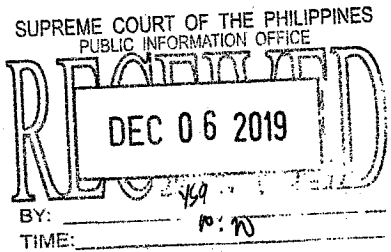




REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila



SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **20 November 2019** which reads as follows:

**G.R. No. 240741 (Shamjia Lamsis Galate and Aida Kadisel Lamsis v. Rosemarie Jocson)**

After a judicious study of the case, the Court resolves to **DENY** the instant petition<sup>1</sup> and **AFFIRM** the January 31, 2017 Decision<sup>2</sup> and the February 21, 2018 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 144654 for failure of petitioners Shamjia Lamsis Galate and Aida Kadisel Lamsis (petitioners) to sufficiently show that the CA committed any reversible error in ruling that the Regional Trial Court of La Trinidad Benguet, Branch 62 had no authority to act upon their motion for reconsideration.<sup>4</sup>

As correctly ruled by the CA, the notice of hearing in petitioners' motion for reconsideration failed to comply with the requirements under the Rules of Court (Rules).<sup>5</sup> Records reveal that respondent Rosemarie Jocson was not accorded the opportunity to be heard and to argue her position on petitioners' motion for reconsideration.<sup>6</sup> Settled is the rule that failure to comply with the mandatory requirements of a notice of hearing under the Rules renders the motion fatally defective, and thus, considered *pro forma*, which cannot be considered by the trial courts, absent any of the recognized exceptions,<sup>7</sup> which do not obtain in this case.

In any event, the court *a quo* correctly pointed out that there was already an earlier ruling<sup>8</sup> in Civil Case No. 195, declaring the party litigants as co-owners of the agricultural lot consisting of 4.7 hectares located in Barangay Sto. Tomas, Tuba, Benguet, which is covered by Assessment of Real Property No. 99-001-00618.<sup>9</sup> Absent any showing of change in their circumstances, they are bound by the foregoing finding. Under the second concept of *res judicata* known as conclusiveness of judgment, any right, fact or matter in issue directly adjudicated or necessarily involved in the

<sup>1</sup> Rollo, pp. 14-36.

<sup>2</sup> Id. at 40-44. Penned by Associate Justice Mario V. Lopez with Associate Justices Rosmari D. Carandang (now a member of the Court) and Myra V. Garcia-Fernandez, concurring.

<sup>3</sup> Id. at 57.

<sup>4</sup> Not attached to the *rollo*.

<sup>5</sup> The test to determine compliance with the notice of hearing requirement is the presence of opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based. (See *Cabrera v. Ng*, 729 Phil. 544, 551-552 [2014].) See also id. at 40-42.

<sup>6</sup> See id. at 42-43.

<sup>7</sup> See *Anama v. CA*, 680 Phil. 305, 318-319 (2012).

<sup>8</sup> See MCTC Decision dated August 26, 2010, penned by Judge Marietta S. Brawner-Cualing; *rollo*, pp. 58-70.

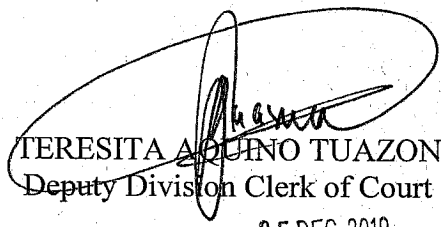
<sup>9</sup> Not attached to the *rollo*.

*pat*

determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot be litigated again between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same,<sup>10</sup> as in this case.

**SO ORDERED.** (HERNANDO, J., on leave. ZALAMEDA, J., designated as Additional Member per Special Order No. 2727 dated October 25, 2019.)<sup>2</sup>

Very truly yours,

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *whb 12/5*  
05 DEC 2019

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Regional Trial Court, Branch 62  
La Trinidad, Benguet  
(Civil Case No. 15-CV-3103)

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GR240741. 11/20/2019(91)URES

<sup>10</sup> *Spouses Ocampo v. Heirs of Dionisio*, 744 Phil. 716, 727 (2014).