

ORIGINAL

Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
**PROVINCIAL ENVIRONMENT AND NATURAL
RESOURCES OFFICE**
Sta. Monica, Puerto Princesa City, Palawan

IN RE: CANCELLATION OF
KATIBAYAN NG ORIHINAL NA
TITULO (KOT) BLG. 2015000225
IN THE NAME OF BABERLYN D.
GOMEZ, KOT BLG. 2015000222
AND KOT BLG. 2015000223, BOTH
IN THE NAME OF NOEL TAMPE,
ALL LOCATED AT CADLAO
ISLAND, BARANGAY BUENA
SUERTE, EL NIDO, PALAWAN

DENR CASE NO. _____

x ----- x

COMMENT
(Re: Baberlyn D. Gomez's
***Position Paper* dated 17 May 2023)**

Complainant **TEN KNOTS PHILIPPINES, INC.** ("TKPI"), by counsel, respectfully submits this Comment to address the claims of Baberlyn D. Gomez ("Gomez") in her *Position Paper* dated 17 May 2023 ("Position Paper")¹ and states:

I

**HAVING BEEN OBTAINED THROUGH FRAUD AND
MISREPRESENTATION, GOMEZ'S TITLE IS VOID
AND DOES NOT ENJOY INDEFEASIBILITY UNDER
THE TORRENS SYSTEM.**

1. In her *Position Paper*, Gomez argues that her title, as evidenced by Katibayan ng Orihinal na Titulo Blg. 2015000225 ("OCT"), is valid for having been issued pursuant to a free patent application.² Gomez maintains that her title became indefeasible after the lapse of one (1) year from its issuance as no proof of fraud or misrepresentation in procuring the title was made.³

¹ TKPI received Gomez' *Position Paper* on 19 June 2023.
² Gomez's *Position Paper*, p. 6, par. 16.
³ Gomez's *Position Paper*, pp. 6-7, par. 18-19.

2. On the contrary, Gomez cannot invoke indefeasibility of title because her OCT was obtained by means of fraud.

3. Public policy demands that those who have committed fraud in the course of acquiring title over a piece of land should not be allowed to benefit from their misdeed. In *Republic of the Philippines v. Court of Appeals*,⁴ the Supreme Court held:

“It is to the public interest that one who succeeds in fraudulently acquiring title to a public land should not be allowed to benefit therefrom, and the State should, therefore, have an ever existing authority, thru its duly authorized officers, to inquire into the circumstances surrounding the issuance of any such title, to the end that the Republic, thru the Solicitor General or any other officer who may be authorized by law, may file the corresponding action for the reversion of the land involved to the public domain xxx. In other words, the indefeasibility of a title over land previously public is not a bar to an investigation by the Director of Lands as to how such title has been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title and order that the appropriate action for reversion may be filed by the Government.”

4. Here, the OCT issued to Gomez was attended by fraud, thereby making it void.

5. *First*, Gomez’s OCT overlaps with TKPI’s Forest Land Use Agreement for Tourism Purposes (“FLAgT”) and is classified as timber land.

6. The actual ground survey that was conducted upon the parties’ agreement on 27 October 2021 by Engineer Nestor D. Veneracion (“Engr. Veneracion”) for and on behalf of the Department of Environment and Natural Resources (“DENR”), as overseen by DENR’s Engr. Marian Lachica and in the presence of representatives of TKPI, Gomez, and the barangay officials of Brgy. Buena Suerte, El Nido, Palawan, proves the foregoing facts. The survey shows that:

⁴ G.R. No. 79582, 10 April 1989.

Constitution, only agricultural lands were allowed to be alienated. Their disposition was provided for under [C.A.] Act No. 141 (Secs. 6-7), which states that it is only the President, upon the recommendation of the proper department head, who has the authority to classify the lands of the public domain into alienable or disposable, timber and mineral lands. Mineral and timber or forest lands are not subject to private ownership unless they are first reclassified as agricultural lands and so released for alienation. xxx

This is in consonance with the Regalian Doctrine that all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. Under the Regalian Doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. Hence, a positive act of the government is needed to declassify a forest land into alienable or disposable land for agricultural or other purposes."⁶

10. The burden of proof in overcoming the presumption of state ownership of the lands of the public domain is on the person challenging the same.⁷ In this case, neither Noel Tampe ("Tampe"), Gomez, nor Significo Vista Ventures, Inc.'s ("SVVI") has presented any evidence proving that the government, through this Honorable Office, has changed the classification of the lands they are claiming into alienable and disposable lands for agricultural purposes.

