adheres to the long-standing principle that factual findings of the trial court, especially when affirmed by the Court of Appeals, are conclusive on the parties and this Court.

At any rate, these supposed procedural deficiencies are being raised for the first time here. As a rule, a party which deliberately adopts a certain theory upon which the case is tried and decided by the lower court will not be permitted to change its theory on appeal.<sup>2</sup> Points of law, theories, issues and arguments not brought to the attention of the lower court need not be, and ordinarily will not be, considered by a reviewing court, as these cannot be raised for the first time at such late stage.<sup>3</sup> A judgment going outside the issues and purporting to adjudicate something upon which the parties were not heard is not merely irregular, but extrajudicial and invalid.<sup>4</sup>

<sup>1</sup> *Huang v. Philippine Hoteliers, Inc.*, 700 Phil. 327, 351 (2012).

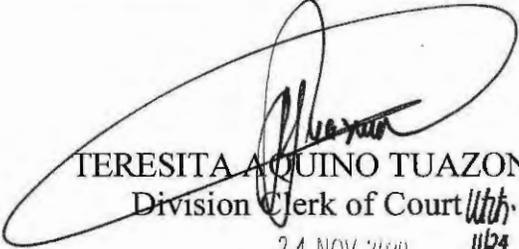
<sup>2</sup> *Bote v. Sps. Veloso*, 700 Phil. 78 (2012).

<sup>3</sup> *Chinatrust (Phils) Commercial Bank v. Turner*, 812 Phil. 1, 17 (2017).

<sup>4</sup> *Bernas v. Court of Appeals*, 296-A Phil. 90, 104 (1993).

SO ORDERED.”

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court *Uth*  
24 NOV 2020 11:29

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JUDGMENT DIVISION (x)  
Supreme Court, Manila

HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 16  
Cebu City  
(Civil Case No. CEB-30537)

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*Please notify the Court of any change in your address.*  
GR231300. 11/11/2020(169)URES