CIVIL LAW

2018 Cases

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G.R. No. 190289, THIRD DIVISION, January 17, 2018, VELASCO, JR., J.

In this jurisdiction, we adhere to the principle that injury alone does not give respondent the right to recover damages, but it must also have a right of action for the legal wrong inflicted by petitioners. In order that the law will give redress for an act causing damage, there must be damnum et injuria that act must be not only hurtful, but wrongful.

Considering that respondent had no legal right to operate the bingo operations at the outset, then it is not entitled to the damages which it is demanding from petitioners.

FACTS:

Phuture was incorporated in 2004. In May 2005, its Articles of Incorporation (AOI) was amended to, among others, include the operation of lotto betting stations and/or other gaming outlets as one of its secondary purposes. Eventually, it applied with the Philippine Amusement and Gaming Corporation (P AGCOR) for an authority to operate bingo games at the SM City Bacolod Mall (SM Bacolod), as well as with SM Prime Holdings (SM Prime) for the lease of a space in the said building. Phuture was issued a provisional Grant of Authority (GOA) on December 5, 2006 by P AGCOR, subject to compliance with certain requirements, and received an Award Notice from SM Prime on January 10, 2007.

Phuture commenced bingo operations at SM Bacolod on March 2, 2007, prior to the issuance of the actual hard copy of the mayor's permit. However, at around 6:10 a.m. of March 3, 2007, respondent learned that its bingo outlet was padlocked by agents of the Office of the City Legal Officer. Phuture claimed that the closure of its bingo outlet at SM Bacolod is tainted with malice and bad faith and that petitioners did not have the legal authority to shut down said bingo operations.

Thereafter, respondent filed a *Petition for Mandamus and Damages* filed against petitioners City of Bacolod, Hon. Mayor Evelio R. Leonardia, Atty. Allan L. Zamora (now deceased) and Arch. Lemuel D. Reynaldo. The RTC denied the prayer for the issuance of a temporary mandatory order and dismissed the case for lack of merit. Upon appeal, the CA partially granted the appeal by affirming the trial court's denial of the application for a temporary mandatory order but reversing the dismissal of the suit for damages and ordering the case to be reinstated and remanded to the court of origin for further proceedings.

ISSUE:

Whether petitioners can be made liable to pay respondent damages. (NO)

RULING:

In this jurisdiction, we adhere to the principle that injury alone does not give respondent the right to recover damages, but it must also have a right of action for the legal wrong inflicted by petitioners. In order that the law will give redress for an act causing damage, there must be *damnum et injuria* that act must be not only hurtful, but wrongful. The case of *The Orchard Golf & Country Club, Inc., et al. v. Ernesto V Yu and Manuel* C. *Yuhico,* citing *Spouses Custodio v. Court of Appeals,* is instructive, to wit:

x x [T]he mere fact that the plaintiff suffered losses does not give rise to a right to recover damages. To warrant the recovery of damages, there must be both a right of action for a legal wrong inflicted by the defendant, and damage resulting to the plaintiff therefrom. Wrong without damage, or damage without wrong, does not constitute a cause of action, since damages are merely part of the remedy allowed for the injury caused by a breach or wrong.

In other words, in order that the law will give redress for an act causing damage, that act must be not only hurtful, but wrongful.*1âwphi1* There must be *damnum et injuria.* If, as may happen in many cases, a person sustains actual damage, that is, harm or loss to his person or property, without sustaining any legal injury, that is, an act or omission which the law does not deem an injury, the damage is regarded as *damnum absque injuria.*

Sticking closely to the facts, it is best to recapitulate that while the CA ruled that respondent was not given due notice and hearing as to the closure of its business establishment at SM Bacolod, it nevertheless remanded the issue of the award of damages to the trial court for further proceedings. Such action would only be an exercise in futility, as the trial court had already ruled in its September 6, 2007 Decision that respondent Phuture had no right and/or authority to operate bingo games at SM Bacolod because it did not have a Business Permit and has not paid assessment for bingo operation. Thus, it held that petitioners acted lawfully in stopping respondent's bingo operation on March 2, 2007 and closing its establishment for lack of any business permit.

Considering that respondent had no legal right to operate the bingo operations at the outset, then it is not entitled to the damages which it is demanding from petitioners.

ASTRID A. VAN DE BRUG, *Petitioner,* -versus- PHILIPPINE NATIONAL BANK, *Respondent.*
GR No. 207004, SECOND DIVISION, June 6, 2018, CAGUIOA, *J.*

A person should be protected only when he acts in the legitimate exercise of his right; that is, when he acts with prudence and in good faith, but not when he acts with negligence or abuse. There is an abuse of right when it is exercised only for the purpose of prejudicing or injuring another. The exercise of a right must be in accordance with the purpose for which it was established, and must not be excessive or unduly harsh; there must be no intention to injure another. In order to be liable for damages under the abuse of rights principle, the following requisites must concur: (a) the existence of a legal right or duty; (b) which is exercised in bad faith; and (c) for the sole intent of prejudicing or injuring another.

In this case, the Aguilars failed to substantiate the above requisites to justify the award of damages in their favor against PNB, who merely exercised its legal right as a creditor pursuant to RA 7202.

FACTS:

Petitioner is one of the children of the late spouses Aguilar. The late spouses Romulus and Evelyn Aguilar were borrowing clients of Philippine National Bank Victoria Branch. The late spouses Aguilar's sugar crop loans, which were obtained sometime between the late 1970's and the early 1980's, were secured by real estate mortgage over four registered parcels of land all situated at Escalante, Negros Occidental. However, for failure of the late spouses Aguilar to pay their obligations with PNB, the mortgage was foreclosed in 1985 and subsequently, ownership of the subject four pieces of property was consolidated under the name of PNB.

With the enactment of RA 7202 on February 29, 1992, the late Romulus Aguilar wrote PNB asking for a reconsideration of his account based on the Sugar Restitution Law. PNB informed his wife, the late Evelyn Aguilar that while the subject loan account was covered by the provisions of RA 7202 and have been audited by the Commission on Audit, the latter was still required to comply with the following matters: (1) to arrange and implement restructuring of accounts within sixty days from receipt of the notice, (2) to signify her conformity to the computation of the account, and (3) to submit the ten year crop production for the period 1974/1975 to 1984/1985.

The Aguilars claimed that they complied with the stated requirements and that subsequently, PNB furnished them with Statements of Account, the earliest of which was the COA audited statement as of December 15, 1996 and the latest was as of November 30, 1999, which reflected a P2,236,337.91 total amount due. The Aguilars adduced that inasmuch as the subject agricultural lots were already conveyed voluntarily by PNB to the Department of Agrarian Reform, they were advised by PNB to follow-up the payment for these pieces of realty with the Land Bank of the Philippines in order for PNB to apply the proceeds of the sale to the account of the late spouses Aguilar. They were likewise assured by PNB that if the proceeds from LBP would exceed the obligations of the late spouses Aguilar, the excess amount would be returned to them.

Following the November 23, 1999 Memorandum of Valuation, the Aguilars requested PNB to commence restructuring of the loan account. Glenn Aguilar also made mention of an allegedly similar case, entitled *Sps. Fred and Mildred Pfleider vs. PNB, et al*., then pending before RTC Bacolod City, wherein PNB purportedly entered into a compromise agreement with Sps. Pfleider, notwithstanding consolidation of the foreclosed property under the bank's name. PNB replied in writing and stated, among other matters, that: "Since PNB has already acquired the properties at the foreclosure sale, it can now exercise its rights as owner of these properties, including the right to convey the same to the DAR and to receive the proceeds thereof from Land Bank of the Philippines, without any right to the excess proceeds, if any, inuring/accruing to your favor"

Hence, this case for implementation of RA 7202. PNB argued that the Aguilars have no cause of action because whatever rights they have under RA 7202 were already forfeited when they failed to comply with the requirements. PNB further contended that the Aguilars cannot invoke the compromise agreement it entered into with Sps. Fred and Mildred Pfleider in Civil Case No. 7212

because the Aguilars were not parties to the case. RTC rendered a decision in favor of the Aguilars. RTC justified the judgment in favor of the Aguilars as in keeping with public policy behind RA 7202 i.e. to help the sugar producers. CA reversed the RTC Decision CA found that the account of the late spouses Aguilar qualified under the law because indisputably, their sugar crop loans were obtained within the period covered by the law. However, based on PNB's recomputation applying 12% per annum interest, which was audited and certified by the Commission on Audit, the Aguilars were not entitled to restitution absent any excess payment after recomputation.

ISSUE:

Whether the CA erred in not including the sums and amounts which accrued to PNB from DAR's payment on account of the properties of the Aguilars. (NO)

RULING:

Section 4 of RA 7202 provides which accounts of sugar producers are covered, thus:

> SEC. 4. **Accounts of sugar producers pertaining to Crop Year 1974-1975 up to and including Crop Year 1984-1985 which have been fully or partially paid, or may have been the subject of restructuring and other similar arrangements with government banks shall be covered by the provisions abovestated.** The benefit of this Act shall not be extended to any sugar producer with a pending sequestration or ill-gotten wealth case before any administrative or judicial body. Any recovery shall be placed in escrow until the case has been finally resolved.

The IRR promulgated by the Bangko Sentral ng Pilipinas provides:

> Sec. 4 For sugar producers who obtained loans from the lending banks during the period covered, the benefits provided herein shall be extended to those whose loans at the time of the effectivity of the Act**: a.** Are still outstanding; or **b**. Had been partially or fully paid, whether in cash, from proceeds of sale of assigned sugar quedans, through dacion en pago, or by way of execution against assets of the sugar producer other than the loan collaterals; or **c.** Had been subjected to foreclosure of loan collaterals whether or not the foreclosure is a subject of litigation; or **d.** Had been transferred or assigned to other government-owned and -controlled agencies or institutions; or **e**. Had been the subject of restructuring or other similar arrangements, whether with the lending bank or with their assignees or transferees.

The issue that needs to be resolved is whether or not the Aguilars were entitled to the benefits of RA 7202. As provided in Section 3 of RA 7202, quoted above, and Section 6 of the IRR, quoted below, the Aguilars are entitled to: (1) condonation of interest charged in excess of 12% per annum and all penalties and surcharges; (2) recomputation of their sugar crop loans, and if there is interest in excess of 12% per annum, interests, penalties and surcharges, application of the excess payment as an offset and/or as payment for the late spouses Aguilar's outstanding loan obligations; and (3) restructuring or amortization of the recomputed loans for a period of 13 years inclusive of a three-year grace period on the principal, effective upon the approval of RA 7202.

As defined under Section 2(p) of the IRR, "**EXCESS PAYMENT** shall mean the overage of the excess interest as defined in Section 2(n) and penalties and surcharges as defined in Section 2(o) after applying them against the outstanding loan balance appearing in the books of the lending banks." Section 2(n) provides: "**EXCESS INTEREST** shall mean interest charged and/or collected by the lending bank over and above the twelve percent (12%) interest per annum on the amount of the principal of loan as defined in Section 2(k) as such amount is determined from the original promissory note" while Section 2(o) provides: "**PENALTIES AND SURCHARGES** shall mean all penalties and surcharges charged and/or collected by the lending bank."

Pursuant to the IRR definition of terms, there appears to be no excess interest with respect to the RA 7202 accounts of the late spouses Aguilar because the actual interest payment or interest collected amounted to only P12,658.22, as of December 15, 1996, while the recomputed interest at 12% per annum totaled P689,944.52. **Thus, with the actual interest collected not being more than the recomputed interest of the principal of the loans of the late spouses Aguilar covered by RA 7202,there could be no excess payment and there would be no amount that could be restituted to the Aguilars.** This is clear from Section 9 of the IRR wherein only sugar producers who have net excess payments after recomputation of their loans and application of excess interests, penalties and surcharges against their outstanding loan obligations shall be entitled to restitution.

To this Court, this position of the Aguilars (that the total amount which PNB received from the LBP based on the Memorandum of Valuation should be deducted from their total outstanding loan obligations as of the date of foreclosure of the collaterals) cannot be justified under RA 7202 and its IRR. To recall, Section 6 of the IRR, in part, provides that:

> where sugar producers have **no outstanding loan balance with said financial institutions as of the date of effectivity of RA No. 7202** (i.e. sugar producers who have fully paid their loans x x x through x x x foreclosure of collateral x x x), **said producers shall be entitled to the benefits of recomputation** in accordance with Sections 3 and 4 of RA No. 7202, but the said financial institutions, **instead of refunding the interest in excess of twelve (12%) per cent per annum, interests, penalties and surcharges, apply the excess payment as an offset and/or as payment for the producers' outstanding loan obligations**. x x x

Another issue that needs to be resolved is whether **PNB has an obligation to accord the Aguilars the same treatment as it accorded the spouses Pfleider regarding the crediting of the VOS or CARP proceeds of their respective agricultural lots against their respective sugar crop loans covered by RA 7202.** Regarding law, as PNB's source of obligation, the CA correctly ruled that the Aguilars are not entitled to restitution under RA 7202. Thus**, RA 7202 cannot be invoked as the statutory basis to compel PNB to treat the Aguilars similarly with the spouses Pfleider.**

To make PNB liable under the principle of abuse of rights, the Aguilars have the burden to prove the requisites enumerated above. They claim that they are similarly circumstanced as the spouses Pfleider and there was no reason for PNB to treat them differently. It was incumbent upon the

Aguilars, to make PNB liable for damages based on the principle of abuse of rights, to prove that PNB acted in bad faith and that its sole intent was to prejudice or injure them. The Aguilars, however, failed in this regard. Also, the Court notes from the duly notarized Compromise Agreement between the spouses Pfleider and PNB dated December 30, 1999 that the accounts of the former to the latter were crop loans and, thus, covered by RA 7202, unlike the accounts of the Aguilars which included non-RA 7202 accounts, as mentioned in the narration of facts. Since the Aguilars were delinquent in their accounts, including their non-RA 7202 accounts, and the mortgaged properties of the Aguilars similarly secured the non-RA 7202 accounts, PNB had no option but to foreclose the mortgage.

METROHEIGHTS SUBDIVISION HOMEOWNERS ASSOCIATION, INC., *Petitioner, - versus* - CMS CONSTRUCTION AND DEVELOPMENT CORPORATION, TOMASITO T. CRUZ, TITA F. CRUZ, SIMONETTE F. CRUZ, ANGEL T. CRUZ, ERNESTO T. CRUZ AND METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS), *Respondents*.
G.R. No. 209359, THIRD DIVISION, October 17, 2018, PERALTA, *J.*

When a right is exercised in a manner which discards these norms (set under Art. 19) resulting in damage to another, a legal wrong is committed for which actor can be held accountable. In this case, the petitioner failed to act with justice and give the respondent what is due to it when the petitioner unceremoniously cut off the respondent's water service connection.

FACTS:

On June 29, 1992, petitioner filed with the RTC a complaint for damages with prayer for a temporary restraining order and/or writ of preliminary injunction and writ of preliminary mandatory injunction against respondents. Petitioner alleged, among others, that it sought the assistance of respondent MWSS to address the insufficient supply of water in its subdivision to which the latter advised the improvement and upgrading of its private internal water distribution lines and that on November 16, 1990, petitioner entered into a contract with respondent MWSS for the new water service connection and that since then, there was already sufficient and strong water pressure 24 hours a day in the petitioner's subdivision.

However, sometime in April 1992, respondent CMS Construction made diggings and excavations, and started to lay water pipes along Fisheries Street and Morning Star Drive in Sanville Subdivision, petitioner's neighboring subdivision. In the process, respondent CMS Construction, with the knowledge and consent of respondent MWSS but without petitioner's knowledge and consent, unilaterally cut-off and disconnected the latter's new and separate water service connection on Visayas Avenue. Respondent CMS Construction only made a temporary reconnection with the use of a 2-inch rubber hose to the new water line it constructed at Sanville Subdivision; and that despite petitioner's verbal and written demands, respondents have failed to restore petitioner's water line connection in its original state and to return the missing PVC pipes and radius elbow.

RTC rendered a Decision in favor of the plaintiff. The RTC found that respondents acted in concert and in bad faith, which made them jointly and severally liable for damages. Respondent MWSS filed its notice of appeal while respondents CMS Construction and the Cruzes filed a motion for new trial which the RTC granted. The RTC found that respondents' claim of damnum absque injuria was not tenable. The CA reversed the RTC decision. The CA found that the respondents' rehabilitation project was not undertaken without any notice at all; that respondents' actions were merely

consequential to the exercise of their rights and obligations to manage and maintain the water supply system, an exercise which includes water rehabilitation and improvement within the area, pursuant to a prior agreement for the water supply system; and that the alleged abuse of right was not sufficiently established.

ISSUE:

Whether the respondents should be held liable for damages for the cutting off, disconnection and transfer of petitioner's existing separate water service connection without the latter's knowledge and consent.

RULING:

We reverse the CA. Article 19 of the New Civil Code deals with the principle of abuse of rights, thus:

> Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

Said provision was intended to expand the concept of torts by granting adequate legal remedy for the untold number of moral wrongs which is impossible for human foresight to provide, specifically in statutory law. If mere fault or negligence in one's acts can make him liable for damages for injury caused thereby, with more reason should abuse or bad faith make him liable.

The absence of good faith is essential to abuse of right.

The elements of an abuse of rights under Article 19 are: (1) there is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another. Had petitioner's officer not complained about the water service interruption in their subdivision and the rubber hose connection was not made to temporarily fix petitioner's concern, petitioner's homeowners would have continuously suffered loss of water service. Respondents' action of proceeding with the cutting off and disconnecting the petitioner's water connection without consent and notification were done in total disregard of the standards set by Article 19 of the New Civil Code which entitles petitioner to damages.

In *MWSS v. Act Theater, Inc*., the court held that petitioner's act of cutting off respondents' water service connection without prior notice was arbitrary, injurious and prejudicial to the latter, justifying the award of damages under Article 19 of the New Civil Code

When a right is exercised in a manner which discards these norms (set under Art. 19) resulting in damage to another, a legal wrong is committed for which actor can be held accountable. In this case, the petitioner failed to act with justice and give the respondent what is due to it when the petitioner unceremoniously cut off the respondent's water service connection.

The CA is not correct in holding that respondents' actions were merely consequential to the exercise of their rights and obligations to manage and maintain the water supply system. Having the right should not be confused with the manner by which such right is to be exercised. Article 19 of the New Civil Code sets the standard in the exercise of one's rights and in the performance of one's duties, i.e., he must act with justice, give everyone his due, and observe honesty and good faith. Here it was established, as shown by the above discussions, that respondents indeed abused their right. Therefore, MWSS and CMS Construction should be held liable for damages to petitioner

but not the Cruzes who are the directors and stockholders of respondent CMS Construction. Section 31 of the Corporation Code is the governing law on personal liability of officers for the debts of the corporation

II. PERSONS AND FAMILY RELATIONS

A. Persons

1. Civil personality

2. Use of surnames

3. Entries in the Civil Registry and Clerical Error Law (RA 9048, as amended)

4. Absence

a. Civil code provisions

b. Presumptive death of absent spouse under the Family Code

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus - LUDYSON C. CATUBAG, *Respondent*.
G.R. No. 210580, SECOND DIVISION, April 18, 2018, REYES, JR., J.

Prevailing jurisprudence has time and again pointed out four (4) requisites under Article 41 of the Family Code that must be complied with for the declaration of presumptive death to prosper:

1. *The absent spouse has been missing for four consecutive years, or two consecutive years if the disappearance occurred where there is danger of death under the circumstances laid down in Article 391 of the Civil Code*
2. *The present spouse wishes to remarry.*
3. ***The present spouse has a well founded belief that the absentee is dead.***
4. *The present spouse files for a summary proceeding for the declaration of presumptive death of the absentee*

The well-founded belief in the absentee's death requires the present spouse to prove that his/her belief was the result of diligent and reasonable efforts to locate the absent spouse and that based on these efforts and inquiries, he/she believes that under the circumstances, the absent spouse is already dead. It necessitates exertion of active effort (not a mere passive one).

The Court finds that Ludyson's efforts fall short of the degree of diligence required by jurisprudence. Aside from the certification of BomboRadyo's manager, Ludyson bases his "well-founded belief" on bare assertions that he exercised earnest efforts in looking for his wife. Again, the present spouse's bare assertions, uncorroborated by any kind of evidence, falls short of the diligence required to engender a well-founded belief that the absentee spouse is dead.

FACTS:

Prior to their marriage in 2003, Ludyson Catubag and Shanaviv had been cohabiting with each other as husband and wife. Their union begot two children. To meet the needs of the family, Ludyson took work overseas while Shanaviv stayed in the Philippines to tend to the children.

On 2003, Ludyson and Shanaviv got married. Ludyson returned overseas to continue his work.

On 2006, while working abroad, Ludyson was informed by his relatives that Shanaviv left their house and never returned. The relatives took care of the children.

Ludyson came back to the country to look for his wife. He proceeded to inquire about Shanaviv's whereabouts from their close friends and relatives, but they too could offer no help. He travelled as far as Bicol, where Shanaviv was born and raised, but he still could not locate her. Ludsyon subsequently sought the help of BomboRadyo Philippines, one of the more well-known radio networks in the Philippines, to broadcast the fact of his wife's disappearance.

After almost 7 years of waiting and with the desire to marry again, Ludsyon filed a petition to have his wife declared presumptively dead.

ISSUE:

Whether Ludyson complied with the requisites under Article 41 of the Family Code (NO)

RULING:

Prevailing jurisprudence has time and again pointed out four (4) requisites under Article 41 of the Family Code that must be complied with for the declaration of presumptive death to prosper:

1. The absent spouse has been missing for four consecutive years, or two consecutive years if the disappearance occurred where there is danger of death under the circumstances laid down in Article 391 of the Civil Code
2. The present spouse wishes to remarry.
3. **The present spouse has a well founded belief that the absentee is dead.**
4. The present spouse files for a summary proceeding for the declaration of presumptive death of the absentee

Notably, the records reveal that Ludyson has complied with the first, second, and fourth requisites. Thus, what remains to be resolved is whether or not private respondent successfully discharged the burden of establishing a well-founded belief that his wife, Shanaviv, is dead.

In *Republic vs. Orcelino-Villanueva*,the Court expounded on the required diligence: The well-founded belief in the absentee's death requires the present spouse to prove that his/her belief was the result of diligent and reasonable efforts to locate the absent spouse and that based on these efforts and inquiries, he/she believes that under the circumstances, the absent spouse is already dead. It necessitates exertion of active effort (not a mere passive one). Mere absence of the spouse (even beyond the period required by law), lack of any news that the absentee spouse is still alive, mere failure to communicate, or general presumption of absence under the Civil Code would not suffice. The premise is that Article 41 of the Family Code places upon the present spouse the burden of complying with the stringent requirement of "well-founded belief" which can only be discharged upon a showing of proper and honest-to-goodness inquiries and efforts to ascertain not only the absent spouse's whereabouts but, more importantly, whether the absent spouse is still alive or is already dead

In the case at bar, Ludyson first took a leave of absence from his work in the United Arab Emirates and returned to the Philippines to search for Shanaviv. He then proceeded to inquire about his

wife's whereabouts from their friends and relatives in Cagayan and Bicol. Next, he aired over BomboRadyo Philippines, a known radio station, regarding the fact of disappearance of his wife. Finally, he claims to have visited various hospitals and funeral parlors in Tuguegarao City and nearby municipalities.

The Court finds that Ludyson's efforts fall short of the degree of diligence required by jurisprudence for the following reasons:

First, he failed to present any of these alleged friends or relatives to corroborate these "inquiries." Moreover, no explanation for such omission was given. As held in jurisprudence, failure to present any of the persons from whom inquiries were allegedly made tends to belie a claim of a diligent search.

Second, he did not seek the help of other concerned government agencies, namely, the local police authorities and the National Bureau of Investigation (NBI). In *Cantor,* the Court reasoned that while a finding of well-founded belief varies with the nature of the situation, it would still be prudent for the present spouse to seek the aid of the authorities in searching for the missing spouse. Absent such efforts to employ the help of local authorities, the present spouse cannot be said to have actively and diligently searched for the absentee spouse.

Finally, aside from the certification of BomboRadyo's manager, Ludyson bases his "well-founded belief" on bare assertions that he exercised earnest efforts in looking for his wife. Again, the present spouse's bare assertions, uncorroborated by any kind of evidence, falls short of the diligence required to engender a well-founded belief that the absentee spouse is dead.

ESTRELLITA TADEO-MATIAS, *Petitioner*, -versus- REPUBLIC OF THE PHILIPPINES, *Respondent*.
G.R. No. 230751, THIRD DIVISION, April 25, 2018, VELASCO JR., J.

A petition whose *sole objective* is to have a person declared presumptively dead under the Civil Code is *not* regarded as a valid suit and no court has any authority to take cognizance of the same. *Applying the case In re: Petition for the Presumption of Death of Nicolai Szatraw*, a rule creating a presumption of death is *merely one of evidence which permits the Court to presume that a person is dead after the fact that such person had been unheard from in seven years had been established. This presumption may arise and be invoked and made in a case, either in an action or in a special proceeding, which is tried or heard by, and submitted for decision to, a competent court. Independently of such an action or special proceeding, the presumption of death cannot be invoked, nor can it be made the subject of an action or special proceeding.*

FACTS:

Petitioner Estrellita Tadeo-Matias filed before the Regional Trial Court (RTC) of Tarlac City a petition for the declaration of presumptive death of her husband, Wilfredo N. Matias (Wilfredo).

Wilfredo never came back from his tour of duty in Arayat, Pampanga since 1979 and he never made contact or communicated with the petitioner or to his relatives. That according to the service record of Wilfredo issued by the National Police Commission, he was already declared missing since 1979. Petitioner constantly pestered the then Philippine Constabulary for any news regarding her

beloved husband, but the Philippine Constabulary had no answer to his whereabouts, neither did they have any news of him going AWOL, all they know was he was assigned to a place frequented by the New People's Army. Weeks became years and years became decades, but the petitioner never gave up hope, and after more than three (3) decades of waiting, the petitioner is still hopeful, but the times had been tough on her, especially with a meager source of income coupled with her age, it is now necessary for her to request for the benefits that rightfully belong to her in order to survive.

That one of the requirements to attain the claim of benefits is for a proof of death or at least a declaration of presumptive death by the Honorable Court. That this petition is being filed not for any other purpose but solely to claim for the benefit under P.D. No. 1638 as amended.

Subsequently, the OSG filed its notice of appearance on behalf of herein respondent Republic of the Philippines (Republic).

The RTC declared Wilfredo absent or presumptively dead under Article 41 of the Family Code of the Philippines for purposes of claiming financial benefits due to him as former military officer. The Republic questioned the decision of the RTC *via* a petition for *certiorari*. The CA rendered a decision granting the *certiorari* petition of the Republic and setting aside the decision of the RTC. The CA concludes that the RTC erred when it declared Wilfredo presumptively dead on the basis of Article 41 of the Family Code (FC). Article 41 of the FC does not apply to the instant petition as it was clear that petitioner does not seek to remarry. If anything, the petition was invoking the presumption of death established under Articles 390 and 391 of the Civil Code, and not that provided for under Article 41 of the FC.

ISSUE:

Whether the CA is correct when it concludes that the petition for the declaration of presumptive death filed by the petitioner is not an authorized suit and should have been dismissed by the RTC. (YES)

RULING:

RTC Erred in Declaring the Presumptive Death of Wilfredo under Article 41 of the FC; Petitioner's Petition for the Declaration of Presumptive Death Is Not Based on Article 41 of the FC, but on the Civil Code.

It can be recalled that the RTC, in the *fallo* of its January 15, 2012 Decision, granted the petitioner's petition by declaring Wilfredo presumptively dead "*under Article 41 of the FC.*" By doing so, the RTC gave the impression that the petition for the declaration of presumptive death filed by petitioner was likewise filed pursuant to Article 41 of the FC. This is wrong.

The petition for the declaration of presumptive death filed by petitioner is not an action that would have warranted the application of Article 41 of the FC because petitioner was not seeking to remarry. A reading of Article 41 of the FC shows that the presumption of death established therein is only applicable for the purpose of *contracting a valid subsequent marriage* under the said law.

Here, petitioner was forthright that she was not seeking the declaration of the presumptive death of Wilfredo as a prerequisite for remarriage. In her petition for the declaration of presumptive death,

petitioner categorically stated that the same was filed "*not for any other purpose but solely to claim for the benefit under P.D. No. 1638 as amended*."

Given that her petition for the declaration of presumptive death was *not* filed for the purpose of remarriage, petitioner was clearly relying on the presumption of death under either Article 390 or Article 391 of the Civil Code as the basis of her petition. Articles 390 and 391 of the Civil Code express the general rule regarding presumptions of death for any civil purpose.

Verily, the RTC's use of Article 41 of the FC as its basis in declaring the presumptive death of Wilfredo was misleading and grossly improper. The petition for the declaration of presumptive death filed by petitioner was based on the Civil Code, and not on Article 41 of the FC.

Since the petition filed by the petitioner merely seeks the declaration of presumptive death of Wilfredo under the Civil Code, the RTC should have dismissed such petition outright. This is because, in our jurisdiction, a petition whose *sole objective* is to have a person declared presumptively dead under the Civil Code is *not* regarded as a valid suit and no court has any authority to take cognizance of the same.

The rule invoked by the latter is merely one of evidence which permits the court to presume that a person is dead after the fact that such person had been unheard from in seven years had been established. This presumption may arise and be invoked and made in a case, either in an action or in a special proceeding, which is tried or heard by, and submitted for decision to, a competent court. Independently of such an action or special proceeding, the presumption of death cannot be invoked, nor can it be made the subject of an action or special proceeding. In this case, there is no right to be enforced nor is there a remedy prayed for by the petitioner against her absent husband. Neither is there a prayer for the final determination of his right or status or for the ascertainment of a particular fact, for the petition does not pray for a declaration that the petitioner's husband is dead, but merely asks for a declaration that he be presumed dead because he had been unheard from in seven years. If there is any pretense at securing a declaration that the petitioner's husband is dead, such a pretension cannot be granted because it is unauthorized. The petition is for a declaration that the petitioner's husband is presumptively dead. But this declaration, even if judicially made, would not improve the petitioner's situation, because such a presumption is already established by law. A judicial pronouncement to that effect, even if final and executory, would still be a *prima facie* presumption only. It is still disputable. It is for that reason that it cannot be the subject of a judicial pronouncement or declaration, if it is the only question or matter involved in a case, or upon which a competent court has to pass.

By virtue of the foregoing, appeal was denied. The CA decision was affirmed. The Court declares that a judicial decision of a court of law that a person is presumptively dead is not a requirement before the Philippine Veterans' Affairs Office or the Armed Forces of the Philippines can grant and pay the benefits under Presidential Decree No. 1638.

B. Marriage

1. Requisites of marriage

2. Exemption from license requirement

3. Marriages solemnized abroad and foreign divorce

REPUBLIC OF THE PHILIPPINES, *Petitioner*, - versus - FLORIE GRACE M. COTE, *Respondent*.
G.R. No. 212860, SECOND DIVISION, March 14, 2018, REYES, JR., J.

The reckoning point is not the citizenship of the parties at the time of the celebration of the marriage, but their citizenship at the time a valid divorce is obtained abroad by the alien spouse capacitating the latter to remarry. However, before the divorced Filipino spouse can remarry, he or she must file a petition for judicial recognition of the foreign divorce.

The recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings is precisely to establish the status or right of a party or a particular fact.

The RTC ruled that Florie had sufficiently established that she is married to an American citizen and having proven compliance with the legal requirements, is declared capacitated to remarry. The confusion arose when the RTC denied petitioner's appeal on the ground that no prior motion for reconsideration was filed as required under Section 20 of A.M. No. 02-11-10-SC. Petitioner posits that A.M. No. 02-11-10-SC do not cover cases involving recognition of foreign divorce because the wording of Section 1 thereof clearly states that it shall only apply to petitions for declaration of absolute nullity of void marriages and annulment of voidable marriages

The CA is correct when it ruled that the trial court misapplied Section 20 of A.M. No. 02-11-10-SC. *A decree of absolute divorce procured abroad is different from annulment as defined by our family laws. A.M. No. 02-11-10-SC only covers void and voidable marriages that are specifically cited and enumerated in the Family Code of the Philippines.*

It was error for the RTC to use as basis for denial of petitioner's appeal Section 20 of A.M. No. 02-11-10-SC. *Since Florie followed the procedure for cancellation of entry in the civil registry, a special proceeding governed by Rule 108 of the Rules of Court, an appeal from the RTC decision* ***should be governed by Section 3 of Rule 41 of the Rules of Court and not A.M. No. 02-11-10-SC.***

FACTS:

On July 31, 1995, Rhomel Gagarin Cote (Rhomel) and respondent Florie Grace Manongdo-Cote (Florie) were married in Quezon City. At the time of their marriage, the spouses were both Filipinos and were blessed with a son, Christian Gabriel Manongdo, who was born in Honolulu, Hawaii, USA.

On August 23, 2002, Rhomel filed a Petition for Divorce before the Family Court of the First Circuit of Hawaii on the ground that their marriage was irretrievably broken. The petition was granted on the same day.

Seven years later, Florie commenced a petition for recognition of foreign judgment granting the divorce before the RTC. Florie also prayed for the cancellation of her marriage contract, hence, she also impleaded the Civil Registry of Quezon City and the National Statistics Office (NSO).

On April 7, 2011, the RTC granted the petition and declared Florie to be capacitated to remarry. The RTC ruled that Rhomel was already an American citizen when he obtained the divorce decree.

Petitioner filed a Notice of Appeal. However, the RTC, believing that the petition was covered by A.M. No. 02-11-10-SC or the Rule on Declaration of Absolute Nullity of Void Marriages and

Annulment of Voidable Marriages, applied Section 20 of said Rule and denied the appeal because the notice was not preceded by a motion for reconsideration.

Petitioner then filed a petition for *certiorari* with the CA claiming that the RTC committed grave abuse of discretion. The CA denied the petition.

ISSUE:

Whether the provisions of A.M. No. 02-11-10-SC applies in a case involving recognition of a foreign decree of divorce. (NO)

RULING:

It bears stressing that as of present, our family laws do not recognize absolute divorce between Filipino husbands and wives. Such fact, however, do not prevent our family courts from recognizing divorce decrees procured abroad by an alien spouse who is married to a Filipino citizen.

Article 26 of the Family Code states:

> Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall likewise have capacity to remarry under Philippine law.

In the landmark case of *Republic v. Orbecido III*, the Court ruled that:

> The reckoning point is not the citizenship of the parties at the time of the celebration of the marriage, but their citizenship at the time a valid divorce is obtained abroad by the alien spouse capacitating the latter to remarry.

Although the Court has already laid down the rule regarding foreign divorce involving Filipino citizens, the Filipino spouse who likewise benefits from the effects of the divorce cannot automatically remarry. Before the divorced Filipino spouse can remarry, he or she must file a petition for judicial recognition of the foreign divorce.

The starting point in any recognition of a foreign divorce judgment is the acknowledgment that our courts do not take judicial notice of foreign judgments and laws. This means that the foreign judgment and its authenticity must be proven as facts under our rules on evidence, together with the alien's applicable national law to show the effect of the judgment on the alien himself or herself. The recognition may be made in an action instituted specifically for the purpose or in another action where a party invokes the foreign decree as an integral aspect of his claim or defense.

To clarify, respondent filed with the RTC a petition to recognize the foreign divorce decree procured by her naturalized (originally Filipino) husband in Hawaii, USA. By impleading the Civil

Registry of Quezon City and the NSO, the end sought to be achieved was the cancellation and or correction of entries involving her marriage status.

In *Corpuz v. Sto. Tomas, et al.*, the Court briefly explained the nature of recognition proceedings *vis-a-vis* cancellation of entries under Rule 108 of the Rules of Court, *viz.*:

> Article 412 of the Civil Code declares that no entry in a civil register shall be changed or corrected, without judicial order. The Rules of Court supplements Article 412 of the Civil Code by specifically providing for a special remedial proceeding by which entries in the civil registry may be judicially cancelled or corrected. Rule 108 of the Rules of Court sets in detail the jurisdictional and procedural requirements that must be complied with before a judgment, authorizing the cancellation or correction, may be annotated in the civil registry. x x x.

We hasten to point out, however, that this ruling should not be construed as requiring two separate proceedings for the registration of a foreign divorce decree in the civil registry one for recognition of the foreign decree and another specifically for cancellation of the entry under Rule 108 of the Rules of Court. The recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings (such as that in Rule 108 of the Rules of Court) is precisely to establish the status or right of a party or a particular fact. Moreover, Rule 108 of the Rules of Court can serve as the appropriate adversarial proceeding by which the applicability of the foreign judgment can be measured and tested in terms of jurisdictional infirmities, want of notice to the party, collusion, fraud, or clear mistake of law or fact.

The RTC, in its Decision, ruled that Florie had sufficiently established that she is married to an American citizen and having proven compliance with the legal requirements, is declared capacitated to remarry.

The confusion arose when the RTC denied petitioner's appeal on the ground that no prior motion for reconsideration was filed as required under Section 20 of A.M. No. 02-11-10-SC. Petitioner posits that A.M. No. 02-11-10-SC *do not* cover cases involving recognition of foreign divorce because the wording of Section 1 thereof clearly states that it shall only apply to petitions for declaration of absolute nullity of void marriages and annulment of voidable marriages, *viz.*:

> **Section 1.** *Scope* - This Rule shall govern petitions for declaration of absolute nullity of void marriages and annulment of voidable marriages under the Family Code of the Philippines.

The CA is correct when it ruled that the trial court misapplied Section 20 of A.M. No. 02-11-10-SC. A decree of absolute divorce procured abroad is different from annulment as defined by our family laws. A.M. No. 02-11-10-SC only covers void and voidable marriages that are specifically cited and enumerated in the Family Code of the Philippines.

It was error for the RTC to use as basis for denial of petitioner's appeal Section 20 of A.M. No. 02-11-10-SC. Since Florie followed the procedure for cancellation of entry in the civil registry, a special proceeding governed by Rule 108 of the Rules of Court, an appeal from the RTC decision **should be governed by Section 3 of Rule 41 of the Rules of Court and not A.M. No. 02-11-10-SC.**

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus- MARELYN TANEDO MANALO, *Respondent*.
G.R. No. 221029, EN BANC, April 24, 2018, PERALTA, J.

Paragraph 2 of Article 26 confers jurisdiction on Philippine courts to extend the effect of a foreign divorce decree to a Filipino spouse without undergoing trial to determine the validity of the dissolution of the marriage. It authorizes our courts to adopt the effects of a foreign divorce decree precisely because the Philippines does not allow divorce. Philippine courts cannot try the case on the merits because it is tantamount to trying a divorce case. Under the principles of comity, our jurisdiction recognizes a valid divorce obtained by a spouse of foreign nationality, but the legal effects thereof e.g., on custody, care and support of the children or property relations of the spouses, must still be determined by our courts.

FACTS:

Respondent Marelyn Tanedo Manalo (Manalo) filed a petition for cancellation of entry of marriage in the Civil Registry of San Juan, Metro Manila, by virtue of a judgment of divorce rendered by a Japanese court.

Finding the petition to be sufficient in form and in substance, Regional Trial Court (RTC) of Dagupan City set the case for initial hearing. The Office of the Solicitor General (OSG) entered its appearance for petitioner Republic of the Philippines authorizing the Office of the City Prosecutor of Dagupan to appear on its behalf. Likewise, a Manifestation and Motion was filed questioning the title and/or caption of the petition considering that, based on the allegations therein, the proper action should be a petition for recognition and enforcement of a foreign judgment. As a result, Manalo moved to admit an Amended Petition, which the court granted.

The trial court denied the petition for lack of merit. In ruling that the divorce obtained by Manalo in Japan should not be recognized, it opined that, based on Article 15 of the New Civil Code, the Philippine law "does not afford Filipinos the right to file for a divorce, whether they are in the country or living abroad, if they are married to Filipinos or to foreigners, or if they celebrated their marriage in the Philippines or in another country" and that unless Filipinos "are naturalized as citizens of another country, Philippine laws shall have control over issues related to Filipinos' family rights and duties, together with the determination of their condition and legal capacity to enter into contracts and civil relations, including marriages."

On appeal, the CA overturned the RTC decision. It held that Article 26 of the Family Code of the Philippines (Family Code) is applicable even if it was Manalo who filed for divorce against her Japanese husband because the decree they obtained makes the latter no longer married to the former, capacitating him to remarry. Conformably with *Navarro, et al. v. Exec. Secretary Ermita, et al*. ruling that the meaning of the law should be based on the intent of the lawmakers and in view of the legislative intent behind Article 26, it would be the height of injustice to consider Manalo as still married to the Japanese national, who, in turn, is no longer married to her. For the appellate court, the fact that it was Manalo who filed the divorce case is inconsequential.

The OSG filed a motion for reconsideration, but it was denied; hence, this petition.

ISSUE:

Whether a Filipino citizen has the capacity to remarry under Philippine law after initiating a divorce proceeding abroad and obtaining a favorable judgment against his or her alien spouse who is capacitated to remarry. (YES)

RULING:

Van Dorn v. Romillo settled the matter by holding that an alien spouse of a Filipino is bound by a divorce decree obtained abroad. There, we dismissed the alien divorcee's Philippine suit for accounting of alleged post-divorce conjugal property and rejected his submission that the foreign divorce.

Van Dorn was decided before the Family Code took into effect. There, a complaint was filed by the ex-husband, who is a US citizen, against his Filipino wife to render an accounting of a business that was alleged to be a conjugal property and to be declared with right to manage the same. Van Dorn moved to dismiss the case on the ground that the cause of action was barred by previous judgment in the divorce proceedings that she initiated, but the trial court denied the motion. On his part, her ex-husband averred that the divorce decree issued by the Nevada court could not prevail over the prohibitive laws of the Philippines and its declared national policy; that the acts and declaration of a foreign court cannot, especially if the same is contrary to public policy, divest Philippine courts of jurisdiction to entertain matters within its jurisdiction. In dismissing the case filed by the alien spouse, the Court discussed the effect of the foreign divorce on the parties and their conjugal property in the Philippines. Thus:

There can be no question as to the validity of that Nevada divorce in any of the States of the United States. The decree is binding on private respondent as an American citizen. For instance, private respondent cannot sue petitioner, ***as her husband***, in any State of the Union. What he is contending in this case is that the divorce is not valid and binding in this jurisdiction, the same being contrary to local law and public policy.

It is true that owing to the nationality principle embodied in Article 15 of the Civil Code, only Philippine nationals are covered by the policy against absolute divorces the same being considered contrary to our concept of public policy and morality. However, aliens may obtain divorces abroad, which may be recognized in the Philippines, provided they are valid according to their national law.

Paragraph 2 of Article 26 speaks of "a *divorce x x x validly obtained abroad by the alien spouse capacitating him or her to remarry*." Based on a clear and plain reading of the provision, it only requires that there be a divorce validly obtained abroad. The letter of the law does not demand that the alien spouse should be the one who initiated the proceeding wherein the divorce decree was granted. It does not distinguish whether the Filipino spouse is the petitioner or the respondent in the foreign divorce proceeding.

Nonetheless, the Japanese law on divorce must still be proved. Since the divorce was raised by Manalo, the burden of proving the pertinent Japanese law validating it, as well as her former husband's capacity to remarry, fall squarely upon her. Japanese laws on persons and family relations are not among those matters that Filipino judges are supposed to know by reason of their judicial function

By reasons of the foregoing, CA decision was affirmed. The case was remanded to the RTC for reception of evidence as to relevant Japanese laws on divorce.

RHODORA ILUMIN RACHO, A.K.A. "RHODORA RACHO TANAKA," *Petitioner*, -versus- SEIICHI TANAKA, LOCAL CIVIL REGISTRAR OF LAS PIÑAS CITY, and THE ADMINISTRATOR and CIVIL REGISTRAR GENERAL OF THE NATIONAL STATISTICS OFFICE, *Respondents*.
G.R. No. 199515, THIRD DIVISION, June 25, 2018, LEONEN, *J.*

Article 26 should be interpreted to mean that it is irrelevant for courts to determine if it is the foreign spouse that procures the divorce abroad. Once a divorce decree is issued, the divorce becomes "validly obtained" and capacitates the foreign spouse to marry. The same status should be given to the Filipino spouse. The national law of Japan does not prohibit the Filipino spouse from initiating or participating in the divorce proceedings. It would be inherently unjust for a Filipino woman to be prohibited by her own national laws from something that a foreign law may allow.

FACTS:

Racho and Seiichi Tanaka were married on April 20, 2001 in Las Piñas City, Metro Manila. They lived together for nine years in Japan and did not have any children. Racho alleged that on December 16, 2009, Tanaka filed for divorce and the divorce was granted. She secured a Divorce Certificate issued by Consul Kenichiro Takayama of the Japanese Consulate in the Philippines and had it authenticated by the DFA. She was informed that by reason of certain administrative changes, she was required to return to the Philippines to report the documents for registration and to file the appropriate case for judicial recognition of divorce.

She tried to have the Divorce Certificate registered with the Civil Registry of Manila but was refused since there was no court order recognizing it. When she went to the Department of Foreign Affairs to renew her passport, she was likewise told that she needed the proper court order. She was also informed by the National Statistics Office that her divorce could only be annotated in the Certificate of Marriage if there was a court order capacitating her to remarry.

She filed a Petition for Judicial Determination and Declaration of Capacity to Marry before the RTC but the latter held that failed to prove that Tanaka legally obtained a divorce. Racho filed a Motion for Reconsideration which was denied. Racho filed a Petition for Review on Certiorari with the SC but the latter deferred action on her Petition pending her submission of a duly authenticated acceptance certificate of the notification of divorce. On March 16, 2012, petitioner submitted her Compliance, attaching a duly authenticated Certificate of Acceptance of the Report of Divorce that she obtained in Japan.

Petitioner argues that under the Civil Code of Japan, a divorce by agreement becomes effective upon notification, whether oral or written, by both parties and by two or more witnesses. She contends that the Divorce Certificate stating "Acceptance Certification of Notification of Divorce issued by the Mayor of Fukaya City, Saitama Pref., Japan" is sufficient to prove that she and her husband have divorced by agreement and have already effected notification of the divorce. She avers further that under Japanese law, the manner of proving a divorce by agreement is by record of its notification

and by the fact of its acceptance, both of which were stated in the Divorce Certificate. She insists that she is now legally capacitated to marry since Article 728 of the Civil Code of Japan states that a matrimonial relationship is terminated by divorce.

ISSUE:

Whether the Certificate of Acceptance of the Report of Divorce is sufficient to prove the fact that a divorce was validly obtained by Tanaka according to his national law. (YES)

RULING:

Under Article 26 of the Family Code, a divorce between a foreigner and a Filipino may be recognized in the Philippines as long as it was validly obtained according to the foreign spouse's national law. *The second paragraph provides that where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under Philippine law*.

Mere presentation of the divorce decree before a trial court is insufficient. In *Garcia v. Recio*, the court established the principle that **before a foreign divorce decree is recognized in this jurisdiction, a separate action must be instituted for that purpose.** Courts do not take judicial notice of foreign laws and foreign judgments; thus, our laws require that the divorce decree and the national law of the foreign spouse must be pleaded and proved like any other fact before trial courts.

To prove the fact of divorce, petitioner presented the Divorce Certificate issued by Consul Takayama. This Certificate only certified that the divorce decree, or the Acceptance Certification of Notification of Divorce, exists. It is not the divorce decree itself. Upon appeal to this Court, however, petitioner submitted a Certificate of Acceptance of the Report of Divorce, certifying that the divorce has been accepted.

The probative value of the Certificate of Acceptance of the Report of Divorce is a question of fact that would not ordinarily be within this Court's ambit to resolve. The court records, however, are already sufficient to fully resolve the factual issues. Additionally, the Office of the Solicitor General neither posed any objection to the admission of the Certificate of Acceptance of the Report of Divorce nor argued that the Petition presented questions of fact. In the interest of judicial economy and efficiency, this Court shall resolve this case on its merits.

The Office of the Solicitor General, however, posits that divorce by agreement is not the divorce contemplated in Article 26 of the Family Code. In this particular instance, it is the Filipina spouse who bears the burden of this narrow interpretation, which may be unconstitutional. Article II, Section 14 of our Constitution provides that State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men. Thus, Article 26 should be interpreted to mean that it is irrelevant for courts to determine if it is the foreign spouse that procures the divorce abroad. Once a divorce decree is issued, the divorce becomes "validly

obtained" and capacitates the foreign spouse to marry. The same status should be given to the Filipino spouse.

The national law of Japan does not prohibit the Filipino spouse from initiating or participating in the divorce proceedings. It would be inherently unjust for a Filipino woman to be prohibited by her own national laws from something that a foreign law may allow. The question in this case, therefore, is not who among the spouses initiated the proceedings but rather if the divorce obtained by petitioner and respondent was valid.

Here, the national law of the foreign spouse states that the matrimonial relationship is terminated by divorce. The Certificate of Acceptance of the Report of Divorce does not state any qualifications that would restrict the remarriage of any of the parties. There can be no other interpretation than that the divorce procured by petitioner and respondent is absolute and completely terminates their marital tie. Even under our laws, the effect of the absolute dissolution of the marital tie is to grant both parties the legal capacity to remarry.

STEPHEN I. JUEGO-SAKAI, *Petitioner*, *v.* REPUBLIC OF THE PHILIPPINES, *Respondent.*
G.R. No. 224015, SECOND DIVISION, July 23, 2018, PERALTA, *J.*

*In **Republic v. Manalo**, the Court held that **the fact that it was the Filipino spouse who initiated the proceeding** wherein the divorce decree was granted **should not affect the application** nor remove him from the coverage **of Paragraph 2 of Article 26 of the Family Code** which states that "where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall likewise have capacity to remarry under Philippine law."*

*We observed that to interpret the word "**obtained**" to mean that the divorce proceeding must actually be initiated by the alien spouse would depart from the true intent of the legislature and would otherwise yield conclusions inconsistent with the general purpose of Paragraph 2 of Article 26, which is, specifically, **to avoid the absurd situation where the Filipino spouse remains married** to the alien spouse who, after a foreign divorce decree that is effective in the country where it was rendered, is no longer married to the Filipino spouse. The subject provision, therefore, **should not make a distinction** for a Filipino who initiated a foreign divorce proceeding is in the same place and in like circumstance as a Filipino who is at the receiving end of an alien initiated proceeding.*

*Applying the foregoing pronouncement to the case at hand, the Court similarly rules that **despite the fact that petitioner participated in the divorce proceedings** in Japan, and even if it is assumed that she initiated the same, **she must still be allowed to benefit from the exception** provided under Paragraph 2 of Article 26. Consequently, since her marriage to Toshiharu Sakai had already been dissolved by virtue of the divorce decree they obtained in Japan, thereby capacitating Toshiharu to remarry, petitioner shall likewise have capacity to remarry under Philippine law.*

FACTS:

Petitioner Stephen Juego-Sakai and Toshiharu Sakai got married on August 11, 2000 in Japan pursuant to the wedding rites therein. After 2 years, the parties, **by agreement**, **obtained a divorce decree** in said country dissolving their marriage. Thereafter, on April 5, 2013, petitioner

filed a **Petition for Judicial Recognition of Foreign Judgment** before the *RTC*. In its Decision dated October 9, 2014, the RTC granted the petition and recognized the divorce between the parties as valid and effective under Philippine Laws. On November 25, 2015, the CA affirmed the decision of the RTC.

In an Amended Decision dated March 3, 2016, however, the CA revisited its findings and recalled and set aside its previous decision. According to the appellate court, the second of the following requisites under Article 26 of the Family Code is missing: (a) there is a valid marriage that has been celebrated between a Filipino citizen and a foreigner; and (b) a divorce is obtained abroad by the alien spouse capacitating him or her to remarry. This is because the divorce herein was consensual in nature, obtained by agreement of the parties, and not by Sakai alone. Thus, since petitioner, a Filipino citizen, also obtained the divorce herein, said divorce cannot be recognized in the Philippines.

ISSUE:

Whether or not the CA erred when it held that the second requisite for the application of the second paragraph of Article 26 of the Family Code is not present because the petitioner gave consent to the divorce obtained by her Japanese husband. (YES)

RULING:

In ***Republic v. Manalo***, the Court held that **the fact that it was the Filipino spouse who initiated the proceeding** wherein the divorce decree was granted **should not affect the application** nor remove him from the coverage **of Paragraph 2 of Article 26 of the Family Code** which states that "where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall likewise have capacity to remarry under Philippine law."

We observed that to interpret the word "**obtained**" to mean that the divorce proceeding must actually be initiated by the alien spouse would depart from the true intent of the legislature and would otherwise yield conclusions inconsistent with the general purpose of Paragraph 2 of Article 26, which is, specifically, **to avoid the absurd situation where the Filipino spouse remains married** to the alien spouse who, after a foreign divorce decree that is effective in the country where it was rendered, is no longer married to the Filipino spouse. The subject provision, therefore, **should not make a distinction** for a Filipino who initiated a foreign divorce proceeding is in the same place and in like circumstance as a Filipino who is at the receiving end of an alien initiated proceeding.

Applying the foregoing pronouncement to the case at hand, the Court similarly rules that **despite the fact that petitioner participated in the divorce proceedings** in Japan, and even if it is assumed that she initiated the same, **she must still be allowed to benefit from the exception** provided under Paragraph 2 of Article 26. Consequently, since her marriage to Toshiharu Sakai had already been dissolved by virtue of the divorce decree they obtained in Japan, thereby capacitating Toshiharu to remarry, petitioner shall likewise have capacity to remarry under Philippine law.

Nevertheless, as similarly held in Manalo, We cannot yet grant petitioner's Petition for Judicial Recognition of Foreign Judgment for she has yet to comply with certain guidelines before our courts may recognize the subject divorce decree and the effects thereof.

Time and again, the Court has held that the starting point in any recognition of a foreign divorce judgment is the acknowledgment that **our courts do not take judicial notice of foreign judgments and laws**. This means that the foreign judgment and its authenticity **must be proven** as facts under our rules on evidence, together with the alien's applicable national law to show the effect of the judgment on the alien himself or herself. Since both the foreign divorce decree and the national law of the alien, recognizing his or her capacity to obtain a divorce, purport to be official acts of a sovereign authority, Section 24 of Rule 132 of the Rules of Court applies.

Thus, what is required is proof, either by (1) **official publications** or (2) **copies attested by the officer having legal custody of the documents**. If the copies of official records are not kept in the Philippines, these must be (a) accompanied by a certificate issued by the proper diplomatic or consular officer in the Philippine foreign service stationed in the foreign country in which the record is kept and (b) authenticated by the seal of his office.

In the instant case, the OSG does not dispute the existence of the divorce decree, rendering the same admissible. What remains to be proven, therefore, is the pertinent Japanese Law on divorce considering that **Japanese laws on persons and family relations are not among those matters that Filipino judges are supposed to know by reason of their judicial function.**

LUZVIMINDA DELA CRUZ MORISONO, ***Petitioner*, *v.*** **RYOJI* MORISONO AND LOCAL CIVIL REGISTRAR OF QUEZON CITY**, ***Respondents***.
G.R. No. 226013, SECOND DIVISION, July 02, 2018, PERLAS-BERNABE, *J.*

Pursuant to Manalo, foreign divorce decrees obtained to nullify marriages between a Filipino and an alien citizen may already be recognized in this jurisdiction, regardless of who between the spouses initiated the divorce; provided, of course, that the party petitioning for the recognition of such foreign divorce decree – presumably the Filipino citizen – must prove the divorce as a fact and demonstrate its conformity to the foreign law allowing it.[22]

In this case, a plain reading of the RTC ruling shows that the denial of Luzviminda's petition to have her foreign divorce decree recognized in this jurisdiction was anchored on the sole ground that she admittedly initiated the divorce proceedings which she, as a Filipino citizen, was not allowed to do. In light of the doctrine laid down in Manalo, *such ground relied upon by the RTC had been rendered nugatory.*

FACTS
Luzviminda was married to private respondent Ryoji Morisono (Ryoji) in Quezon City on December 8, 2009.[3] Thereafter, they lived together in Japan for one (1) year and three (3) months but were not blessed with a child. During their married life, they would constantly quarrel mainly due to Ryoji's philandering ways, in addition to the fact that he was much older than Luzviminda.[4] As such, she and Ryoji submitted a "Divorce by Agreement" before the City Hall of Mizuho-Ku, Nagoya City, Japan, which was eventually approved on January 17, 2012 and duly recorded with the Head of Mizuho-Ku, Nagoya City, Japan on July 1, 2012.[5] In view of the foregoing, she filed a petition for

recognition of the foreign divorce decree obtained by her and Ryoji[6] before the RTC so that she could cancel the surname of her former husband in her passport and for her to be able to marry again.[7]

The RTC denied Luzviminda's petition. It held that while a divorce obtained abroad by an alien spouse may be recognized in the Philippines – provided that such decree is valid according to the national law of the alien – the same does not find application when it was the Filipino spouse, *i.e.,* petitioner, who procured the same.

ISSUE
Whether or not the RTC correctly denied Luzviminda's petition for recognition of the foreign divorce decree she procured with Ryoji (NO).

RULING

The rules on divorce prevailing in this jurisdiction can be summed up as follows: *first,* Philippine laws do not provide for absolute divorce, and hence, the courts cannot grant the same; *second,* consistent with Articles 15[11] and 17[12] of the Civil Code, the marital bond between two (2) Filipino citizens cannot be dissolved even by an absolute divorce obtained abroad; *third,* an absolute divorce obtained abroad by a couple, who are both aliens, may be recognized in the Philippines, provided it is consistent with their respective national laws; and *fourth,* **in mixed marriages involving a Filipino and a foreigner, the former is allowed to contract a subsequent marriage in case the absolute divorce is validly obtained abroad by the alien spouse capacitating him or her to remarry.**

This provision confers jurisdiction on Philippine courts to extend the effect of a foreign divorce decree to a Filipino spouse without undergoing trial to determine the validity of the dissolution of the marriage. It authorizes our courts to adopt the effects of a foreign divorce decree precisely because the Philippines does not allow divorce.
According to *Republic v. Orbecido III,*[17] the following elements must concur in order for Article 26 (2) to apply, namely: *(a)* that there is a valid marriage celebrated between a Filipino citizen and a foreigner; and *(b)* that a valid divorce is obtained abroad by the alien spouse capacitating him or her to remarry.[18]In the same case, the Court also initially clarified that Article 26 (2) applies not only to cases where a foreigner was the one who procured a divorce of his/her marriage to a Filipino spouse, but also to instances where, at the time of the celebration of the marriage, the parties were Filipino citizens, but later on, one of them acquired foreign citizenship by naturalization, initiated a divorce proceeding, and obtained a favorable decree.[19]

However, in the recent case of *Republic v. Manalo (Manalo),*[20] the Court *En Banc* extended the application of Article 26 (2) of the Family Code to further cover mixed marriages where it was the Filipino citizen who divorced his/her foreign spouse. Pertinent portions of the ruling read:

Now, the Court is tasked to resolve **whether, under the same provision, a Filipino citizen has the capacity to remarry under Philippine law after initiating a divorce proceeding abroad and obtaining a favorable judgment against his or her alien spouse who is capacitated to remarry.**

Thus, pursuant to *Manalo,* foreign divorce decrees obtained to nullify marriages between a Filipino and an alien citizen may already be recognized in this jurisdiction, regardless of who between the spouses initiated the divorce; provided, of course, that the party petitioning for the recognition of such foreign divorce decree – presumably the Filipino citizen – must prove the divorce as a fact and demonstrate its conformity to the foreign law allowing it.[22]

In this case, a plain reading of the RTC ruling shows that the denial of Luzviminda's petition to have her foreign divorce decree recognized in this jurisdiction was anchored on the sole ground that she admittedly initiated the divorce proceedings which she, as a Filipino citizen, was not allowed to do. In light of the doctrine laid down in *Manalo,* such ground relied upon by the RTC had been rendered nugatory. However, the Court cannot just order the grant of Luzviminda's petition for recognition of the foreign divorce decree, as Luzviminda has yet to prove the fact of her. "Divorce by Agreement" obtained, in Nagoya City, Japan and its conformity with prevailing Japanese laws on divorce. Notably, the RTC did not rule on such issues. Since these are questions which require an examination of various factual matters, a remand to the court a *quo* is warranted.

4. Void and voidable marriages

MARIA CONCEPCION N. SINGSON A.K.A. CONCEPCION N. SINGSON, *Petitioner*, -versus- BENJAMIN L. SINGSON, *Respondent*.
G.R. No. 210766, FIRST DIVISION, January 08, 2018, DEL CASTILLO, J.

'Psychological incapacity,' as a ground to nullify a marriage under Article 36 of the Family Code, should refer to no less than a mental - not merely physical - incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage.

The evidence on record does not establish that respondent's psychological incapacity was grave and serious as defined by jurisprudential parameters. The medical basis or evidence adverted to by the RTC did not specifically identify the root cause of respondent's alleged psychological incapacity. In fact, Dr. Sta. Ana-Ponio did not point to a definite or a definitive cause.

FACTS:

Maria Concepcion N. Singson filed a Petition for declaration of nullity of marriage based on Article 36 of the Family Code of the Philippines.

It was alleged therein that on July 6, 1974, petitioner and Benjamin L. Singson were married before the Rev. Fr. Alfonso L. Casteig at St. Francis Church, Mandaluyong, Rizal; that said marriage produced four children, all of whom are now of legal age; that when they started living together, petitioner noticed that respondent was "dishonest, unreasonably extravagant at the expense of the family's welfare, extremely vain physically and spiritually," and a compulsive gambler; that respondent was immature, and was unable to perform his paternal duties; that respondent was also irresponsible, an easy-going man, and guilty of infidelity; that respondent's abnormal behavior made him completely unable to render any help, support, or assistance to her; and that because she could expect no help or assistance at all from respondent she was compelled to work doubly hard to support her family as the sole breadwinner.

Petitioner also averred that respondent was confined at Metro Psych Facility, a rehabilitation institution in Pasig City; and that respondent's attending psychiatrist, Dr. Benita Sta. Ana-Ponio diagnosed him to be suffering from Pathological Gambling and Personality Disorder. All these put together, hinder respondent from performing his marital obligations.

Respondent asserted that "psychological incapacity" must be characterized by gravity, juridical antecedence, and incurability, which are not present in the instant case because petitioner's allegations are not supported by facts. He claimed it was not true that he failed to render any help, support or assistance to petitioner and their family; that the family home where petitioner and their children are living was in fact his own capital property; that his shortcomings as mentioned by petitioner do not pertain to the most grave or serious cases of personality disorders that would satisfy the standards required to obtain a decree of nullity of marriage; that petitioner's complaint is nothing more than a complaint of a woman with an unsatisfactory marriage who wants to get out of it; that contrary to petitioner's claim that he is a good-for-nothing fellow, he has a college degree in business administration, and is a bank employee, and, that it was money problem, and not his alleged personality disorder, that is the wall that divided him and petitioner.

The RTC granted the Petition and declared the marriage between petitioner and respondent void *ab initio* on the ground of the latter's psychological incapacity. The RTC found respondent to be suffering from a psychological condition that is grave, incurable, and has juridical antecedence. The RTC also found that the ·combined testimonies of petitioner and Dr. Sta. Ana-Ponio convincingly showed that respondent is psychologically incapacitated to perform the essential marital obligations. It ruled that it has been shown that this personality disorder was present at the time of celebration of marriage but became manifest only later.

Upon appeal, CA overturned the RTC and dismissed the Petition for Declaration of Nullity of Marriage. The CA held that the totality of evidence presented by petitioner failed to establish respondent's alleged psychological incapacity to perform the essential marital obligations, which in this case, was not at all proven to be grave or serious, much less incurable, and furthermore was not existing at the time of the marriage. The evidence in fact showed that the latter was truly capable of carrying out the ordinary duties of a married man because he had a job, had provided money tor the family from the sale of his own property, and he likewise provided the land on which the family home was built, and he also lives in the family home with petitioner and their children. Mere difficulty, refusal or neglect in the performance of marital obligations, or ill will on the part of a spouse, is different from incapacity rooted in some debilitating psychological condition or illness; that the evidence at bar showed that respondent's alleged pathological gambling arose after the marriage. The CA found that respondent's purported pathological gambling was not proven to be incurable or permanent since respondent has been undergoing treatment since 2003 and has been responding to the treatment. Petitioner's motion for reconsideration was denied.

