

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: Significo Vista Ventures, Inc.'s**  
***Position Paper* dated 17 May 2023)**

Complainant **TEN KNOTS PHILIPPINES, INC.** ("TKPI"), by counsel, respectfully submits this Comment to respond to the false and misleading assertions in Significo Vista Ventures, Inc.'s ("SVVI") *Position Paper* dated 17 May 2023 ("Position Paper").

**I**

**SVVI'S TITLES -- HAVING BEEN OBTAINED  
THROUGH FRAUD AND MISREPRESENTATION --  
ARE VOID AND DO NOT ENJOY INDEFEASIBILITY  
UNDER THE TORRENS SYSTEM.**

1. SVVI relies on the indefeasibility of the titles that it acquired from Noel Tampe ("Tampe") who originally obtained those titles ostensibly through a free patent application.<sup>1</sup>

2. SVVI cannot invoke indefeasibility of titles. SVVI's forebear, Tampe, obtained his original certificates of title ("OCT") by means of fraud. Public policy demands that those who have done so should not

---

<sup>1</sup> SVVI's *Position Paper*, p. 8, pars. 32-36.

be allowed to benefit from their misdeed. In *Republic of the Philippines v. Court of Appeals*,<sup>2</sup> 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.”

3. Here, the OCTs issued to Baberlyn D. Gomez (“Gomez”) and Tampe were fraudulently, therefore void *ab initio*.

4. First, the 3.2 hectares of land covered by TKPI’s Forest Landuse Agreement for Tourism Purposes (“FLAgT”), upon which the OCTs overlap, are classified as timber or forest lands and, as such, not alienable and disposable land of the public domain that are susceptible of private acquisition through a free patent application. Section 55 of the Public Land Act states that any timber or forest land are not suitable for commercial, industrial, or other productive purposes, other than agricultural purposes:

“Section 55. Any tract of land of the public domain which, being neither timber nor mineral land, shall be classified as suitable for residential purposes or for commercial, industrial, or other productive purposes other than agricultural purposes, and shall be open to disposition or concession, shall be disposed of under the provisions of this chapter, and not otherwise.”

---

<sup>2</sup> G.R. No. 79582, 10 April 1989.

5. In *Federation of Coron v. DENR Secretary*,<sup>3</sup> the Supreme Court stated that timber or forest lands are not subject to private ownership unless they are first reclassified as agricultural lands:

“Lands of the public domain are classified under three main categories, namely: Mineral, Forest and Disposable or Alienable Lands. Under the Commonwealth 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.**”<sup>4</sup>

6. 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.<sup>5</sup> In this case, neither Tampe, Gomez nor SVVI have presented any evidence proving that the government, through this Honorable Office, has changed the classification of their respective properties into alienable and disposable lands for agricultural purposes.

7. In *Heirs of Venturanza v. Republic of the Philippines*,<sup>6</sup> the Supreme Court categorically ruled that certificates of title covering inalienable lands of the public domain, i.e. timber and forest lands, are void:

---

<sup>3</sup> G.R. No. 247866, 15 September 2020.

<sup>4</sup> Emphasis and underscoring supplied.

<sup>5</sup> *Ibid.*

<sup>6</sup> G.R. No. 1491122, 27 July 2007.

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

8. In *Belizario v. Department of Environment and Natural Resources*,<sup>7</sup> the Supreme Court found that a void title based on a patent that had been cancelled may still be reverted back to the State.<sup>8</sup> Thus, a void title does not enjoy indefeasibility under the Torrens system. Similarly, in *De Guzman v. Agbagala*,<sup>9</sup> the Supreme Court emphatically held that “the principle of indefeasibility does not apply when the patent and the title based thereon are null and void.”<sup>10</sup>

9. *Second*, given that the lands in question are forest land, they are unsuitable to be the subject of agricultural free patent applications, much less a grant.

10. Section 44 of the Public Land Act, as amended by Republic Act No. 6940,<sup>11</sup> 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.”<sup>12</sup>

---

<sup>7</sup> G.R. No. 231001, 24 March 2021.

<sup>8</sup> *Ibid.*

<sup>9</sup> G.R. No. 163566, 19 February 2008.

<sup>10</sup> *Ibid.*

<sup>11</sup> 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.

<sup>12</sup> Emphasis and underscoring supplied.



11. Agricultural free patents are land grants awarded to natural-born Filipinos in actual occupation and cultivation of alienable and disposable lands not more than 12 hectares for at least thirty (30) years.