11. In *Heirs of Venturanza v. Republic of the Philippines*,⁸ the Supreme Court categorically ruled that certificates of title covering inalienable lands of the public domain, i.e. timber and forest lands, are void:

"A certificate of title covering inalienable lands of the public domain is void and can be cancelled in whosever hand said title may be found. Thus, we have ruled that a certificate of title is void when it covers property of the public domain classified as forest or timber and mineral lands. And any title issued on non-disposable lands even if

⁶ Emphasis and underscoring supplied.

⁷ *Ibid.*

⁸ G.R. No. 1491122, 27 July 2007.

in the hands of alleged innocent purchaser for value, shall be cancelled.”⁹

12. In *Belizario v. Department of Environment and Natural Resources*,¹⁰ the Supreme Court found that a void title based on a patent that had been cancelled may still be reverted back to the State.¹¹ Thus, a void title does not enjoy indefeasibility under the Torrens system. Similarly, the Supreme Court emphatically held in *De Guzman v. Agbagala*¹² that **“the principle of indefeasibility does not apply when the patent and the title based thereon are null and void.”**¹³

13. *Second*, given that the lands in question are forest or timber land, they are unsuitable and cannot be the subject of agricultural free patent applications, much less a grant.

14. Section 44 of the Public Land Act, as amended by Republic Act No. 6940,¹⁴ which was the law applicable when Gomez and Tampe applied for their agricultural free patents in 2015, reads as follows:

“Section 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the effectivity of this amendatory Act, has continuously occupied and cultivated, either by himself or through his predecessors-in-interest a tract or tracts of **agricultural public lands subject to disposition**, who shall have paid the real estate tax thereon while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares.”¹⁵

15. Thus, lands subject of applications for agricultural free patents must be alienable and disposable.

⁹ Emphasis and underscoring supplied.

¹⁰ G.R. No. 231001, 24 March 2021.

¹¹ *Ibid.*

¹² G.R. No. 163566, 19 February 2008.

¹³ *Ibid.*

¹⁴ An Act Granting A Period Ending On December 31, 2000 For Filing Applications For Free Patent And Judicial Confirmation Of Imperfect Title To Alienable And Disposable Lands Of The Public Domain Under Chapters VII and VIII Of The Public Land Act (CA 141, As Amended), dated 28 March 1990.

¹⁵ Emphasis and underscoring supplied.

16. In this case, when Gomez submitted her application for agricultural free patent in 2015, the land subject thereof was and still is classified as forest land. As held in *Federation of Coron v. DENR Secretary*,¹⁶ forest lands are not subject to private ownership unless they are first reclassified as agricultural lands and so released for alienation. In the absence of reclassification of the said land, Gomez's application for an agricultural free patent should have been denied outright.

17. The free patent application of Gomez was granted only on 23 April 2015, and the OCT was registered with the Registry of Deeds of Palawan on 27 April 2015. This OCT was issued erroneously to a property already covered by a FLaGT awarded to TKPI ten (10) years prior. To reiterate, the lot covered by the purported OCT of Gomez was not reclassified from forest land to agricultural land prior to its issuance.

18. Moreover, Gomez did not present any evidence that she possessed or cultivated the land covered by her OCT for at least thirty (30) years prior to the submission of her application in 2015. TKPI, which has been in possession of the land covered by its FLaGT since 1998, would have been aware of Gomez's presence on the land prior to the highly suspicious issuance of her OCT.

19. *Lastly*, TKPI should have been officially notified of Gomez's free patent application considering the overlap with its FLaGT. In addition, TKPI would have been aware of any free patent application because of the posting requirement mandated by law.

20. According to the Citizen's Charter No. RO-L-03 on Applications for Free Patent issued by this Honorable Office,¹⁷ the Land Management Inspector or Deputized Public Land Inspector shall post notices in the barangay, municipal, or provincial hall where the property is situated and simultaneously conduct a survey or investigation on the land covered by the free patent application.