ISSUE:

Whether the CA erred in reversing the decision of the RTC. (NO)

RULING:

It is axiomatic that the validity of marriage and the unity of the family are enshrined in our Constitution and statutory laws, hence any doubts attending the same are to be resolved in favor of

the continuance and validity of the marriage and that the burden of proving the nullity of the same rests at all times upon the petitioner.

'Psychological incapacity,' as a ground to nullify a marriage under Article 36 of the Family Code, should refer to no less than a mental - not merely physical - incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed in Article 68 of the Family Code, among others, include their mutual obligations to live together, observe love respect and fidelity and render help and support.

In *Santos v. CA* (*Santos*), the Court first declared that psychological incapacity must be characterized by: (a) gravity (*i.e.*, it must be grave and serious such that the party would be incapable of carrying out the ordinary duties required in a marriage); (b) juridical antecedence (*i.e.*, it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage); and (c) incurability (*i.e.*, it must be incurable, or even if it were otherwise, the cure would be beyond the means of the party involved).

We agree with the CA that **the evidence on record does not establish that respondent's psychological incapacity was grave and serious as defined by jurisprudential parameters since respondent had a job; provided money for the family from the sale of his property; provided the land where the family home was built on; and lived in the family home with petitioner-appellee and their children, that petitioner herself admitted, that respondent likewise brought her to the hospital during all four instances that she gave birth to their children.**

By contrast, **petitioner did not proffer any convincing proof that respondent's mere confinement at the rehabilitation center confirmed the gravity of the latters psychological incapacity.**

It is not enough to prove that a spouse failed to meet his responsibility and duty as a married person; it is essential that he or she must be shown to be incapable of doing so because of some psychological, not physical, illness."

Nor can Dr. Sta. Ana-Ponio's testimony in open court and her Clinical Summary be taken for gospel truth in regard to the charge that respondent is afflicted with utter inability to appreciate his marital obligations.

Furthermore, habitual drunkenness, gambling and failure to find a job, while undoubtedly negative traits, are nowhere nearly the equivalent of 'psychological incapacity', in the absence of incontrovertible proof that these are manifestations of an incapacity rooted in some debilitating psychological condition or illness. A cause has to be shown and linked with the manifestations of the psychological incapacity.

The medical basis or evidence adverted to by the RTC did not specifically identify the root cause of respondent's alleged psychological incapacity. In fact, Dr. Sta. Ana-Ponio did not point to a definite or a definitive cause, *viz*. "with his history of typhoid fever when he was younger, it is difficult to attribute the behavioral changes that he manifested in 2003 and 2006. Besides, Dr. Sta. Ana-Ponio admitted that it was not she herself, but another psychologist who

conducted the tests. And this psychologist was not presented by petitioner. More than that, Dr. Sta. Ana-Ponio's testimony regarding respondent's alleged admission that he was allegedly betting on *jai alai* when he was still in high school is essentially hearsay as no witness having personal knowledge of that fact was called to the witness stand. And, although Dr. Sta. Ana-Ponio claimed to have interviewed respondent's sister in connection therewith, the latter did testify in court.

Equally bereft of merit is petitioner's claim that respondent's alleged psychological incapacity could be attributed to the latter's family or childhood, which are circumstances prior to the parties' marriage; no evidence has been adduced to substantiate this fact. Nor is there basis for upholding petitioner's contention that respondent's family was "distraught" and that respondent's conduct was "dysfunctional"; again, there is no evidence to attest to this. Indeed, Dr. Sta. Ana-Ponio did not make a specific finding that this was the origin of respondent's alleged inability to appreciate marital obligations.
To support her Article 36 petition**, petitioner ought to have adduced convincing, competent and trustworthy evidence to establish the cause of respondent's alleged psychological incapacity and that the same antedated their marriage.** If anything, petitioner failed to successfully dispute the CA's finding that she was not aware of any gambling by respondent before they got married and that respondent was a kind and caring person when he was courting her.

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus- KATRINA S. TOBORA-TIONGLICO, *Respondent*.
G.R. No. 218630, FIRST DIVISION, January 11, 2018, TIJAM, J.

Judgments must be based not solely on the expert opinions presented by the parties but on the totality of evidence adduced in the course of the proceedings. Here, Dr. Arellano's findings that Lawrence is psychologically incapacitated were based solely on Katrina's statements. Her testimony, therefore, is considered self-serving and had no serious evidentiary value.

It is not enough to prove that a spouse failed to meet his responsibility and duty as a married person; it is essential that he must be shown to be incapable of doing so due to some psychological illness. Here, their frequent fights, as well as his insensitivity, immaturity, and frequent night-outs can hardly be said to be a psychological illness. These acts do not rise to the level of the "psychological incapacity" that the law requires, and should be distinguished from the "difficulty," if not outright "refusal" or "neglect" in the performance of some marital obligations that characterize some marriages.

FACTS:

Respondent Katrina S. Tabora-Tionglico (Katrina) filed a petition for declaration of nullity of her marriage with Lawrence C. Tionglico (Lawrence) on the ground of psychological incapacity under Article 36 of the Family Code.

Katrina and Lawrence met in 1997. After a brief courtship, they entered into a relationship. When she got pregnant, the two panicked as both their parents were very strict and conservative. Lawrence did not receive the news well as he was worried how it would affect his image and how his parents would take the situation. Nevertheless, they got married.

Even during the early stage of their marriage, it was marred by bickering and quarrels. As early as their honeymoon, they were fighting so much that they went their separate ways most of the time and Katrina found herself wandering the streets of Hong Kong alone.

Upon their return, they moved into the home of Lawrence's parents until the birth of their child, Lanz Rafael Tabora Tionglico (Lanz). Lawrence was distant and did not help in rearing their child, saying he knew nothing about children and how to run a family. He spent almost every night out for late dinners, parties, and drinking sprees. Katrina noticed that Lawrence was alarmingly dependent on his mother and suffered from a very high degree of immaturity. Lawrence would repeatedly taunt Katrina to fight with him. They lost all intimacy between them as he insisted to have a maid sleep in their bedroom every night to see to the needs of Lanz.

Lawrence refused to yield to and questioned any and all of Katrina's decisions – from the manner by which she took care of Lanz, to the way she treated the household help. Most fights ended up in full blown arguments, often in front of Lanz. One time, when Katrina remembered and missed her youngest brother who was then committed in a substance rehabilitation center, Lawrence told her to stop crying or sleep in the rehabilitation center if she will not stop.

Due to their incessant fighting, Lawrence asked Katrina to leave his parents' home and to never come back. They have been separated in fact since then.

Katrina consulted with a psychiatrist, Dr. Juan Arellano (Dr. Arellano), who confirmed her beliefs on Lawrence's psychological incapacity. Dr. Arellano, based on the narrations of Katrina, diagnosed Lawrence with Narcissistic Personality Disorder, that is characterized by a heightened sense of self-importance and grandiose feelings that he is unique in some way.

Dr. Arellano determined that this personality disorder is permanent, incurable, and deeply integrated within his psyche, and that it was present but repressed at the time of the celebration of the marriage and the onset was in early adulthood. His maladaptive and irresponsible behaviors interfered in his capacity to provide mutual love, fidelity, respect, mutual help, and support to his wife.

ISSUE:

Whether the marriage of Katrina and Lawrence is void *ab initio* on the ground of psychological incapacity. (NO)

RULING:

First, judgments must be based not solely on the expert opinions presented by the parties but on the totality of evidence adduced in the course of the proceedings. Here, Dr. Arellano's findings that Lawrence is psychologically incapacitated were based solely on Katrina's statements. It bears to stress that Lawrence, despite notice, did not participate in the proceedings, nor was he interviewed by Dr. Arellano despite being invited to do so.

Basic is the rule that bare allegations, unsubstantiated by evidence, are not equivalent to proof, *i.e.*, mere allegations are not evidence. Apart from the psychiatrist, Katrina did not present other

witnesses to substantiate her allegations on Lawrence's psychological incapacity. Her testimony, therefore, is considered self-serving and had no serious evidentiary value.

Secondly, it is not enough to prove that a spouse failed to meet his responsibility and duty as a married person; it is essential that he must be shown to be incapable of doing so due to some psychological illness. The psychological illness that must afflict a party at the inception of the marriage should be a malady so grave and permanent as to deprive the party of his or her awareness of the duties and responsibilities of the matrimonial bond he or she was then about to assume. Here, the testimony of Katrina as regards the behaviour of Lawrence hardly depicts the picture of a psychologically incapacitated husband. Their frequent fights, as well as his insensitivity, immaturity and frequent night-outs can hardly be said to be a psychological illness. These acts do not rise to the level of the "psychological incapacity" that the law requires, and should be distinguished from the "difficulty," if not outright "refusal" or "neglect" in the performance of some marital obligations that characterize some marriages.

ABIGAEL AN ESPINA-DAN, *Petitioner*, -versus- MARCO DAN, *Respondent*.
G.R. No. 209031, FIRST DIVISION, April 16, 2018, DEL CASTILLO, *J.*

Psychological incapacity under Article 36 of the Family Code must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability. "The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved." Finally, the burden of proving psychological incapacity is on the petitioner.

Indeed, the incapacity should be established by the totality of evidence presented during trial, making it incumbent upon the petitioner to sufficiently prove the existence of the psychological incapacity.

In this case, petitioner admitted that before and during their marriage, respondent was working and giving money to her; that respondent was romantic, sweet, thoughtful, responsible, and caring; and that she and respondent enjoyed a harmonious relationship. This belies her claim that petitioner was psychologically unfit for marriage. Furthermore, Dr. Tayag's determinations were not based on actual tests or interviews conducted on respondent himself - but on personal accounts of petitioner alone, which will not suffice as well as it is one-sided.

FACTS:

Petitioner Abigael An Espina-Dan and respondent Marco Dan - an Italian national - met "in a chatroom onn the internet" sometime in May, 2005. They soon became "chatmates" and "began exchanging letters which further drew them emotionally closer to each other" even though petitioner was in the Philippines while respondent lived in Italy.

In November, 2005, respondent proposed marriage. The following year, he flew in from Italy and tied the knot with petitioner on January 23, 2006.

Soon after the wedding, respondent returned to Italy. Petitioner followed thereafter, or on February 23, 2006. The couple lived together in Italy.

On April 18, 2007, petitioner left respondent and flew back into the country.

On September 14, 2007, petitioner filed a Petition for declaration of nullity of her marriage in the RTC of Las Piñas City.

Petitioner alleged that while they are in Italy, respondent started displaying traits, character and attitude different from that of Marco whom she had known thru the internet. He was immature, childish, irresponsible and dependent. He depended on his mother to do or to decide things for him. Respondent was also addicted to video games. Respondent was extremely lazy that he never helped her in doing all the household chores. He also has extremely poor hygiene. He seldom takes a bath and brushes his teeth. Sometime in May 2006, she caught him in their house while using marijuana. When confronted, he got mad and pushed her hard and hit her in the arm, and told her to go back to the Philippines.

Petitioner presented Dr. Nedy Tayag, a clinical psychologist, who testified that in her evaluation, she found no sign or symptom of major psychological incapacity of the petitioner, while respondent is suffering from a Dependent Personality Disorder with Underlying Anti-Social Trait. She was able to arrive at these findings on respondent although he did not submit himself for the same psychological tests, through the clinical assessments and information supplied by the petitioner, and the description of the petitioner's mother regarding how she perceived the respondent.

The RTC issued its Decision dismissing the petition on the ground mat petitioner's evidence failed to adequately prove respondent's alleged psychological incapacity. The CA also ruled that there is no ground to declare the marriage null and void on the ground of psychological incapacity under Article 36 of the Family Code.

ISSUE:

Whether the totality of petitioner's evidence established the psychological incapacity of respondent. (NO)

RULING:

Psychological incapacity under Article 36 of the Family Code must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability. "The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved." Finally, the burden of proving psychological incapacity is on the petitioner.

Indeed, the incapacity should be established by the totality of evidence presented during trial, making it incumbent upon the petitioner to sufficiently prove the existence of the psychological incapacity.

In this case, the determination of respondent's alleged psychological incapacity was based solely on petitioner's account and that of her mother, since respondent was presumably in Italy and did not participate in the proceedings. This is insufficient.

At some point in her accounts, petitioner admitted that before and during their marriage, respondent was working and giving money to her; that respondent was romantic, sweet, thoughtful, responsible, and caring; and that she and respondent enjoyed a harmonious relationship. This belies her claim that petitioner was psychologically unfit for marriage. As correctly observed by the trial and appellate courts, the couple simply drifted apart as a result of irreconcilable differences and basic incompatibility owing to differences in culture and upbringing, and the very short period that they spent together prior to their tying the knot.

With the declared insufficiency of the testimonies of petitioner and her witness, the weight of proving psychological incapacity shifts to Dr. Tayag's expert findings. However, her determinations were not based on actual tests or interviews conducted on respondent himself - but on personal accounts of petitioner alone. This will not do as well.

While the various tests administered on the petitioner could have been used as a fair gauge to assess her own psychological condition, this same statement cannot be made with respect to the respondent's condition. To make conclusions and generalizations on the respondent's psychological condition based on the information fed by only one side is not different from admitting hearsay evidence as proof of the truthfulness of the content of such evidence.

Thus, with petitioner's failure to prove her case, her petition for declaration of nullity of her marriage was correctly dismissed.

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus- MARTIN NIKOLAI Z. JAVIER AND MICHELLE K. MERCADO-JAVIER, *Respondents*.
G.R. No. 210518, SECOND DIVISION, April 18, 2018, REYES, JR., J.

The Court clarified in Marcos v. Marcos that for purposes of establishing the psychological incapacity of a spouse, it is not required that a physician conduct an actual medical examination of the person concerned. It is enough that the totality of evidence is strong enough to sustain the finding of psychological incapacity. In such case, however, the petitioner bears a greater burden in proving the gravity, juridical antecedence, and incurability of the other spouse's psychological incapacity.

While it is true that Michelle was not personally examined or evaluated for purposes of the psychological report, the trial court was incorrect in ruling that Dr. Adamos' findings were based solely on the interview with Martin. Even if that were the case, the findings of the psychologist are not immediately invalidated for this reason alone. Because a marriage necessarily involves only two persons, the spouse who witnessed the other spouse's behavior may "validly relay" the pattern of behavior to the psychologist. ***This notwithstanding, the Court disagrees with the CA's findings that Michelle was psychologically incapacitated.*** *We cannot absolutely rely on the Psychological Impression Report on Michelle. There was no other independent evidence establishing the root cause or juridical antecedence of Michelle's alleged psychological incapacity.*

FACTS:

Martin and Michelle were married on February 8, 2002. On November 20, 2008, Martin filed a Petition for Declaration of Nullity of Marriage under Article 36 of the Family Code, alleging that both he and Michelle were psychologically incapacitated to comply with the essential obligations of marriage.

To support the allegations in his petition, Martin testified on his own behalf, and presented the psychological findings of Dr. Elias D. Adamos (Dr. Adamos) (i.e., Psychological Evaluation Report on Martin and Psychological Impression Report on Michelle).

In the Psychological Impression Report on Michelle, Dr. Adamos diagnosed her with Narcissistic Personality Disorder. Dr. Adamos concluded in the Psychological Evaluation Report that Martin suffered from the same disorder. Dr. Adamos testified before the RTC to provide his expert opinion, and stated that with respect to the Psychological Impression Report on Michelle, the informants were Martin and the respondents' common friend, Jose Vicente Luis Serra (Jose Vicente). He was unable to evaluate Michelle because she did not respond to Dr. Adamos' earlier request to come in for psychological evaluation.

The RTC dismissed the petition for failure to establish a sufficient basis for the declaration of nullity of the respondents' marriage.

In granting Martin's appeal, the CA found that there was sufficient evidence to support his claim that he is psychologically incapacitated. It likewise ruled that Michelle's diagnosis was adequately supported by the narrations of Martin and Jose Vicente.