12. Clearly then, lands subject of applications for agricultural free patents must be alienable and disposable.

13. In this case, when Gomez and Tampe submitted their respective applications for agricultural free patents in 2015, the lands subject thereof were and still are classified as forest lands. As held in *Federation of Coron v. DENR Secretary*,<sup>13</sup> 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 lands, Gomez's and Tampe's applications for agricultural free patents should have been denied outright.

14. Neither Gomez nor Tampe has shown that they possessed or cultivated the lands for at least thirty (30) years prior to the submission of their applications in 2015. TKPI, which has been in possession of the land covered by its FLAgT since 1998, would have been aware of Gomez's and Tampe's presence on the land prior to the highly suspicious issuance of their OCTs.

15. Besides, the free patent applications of Gomez and Tampe were granted only on 23 April 2015, and the OCTs were registered with the Registry of Deeds of Palawan on 27 April 2015. These OCTs were issued erroneously to properties already covered by a FLAgT awarded to TKPI ten (10) years prior. To reiterate, the lots covered by the purported OCTs of Gomez and Tampe were not reclassified from forest lands to agricultural lands prior to the OCTs' issuance.

16. *Lastly*, TKPI should have been officially notified of the free patent applications considering the overlap with its FLAgT. TKPI should and would have been aware of any free patent application because of the posting requirement mandated by law.

17. According to the Citizen's Charter No. RO-L-03 on Applications for Free Patent issued by this Honorable Office,<sup>14</sup> 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.

---

<sup>13</sup> G.R. No. 247866, 15 September 2020.

<sup>14</sup> See Annex "KK" of TKPI's *Position Paper* dated 23 March 2023 ("TKPI's Position Paper").

18. The surveys done for the free patent applications would also not have escaped TKPI's attention. Conversely, had such surveys actually taken place, Tampe and Gomez would have been apprised that TKPI was presently occupying the area pursuant to a FLAgT issued by this Honorable Office.

19. Given the foregoing, SVVI's reliance on the doctrine of indefeasibility of a Torrens title is heavily misplaced as indefeasibility does not attach to titles secured by fraud and misrepresentation.

20. On this note, it is evident that the OCTs of Gomez and Tampe were wrongfully obtained to cover timber/forest lands which are inalienable lands of the public domain. Following the pronouncement in *Heirs of Venturanza*,<sup>15</sup> the OCTs must be cancelled through a complaint for reversion, considering that these OCTs were unlawfully issued to cover inalienable lands of the public domain coupled with serious questions of fraud and misrepresentation in their issuance. This Honorable Office must therefore seek the return of the properties covered by these OCTs to the public domain.

## II

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

21. In its Position Paper, SVVI asserts that its titles cannot be controverted, challenged, or modified in the current proceedings in the event that the subject properties fall inside timberland, as a Torrens title may not be subjected to a collateral attack. SVVI is mistaken.

22. A void title is susceptible to a collateral attack.<sup>16</sup> In *De Guzman v. Agbagala*,<sup>17</sup> 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. Hence, in *De Guzman*,<sup>18</sup> the Court noted that even if the attack on the title was merely collateral as the action was principally for the declaration of nullity of a deed of donation and

---

<sup>15</sup> G.R. No. 1491122, 27 July 2007.

<sup>16</sup> *De Guzman v. Agbagala*, G.R. No. 163566, 19 February 2008.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Id.*

subsequent deeds of conveyance, the title was correctly nullified because the free patent on which it was based was null and void *ab initio*.

23. 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.<sup>19</sup> Here, it is undeniable that the OCTs issued to Gomez and Tampe cover inalienable lands and are thus void. Hence, SVVI's titles may be the subject of a collateral attack.

24. It must be noted that TKPI does not seek to invalidate SVVI's titles 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 SVVI's titles.

25. Contrary to SVVI's assertion,<sup>20</sup> TKPI repeatedly questioned the validity of the OCTs issued to Tampe and acquired by SVVI. These proceedings were commenced pursuant to TKPI's persistent objection to the issuance of the OCTs awarded to Tampe and Gomez. TKPI underscored this in a series of letters stating that the OCTs were obtained fraudulently:

- a. In a letter dated 21 August 2021 to Mayor Edna Gacot-Lim,<sup>21</sup> 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."

---

<sup>19</sup> *Ibid.*

<sup>20</sup> SVVI's Position Paper, p. 8, par. 38.

<sup>21</sup> See Annex "Q" of TKPI's Position Paper.

