



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 January 2022** which reads as follows:*

“**UDK-16877 (Rogelio Macatane, substituted by Clarita D. Macatane, Michelle D. Macatane, et al. v. Sebastian Macatane, substituted by Adelina Macatane-Pinca and Gregorio Macatane, being represented by Emmie Saron, et al.)**. — After a judicious study of the case, the Court resolves to **DENY** the petition<sup>1</sup> and **AFFIRM** the Decision<sup>2</sup> dated October 30, 2020 of the Court of Appeals (CA) in CA-G.R. CV No. 04178 for failure of petitioners Rogelio Macatane, *et al.* (petitioners) to sufficiently show that the CA committed any reversible error in denying their appeal and affirming the Decision<sup>3</sup> dated November 30, 2010 of the Regional Trial Court of Laoang, Northern Samar, Branch 22 in Civil Case No. 1537, which found that the Deed of Donation dated December 12, 1990 purportedly executed by the deceased Amado Macatane (Amado), predecessor of respondents Sebastian Macatane, *et al.* (respondents), in favor of Rogelio Macatane (Rogelio) was void and inexistent, not having been made in a public instrument as required under Article 749 of the Civil Code for its validity. Particularly, the courts *a quo* found that Atty. Francisco Valila (Atty. Valila), who supposedly ‘notarized’ the Deed of Donation, lacked the requisite commission as a notary public at the time material to this case.

At the outset, factual findings of the trial court as affirmed by the appellate court are final, binding or conclusive on the parties and on this Court and therefore, will not be reviewed nor disturbed on appeal to this Court,<sup>4</sup> and while exceptions are allowed under prevailing jurisprudence,<sup>5</sup> none are obtaining in the present case. In any event, as correctly found by the CA, the lack of authority of Atty. Valila to notarize the Deed of Donation executed by Amado in favor of Rogelio clearly rendered the same legally infirm. Unlike ordinary contracts, which are perfected by the concurrence of the requisites of consent, object and cause, solemn contracts like donations of immovable property are valid only when they comply with legal formalities. Absent the solemnity requirements for validity, the mere intention of

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<sup>1</sup> *Rollo*, pp. 9-16.

<sup>2</sup> *Id.* at 27-37.

<sup>3</sup> Not attached to the *rollo*.

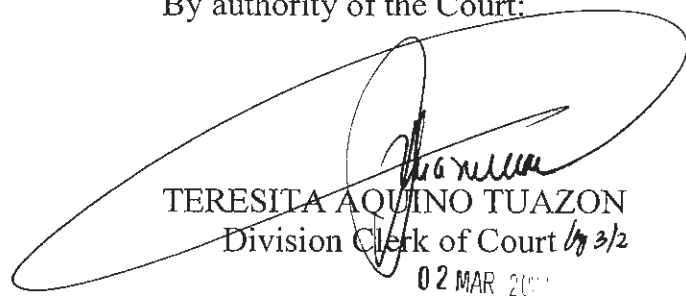
<sup>4</sup> *Pascual v. Burgos*, 776 Phil. 167, 182 (2016).

<sup>5</sup> See *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225 (1990), cited in *Pascual v. Burgos*, *supra*.

the parties and concurrence to the agreement will not give rise to a contract.<sup>6</sup> Corollary thereto, it is settled that a defective notarization will strip the document of its public character and reduce it to a private instrument.<sup>7</sup> Thus, a defective notarization renders the donation of an immovable property invalid since the requirement that such contract must appear in a public instrument is absent, more so in this case where Atty. Valila, who supposedly notarized the Deed of Donation, did not possess a notarial commission. In *Tigno v. Sps. Aquino*,<sup>8</sup> the Court held that '[i]f the notary public does not have the capacity to notarize a document, but does so anyway, then the document should be treated as unnotarized. The rule may strike as rather harsh, and perhaps may prove to be prejudicial to parties in good faith relying on the proffered authority of the notary public or the person pretending to be one. Still, to admit otherwise would render merely officious the elaborate process devised by this Court in order that a lawyer may receive a notarial commission. Without such a rule, the notarization of a document by a duly appointed notary public will have the same legal effect as one accomplished by a non-lawyer engaged in pretense.' Accordingly, the donation in favor of Rogelio being void, the courts *a quo* did not err in ruling that respondents had a better right over the subject property.

**SO ORDERED.”**

By authority of the Court:



TERESITA AQUINO TUAZON  
Division Clerk of Court *by* 3/2  
02 MAR 2022

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 22  
Laoang, Northern Samar  
(Civil Case No. 1537)

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Supreme Court, Manila

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*Please notify the Court of any change in your address.*  
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<sup>6</sup> *Rowena Patenia-Kinatac-An, et. al. v. Enriqueta Patenia-Decena, et. al.*, G.R. No. 238325, June 15, 2020.

<sup>7</sup> *Rowena Patenia-Kinatac-An, et. al. v. Enriqueta Patenia-Decena, et. al.*, supra.

<sup>8</sup> 486 Phil. 254, 267 (2004).