



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated May 5, 2021 which reads as follows:

“G.R. Nos. 216073-74 (Carlito Senolos, Basilio Aque, Gary Robido and Myrna Labor, Petitioners, v. Court of Appeals, Arnold Tan and Angelie Tan, Respondents). – In this consolidated petitions for *certiorari* under Rule 65, petitioners ascribe grave abuse of discretion on the part of the Court of Appeals (CA) in rendering the assailed Decision¹ dated 28 March 2014 and Resolution² dated 19 November 2014 in CA-G.R. SP Nos. 07622 and 07623, annulling the Decisions, both dated 06 May 2013, of Branch 32, Regional Trial Court (RTC) of Calbayog City, Samar for having been rendered with grave abuse of discretion. The decisions of the RTC granted the appeal of petitioners and excluded respondents Angelie Tee Tan (Angelie) and Arnold Vasquez Tan (Arnold) from the list of voters in Precinct No. 0100B, *Brgy.* Cagnipa, Calbayog City.

The petitions are DISMISSED.

The right to appeal is neither a natural right nor a part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Hence, a party seeking an appeal must comply with the requirements of the Rules of Court. Failure to do so leads to the loss of the right to appeal.³

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¹ *Rollo*, Vol. I, pp. 31-58; penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Marilyn B. Lagura-Yap of the Special Fomer Eighteenth (18th) Division, Court of Appeals, Cebu City.

² *Id.* at pp. 59-63, penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Ramon Paul L. Hernando (now a Member of this Court) and Marilyn B. Lagura-Yap of the Former Special Fomer Eighteenth (18th) Division, Court of Appeals, Cebu City.

³ *Philippine Amusement and Gaming Corp. v. Court of Appeals*, G.R. No. 230084, 20 August 2018 [Per J. Gesmundo].

Under Section 1, Rule 45 of the Rules of Court, the remedy to question a judgment, final order or resolution of the CA is an appeal by *certiorari*. The petition must be filed within fifteen (15) days from notice of the judgment, final order or resolution appealed from, or of the denial of a motion to reconsider filed in due time after notice of the judgment.⁴ Hence, the proper remedy of petitioners, who were aggrieved by a decision of the CA, is a petition for review under Rule 45. This is a distinct action from a petition for *certiorari* under Rule 65, which is an independent action based on specific grounds and is not a substitute for the lost remedy of an appeal.⁵ Since petitioners filed the instant special civil action for *certiorari* instead of the lost remedy of appeal by *certiorari*, the petition should be dismissed.

In any case, even if the Court brushes over the procedural lapses, the petitions still warrant dismissal for being moot and academic.

A case has become moot and academic when, by virtue of subsequent events, any of the reliefs sought can no longer be granted. The case ceases to present a justiciable controversy by virtue of supervening events so as to render a declaration thereon of no practical use or value.⁶ Hence, the Court will generally not rule on moot and academic cases for lack of an actual controversy. Indeed, the existence of an actual case or controversy is a necessary condition precedent to the court's exercise of its power of adjudication.⁷

In this case, the Court finds an absence of justiciable controversy for resolution. The present case stemmed from the filing of separate petitions to exclude Arnold and Angelie from the list of registered voters for Precinct No. 0100B, *Brgy. Cagnipa*, Calbayog City for the May 2013 elections due to their alleged failure to satisfy the one-year residency requirement. Suffice to say that said election period had already come to pass; further, Arnold and Angelie were able to exercise their right to suffrage. Subsequent elections had also been concluded in 2016 and 2019. Accordingly, the issue of whether Arnold and Angelie were able to satisfy the one-year residency requirement for them to vote in the aforementioned precinct for the May 2013 elections has been mooted. No practical relief would result in the resolution of the case.

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⁴ *Id.*

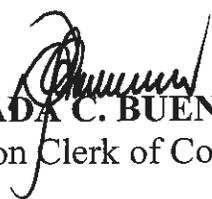
⁵ *Philippine Bank of Communications v. Court of Appeals*, 805 Phil. 964 (2017); G.R. No. 218901, 15 February 2017 [Per J. Caguioa].

⁶ *Alliance of Non-Life Insurance Workers of the Philippines v. Mendoza*, G.R. No. 206159, 26 August 2020 [Per J. Leonen].

⁷ *Balag v. Senate of the Philippines*, G.R. No. 234608, 03 July 2018 [Per J. Gesmundo].

WHEREFORE, the instant petitions are hereby **DISMISSED**.
SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gto 7/21*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Hon. Presiding Judge
Regional Trial Court, Branch 32
Calbayog City, 6710 Western Samar
(Civil Case Nos. 2013-001EXCL &
2013-002EXCL)
(Civil Case Nos. 2013-003EXCL &
2013-004EXCL)

The Hon. Presiding Judge
Municipal Trial Court in Cities
Calbayog City, 6710 Western Samar
(Civil Case Nos. 13-01EXCL & 13-02EXCL)
(Civil Case Nos. 13-03EXCL & 13-04EXCL)

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