- b. In another letter dated 2 September 2021 to Mayor Edna Gacot-Lim,<sup>22</sup> TKPI stated:

“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”),<sup>23</sup> 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. Considering 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

---

<sup>22</sup> See Annex “R” of TKPI’s Position Paper.

<sup>23</sup> See Annex “X” of TKPI’s Position Paper.

forest/timber lands and, as such, not alienable and disposable land of the public domain that 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 FLAGT 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 FLAGT.
- 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,<sup>24</sup> 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

---

<sup>24</sup> See Annex "Y" of TKPI's Position Paper.

FLAGT.<sup>1</sup> 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.

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."

26. In light of the issuance of OCTs overlapping with its FLAgT, TKPI sought guidance from the DENR Region IV-MIMAROPA and CENRO, stating that a technical conference with the DENR is necessary for a definitive resolution of the pending issues surrounding the suspicious OCTs.<sup>25</sup>

27. On 13 January 2022, a technical conference was held between DENR Region IV-MIMAROPA, CENRO, and TKPI. During the said conference, the DENR Region IV-MIMAROPA committed to initiate a reversion case to reclaim timberland if these were in fact mistakenly covered by the titles subject of this case. This was reflected in TKPI's letter dated 26 April 2022 to the DENR Region IV - MIMAROPA,<sup>26</sup> which states:

"The 2 March 2022 ground survey focused on the survey points of TKPI's FLAGT but left out the areas that overlap with Noel Tampe's and Baberlyn Gomez' OCTs, which your good office confirmed to be timberland during the 13 January 2022 technical conference attended by key personnel from the DENR Regional Office and the CENRO. To recall, among the issues identified during that meeting was the erroneous titling of areas that are timberland and are covered by TKPI's FLGAT. To address the issue, your good office explained that a final survey will be conducted and the titles covering timberland will

---

<sup>25</sup> See Annex "W" of TKPI's Position Paper.

<sup>26</sup> See Annex "DD" of TKPI's Position Paper.

be cancelled. Your good office committed that a reversion case will be filed to reclaim the timberland mistakenly covered by the OCTs.”

28. The *Order of Investigation* dated 8 September 2022 (“Order of Investigation”) issued by this Honorable Office mentioned TKPI’s letter dated 8 September 2021 requesting an investigation pursuant to Section 91 of the Public Land Act. Pertinently, this provision of the law pertains to an inquiry of any alleged fraud in securing a free patent and the corresponding title to a public land for the purpose of filing a court action for the reversion of the same to the State.<sup>27</sup> Section 91 of the Public Land Act provides:

“Section. 91. The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall *ipso facto* produce the cancellation of the concession, title, or permit granted. It shall be the duty of the Director of Lands, from time to time and whenever he may deem it advisable, to make the necessary investigations for the purpose of ascertaining whether the material facts set out in the application are true, or whether they continue to exist and are maintained and preserved in good faith, and for the purpose of such investigation, the Director of Lands is hereby empowered to issue *subpoenas* and *subpoenas duces tecum* and, if necessary, to obtain compulsory process from the courts. In every investigation made in accordance with this section, the existence of bad faith, fraud, concealment, or fraudulent and illegal modification of essential facts shall be presumed if the grantee or possessor of the land shall refuse or fail to obey a *subpoenas* or *subpoenas duces tecum* lawfully issued by the Director of Lands or his authorized delegates or agents, or shall refuse or fail to give direct and specific answers to pertinent questions, and on the basis of such presumption, an order of cancellation may issue without further proceedings.”

---

<sup>27</sup>

Piñero v. Director of Lands, G.R. No. L-36507, 14 June 1974.

29. The Order of Investigation also cited DENR Department Administrative Order (“DAO”) 2016-31<sup>28</sup> as the basis for its issuance, particularly Sections 33 and 34 under Chapter III thereof. Chapter III pertains to investigations which are conducted as a fact-finding/recommendatory procedure to determine the propriety of initiating reversion proceedings.<sup>29</sup> Hence, Section 34 of DAO 2016-31 specifically directs the Land Investigation Officer (“LIO”) to submit an investigation report with the recommended action to the Register of Deeds (“RD”).

30. Clearly, there is no truth to SVVI’s assertion that no issue was raised and no question was posed assailing the validity of the OCTs issued to Tampe and acquired by SVVI.<sup>30</sup> The validity of the subject OCTs is the primary issue in these proceedings, which TKPI commenced to convince this Honorable Office to cause the filing of a reversion action through the Office of the Solicitor General.