21. The surveys done for the free patent application would also not have escaped TKPI's attention. Conversely, had such surveys been conducted, Gomez would have been apprised that TKPI was occupying the same area.

¹⁶ G.R. No. 247866, 15 September 2020.

¹⁷ See Annex "KK" of TKPI's Position Paper.

22. Under Section 46 of Commonwealth Act No. 141 ("CA 141"), otherwise known as "The Public Land Act", no application for free patent shall be acted upon until notice thereof has been published in the municipality and barrio in which the land is located and adverse claimants have had an opportunity to present their claims, to wit:

"SECTION 46. If, after the filing of the application and the investigation, the Director of Lands shall be satisfied of the truth of the allegations contained the application and that the applicant comes within the provisions chapter, he shall cause a patent to issue to the applicant or his legal successor for the tract so occupied and cultivated, provided its area does not exceed twenty-four hectares: Provided, That no application shall be finally acted upon until notice thereof has been published in the municipality and barrio in which the land is located and adverse claimants have had an opportunity to present their claims."¹⁸

23. CA 141 likewise provides that no patent shall issue nor shall any concession or contract be finally approved unless the land has been surveyed and an accurate plat made thereof by the Bureau of Lands, to wit:

"SECTION 108. No patent shall issue nor shall any concession or contract be finally approved unless the land has been surveyed and an accurate plat made thereof by the Bureau of Lands."

24. Section 1859 of Act No. 2711 provides for the Bureau of Lands' procedure in conducting land survey, as follows:

"Section 1859. Procedure Incident to Making of Survey Notice to Adjoining Owners. - The surveyors employed to make surveys for registration purposes, or to prepare maps and plats of property in connection therewith, shall give due notice in advance to the adjoining owners whose addresses are known, of the data and hour when they should present themselves on the property for the purpose of making such objections to the boundaries of the properties to be surveyed as they consider necessary for the protection of their rights.

¹⁸

Emphasis and underscoring supplied.

Surveyors shall report all objections made by adjoining property owners and occupants or claimants of any portion of the lands at the time of the survey and demarcation, giving a proper description of the boundaries claimed by such owners, occupants or claimants.”¹⁹

25. To be sure, the same procedure applies to private surveyors. Section 1862 of Act No. 2711 provides that:

“Section 1862. Regulations Relative to Private Surveyors. - Private land surveyors employed in making a survey hereinabove contemplated shall be subject to the regulations of the Bureau of Lands in respect to such surveys and shall execute the same in accordance with current instructions relative thereto as issued by the Director of Lands. Promptly upon contemplating their work, it shall be their duty to send their original field notes, computations, reports, survey maps, and plats of the property in question to the Bureau of Lands, for verification and approval.”²⁰

26. In this case, no notice was in fact made regarding Gomez’s application for a free patent, evincing the unprocedural and highly irregular issuance of the same. No notice was given to TKPI, which is in fact occupying the subject property, as well as the adjoining lots thereto. Clearly, TKPI was not afforded the opportunity to raise its objections and claims, as required under Section 46 of The Public Land Act and Section 1859 of Act No. 2711.

27. Notably, neither Gomez nor DENR could provide a Survey Authority that was acknowledged or signed by TKPI as occupant and/or immediate neighbors when the survey was supposed to have been undertaken on 6 and 7 January 2015.

28. Even worse, it is apparent that the approval of the survey plan was expedited, as the same was approved on 2 February 2015, not even a month after the supposed survey.

29. Given the foregoing, Gomez’s reliance on the doctrine on indefeasibility of a Torrens title is heavily misplaced as the rule on

¹⁹ Emphasis and underscoring supplied.

²⁰ Emphasis and underscoring supplied.

indefeasibility of title does not attach to titles secured by fraud and misrepresentation.

30. Following the pronouncement in *Heirs of Venturanza*,²¹ the OCT must be cancelled through a complaint for reversion, considering that it was unlawfully issued to cover inalienable lands of the public domain coupled with serious questions of fraud and misrepresentation in its issuance. This Honorable Office must therefore seek the return of the properties covered by Gomez's OCT to the public domain.