ISSUE:

Whether the psychological report on Michelle was invalid for being based on the information provided by her spouse (NO)

RULING:

The Court finds the present petition partially unmeritorious.

The Court clarified in *Marcos v. Marcos* that for purposes of establishing the psychological incapacity of a spouse, it is not required that a physician conduct an actual medical examination of the person concerned. It is enough that the totality of evidence is strong enough to sustain the finding of psychological incapacity. In such case, however, the petitioner bears a greater burden in proving the gravity, juridical antecedence, and incurability of the other spouse's psychological incapacity.

Martin submitted several pieces of evidence to support his petition. He testified as to his own psychological incapacity and that of his spouse, Michelle. The psychological findings of Dr. Adamos were also presented in the trial court to corroborate his claim. According to Dr. Adamos, Michelle suffered from Narcissistic Personality Disorder as a result of childhood trauma and defective child-rearing practices. This disorder was supposedly aggravated by her marriage with Martin, who she constantly lied to. It was also alleged in the Psychological Impression Report that Michelle openly had extra-marital affairs.

The basis of Dr. Adamos' findings on the psychological incapacity of Michelle was the information provided by Martin and Jose Vicente. Jose Vicente was a close friend of the respondents, having introduced them to each other before their marriage. Jose Vicente was also allegedly a regular confidant of Michelle.

While it is true that Michelle was not personally examined or evaluated for purposes of the psychological report, the trial court was incorrect in ruling that Dr. Adamos' findings were based solely on the interview with Martin. Even if that were the case, the findings of the psychologist are not immediately invalidated for this reason alone. Because a marriage necessarily involves only two persons, the spouse who witnessed the other spouse's behavior may "validly relay" the pattern of behavior to the psychologist.

This notwithstanding, the Court disagrees with the CA's findings that Michelle was psychologically incapacitated. We cannot absolutely rely on the Psychological Impression Report on Michelle. There was no other independent evidence establishing the root cause or juridical antecedence of Michelle's alleged psychological incapacity. While this Court cannot discount their first-hand observations, it is highly unlikely that they were able to paint Dr. Adamos a complete picture of Michelle's family and childhood history. The records do not show that Michelle and Jose Vicente were childhood friends, while Martin, on the other hand, was introduced to Michelle during their adulthood. Either Martin or Jose Vicente, as third persons outside the family of Michelle, could not have known about her childhood, how she was raised, and the dysfunctional nature of her family. Without a credible source of her supposed childhood trauma, Dr. Adamos was not equipped with enough information from which he may reasonably conclude that Michelle is suffering from a chronic and persistent disorder that is grave and incurable.

The Court's explanation in *Rumbaua v. Rumbaua* judiciously discussed the dangers of relying on the narrations of a petitioner-spouse to the psychologist, *viz.*:

We cannot help but note that Dr. Tayag's conclusions about the respondent's psychological incapacity were based on the information fed to her by only one side – the petitioner – whose bias in favor of her cause cannot be doubted. While this circumstance alone does not disqualify the psychologist for reasons of bias, **her report, testimony and conclusions deserve the application of a more rigid and stringent set of standards in the manner we discussed above. For, effectively, Dr. Tayag only diagnosed the respondent from the prism of a third party account; she did not actually hear, see and evaluate the respondent and how he would have reacted and responded to the doctor's probes.** x x x x

It does not escape our attention, however, that Martin was also subjected to several psychological tests, as a result of which, Dr. Adamos diagnosed him with Narcissistic Personality Disorder. Additionally, the diagnosis was based on Dr. Adamos' personal interviews of Martin, who underwent several—or to be accurate, more than 10—counselling sessions with Dr. Adamos from 2008 to 2009. These facts were uncontroverted by the Republic. Dr. Adamos concluded from the tests administered on Martin that this disorder was rooted in the traumatic experiences he experienced during his childhood, having grown up around a violent father who was abusive of his

mother. This adversely affected Martin in such a manner that he formed unrealistic values and standards on his own marriage, and proposed unconventional sexual practices. When Michelle would disagree with his ideals, Martin would not only quarrel with Michelle, but would also inflict harm on her. Other manifestations include excessive love for himself, self-entitlement, immaturity, and self-centeredness.

As such, insofar as the psychological incapacity of Martin is concerned, the CA did not commit a reversible error in declaring the marriage of the respondents null and void under Article 36 of the Family Code.

As a final note, the Court emphasizes that the factual circumstances obtaining in this *specific* case warrant the declaration that Martin is psychologically incapacitated to perform the essential marital obligations at the time of his marriage to Michelle. This is neither a relaxation nor abandonment of previous doctrines relating to Article 36 of the Family Code. The guidelines in *Molina* still apply to all petitions for declaration of nullity of marriage inasmuch as this Court does not lose sight of the constitutional protection to the institution of marriage.

REPUBLIC OF THE PHILIPPINES, *Petitioner*, - versus - LIBERATO P. MOLA CRUZ, *Respondent*.
G.R. No. 236629, THIRD DIVISION, July 23, 2018, GESMUNDO, *J.*

A sharper pronouncement on the respect accorded to the trial court's factual findings in the realm of psychological incapacity was made in Kalaw v. Fernandez (Kalaw):

> *The findings of the RTC on the existence or non-existence of a party's psychological incapacity should be final and binding for as long as such findings and evaluation of the testimonies of witnesses and other evidence are not shown to be clearly and manifestly erroneous. In every situation where the findings of the trial court are sufficiently supported by the facts and evidence presented during trial, the appellate court should restrain itself from substituting its own judgment.*

The CA decision itself recognized, and Our own review of Dr. Tudla's psychological report confirms, contrary to petitioner's allegation, that Dr. Tudla personally interviewed both spouses regarding their personal and familial circumstances before and after the celebration of their marriage. Information gathered from the spouses was then verified by Dr. Tudla with Ma. Luisa Conag, Liez's youngest sister, a close relation privy to Liezl's personal history before and after she got married. Dr. Tudla then based her psychological evaluation and conclusions on all the information she gathered. Her findings were, thus, properly anchored on a holistic psychological evaluation of the parties as individuals and as a married couple under a factual milieu verified with an independent informant. The courts a quo properly accorded credence to the report and utilized it as an aid in determining whether Liezl is indeed psychologically incapacitated to meet essential marital functions. ***Clearly, petitioner has no basis to assail Dr. Tudla's psychological findings as wanting evidentiary support.***

Guided by the foregoing jurisprudential premise, the Court holds that both the CA and the RTC did not err in finding that the totality of evidence presented by respondent in support of his petition, sufficiently established the link between Liezl's actions showing her psychological incapacity to understand and perform her marital obligations, and her histrionic personality disorder.

FACTS:

Respondent Liberato and Liezl were married. In the course of their relationship, Liezl left for Japan to work as an entertainer for six (6) months. The couple then got married after Liezl returned home. They lived for some time in Manila where respondent worked, but later moved to Japan where Liezl again worked as an entertainer and respondent found work as a construction worker. It was while living in Japan when respondent noticed changes in Liezl. She began going out of the house without respondent's permission and started giving respondent the cold treatment. Liezl also started getting angry at respondent for no reason. The couple later returned to the Philippines after Liezl was released from detention due to overstaying in Japan. It was then that Liezl confessed to respondent her romantic affair with a Japanese man. Despite the confession, respondent expressed his willingness to forgive Liezl, but the latter chose to walk away from their marriage.

The couple reconciled after respondent made efforts to woo Liezl back. One day, however, respondent found Liezl's Japanese lover in their house. To respondent's surprise, Liezl introduced him to her lover as her elder brother. Respondent went along with the charade and allowed Liezl to share her bed with her lover as she threatened to leave their home. Liezl went on with her partying ways and continued working in a Manila nightclub despite respondent's offer for her to start a business.

However, Liezl left respondent a second time. Respondent tried to move on and left for Singapore to work. Though abroad, he continued to woo his wife back, but found out that Liezl already cohabited with her lover. Respondent decided to file a petition for declaration of nullity of marriage under Article 36 of the Family Code.

The RTC granted respondent's petition and declared respondent and Liezl's marriage *void ab initio* and their property regime dissolved. The RTC relied on the psychological report and testimony of expert witness, Dr. Pacita Tudla (Dr. Tudla) a clinical psychologist. Dr. Tudla found that Liezl was afflicted by histrionic personality disorder, a pervasive pattern of behavior characterized by excessive emotionality and attention seeking.

Dr. Tudla presented the following indicators of Liezl's disorder: going out without her husband's knowledge or permission; coldly treating her husband, verbally and sexually; quick anger at the slightest provocation or for no reason; arrest in Japan due to overstaying; admission to an affair; insensitivity towards her husband's feelings, as shown by introducing her husband as her brother to her Japanese lover; threats of leaving if her ideas are not agreed to; unabashed declaration of having no feelings for her husband; maintaining a night life with friends; and choosing to work in a nightclub instead of engaging in a decent job.

Dr. Tudla found that Liezl's psychological incapacity existed prior to the marriage because she grew up irritable, hard-headed, and fond of friends than family. She despised advice or suggestion from her elders, and would rebel when her demands were not met. This personality aberration was determined by Dr. Tudla as rooted on Liezl's poor upbringing - Liezl's father resorted to corporal punishment to instill discipline, while her mother tolerated her whims. According to Dr. Tudla, the irregular treatment she received from her parents led to Liezl acquiring unsuitable behavioral patterns.

Aside from the existence of Liezl's psychological incapacity prior to the marriage, Dr. Tudla found her incapacity too grave that it seriously impaired her relationship with her husband. It was also the cause of Liezl's failure to discharge the basic obligations of marriage which resulted in its breakdown. Her incapacity was also found incurable because it was deeply ingrained in her personality. Further, Dr. Tudla found that Liezl was unconscious of her personality disorder and, when confronted, she would deny it to avoid criticism. The disorder was also permanent as it started during her adolescence and continued until adulthood.

On appeal, petitioner claimed that respondent was not able to prove Liezl's psychological incapacity to perform her marital obligations, and that witness Dr. Tudla only made a sweeping statement that Liezl's condition was grave and permanent. Petitioner questioned Dr. Tudla's report as it lacked details regarding Liezl's condition and how Liezl was unable to comply with her marital obligations. Petitioner contended that the change in Liezl's behavior was only caused by her illicit relationship and not because of psychological incapacity. Petitioner asserted that sexual infidelity, indulgence and abandonment can only be grounds for legal separation as they do not constitute psychological incapacity.

The CA affirmed the RTC's decision. It reasoned that what matters in cases of declaration of nullity of marriage under Article 36 of the Family Code is whether the totality of evidence presented is adequate to sustain a finding of psychological incapacity. In the task of ascertaining the presence of psychological incapacity as a ground for the nullity of marriage, the courts, which are concededly not endowed with expertise in the field of psychology, must rely on the opinions of experts in order to inform themselves on the matter, and thus enable themselves to arrive at an intelligent and judicious judgment. Indeed, the conditions for the malady of being grave, antecedent and incurable demand the in-depth diagnosis of experts.

ISSUE:

Whether Liezl's psychological incapacity to comply with her marital obligations was sufficiently established by the totality of evidence presented by respondent. (YES)

RULING:

In *Santos v. Court of Appeals*, the Court explained psychological incapacity as follows:

> Psychological incapacity should refer to no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. x x x Further, psychological incapacity pertains to the inability to understand the obligations of marriage, as opposed to a mere inability to comply with them x x x.

Jurisprudence consistently adhered to the guidelines in appreciating psychological incapacity cases set in *Republic v. Court of Appeals and Molina (Molina)*. In sum, a person's psychological incapacity to comply with his or her essential obligations, as the case may be, in marriage must be rooted on a medically or clinically identifiable grave illness that is incurable and shown to have existed at the time of marriage, although the manifestations thereof may only be evident after marriage.

In addition, the Court is mindful that the *Molina* guidelines should no longer be viewed as a stringent code which all nullity cases on the ground of psychological incapacity should meet with exactitude, in consonance with the Family Code's ideal to appreciate allegations of psychological incapacity on a case-to-case basis and "to allow some resiliency in its application" as legally designed.

In the case at hand, the Court is so bound, owing to the great weight accorded to the opinion of the primary trier of facts, and the refusal of the CA to dispute the veracity of these facts. A sharper pronouncement on the respect accorded to the trial court's factual findings in the realm of psychological incapacity was made in *Kalaw v. Fernandez (Kalaw)*:

> The findings of the RTC on the existence or non-existence of a party's psychological incapacity should be final and binding for as long as such findings and evaluation of the testimonies of witnesses and other evidence are not shown to be clearly and manifestly erroneous. In every situation where the findings of the trial court are sufficiently supported by the facts and evidence presented during trial, the appellate court should restrain itself from substituting its own judgment. It is not enough reason to ignore the findings and evaluation by the trial court and substitute our own as an appellate tribunal only because the Constitution and the Family Code regard marriage as an inviolable social institution. x x x

The CA decision itself recognized, and Our own review of Dr. Tudla's psychological report confirms, contrary to petitioner's allegation, that Dr. Tudla personally interviewed both spouses regarding their personal and familial circumstances before and after the celebration of their marriage. Information gathered from the spouses was then verified by Dr. Tudla with Ma. Luisa Conag, Liez's youngest sister, a close relation privy to Liezl's personal history before and after she got married. Dr. Tudla then based her psychological evaluation and conclusions on all the information she gathered. Her findings were, thus, properly anchored on a holistic psychological evaluation of the parties as individuals and as a married couple under a factual milieu verified with an independent informant. The courts *a quo* properly accorded credence to the report and utilized it as an aid in determining whether Liezl is indeed psychologically incapacitated to meet essential marital functions. **Clearly, petitioner has no basis to assail Dr. Tudla's psychological findings as wanting evidentiary support.**

Guided by the foregoing jurisprudential premise, the Court holds that both the CA and the RTC did not err in finding that the totality of evidence presented by respondent in support of his petition, sufficiently established the link between Liezl's actions showing her psychological incapacity to understand and perform her marital obligations, and her histrionic personality disorder. In addition, Dr. Tudla was able to collect and verify largely the same facts in the course of her psychological evaluation of both spouses and her interview of Liezl's sister. Dr. Tudla's report gave a description of histrionic personality disorder and correlated the characteristics of this disorder with Liezl's behavior from her formative years through the course of her marriage to the respondent. Indubitably, Dr. Tudla's report and testimony enjoy such probative force emanating from the assistance her opinion gave to the courts to show the facts upon which her psychological conclusion was based.

C. Legal separation

D. Rights and obligations between husband and wife

E. Property relations between husband and wife

1. General provisions

2. Donations by reason of marriage

3. Absolute Community of Property

4. Conjugal Partnership of Gains

HEIRS OF ROGER JARQUE, *Petitioners*, -versus- MARCIAL JARQUE, LELIA JARQUE-LAGSIT, AND TERESITA JARQUE-BAILON, *Respondents*.
G.R. No. 196733, FIRST DIVISION, November 21, 2018, JARDELEZA, J.

Under the Old Civil Code, the default property regime of the husband and wife is the conjugal partnership of gains. This includes: (1) property acquired for a valuable consideration during the marriage at the expense of the common fund, whether the acquisition is made for the partnership or for one of the spouses only; (2) property obtained by the industry, wages or work of the spouses or of either of them; and (3) the fruits, income, or interest collected or accrued during the marriage, derived from the partnership property, or from that which belongs separately to either of the spouses. Unless proved otherwise, properties acquired during the marriage are considered partnership property.

The record shows that the parties admitted the property's conjugal nature for being "originally owned by the late spouses Jarque and Hagos." No evidence was submitted to show that it was either the exclusive property of Laureano or the paraphernal property of Servanda. Hence, it belongs to the conjugal partnership, to be divided equally between them or their estate upon the dissolution of marriage. However, it was not shown that a partition was effected between Servanda or the heirs of the estate of Laureano. With this missing piece of information, it was error for the CA to conclude that Servanda had the authority to execute the Deed of Sale with Right of Repurchase over the property.

FACTS:

This case pertains to the ownership of an unregistered parcel of land situated at Boton, Casiguran, Sorsogon, denominated as Lot No. 2560 and declared under the name of Laureano Jarque. Laureano was married to Servanda Hagos with whom he had four children, namely: Roger, Lupo, Sergio, and Natalia. Petitioners are the heirs of Roger, the original plaintiff in this case. On the other hand, respondents are the living children of Lupo.