31. SVVI further attempts to mislead this Honorable Office by trying to limit the issue in this case to a mere determination of whether the dimensions indicated in the subject titles overlap with TKPI’s FLAgT.<sup>31</sup> This should not be allowed.

32. As earlier explained, a free patent that was fraudulently acquired, and the certificate of title issued pursuant to the same, may 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.*,<sup>32</sup> 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.”

33. As mentioned above, this Honorable Office can recommend the initiation of reversion proceedings to have the titles cancelled

---

<sup>28</sup> Procedure in the Investigation and Resolution of Land Claims and Conflicts Cases dated 29 December 2016.

<sup>29</sup> Section 26 of DAO 2016-31 provides:  
“Section 26. Nature of the investigation. The proceeding under this Chapter shall be merely investigative in nature which will be conducted as a fact-finding/recommendatory procedure to determine the propriety of initiating reversion proceedings.”

<sup>30</sup> SVVI’s Position Paper, p. 8, par. 38.

<sup>31</sup> SVVI’s Position Paper, p. 12, par. 52.

<sup>32</sup> G.R. No. 158455, 28 June 2005.

under DAO 2016-31. Clearly then, the scope of these proceedings cannot be oversimplified to a mere determination of whether there is an overlap between TKPI's FLAgT and the subject OCTs, which cover forest land.

34. A reversion proceeding is the manner through which the State seeks to revert land to the mass of public domain.<sup>33</sup> It is the proper remedy when public land is fraudulently awarded and disposed of in favor of private individuals or corporations.<sup>34</sup> Since the land originated from a grant by the government, its cancellation is thus a matter between the grantor and the grantee.<sup>35</sup>

35. A reversion proceeding does not undermine the doctrine on indefeasibility of a Torrens title. In *Lorzano v. Tabayag, Jr.*,<sup>36</sup> 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.

36. *Republic v. Heirs of Felipe Alejaga, Sr.*<sup>37</sup> 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 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.”

37. All told, SVVI's titles are the proper subjects of an action for reversion as the lands covered thereby belong to the State and are not subject to private ownership.

---

<sup>33</sup> Padilla v. Salovino, G.R. No. 232823, 28 August 2019.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Id.*

<sup>36</sup> G.R. No. 189647, 6 February 2012.

<sup>37</sup> G.R. No. 146030, 3 December 2002.



### III

**SVVI ADMITTED THAT IT IS UTILIZING THE SUBJECT PROPERTY FOR COMMERCIAL PURPOSES, IN DEFIANCE OF THE NOTICES OF VIOLATION AND ORDER TO VACATE ("NTV"), AND THE DENR'S ORDER DURING THE 8 DECEMBER 2022 MEETING.**

38. SVVI failed to refute, as it cannot deny that it continues to operate on the lands for commercial purposes, in clear defiance of the NTV and the DENR's Order during the 8 December 2022 meeting.

39. During the 8 December 2022 meeting, Gomez and Lihim Resorts were instructed to remove and relocate their structures to comply with Presidential Decree 1067, otherwise known as the Water Code of the Philippines, and Republic Act No. 7568, as amended by Republic Act No. 11038 ("Water Code"), or the Extended NIPAS Act of 2018 ("NIPAS Act"). Further, it was agreed that they will not be allowed to operate or use the structures until such time that they have complied with the Protected Area Management Board ("PAMB") Clearance and Environment Compliance Certificate ("ECC").

40. Despite these instructions, Gomez and the operators of Lihim Resorts refused to remove their structures, and even introduced new ones, in blatant violation of this Honorable Office's orders.

41. SVVI merely attempts to justify its unlawful practices by claiming that it allegedly obtained building permits from the City of El Nido, Province of Palawan in May 2022.<sup>38</sup> This is but a bare allegation. The purported building permits were not attached to SVVI's Position Paper. It cannot even be determined with certainty whether these permits indeed allow SVVI to construct its establishments over the easement in violation of the Water Code and the NIPAS Act.

42. Assuming *arguendo* that building permits were issued, these permits do not excuse SVVI from complying with the Water Code and the NIPAS Act.

43. Assuming further that the building permits were sufficient justification, SVVI failed to provide basis for the construction on easements that happened prior to May 2022 when it obtained said permits from El Nido, Palawan.

---

<sup>38</sup> SVVI's Position Paper, p.4, par. 21.