II

CONTRARY TO GOMEZ'S ASSERTION, A VOID TITLE MAY BE SUBJECT TO A COLLATERAL ATTACK. NEVERTHELESS, TKPI DOES NOT SEEK TO INVALIDATE GOMEZ'S TITLE IN THESE PROCEEDINGS. RATHER, IT SEEKS TO PERSUADE THIS HONORABLE OFFICE TO INITIATE AN ACTION FOR REVERSION.

31. Gomez claims that even if the title was procured through fraud or misrepresentation, the validity of her title cannot be collaterally attacked.²² This is misleading and inaccurate.

32. A void title is susceptible to a collateral attack.²³ In *De Guzman v. Agbagala*,²⁴ the Supreme Court ruled that an action to declare a title null and void is not only imprescriptible but may also be subject to a direct or collateral attack. The Supreme Court explained that even if the attack on the title was merely collateral, the title was correctly nullified because the free patent on which it was based was null and void *ab initio*.

33. Again, a certificate of title covering inalienable lands of the public domain is void and can be cancelled in whosever hand said title may be found.²⁵ Here, it is undeniable that the OCTs issued to Gomez cover inalienable lands and are thus void. Hence, Gomez' titles may be the subject of a collateral attack.

²¹ G.R. No. 1491122, 27 July 2007.

²² Gomez's Position Paper, par. 18.

²³ *De Guzman v. Agbagala*, G.R. No. 163566, 19 February 2008.

²⁴ *Ibid.*

²⁵ *Ibid.*

34. Nonetheless, it must be noted that TKPI does not seek to “collaterally attack” Gomez’s title in these proceedings. Rather, TKPI seeks to convince this Honorable Office to exercise its mandate and initiate an action for reversion over the properties covered by Gomez’s title.

35. In this regard, it must be noted that a reversion proceeding is the manner through which the State seeks to revert land to the mass of public domain.²⁶ It is the proper remedy when public land is fraudulently awarded and disposed of in favor of private individuals or corporations.²⁷ Since the land originated from a grant by the government, its cancellation is thus a matter between the grantor and the grantee.²⁸

36. Accordingly, in a series of letters, TKPI underscored that there are indicia that Gomez’s OCT was obtained fraudulently, and is therefore the proper subject of reversion proceedings, thus:

- a. In a letter dated 21 August 2021 to Mayor Edna Gacot-Lim,²⁹ TKPI stated:

“6. In 2017, Ten Knots discovered that titles were issued by the DENR to a certain Noel Tampe and Baberlyn Gomez, with areas overlapping with the FLaGT of Ten Knots. We are questioning the issuance of these titles.”

[xxx]

Our SUP was issued in 1998 and was converted to FLaGT in 2005. This precedes the titles issued to certain individuals in 2015, and our FLaGT should be respected by DENR. [xxx] **Ten Knots was never informed of plans to survey the area in the name of those individuals.”**

- b. In another letter dated 2 September 2021 to Mayor Edna Gacot-Lim,³⁰ TKPI, by counsel, stated:

26 Padilla v. Salovino, G.R. No. 232823, 28 August 2019.

27 *Ibid.*

28 *Id.*

29 See Annex “Q” of TKPI’s Position Paper.

30 See Annex “R” of TKPI’s Position Paper.

“To recall, on 21 August 2021, TKPI wrote your good office regarding its FLAGT covering 3.206 hectares of forest land located at Cadlao Island, Brgy. Buena Suerte, El Nido. As mentioned in said letter, TKPI recently discovered that Noel Tampe and Baberlyn Gomez secured original certificates of title (“OCTs”) which cover areas that overlap with TKPI’s FLAGT. TKPI is questioning the issuance of these titles and is in the process of investigating how they obtained titles to parcels of land previously identified as forest land by the Department of Environment and Natural Resources (“DENR”), and which in fact they never occupied.”

- c. In a letter dated 8 September 2021 to the Land Management Bureau (“LMB”),³¹ TKPI, by counsel, stated:

“In 2015, two (2) OCTs were allegedly issued to one Noel Tampe (“Tampe”), specifically Katibayan ng Orihinal na Titulo Blg. 2015000222 and Katibayan ng Orihinal na Titulo Blg. 2015000223, while one (1) OCT was allegedly issued to one Baberlyn Gomez (“Gomez”), Katibayan ng Orihinal na Titulo Blg. 2015000225. These OCTs were purportedly issued pursuant to agricultural Free Patent Applications. The technical descriptions of the awarded parcels of land show that they are identical to lots already delineated through a cadastral survey, Cad. 1037-D. A portion of the land covered by these OCTs overlap with the 3.206 hectares of forest land covered by TKPI’s FLAGT.

