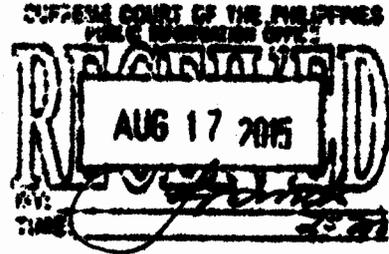




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 6, 2015 which reads as follows:*

**“G.R. No. 202369 (Philippine Savings Bank v. Sps. Eriberto and Dinah\* Guevarra).** – After a judicious review of the records, the Court resolves to **DENY** the instant petition and **AFFIRM** the February 8, 2012 Decision<sup>1</sup> and June 22, 2012 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 96514 for failure of petitioner Philippine Savings Bank to show that the CA committed any reversible error in nullifying the writ of possession<sup>3</sup> issued by the Regional Trial Court of Pasig City, Branch 167 (RTC) in LRC Case No. R-6781-PSG.

As correctly ruled by the CA, the issuance of a writ of possession was not merely ministerial on the part of the RTC since there is a third party in possession of the property who is claiming a right adverse to that of the debtor or mortgagor, *i.e.*, herein respondents-spouses Eriberto and Dinah Guevarra, who claim to own the subject property and are in actual possession thereof.<sup>4</sup> The procedure is for the court to order a hearing to determine the nature of said adverse possession.<sup>5</sup>

- over - two (2) pages .....

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\*“Dina” in some parts of the *rollo*.

<sup>1</sup> *Rollo*, pp. 28-42. Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Elihu A. Ybañez and Danton Q. Bueser concurring.

<sup>2</sup> *Id.* At 44-45.

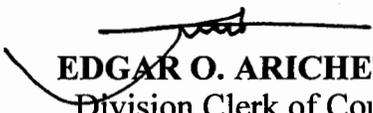
<sup>3</sup> *Id.* At 110-112. Penned by Pairing Judge Agnes Reyes-Carpio.

<sup>4</sup> See Section 33, rule 39 of the Rules of Court.

<sup>5</sup> “Where a parcel levied upon on execution is occupied by a party other than a judgment debtor, the procedure is for the court to order a hearing to determine the nature of said adverse possession. Similarly, in an extrajudicial foreclosure of real property, when the foreclosed property is in the possession of a third party holding the same adversely to the defaulting debtor/mortgagor, the issuance by the RTC of a writ of possession in favor of the purchaser of the said real property ceases to be ministerial and may no longer be done *ex parte*. For the exception to apply, however, the property need not only be possessed by a third party, but also held by the third party adversely to the debtor/mortgagor.” (*China Banking Corp. v. Sps. Lozada*, 579 Phil. 454, 474-475 [2008]; citation omitted).

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court <sup>44</sup>  
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Court of Appeals (x)  
Manila  
(CA-G.R. CV No. 96514)

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The Hon. Presiding Judge  
Regional Trial Court, Br. 167  
1600 Pasig City  
(LRC Case No. R-6781-PSG)

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