REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

DOMINIUM REALTY & CONSTRUCTION CORPORATION, Petitioner,	**CTA CASE NO. 8887**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 1 7 2017 4:20 pm

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RESOLUTION

CASANOVA, *J.*:

For resolution is respondent's **Motion for Reconsideration**, filed through registered mail on April 24, 2017 and received by the Court on May 9, 2017, with petitioner's **Comment (To the Respondent's Motion for Reconsideration)**, filed on May 24, 2017.

Respondent seeks reconsideration of the Court's Decision dated April 6, 2017, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. Accordingly, the assessments issued by respondent against petitioner for taxable year 2010 covering deficiency Income Tax in the amount of ₱86,102,942.64, VAT in the amount of ₱39,836,303.87 and DST in the amount of ₱5,669,034.20, are **CANCELLED AND WITHDRAWN.**

SO ORDERED."

Respondent claims that the exhibits of petitioner should not have been given probative value for being hearsay evidence.

According to respondent, the testimony of Ms. Dinah T. Paginag should have been limited only to those facts which she has personal knowledge. Allegedly, neither the signatories nor any person who prepared the Deed of Absolute Sale and Deed of Transfer which were marked as Exhibits "P-9" and "P-10", respectively, were presented to testify on such relevant and material matters. As such, any attempt on the part of petitioner to pass as absolute truth the contents of the aforementioned deeds shall allegedly be considered hearsay evidence.

Petitioner opposes the instant motion stating that the Deed of Absolute Sale and Deed of Transfer only pertain to its exchange transaction with Fortune Landequities and Resources, Inc. (FLRI). Petitioner points out that there were two tax-free exchange transactions made by petitioner, one was with FLRI and the other was with PMFTC. Petitioner also contends that being notarized documents, the aforementioned deeds are public documents; as such, they are *prima facie* evidence of the facts stated therein. Petitioner posits that in order to debunk the authenticity of a notarized document, the burden of proof shall shift to the person alleging its falsity. The alleged failure of the person to overcome the presumption with clear and convincing evidence, the presumption will stand.

Further, petitioner explains that the testimony of Ms. Dinah Paginag on the transactions entered into by the former is based on the aforesaid notarized documents which are in her possession as custodian of the company's records.

The Court finds the instant motion unmeritorious.

Section 23, Rule 132 of the Rules of Court provides:

> "**SEC. 23.** *Public documents as evidence.* – Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts therein stated. All other

public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter."

In relation hereto is Section 19(b), Rule 132 of the Rules of Court which states:

"**SEC. 19.** *Classes of documents.* – For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

xxx xxx xxx

(b) Documents acknowledged before a notary public except last wills and testaments; and"

xxx xxx xxx

Applying the aforesaid provisions, the Deed of Absolute Sale and Deed of Transfer which were marked as Exhibits "P-9" and "P-10", respectively, are considered public documents since they were acknowledged before a notary public. Thus, they are *prima facie* evidence of the facts therein stated.

The ruling of the Supreme Court in the case of *Iwasawa vs. Gangan*[1] is highly instructive, *viz*:

"**As public documents, they are admissible in evidence even without further proof of their due execution and genuineness.** Thus, the RTC erred when it disregarded said documents on the sole ground that the petitioner did not present the records custodian of the NSO who issued them to testify on their authenticity and due execution since proof of authenticity and due execution was not anymore necessary. Moreover, not only are said documents admissible, they deserve to be given evidentiary weight because they constitute prima facie evidence of the facts stated

[1] G.R. No. 204169, September 11, 2013.

> therein. And in the instant case, the facts stated therein remain unrebutted since neither the private respondent nor the public prosecutor presented evidence to the contrary." (*Emphasis supplied*)

It is noteworthy that Ms. Dinah Paginag is the records custodian of the subject documents, thus, she testified as to the existence and contents of the said documents. Even assuming for arguments sake that the testimony of Ms. Paginag is a hearsay, the subject documents are still admissible in evidence because they are public documents.

Based on the foregoing, it is clear that Exhibits "P-9" and "P-10" proved the fact of the transfer of title and ownership of petitioner's four parcels of land to FLRI in exchange for the latter's shares of stocks.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration** is **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice