

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **25 November 2019** which reads as follows:

"G.R. No. 249181 (Florita S. Balag [vice Litton & Co., Inc.] v. City of Sipalay, Negros Occidental)

After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM** the July 26, 2018 Decision² and the July 15, 2019 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 03064 for failure of petitioner Florita S. Balag (petitioner) to sufficiently show that the CA committed any reversible error in affirming the May 12, 2008 Decision⁴ of the Regional Trial Court of Kabankalan City, Negros Occidental, Branch 61 which dismissed petitioner's complaint⁵ for *accion publiciana* with damages.

As correctly ruled by the CA, petitioner does not have a legal right to possess the subject properties,⁶ as evidence show that the same are foreshore lands which belong to public domain, and therefore, not susceptible to private ownership. While it is an established rule that a certificate of title issued under the Torrens system is not subject to collateral attack, pertinent jurisprudence likewise provides that, in an *accion publiciana*, a provisional resolution on the issue of ownership does not trigger a collateral attack on the certificate of title insofar as it is determinative only of the issue of possession.⁷

The Court further resolves to **GRANT** petitioner's motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on *certiorari*.

¹ *Rollo*, pp. 8-26.

² *Id.* at 31-41 Penned by Associate Justice Louis P. Acosta with Associate Justices Gabriel T. Ingles and Dorothy Montejo-Gonzaga, concurring.

³ *Id.* at 44-45. Penned by Associate Justice Dorothy Montejo-Gonzaga with Associate Justices Gabriel T. Ingles and Marilyn Lagura-Yap, concurring.

⁴ Not attached to *rollo*; see *id.* at 31.

⁵ Not attached to the *rollo*.

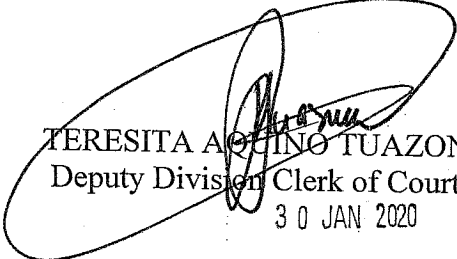
⁶ Designated as Lot No. 5586-A-2 and Lot No. 5586-A-3 situated in Maricalum, Sipalay City, Negros Occidental, covered by Transfer Certificate of Titles Nos. T-222317 and T-222318, respectively.

⁷ See *Heirs of Cullado v. Gutierrez*, G.R. No. 212938, July 30, 2019.

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SO ORDERED. (REYES, A., Jr., J., on leave. ZALAMEDA, J., designated as Additional Member per Special Order No. 2727 dated October 25, 2019.)"

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court
30 JAN 2020

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 61
Kabankalan City, Negros Occidental
(Civil Case No. 1597)

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GR249181. 11/25/19(77)URES