



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **28 February 2022** which reads as follows:

“**UDK-17107 (Beatriz Gerson, Gregorio Dinaguit and Heirs of Gleceria Dinaguit, represented by Teresita Aninon v. Heirs of Gaudencia Bilocura, namely: Nena Celestina B. Dinopol, Conchita Bilocura, Nestor Bilocura, Jose Bilocura, Rosalinda Sulit, Lydia Tagyomon, Rosalinda Bilocura, Jennilyn Bilocura, Marlon Bilocura, Rosemarie Bilocura, and Flora Mae Bilocura, all represented by Nena Celestina B. Dinopol).** – After a judicious study of the case, the Court resolves to **DENY** the instant petition for review on *certiorari*¹ and **AFFIRM** the Decision² dated May 30, 2019 and the Resolution³ dated May 26, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 10880, for failure of petitioners Beatriz Gerson, *et al.* (petitioners) to show that the CA committed any reversible error in finding that their claim to the subject lot was repudiated by respondents Nena Celestina B. Dinopol, *et al.*'s (respondents) predecessor-in-interest, Gaudencia Bilocura (Gaudencia) and that it was already barred by prescription and laches.

At the outset, the Court notes that since the instant petition is not verified as required under Rule 45, Section 1 of the Rules of Court, it may be treated as an unsigned pleading which produces no legal effect.⁴ Nonetheless, a verification is merely a formal, not jurisdictional, requirement,⁵ and the Court may waive strict compliance thereto in the interest of substantial justice. However, even if the foregoing procedural lapse is disregarded, it appears that the petition is unmeritorious.

As correctly held by the CA, the claim to partition the 9,293 square meter parcel of land located in Basak, Samboan, Cebu⁶ (subject lot) is already barred by

¹ Dated August 12, 2021; *rollo*, pp. 11-26.

² *Id.* at 28-39. Penned by Executive Justice and Chairperson Edgardo L. Delos Santos (now a retired Member of the Court) with Associate Justices Marilyn B. Lagura-Yap and Dorothy P. Montejo-Gonzaga, concurring.

³ *Id.* at 40-45. Penned by Associate Justice Marilyn B. Lagura-Yap with Associate Justices Dorothy P. Montejo-Gonzaga and Nancy C. Rivas-Palmones, concurring.

⁴ See Rule 7, Section 4 of A.M. No. 19-10-20-SC entitled ‘2019 PROPOSED AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE’. See also *Vallacar Transit, Inc. v. Catubig*, 664 Phil. 529, 540 (2011).

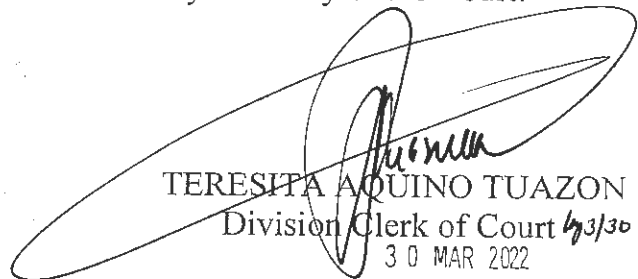
⁵ *Vallacar Transit, Inc. v. Catubig*, *supra* at 541.

⁶ *Rollo*, p. 14.

prescription and laches. The CA categorically found that Gaudencia performed clear acts of repudiation as the records revealed that she **'had excluded [petitioners] from the use and enjoyment [of the subject lot].'**⁷ The CA also determined that Gaudencia appropriated for herself the proceeds of the harvest therefrom.⁸ Notably, respondents have consistently asserted Gaudencia's claim of sole ownership of the subject lot, which is itself an act of repudiation of co-ownership, from the very beginning of the controversy.⁹ In the same vein, the CA also correctly observed that there are circumstances in this case which establish petitioners' knowledge that Gaudencia was 'holding the property adverse to their interest,'¹⁰ thereby satisfying the requirement that the acts of repudiation should have been made known to the other co-owners. Considering that these acts were performed at least thirty (30) years before the filing of the complaint in 2011,¹¹ Gaudencia had already acquired the subject lot through acquisitive prescription to the exclusion of petitioners. Moreover, the CA also correctly ruled that the failure of petitioners to assert any right over the subject lot over such a long period of time already constituted laches, which is based on the public policy of discouraging stale claims.¹² In fact, the CA noted that the respondents did not even provide any justifiable reason for their prolonged silence on the issue.¹³ Accordingly, the petition must be dismissed.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *4/3/30*
30 MAR 2022

⁷ Id. at 35.

⁸ Id.

⁹ See *Capille v. Vda. de Gaban*, 475 Phil. 159, 168 (2004).

¹⁰ *Rollo*, p. 35.

¹¹ Id. at 36-37.

¹² See *Republic v. Sundiam*, G.R. No. 236381, August 27, 2020, citing *Tijam v. Sibinghanoy*, G.R. No. L-21450, April 15, 1968.

¹³ *Rollo*, p. 38.

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HON. PRESIDING JUDGE (reg)
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(Appealed Case No. OS-16-63A)

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UDK-17107. 02/28/2022(96) *h/n*