44. During the 8 December 2022 meeting, SVVI's violations were confirmed and it was clarified that SVVI's building permits were insufficient. SVVI was ordered to stop the construction works and secure the necessary permits and clearances, i.e. PAMB Clearance and ECC. While SVVI undertook to comply with the DENR's orders, it did not and continued with the construction of its structures. Currently, it carries on commercial activities and worse, it is silent on the required PAMB Clearance and ECC.

45. SVVI's willful and deliberate disobedience to the laws and to this Honorable Office's lawful orders must be dealt with through the imposition of the appropriate sanctions.

#### IV

**CONTRARY TO SVVI'S ASSERTION, TKPI'S FLAGT WAS VALIDLY ACQUIRED PURSUANT TO DENR ADMINISTRATIVE ORDER NO. 2004-28 ALLOWING THE CONVERSION OF TKPI'S SPECIAL USE PERMIT TO A FLAGT. AN ENDORSEMENT BY THE SANGGUNIAN BAYAN IS NOT REQUIRED FOR THE SPECIAL USE PERMIT TO BE CONVERTED INTO A FLAGT.**

46. SVVI attempts to cast doubt on the validity of TKPI's FLAgT by claiming that TKPI failed to obtain the endorsement of the Sangguniang Bayan of the Municipality of El Nido when it was granted its FLAgT.<sup>39</sup> This is baseless and misleading.

47. Surely, this Honorable Office perceives that this is yet another attempt by SVVI to muddle the issue in this case, i.e., the propriety of cancelling the OCTs of Tampe and Gomez. The technical requirements supporting the issuance of TKPI's FLAgT are simply irrelevant to this case.

48. Nevertheless, if only to set the record straight, TKPI's FLAgT was derived from its Special Use Permit ("SUP") granted as early as 6 November 1998<sup>40</sup> and gave TKPI the privilege to use the area as a bathing establishment.<sup>41</sup>

---

<sup>39</sup> SVVI's Position Paper, p. 4, par. 16.

<sup>40</sup> See Annex "A" of TKPI's Position Paper.

<sup>41</sup> *Ibid.*

49. On 25 August 2004, the DENR issued Administrative Order No. 2004-28 (“AO No. 2004-28”), otherwise known as *Rules and Regulations Governing the Use of Forestlands for Tourism Purposes*. AO No. 2004-28 allowed qualified persons to occupy, develop, utilize, and sustainably manage forest lands for tourism purposes.<sup>42</sup>

50. Under AO No. 2004-28, a FLAgT may be issued by this Honorable Office to authorize qualified persons to occupy, manage, and develop any forest land of the public domain for tourism purposes and to undertake authorized activities therein, which shall include special forest land uses such as a bathing establishment, camp site, ecotourism destination, hotel site, and other tourism purposes.

51. Section 13 of AO No. 2004-28 permits the conversion of existing special land use permits to a FLAgT, provided, that the holder thereof has shown satisfactory performance based on DENR’s monitoring and evaluation system and has complied with all the terms and conditions of the permit.

52. TKPI applied to convert its SUP into a FLAgT pursuant to Section 13 of AO No. 2004-28, under which the SUP holder shows satisfactory performance based on the DENR’s monitoring and evaluation system, and that the holder has complied with all the terms and conditions of the permit. **An endorsement from the Sangguniang Bayan is not required.**

53. On 31 August 2004, the DENR also issued Administrative Order No. 2004-59, otherwise known as *Rules and Regulations Governing The Special Uses of Forestlands*, which also provides the requirements for the conversion of an SUP into a FLAgT, as follows:

“Section 21. Conversion of Special Land Use Permit to FLAgT. Special Land Use Permits/Leases which have been in existence with established improvements may be converted into FLAgT. Provided, that the permittee/lessee has religiously complied with all the terms and conditions of the permits/leases as evidenced by a comprehensive performance evaluation commissioned or undertaken by authority of the Secretary.”

54. The conversion of TKPI’s SUP to a FLAgT only entails an assessment of its track record of its compliance with the terms and conditions of its SUP. Assuming without conceding that the

---

<sup>42</sup> DENR Admin. Order No. 2004-28, Sec. 1.1.

Sangguniang Bayan of El Nido has no record of endorsing TKPI's FLAgT, this has no effect whatsoever on the FLAgT's validity and efficacy.

55. 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
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 for Puerto Princesa City, 6 July 2023.