Petitioners claim that since their grandfather Laureano's death in 1946, their father, Roger, inherited Lot No. 2560 and exercised all attributes of ownership and possession over it. Upon Servanda's death in 1975, their children orally partitioned among themselves the properties of their parents' estate such that Lot No. 2560 and another parcel of land in Busay, Sorsogon were ceded to Roger.

Roger mortgaged Lot No. 2560 to Dominador Grajo which he redeemed through his nephew Quirino Jarque before the period of redemption expired. He subsequently mortgaged the property again to Benito Coranes. However, when Roger was about to redeem the property, Benito told him

that it had already been redeemed by Lupo. When Roger went to Lupo to take back the property, Lupo pleaded with Roger to let the property remain with him. Roger acceded to Lupo's request. When Lupo died in 1980, Roger informed Lupo's wife, Asuncion, of his desire to take back the property. Asuncion however, requested that she be allowed to continue possessing the property since she needed a source of livelihood for her family's survival. Once again, Roger acquiesced.

Upon Asuncion's death in 1981, her eldest child, Dominga, likewise pleaded with Roger to allow her to continue possession of the property. Again, Roger yielded to the request. When Dominga died in 1992, single and without issue, her siblings, respondents here, continued to possess the property under the same terms and conditions as their predecessors-in--interest. Thus, from 1992 until the filing of the complaint, Roger and his children repeatedly asked to take back the property, which respondents rejected under the same assurance that they will take care of the property.

Roger's sons, Eduardo and Laureano, went to Casiguran to finally take back the property for good. However, they were surprised to discover that respondents were already claiming ownership over Lot No. 2560. Upon inquiry with the Municipal Assessor's Office, they found that Dominga, during her lifetime, executed and registered a Ratification of Ownership of Real Property, where she claimed to have acquired the property thru redemption from Benito. This prompted Roger to file a complaint for annulment of deeds and other documents, recovery of ownership and possession, accounting, and damages against respondents with the MCTC of Casiguran, Sorsogon.

MCTC rendered a Decision in favor of petitioners. The RTC affirmed in toto the MCTC's Decision. CA reversed the RTC and the MCTC.

In this petition, petitioners argue that the CA erred in holding that Servanda was entitled to 112 of the estate of Laureano as her share in the conjugal property and to the usufruct of a portion equal to that corresponding by way of legitime to each of the legitimate children. Under the Old Civil Code, Servanda could not inherit from Laureano since all of the latter's children were qualified to inherit from him. Thus, Servanda had no authority to alienate the property from 1946 onwards. Consequently, Servanda could not have authorized Dominga to "repurchase" the property in question because the sale with the right to purchase was itself void. Assuming Servanda had the authority to dispose of or alienate Lot No. 2560, the CA erred in not finding that the contract between Servanda and Benito was an equitable mortgage.28

Petitioners further assert that there was no tangible evidence supporting the CA's conclusion that Servanda transferred her right to repurchase the property in favor of Dominga. The document presented to prove this (Ratification of Ownership of Real Property) was not in the official language of the courts and was executed only on May 24, 1991, or 16 years after Servanda's death. Compared to the CA, the MCTC and RTC, as trial courts, are in a better position to assess, apprise, interpret, evaluate, and rule on the relevancy, pertinence, and credibility of the evidence. Petitioners aver that redemption is not a mode of conveyance that would vest in Dominga, as redemptioner, full ownership of the property. Further, the oral partition entered into by the children of Laureano was valid.

ISSUE:

Whether or not the respondents has a better right to the property. (NO)

RULING:

Laureano died in 1946, prior to the effectivity of R.A. No. 386 or the New Civil Code on August 30, 1950. At the time of his death, the governing law as to the property relations between husband and wife and the successional rights among the decedent's heirs is the Old Civil Code.

Under the Old Civil Code, the default property regime of the husband and wife is the conjugal partnership of gains. This includes: (1) property acquired for a valuable consideration during the marriage at the expense of the common fund, whether the acquisition is made for the partnership or for one of the spouses only; (2) property obtained by the industry, wages or work of the spouses or of either of them; and (3) the fruits, income, or interest collected or accrued during the marriage, derived from the partnership property, or from that which belongs separately to either of the spouses. Unless proved otherwise, properties acquired during the marriage are considered partnership property.

Upon the death of either spouse, the conjugal partnership is dissolved. The surviving spouse is entitled to his or her 112 share in the partnership, while the remaining half belongs to the estate of the deceased which will be inherited by his forced heirs.

Laureano and Servanda, having lived together as husband and wife, are presumed to have been lawfully married. When Laureano died and the partnership was dissolved, Servanda acquired her 112 share in the conjugal partnership, while the other half devolved to the estate of Laureano. In turn, their four children (including Roger) succeeded to the 2/3 of the estate of Laureano as his forced heirs. On the other hand, Servanda's successional rights over the estate of Laureano was limited to the usufruct of the legitimate children's share.

The record shows that the parties admitted the property's conjugal nature for being "originally owned by the late spouses Jarque and Hagos." No evidence was submitted to show that it was either the exclusive property of Laureano or the paraphernal property of Servanda. Hence, it belongs to the conjugal partnership, to be divided equally between them or their estate upon the dissolution of marriage. However, it was not shown that a partition was effected between Servanda or the heirs of the estate of Laureano. With this missing piece of information, it was error for the CA to conclude that Servanda had the authority to execute the Deed of Sale with Right of Repurchase over the property.

The absence of a partition between the estates of Servanda and Laureano resulted in a co-ownership between Servanda and her children over the properties. This co-ownership remained and continued even when R.A. No. 386, or the New Civil Code, took effect on August 30, 1950. Thus, the New Civil Code provisions on co-ownership now governs their rights.

We, nevertheless, find that a partition occurred when Roger occupied Lot No. 2560 in the concept of owner after Laureano's death.

In general, a partition is the separation, division, and assignment of a thing held in common among those to whom it may belong. Every act intended to put an end to indivision among co-heirs is deemed to be a partition.

In this case, Roger's exercise of ownership over Lot No. 2560 after Laureano's death in 1946 is established by evidence. In 1960, he was able to mortgage the property to, and subsequently redeem it from, Dominador Grajo. This is also supported by Quirino Jarque, Sergio's son and Roger's nephew, who testified that: (I) Lot No. 2560 and another one in Busay, Casiguran, Sorosogon were Roger's shares or inheritance from his parents' estate; (2) respondents' father, Lupo's share is the cocoland in Sta. Cruz, Casiguran, Sorsogon which was sold by Lupo's son, Marcial; and (3) his father Sergio inherited a rice field in Cagdagat, Casiguran, Sorsogon of which Quirino is the tiller and cultivator.

As soon as Lot No. 2560 was identified, occupied, and possessed by Roger to the exclusion of all the other heirs, the co-ownership as to said property was terminated. These are acts which happened prior to the alleged sale of the property to Benito in 1972. Thus, at the time of the sale, Servanda had no right to sell Lot No. 2560 either as sole owner or co-owner.

This conclusion holds true even if Servanda, as Laureano's surviving spouse, had usufructuary rights over the property. Usufruct, in essence, is nothing else but the right to enjoy another's property. While this right to enjoy the property of another temporarily includes both the jus utendi and the jus fruendi, the owner retains the jus disponendi or the power to alienate the same. Having only the usufruct over the property, Servanda may only sell her right of usufruct over, and not the title to, Lot No. 2560. Necessarily, her successors may acquire only such rights.

Assuming there was no partition, the co-ownership between Servanda and the heirs to the estate of Laureano over the net remainder of the conjugal partnership subsisted at the time Servanda allegedly executed the Deed of Sale with Right of Repurchase in 1972.

Article 493 of the New Civil Code, which is a re-enactment of Article 399 of the Old Civil Code, provides for the extent of a co-owner's right over his share in the co-ownership:

> Art. 493. Each co-owner shall have the full ownership of his pa:t1and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.

In interpreting Article 493 of the New Civil Code, we said in Carvajal v. Court of Appeals that:

> While under Article 493 of the New Civil Code, each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto and he may alienate, assign or mortgage it, and even substitute another person in its enjoyment, the effect of the alienation or the mortgage with respect to the co-owners, shall be limited, by mandate of the same article, to the portion which may be allotted to him in the division upon the termination of the co-ownership. He has no right to sell or alienate a concrete, specific, or determinate part of the thine; in common to the exclusion of the other co-owners because his right over the thing is represented by an abstract or ideal portion without any physical adjudication. An individual co-owner cannot adjudicate to himself or claim title to any definite pot1ion of the land or thing owned in common until its actual partition by agreement or judicial decree. Prior to that time all that the co-owner has is an ideal or abstract quota or proportionate share in the entire thing owned in common by all the co-owners. What a co- owner may

> dispose of is only his undivided aliquot share, which shall be limited to the portion that may be allotted to him upon partition. Before partition, a co-heir can only sell his successional rights. (Italics in the original; emphasis supplied; citations omitted.)

Accordingly, while Servanda may sell her undivided aliquot share as a co-owner, she may not alienate the whole of Lot No. 2560 to the exclusion of the other co-owners. More importantly, Servanda cannot claim specific title to the property. Thus, what may only be considered sold to Benito, and which was eventually redeemed by Dominga, is Servanda's right over her undivided aliquot share in the property-not the right over her lot.55 Thus, Dominga may only claim such rights that Servanda had possessed at the time of the sale.

The next point we shall address is Dominga's rights when she redeemed Lot No. 2560 from Benito. To recall, Servanda sold the property with right to repurchase the same within a period of two years on December 21, 1972. Respondents claim that Servanda transferred her right to repurchase Lot No. 2560 to Dominga, and requested that Dominga repurchase the property within the period.56 Heeding the request, Dominga repurchased Lot No. 2560 and took possession of it. For their part, petitioners assert that redemption is not a mode of conveyance that would vest in Dominga, as redemptioner, title to the property.

We hold that Dominga did not acquire ownership over Lot No. 2560 because it was not proven that Servanda's right to repurchase the same was transferred to her.

In a sale with right to repurchase (pacto de retro), the title and ownership of the property sold are immediately vested in the vendee, subject to the resolutory condition of repurchase by the vendor within the stipulated period. The right of repurchase agreed upon is one of conventional redemption governed by Article 1601, in relation to Article 1616, of the New Civil Code. This right is separate and distinct from the legal redemption granted to co-owners under Article 1620 of the New Civil Code. More importantly, the right to repurchase is separate from the title or ownership over the property subject of the sale with pacto de retro.

As a rule, the right to repurchase under Article 1601 may only be exercised by the vendor, or his successors. If so exercised, the ownership of the property reverts back to the vendor or his successor. On the other hand, if a third person redeems the property on behalf of the vendor, he or she does not become owner of the property redeemed, but only acquires a lien over the property for the amount advanced for its repurchase.64 As such, the third person's right merely consists of the right to be reimbursed for the price paid to the vendee.

In this case, the right to repurchase belonged to Servanda which she may, undoubtedly, transfer to anyone, including Dominga. However, we find that the claim that Servanda transferred her right of repurchase to Dominga so as to make the latter acquire title to or ownership over the aliquot share of Servanda in her own right is not supported by evidence.

What was only established by respondents' evidence is the fact of Dominga's repurchase, i.e., that Dominga paid P950.00 for the repurchase of the property on behalf of her grandmother, Servanda. Similarly, there was no evidence that Servanda transferred or assigned ownership over her aliquot share in the co-ownership to Dominga. Thus, at most, Dominga may only be considered as agent of Servanda in redeeming Lot No. 2560. However, Dominga, as an agent, merely re-acquired the rights Servanda previously possessed, i.e., her aliquot share in the co-ownership or her usufruct. On the

other hand, if Dominga acted in her own name in redeeming the property, she may only be considered as a third person paying the purchase price on behalf of Servanda. In both cases, Dominga's exercise of Servanda's right of redemption does not vest in her title to, or ownership over, Lot No. 2560. The title devolved back to the co-ownership, subject only to the lien over the property in the amount advanced by Dominga.

Respondents, nevertheless, argue that they acquired ownership over Lot No. 2560 through extraordinary prescription of 30 years, to be counted from 1974, or the date of Dominga's possession of the property.

Acquisitive prescription, as a mode of acquiring ownership, may be ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for 10 years. Meanwhile, if possession is without good faith and just title, acquisitive prescription can only be extraordinary in character which requires uninterrupted adverse possession for 30 years. In both cases, we emphasized in Marcelo v. Court of Appeals that this possession must be in the concept of owner:

> Acquisitive prescription is a mode of acquiring ownership by a possessor through the requisite lapse of time. In order to ripen into ownership, possession must be in the concept of an owner, public, peaceful and uninterrupted. Thus, mere possession with a juridical title, such as, to exemplify, by a usufructuary, a trustee, a lessee, an agent or a pledgee, not being in the concept of an owner, cannot ripen into ownership by acquisitive prescription, unless the juridical relation is first expressly repudiated and such repudiation has been communicated to the other party. Acts of possessory character executed due to license or by mere tolerance of the owner would likewise be inadequate. Possession, to constitute the foundation of a prescriptive right, must be en concepto de dueno, or, to use the common law equivalent of the term, that possession should be adverse, if not, such possessory acts, no matter how long, do not start the running of the period of prescription.69 (Emphasis supplied; citations omitted.)

Here, we find that respondents' possession over the property is without any just title and good faith; rather, it was only by mere tolerance for the first 10 years of possession. Notably, when respondents acquired the right of Dominga over the property, they did not acquire any title to the property but only Dominga's right to the lien equivalent to the amount advanced by her. Moreover, from the time Dominga possessed the property until respondents succeeded to her rights, their possession was only by mere tolerance of Roger. As such, they could not have acquired the property through ordinary prescription of 10 years. Likewise, respondents did not acquire the property by extraordinary prescription. Respondents' possession only became adverse when Dominga executed the Deed of Ratification of Ownership of Real Property in 1991. Roger, nevertheless, repeatedly offered to redeem the property from respondents and asserted his ownership over the property since 1992 up to the filing of the complaint. Thus, respondents' possession did not meet the requirement of "uninterrupted adverse possession for 30 years." Consequently, respondents' claim that they acquired the property by prescription fails.

SPOUSES JULIETA B. CARLOS AND FERNANDO P. CARLOS, *Petitioners*, -versus- JUAN CRUZ TOLENTINO, *Respondent*.
G.R. No. 234533, THIRD DIVISION, June 27, 2018, VELASCO JR., J.

Since the subject property was acquired on March 17, 1967 during the marriage of Juan and Mercedes, it formed part of their conjugal partnership. It follows then that Juan and Mercedes are the absolute owners of their undivided one-half interest, respectively, over the subject property.

With regard to Juan's consent to the afore-stated donation, the RTC, however, found that such was lacking since his signature therein was forged. Notably, the CA did not overturn such finding, and in fact, no longer touched upon the issue of forgery. On the other hand, it must be pointed out that the signature of Mercedes in the Deed of Donation was never contested and is, therefore, deemed admitted. Given the foregoing, the Court is disinclined to rule that the Deed of Donation is wholly void ab initio and that the Spouses Carlos should be totally stripped of their right over the subject property. In consonance with justice and equity, We deem it proper to uphold the validity of the Deed of Donation dated February 15, 2011 but only to the extent of Mercedes' one- half share in the subject property.

FACTS:

The subject matter of the action is a parcel of land with an area of 1,000 square meters and all the improvements thereon located in Novaliches, Quezon City, covered by Transfer Certificate of Title (TCT) No. RT-90746 (116229) and registered in the name of Juan C. Tolentino, married to Mercedes Tolentino.

Without Juan's knowledge and consent, Mercedes and Kristoff, who were then residing in the subject property, allegedly forged a Deed of Donation, thereby making it appear that Juan and Mercedes donated the subject property to Kristoff. Thus, by virtue of the alleged forged Deed of Donation, Kristoff caused the cancellation of TCT No. RT-90764 (116229), and in lieu thereof, TCT No. 004-20110033208 was issued in his name.