With due respect, there are indicia that the OCTs were obtained fraudulently. Consider the following:

- Based on the documents that are currently in TKPI’s possession, the 3.2 hectares of land covered by the OCTs are classified as forest/timber lands and, as such, not alienable and disposable land of the public domain that

31 See Annex “X” of TKPI’s Position Paper.

are susceptible of private acquisition through a free patent application. It is now well-settled that before the government could alienate or dispose of lands of the public domain: (a) the President of the Philippines (i) must first officially classify these lands as alienable or disposable and then (ii) declare them open to disposition or concession; and (b) there must be no law reserving these lands for public or quasi-public uses.

- Also, the land in question is foreshore land and appears unsuitable to be the subject of an agricultural free patent application, much less a grant.
- Ten Knots has been in actual possession and use of the 3.2 hectares of land since 1998 when it was first granted its Special Use Permit ("SUP"). TKPI has been in the open, continuous, exclusive, and peaceful possession of said land and has been utilizing the same in accordance with its SUP, and now, its FLAGT. Thus, Tampe and Gomez could not have been in the open, continuous, exclusive, and peaceful possession of the said land, much less for a period of thirty (30) years.
- TKPI's FLAG-T has been in the records of the DENR Region IV-MIMAROPA, Palawan PENRO, and El Nido CENRO since 2005. At the very least, Ten Knots should have been officially notified of the free patent application considering the overlap with its FLAG-T.
- TKPI should and would have been aware of any free patent application because of the posting requirement thereof. The surveys done for the free patent application would also not have escaped the attention of TKPI. Conversely, had such surveys really taken place, Tampe and Gomez would have been apprised that TKPI was presently occupying the area pursuant to a FLAGT issued by the DENR."

- d. Further, in another letter to the LMB dated 16 November 2021,³² TKPI stated:

“To recall, on 8 September 2021, TKPI wrote to request your good office to exercise its authority to investigate the suspicious circumstances surrounding the issuance of OCTs allegedly pursuant to agricultural Free Patent Applications. The OCTs issued to one Baberlyn Gomez (“Mrs. Gomez”) and Noel Tampe cover land previously delineated through a cadastral survey, Cad. 1037-D. A portion of the land covered by these OCTs overlap with the 3.206 hectares of forest land covered by TKPI’s Forest Land Use Agreement for Tourism Purposes (“FLAGT”).

In its letter, TKPI also discussed the circumstances that show that these OCTs were obtained fraudulently. TKPI takes this opportunity to inform your good office of developments subsequent to its 8 September 2021 letter.

On 27 October 2021, an actual ground survey was conducted for the Department of Environment and Natural Resources (“DENR”) to confirm the metes and bounds of the area covered by TKPI’s FLAGT. Among those present were Israel Gomez (“Mr. Gomez”) and his survey team, personnel of the DENR including DENR investigator Jones Manuel Y. Lafuente, and TKPI representatives and its survey team. Several members of the Barangay council were also present during the joint survey.

The results of the actual ground survey confirmed that areas claimed by Spouses Gomez, and where they are causing construction works to be undertaken, fall within the area covered by TKPI’s FLAGT. This clearly shows that the OCTs cover timberland, which are not alienable and disposable land of the public domain susceptible of private acquisition through a free patent application.

32 See Annex “Y” of TKPI’s Position Paper.

As pointed out in our letter dated on 8 September 2021, TKPI should and would have been aware of any free patent application because of the legal requirement for posting notices of such an application. Indeed, the surveys supposedly conducted for the free patent application would also not have escaped TKPI's attention. Conversely, had such surveys really taken place, Mr. Tampe and Mrs. Gomez would have certainly discovered that TKPI was already occupying the area pursuant to the DENR's duly issued FLAGT."