### **ANGARA ABELLO CONCEPCION REGALA & CRUZ**

*Counsel for Ten Knots Philippines, Inc.*

22<sup>nd</sup> Floor, ACCRALAW Tower

2<sup>nd</sup> Avenue corner 30<sup>th</sup> Street, Crescent Park West

Bonifacio Global City, 1635 Taguig

Telephone No. (632) 8830-8000

[accra@accralaw.com](mailto:accra@accralaw.com)

By:

### **SALVADOR L. PEÑA**

PTR No. A-5797579; 01/11/2023; Taguig City


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


Roll No. 35402

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


[slpena@accralaw.com](mailto:slpena@accralaw.com)

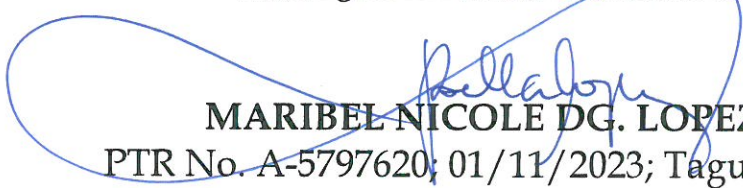


  
**CHRYSILLA CARISSA P. BAUTISTA**  
PTR No. A-5800892; 01/11/2023; Taguig City  
IBP No. 181491; 01/06/2023; Quezon City  
Roll No. 46309  
MCLE Exemption No. VII-Acad003161; 11/26/21  
[cpbautista@accralaw.com](mailto:cpbautista@accralaw.com)

  
**CHRISTOPHER LOUIE D. OCAMPO**  
PTR No. A-5801930; 01/11/2023; Taguig City  
IBP No. 249162; 01/06/2023; Makati City  
Roll No. 62546  
MCLE Compliance No. VII-0010324; 02/16/22  
[cdocampo@accralaw.com](mailto:cdocampo@accralaw.com)

  
**KRIS SARAH M. JERUTA**  
PTR No. A-5797280; 01/11/2023; Taguig City  
IBP No. 249229; 01/06/2023; Makati City  
Roll No. 75274  
MCLE Compliance No. VII-0004861; 11/26/21  
[kmjeruta@accralaw.com](mailto:kmjeruta@accralaw.com)

  
**MIGUEL RICO E. DE GUZMAN**  
PTR No. A-57976214; 01/11/2023; Taguig City  
IBP No. 249214; 01/06/2023; Makati City  
Roll No. 75653  
MCLE Compliance No. VII-0027608; 04/03/23  
[medeguzman@accralaw.com](mailto:medeguzman@accralaw.com)

  
**MARIBEL NICOLE DG. LOPEZ**  
PTR No. A-5797620; 01/11/2023; Taguig City  
IBP No. 249231; 01/06/2023; Makati City  
Roll No. 81891  
MCLE Compliance No. NA; (Admitted on May 2022)  
[mdlopez@accralaw.com](mailto:mdlopez@accralaw.com)



Copy furnished:

**ATTY. CHE ANN MAE G. FLORES**

*Counsel for Baberlyn D. Gomez*

Brgy. Sta. Monica

Puerto Princesa City, Palawan

[camgflores2018@gmail.com](mailto:camgflores2018@gmail.com)

**BELLO VALDEZ & FERNANDEZ**

Attention: Atty. Roberto Joaquin S. Atanacio

*Counsel for Significo Vista Ventures, Inc.*

17<sup>TH</sup> floor, Robinsons Equitable Tower

4 ADB Avenue cor. P. Poveda Drive

Ortigas Center, Pasig City 1605

[info@jglawph.com](mailto:info@jglawph.com)

**DEPARTMENT OF ENVIRONMENT AND  
NATURAL RESOURCES**

MIMAROPA Region IV

DENR by the Bay, 1515 L&S Building

Roxas Boulevard, Manila

[mimaroparegion@denr.gov.ph](mailto:mimaroparegion@denr.gov.ph)

**COMMUNITY ENVIRONMENT AND  
NATURAL RESOURCES OFFICE**

Attention: Engr. Alan L. Valle

DENR Region IV – MIMAROPA

National Highway, Poblacion

Taytay, Palawan 5312

[cenrotaytay@denr.gov.ph](mailto:cenrotaytay@denr.gov.ph)

**EL NIDO-TAYTAY MANAGED  
RESOURCE PROTECTED AREA**

Attention: Mildred A. Suza

*Protected Area Superintendent*

Calle Real, Barangay Masagana

El Nido, Palawan 5313

[denrpao\\_elnidopal@yahoo.com](mailto:denrpao_elnidopal@yahoo.com)

[entmrpa@gmail.com](mailto:entmrpa@gmail.com)