



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 July 2021** which reads as follows:*

“G.R. No. 255854 (Alexander D. Dayrit v. Bank of Commerce, Office of the Clerk of Court, Regional Trial Court of Angeles City and Sheriff IV Emerito D. Sicat, August C. Agustin, and Gene Sanggalang). – The Court **NOTES** the Manifestation dated March 29, 2021 of counsel for petitioner Alexander D. Dayrit (petitioner), submitting a back-up copy of the flash drive containing the scanned copies of the petition and its attachments.

After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM** the Decision² of the Court of Appeals (CA) dated August 30, 2019 and the Resolution³ dated January 12, 2021 in CA-G.R. CV No. 106686 for failure of petitioner to show that the CA committed any reversible error in upholding the dismissal of his complaint for Nullification of Contract and Foreclosure with Damages against respondents Bank of Commerce, Office of the Clerk of Court, Regional Trial Court of Angeles City and Sheriff IV Emerito D. Sicat, August C. Agustin, and Gene Sanggalang (respondents) in Civil Case No. (99) 9417.

As correctly ruled by the CA, petitioner failed to prove the nullity of the extrajudicial foreclosure sale pursuant to the Real Estate Mortgages (REMs) dated June 6, 1996 and April 30, 1998, for failure to establish full payment of the principal obligations secured by the said REMs, and to prove that the April 30, 1998 REM was fabricated.⁴ It is settled that once the existence of the debt has been fully established by the evidence on record, the burden of proving payment rests on the one who alleges the same.⁵ In this case, there is no question that petitioner took out a loan from respondent bank but raised full payment as his defense. As correctly observed by the CA, however, this assertion was not supported by the evidence on record. Similarly, the one who alleges forgery has

¹ See Petition for Review on *Certiorari* dated March 20, 2021; *rollo*, pp. 12-36.

² *Id.* at 47-59. Penned by Associate Justice Maria Elisa Sempio Diy with Associate Justices Priscilla J. Baltazar-Padilla (now a retired member of the Court) and Ronaldo Roberto B. Martin, concurring.

³ *Id.* at 61-63. Penned by Associate Justice Maria Elisa Sempio Diy with Associate Justices Ramon R. Garcia and Ronaldo Roberto B. Martin, concurring.

⁴ *Id.* at 53-57.

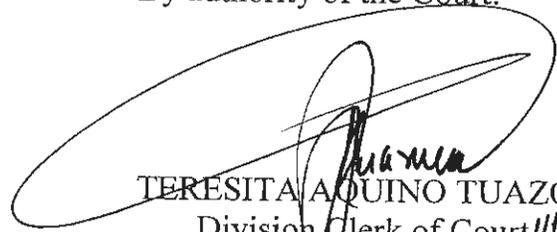
⁵ *Gumabon v. Philippine National Bank*, 791 Phil. 101, 117 (2016).

July 5, 2021

the burden to prove the same by a preponderance of evidence,⁶ which petitioner failed to do. It bears stressing that factual findings of the trial courts, when adopted and confirmed by the CA, are binding and conclusive on this Court, and will generally not be reviewed on appeal absent any of the exceptions laid down by jurisprudence,⁷ as in this case.

SO ORDERED. (Lopez, J., J., designated additional member per Special Order No. 2822 dated April 7, 2021).”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *Wth*
26 JUL 2021 7/26

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 56
Angeles City, Pampanga
(Civil Case No. [99] 9417)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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Please notify the Court of any change in your address.
GR255854. 07/05/2021(124 & 134)URES

⁶ *Gepulle-Garbo v. Spouses Garabato*, 750 Phil. 846, 855 (2015).

⁷ See *Insular Investment and Trust Corp. v. Capital One Equities Corp.*, 686 Phil. 819, 830-831 (2012).