37. Thus, Gomez's assertion that TKPI presented no proof of fraud or misrepresentation in the procurement of her OCT is utterly unfounded and should not be given any credence.³³

38. As earlier explained, a free patent that was fraudulently acquired, and the certificate of title issued pursuant to the same, may only be assailed by the government in an action for reversion, pursuant to Section 101 of the Public Land Act. In *Sherwill Development Corporation v. Sitio Sta. Nino Residents Association, Inc.*,³⁴ the Supreme Court explained that "the indefeasibility of a title over land previously public is not a bar to an investigation by the Director of Lands as to how such title has been acquired, if the purpose of such investigation is to determine whether or not fraud had been committed in securing such title in order that the appropriate action for reversion may be filed by the Government."

39. A reversion proceeding does not undermine the doctrine on indefeasibility of a Torrens title. In *Lorzano v. Tabayag, Jr.*,³⁵ the Supreme Court reiterated that a Torrens title emanating from a free patent that was secured through fraud does not become indefeasible because the patent from whence the title sprung is itself void and of no effect.

40. *Republic v. Heirs of Felipe Alejaga, Sr.*³⁶ is instructive:

"True, once a patent is registered and the corresponding certificate of title [is] issued, the land covered by them ceases to be part of the public domain and

³³ Gomez's Position Paper, pars. 17-19.

³⁴ G.R. No. 158455, 28 June 2005.

³⁵ G.R. No. 189647, 6 February 2012.

³⁶ G.R. No. 146030, 3 December 2002.

becomes private property. Further, the Torrens Title issued pursuant to the patent becomes indefeasible a year after the issuance of the latter. However, this indefeasibility of a title does not attach to titles secured by fraud and misrepresentation. Well-settled is the doctrine that the registration of a patent under the Torrens System does not by itself vest title; it merely confirms the registrant's already existing one. Verily, registration under the Torrens System is not a mode of acquiring ownership."

41. Thus, contrary to the assertion of Gomez, her title may be subject to a collateral attack. In any event, Gomez's title is the proper subject of an action for reversion as the land covered thereby belongs to the State and is not susceptible of private ownership.

III

CONTRARY TO GOMEZ'S ASSERTION, TKPI CLEARLY AND CONVINCINGLY ADDUCED PROOF TO SUBSTANTIATE ITS CLAIMS.

42. Gomez claims that while TKPI alleges that the technical descriptions of Gomez's and Tampe's parcels of land are identical to the lots already delineated through the cadastral survey, a copy of such survey or technical descriptions was not presented.³⁷ Gomez further alleges that no survey map or technical description was also presented to support TKPI's allegation that there is an overlap between the areas covered by the FLAgT and Gomez's property.³⁸

43. Gomez misleads this Honorable Office.

44. As earlier explained, the results of the 27 October 2021 Ground Survey revealed that a portion of the land covered by Gomez's OCT overlap with the area covered by TKPI's FLAgT.³⁹

45. Notably, TKPI provided Gomez with a copy of the results through its letter dated 16 November 2021.⁴⁰ Said letter likewise states:

"On 27 October 2021, upon Mr. Gomez' proposal, an actual ground survey was conducted for the Department of Environment Resources ("DENR") to confirm the metes and

³⁷ Gomez's Position Paper, par. 9.

³⁸ Gomez's Position Paper, par. 10.

³⁹ TKPI's Position Paper, Annex "CC".

⁴⁰ TKPI's Position Paper, Annex "O".

bounds of the areas covered by TKPI's FLAGT. Among those present were Mr. Gomez and his survey team, personnel of the DENR including DENR investigator Jones Manuel Y. Lafuente, and TKPI's representatives and its survey team. Several members of the Barangay council were also present during the joint survey.

The results of the actual ground survey confirmed that the areas claimed by Spouses Gomez and where they are undertaking construction works fall within the areas covered by TKPI's FLAGT."⁴¹

46. Clearly, Gomez cannot now claim that TKPI did not adduce proof to substantiate its claims. Notably, it was in fact Gomez who proposed that an actual ground survey be conducted, and she was present with her survey team during the conduct of the same. As duly shown, TKPI even wrote Gomez on 16 November 2021 regarding the results of the survey, even providing Gomez with a copy of the map submitted by Engr. Veneracion to the Community Environment and Natural Resources Office ("CENRO").

47. Based on the foregoing, Gomez' assertion is clearly unfounded and misleading.

IV

CONTRARY TO GOMEZ'S ASSERTION, TKPI HOLDS A VALID AND SUBSISTING FLAGT, ACQUIRED PURSUANT TO DENR ADMINISTRATIVE ORDER NO. 2004-28 ALLOWING THE CONVERSION OF TKPI'S SPECIAL USE PERMIT TO A FLAGT.

48. Gomez attempts to cast doubt on the validity of TKPI's FLAgT by alleging that TKPI failed to attach a copy of its FLAgT and Special Use Permit ("SUP") in one of its letters submitted to the DENR, particularly its letter dated 8 July 2022.⁴² Gomez is clearly grasping at straws.

49. TKPI's alleged failure to attach a copy of its FLAgT and SUP in one of its letters does not and cannot invalidate the validity of TKPI's claim over the property. It is undisputed that TKPI holds a valid and subsisting FLAgT, acquired pursuant to DENR

⁴¹ See Annex "O" of TKPI's Position Paper. Emphasis and underscoring supplied.

⁴² Gomez's Position Paper, par. 8.

Administrative Order No. 2004-28 allowing the conversion of TKPI's SUP to a FLAgT. Copies of TKPI's FLAgT and SUP are attached in its Position Paper as Annexes "B" and "A", respectively.

50. Moreover, DENR, as the issuing agency, would have copies and records of TKPI's FLAgT and SUP. Thus, TKPI is under no obligation to provide them with the same if only to prove their existence. Nonetheless, TKPI provided them with the same as early as September 2021 for its convenience, and in hopes of speedy resolution of the issues.

51. Furthermore, in TKPI's letter dated 8 September 2021 to the DENR MIMAROPA and CENRO, attached to its Position Paper as Annex "W", as well as in its other letters to the LMB,⁴³ Land Registration Authority ("LRA"), and Register of Deeds of Puerto Princesa City,⁴⁴ TKPI attached copies of its FLAgT and SUP. Hence, TKPI need not re-attach the same in its subsequent letters.

52. On another note, Gomez seeks to cast doubt on the validity of TKPI's FLAgT and argues for the cancellation thereof in an attempt to muddle the current pressing issues involving her OCT.⁴⁵ This is irrelevant to the present proceeding as the issue here is the validity of the OCTs issued to Gomez and Tampe which overlapped with TKPI's FLAgT. Whether there are valid grounds for the cancellation of TKPI's FLAgT is better threshed out in the proper forum and proceedings.

53. All told, TKPI's rights under its duly issued FLAgT must be recognized and respected.

PRAYER

WHEREFORE, **TEN KNOTS PHILIPPINES, INC.** respectfully prays that this Honorable Office:

1. **DECLARE** that Ten Knots Philippines, Inc. may exercise its privileges granted under its FLAgT over the property covered by the same;
2. **INITIATE** reversion proceedings against the properties covered by Significo Vista Ventures, Inc.'s, and Baberlyn Gomez's titles; and

⁴³ Annex "X" of TKPI's Position Paper.

⁴⁴ Annex "X-1" of TKPI's Position Paper.

⁴⁵ Gomez's Position Paper, par. 14.

3. **DIRECT** Significo Vista Ventures, Inc. and Baberlyn Gomez to remove their structures within the forty (40) meter easement.

Ten Knots Philippines, Inc. prays for other relief in law and equity.

Taguig City for Puerto Princesa City, 10 August 2023.

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IBP No. 181471; 01/06/2023; Rizal (RSM)

Roll No. 35402

MCLE Compliance No. VII-0004786; 11/23/21

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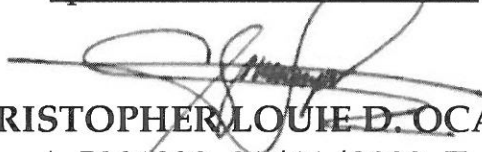
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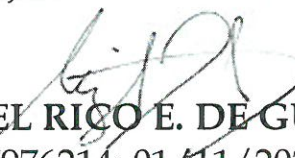
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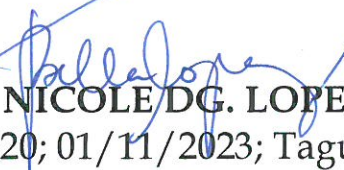
Roll No. 62546

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