Kristoff offered the sale of the subject property to Julieta's brother, Felix Bacal. When Felix informed Julieta of the availability of the subject property, Spouses Carlos then asked him to negotiate for its purchase with Kristoff. Thereafter, Kristoff surrendered to Felix copies of the title and tax declaration covering the said property. Kristoff and Julieta executed a Memorandum of Agreement stating that Kristoff is selling the subject property to Julieta in the amount of P2,300,000.00, payable in two (2) installments. Julieta made the first payment in the amount of P2,000,000.00 while the second payment in the amount of Pesos P300,000.00 was made on June 30, 2011.13 On the same day, a Deed of Absolute Sale was executed between Kristoff and Julieta.

Upon learning of the foregoing events, Juan executed an Affidavit of Adverse Claim which was annotated on TCT No. 004-2011003320 on July 15, 2011. Juan also filed a criminal complaint for Falsification of Public Document before the Office of the City Prosecutor of Quezon City against Kristoff. Accordingly, an Information was filed against him.

Meanwhile, Kristoff and Julieta executed another Deed of Absolute Sale dated September 12, 2011 over the subject property and, by virtue thereof, the Register of Deeds of Quezon City cancelled TCT No. 004- 2011003320 and issued TCT No. 004-201101350219 on December 5, 2011 in favor of

Spouses Carlos. The affidavit of adverse claim executed by Juan was duly carried over to the title of Spouses Carlos.

Juan filed a complaint for annulment of title with damages against Mercedes, Kristoff, Spouses Carlos, and the Register of Deeds of Quezon City before the RTC of Quezon City.

RTC found that Juan's signature in the Deed of Donation dated February 15, 2011 was a forgery. Despite such finding, however, it dismissed Juan's complaint. CA ruled that Juan has a better right over the subject property.

ISSUE:

Whether Spouses Carlos has the better to right to claim ownership over the subject property. (YES)

RULING:

Juan and Mercedes appear to have been married before the effectivity of the Family Code on August 3, 1988. There being no indication that they have adopted a different property regime, the presumption is that their property relations is governed by the regime of conjugal partnership of gains. Article 119 of the Civil Code thus provides:

> Article 119. The future spouses may in the marriage settlements agree upon absolute or relative community of property, or upon complete separation of property, or upon any other regime. In the absence of marriage settlements, or when the same are void, the system of relative community or conjugal partnership of gains as established in this Code, shall govern the property relations between husband and wife.

Likewise, the Family Code contains terms governing conjugal partnership of gains that supersede the terms of the conjugal partnership of gains under the Civil Code. Article 105 of the Family Code states:

> Article 105. In case the future spouses agree in the marriage settlements that the regime of conjugal partnership of gains shall govern their property relations during marriage, the provisions in this Chapter shall be of supplementary application.
>
> The provisions of this Chapter shall also apply to conjugal partnerships of gains already established between spouses before the effectivity of this Code, without prejudice to vested rights already acquired in accordance with the Civil Code or other laws, as provided in Article 256.

Since the subject property was acquired on March 17, 1967 during the marriage of Juan and Mercedes, it formed part of their conjugal partnership. It follows then that Juan and Mercedes are the absolute owners of their undivided one-half interest, respectively, over the subject property.

Meanwhile, as in any other property relations between husband and wife, the conjugal partnership is terminated upon the death of either of the spouses. In respondent Juan's Comment filed before the Court, the Verification which he executed on February 9, 2018 states that he is already a

widower. Hence, the Court takes due notice of the fact of Mercedes' death which inevitably results in the dissolution of the conjugal partnership.

In retrospect, as absolute owners of the subject property then covered by TCT No. RT-90746 (116229), Juan and Mercedes may validly exercise rights of ownership by executing deeds which transfer title thereto such as, in this case, the Deed of Donation dated February 15, 2011 in favor of their grandson, Kristoff.

With regard to Juan's consent to the afore-stated donation, the RTC, however, found that such was lacking since his signature therein was forged. Notably, the CA did not overturn such finding, and in fact, no longer touched upon the issue of forgery. On the other hand, it must be pointed out that the signature of Mercedes in the Deed of Donation was never contested and is, therefore, deemed admitted.

Furthermore, Mercedes' knowledge of and acquiescence to the subsequent sale of the subject property to Spouses Carlos is evidenced by her signature appearing in the MOA dated April 12, 2011 and the Deed of Absolute Sale dated September 12, 2011. We are also mindful of the fact that Spouses Carlos had already paid a valuable consideration in the amount of P2,300,000.00 for the subject property before Juan's adverse claim was annotated on Kristoffs title. The said purchase and acquisition for valuable consideration deserves a certain degree of legal protection.

Given the foregoing, the Court is disinclined to rule that the Deed of Donation is wholly void ab initio and that the Spouses Carlos should be totally stripped of their right over the subject property. In consonance with justice and equity, We deem it proper to uphold the validity of the Deed of Donation dated February 15, 2011 but only to the extent of Mercedes' one- half share in the subject property.

Accordingly, the right of Kristoff, as donee, is limited only to the one- half undivided portion that Mercedes owned. The Deed of Donation insofar as it covered the remaining one-half undivided portion of the subject property is null and void, Juan not having consented to the donation of his undivided half.

Upon the foregoing perspective, Spouses Carlos' right, as vendees in the subsequent sale of the subject property, is confined only to the one-half undivided portion thereof. The other undivided half still belongs to Juan. As owners pro indiviso of a portion of the lot in question, either Spouses Carlos or Juan may ask for the partition of the lot and their property rights shall be limited to the portion which may be allotted to them in the division upon the termination of the co-ownership.35 This disposition is in line with the well-established principle that the binding force of a contract must be recognized as far as it is legally possible to do so—quando res non valet ut ago, valeat quantum valere potest.

Lastly, as a matter of fairness and in line with the principle that no person should unjustly enrich himself at the expense of another, Kristoff should be liable to reimburse Spouses Carlos of the amount corresponding to one-half of the purchase price of the subject property.

5. Separation of property and administration of common property by one spouse during the marriage

6. Regime of separation of property

7. Property regime of unions without marriage

F. Family home

G. Paternity and filiation

1. Legitimate children

2. Proof of filiation

3. Illegitimate children

4. Legitimated children

H. Adoption

1. Domestic adoption (RA 8552)

a. Who may adopt

b. Who may be adopted

c. Rights of an adopted child

d. Instances and effects of rescission

2. Inter-country adoption (RA 8043, as amended)

a. When allowed

b. Who may adopt

c. Who may be adopted

I. Support

J. Parental authority

RENALYN A. MASBATE AND SPOUSES RENATO MASBATE AND MARLYN MASBATE, PETITIONERS, VS. RICKY JAMES RELUCIO, RESPONDENT.

[G.R. No. 235498, SECOND DIVISION, July 30, 2018, PERLAS-BERNABE, J.]

As a general rule, the father and the mother shall jointly exercise parental authority over the persons of their common children. However, insofar as illegitimate children are concerned, Article 176 of the Family Code states that illegitimate children shall be under the parental authority of their mother. Accordingly, mothers (such as Renalyn) are entitled to the sole parental authority of their illegitimate children (such as Queenie), notwithstanding the father's recognition of the child. In the exercise of that authority, mothers are consequently entitled to keep their illegitimate children in their company, and the Court will not deprive them of custody, absent any imperative cause showing the mother's unfitness to exercise such authority and care.

FACTS:

Queenie was born on May 3, 2012 to Renalyn and Ricky James, who had been living together with Renalyn's parents without the benefit of marriage. Three years later, the relationship ended. Renalyn went to Manila, supposedly leaving Queenie behind in the care and custody of her father, Ricky James.

Ricky James alleged that Spouses Renata and Marlyn Masbate (Renalyn's parents) took Queenie from the school where he had enrolled her. When asked to give Queenie back, Renalyn's parents refused and instead showed a copy of a Special Power of Attorney (SPA) executed by Renalyn granting full parental rights, authority, and custody over Queenie to them. Consequently, Ricky James filed a petition for habeas corpus and child custody before the RTC (petition a quo).

A hearing was conducted where Renalyn brought Queenie and expressed the desire for her daughter to remain in her custody.

RTC: The RTC ruled that the custody of three (3)-year-old Queenie rightfully belongs to Renalyn, citing the second paragraph of Article 213 of the Family Code, which states that "[n]o child under seven [(7)] years of age shall be separated from the mother x x x." The RTC likewise found that, while Renalyn went to Manila to study dentistry and left Queenie in the custody of her parents, her intention was to bring Queenie to Manila at a later time.

CA: The CA set aside the assailed RTC Orders and remanded the case to the lower court for determination of who should exercise custody over Queenie. The CA found that the RTC hastily dismissed the petition a quo upon Queenie's production in court, when the objective of the case was to establish the allegation that Renalyn had been neglecting Queenie, which was a question of fact that must be resolved by trial. Citing Section 18 of A.M. No. 03-04-04-SC, which states that, "after trial, the court shall render judgment awarding the custody of the minor to the proper party considering the best interests of the minor," the CA declared that the dismissal by the RTC of the petition a quo was not supported by the Rules.

Nonetheless, the CA affirmed the RTC Orders granting custody to Renalyn "pending the outcome of the case," stating that only Queenie's mother, Renalyn, has parental authority over her as she is an illegitimate child. Further, the CA declared that the RTC must thresh out Renalyn's capacity to raise her daughter, which shall, in turn, determine whether or not the tender-age presumption must be upheld, or whether Queenie's well-being is better served with her remaining in the custody of her maternal grandparents in the exercise of their substitute parental authority or with Ricky James, who was Queenie's actual custodian before the controversy.

Hence, this petition.

ISSUE:

Whether or not the CA correctly remanded the case a quo for determination of who should exercise custody over Queenie.

RULING:

Yes. The CA correctly remanded the case a quo for determination of who should exercise custody over Queenie.

It is settled that habeas corpus may be resorted to in cases where "the rightful custody of any person is withheld from the person entitled thereto." In custody cases involving minors, the writ of habeas corpus is prosecuted for the purpose of determining the right of custody over a child. The grant of the writ depends on the concurrence of the following requisites: (1) that the petitioner has the right of custody over the minor; (2) that the rightful custody of the minor is being withheld from the petitioner by the respondents; and (3) that it is to the best interest of the minor concerned to be in the custody of petitioner and not that of the respondents.

As a general rule, the father and the mother shall jointly exercise parental authority over the persons of their common children. However, insofar as illegitimate children are concerned, Article 176 of the Family Code states that illegitimate children shall be under the parental authority of their mother. Accordingly, mothers (such as Renalyn) are entitled to the sole parental authority of their illegitimate children (such as Queenie), notwithstanding the father's recognition of the child. In the exercise of that authority, mothers are consequently entitled to keep their illegitimate children in their company, and the Court will not deprive them of custody, absent any imperative cause showing the mother's unfitness to exercise such authority and care.

In addition, Article 213 of the same Code provides for the so-called tender-age presumption, stating that "no child under seven [(7)] years of age shall be separated from the mother unless the court finds compelling reasons to order otherwise."

According to jurisprudence, the following instances may constitute "compelling reasons" to wrest away custody from a mother over her child although under seven (7) years of age: neglect, abandonment, unemployment, immorality, habitual drunkenness, drug addiction, maltreatment of the child, insanity or affliction with a communicable disease.

As the records show, the CA resolved to remand the case to the RTC, ratiocinating that there is a need to establish whether or not Renalyn has been neglecting Queenie, for which reason, a trial is indispensable for reception of evidence relative to the preservation or overturning of the tender-age presumption under Article 213 of the Family Code.

In opposition, petitioners contend that the second paragraph of Article 213 of the Family Code would not even apply in this case (so as to determine Renalyn's unfitness as a mother) because the said provision only applies to a situation where the parents are married to each other. As basis, petitioners rely on the Court's ruling in Pablo-Gualberto v. Gualberto V (Pablo-Gualberto), the pertinent portion of which reads:

"In like manner, the word "shall" in Article 213 of the Family Code and Section 6 of Rule 99 of the Rules of Court has been held to connote a mandatory character. Article 213 and Rule 99 similarly contemplate a situation in which the parents of the minor are married to each other, but are separated by virtue of either a decree of legal separation or a de facto separation. x x x"

Notably, after a careful reading of Pablo-Gualberto, it has been determined that the aforequoted pronouncement therein is based on a previous child custody case, namely, Briones v. Miguel (Briones), wherein the Court pertinently held as follows:

"However, the CA erroneously applied Section 6 of Rule 99 of the Rules of Court. This provision contemplates a situation in which the parents of the minor are married to each other but are

separated either by virtue of a decree of legal separation or because they are living separately de facto. In the present case, it has been established that petitioner and Respondent Loreta were never married. Hence, that portion of the CA Decision allowing the child to choose which parent to live with is deleted, but without disregarding the obligation of petitioner to support the child."

For guidance, the relevant issue in Briones for which the stated excerpt was made is actually the application of Section 6, Rule 99 of the Rules of Court insofar as it permits the child over ten years of age to choose which parent he prefers to live with. As the Court's ruling in Briones was prefaced: "the Petition has no merit. However, the assailed Decision should be modified in regard to its erroneous application of Section 6 of Rule 99 of the Rules of Court." Accordingly, since the statement in Pablo-Gualberto invoked by petitioners, i.e., that "Article 213 and Rule 99 similarly contemplate a situation in which the parents of the minor are married to each other x x x," was based on Briones, then that same statement must be understood according to its proper context – that is, the issue pertaining to the right of a child to choose which parent he prefers to live with. The reason as to why this statement should be understood in said manner is actually not difficult to discern: the choice of a child over seven (7) years of age (first paragraph of Article 213 of the Family Code) and over ten (10) years of age (Rule 99 of the Rules of Court) shall be considered in custody disputes only between married parents because they are, pursuant to Article 211 of the Family Code, accorded joint parental authority over the persons of their common children. On the other hand, this choice is not available to an illegitimate child, much more one of tender age such as Queenie (second paragraph of Article 213 of the Family Code), because sole parental authority is given only to the mother, unless she is shown to be unfit or unsuitable (Article 176 of the Family Code). Thus, since the issue in this case is the application of the exception to the tender-age presumption under the second paragraph of Article 213 of the Family Code, and not the option given to the child under the first paragraph to choose which parent to live with, petitioners' reliance on Pablo-Gualberto is grossly misplaced.

In addition, it ought to be pointed out that the second paragraph of Article 213 of the Family Code, which was the basis of the CA's directive to remand the case, does not even distinguish between legitimate and illegitimate children – and hence, does not factor in whether or not the parents are married – in declaring that "[n]o child under seven [(7)] years of age shall be separated from the mother unless the court finds compelling reasons to order otherwise." "Ubi lex non distinguit nec nos distinguere debemos. When the law makes no distinction, we (this Court) also ought not to recognize any distinction." As such, petitioners' theory that Article 213 of the Family Code is herein inapplicable – and thus, negates the need for the ordered remand – is not only premised on an erroneous reading of jurisprudence, but is also one that is fundamentally off-tangent with the law itself.

K. Emancipation

L. Retroactivity of the Family Code

III. PROPERTY

A. Classification of property

ESMERALDO GATCHALIAN, duly represented by SAMUEL GATCHALIAN, *Petitioner*, -versus-CESAR FLORES, JOSE LUIS ARANETA, CORAZON QUING, and CYNTHIA FLORES, ***Respondents***.
G.R. No. 225176, FIRST DIVISION, January 19, 2018, TIJAM, J.

In the recent case of Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) v. Sps. Llamas, this Court held that:

As there is no such thing as an automatic cessation to [the] government of subdivision road lots, an actual transfer must first be effected by the subdivision owner: "subdivision streets belonged to the owner until donated to the government or until expropriated upon payment of just compensation."

Since the local government of Parañaque has not purchased nor undertaken any expropriation proceedings, neither did the petitioner and his siblings donate the subject property, the latter is still a private property and Ordinance No. 88-04 did not convert the same to public property.

FACTS:

Petitioner is one of the co-owners of a parcel of land. In June 2, 2011, petitioner filed a Complaint for Ejectment with Damages against respondents Cesar Flores, Jose Paolo Araneta (sic), Corazon Quing and Cynthia Flores (respondents) with the Metropolitan Trial Court (MeTC).

The survey conducted on the property established that the lot of Segundo Mendoza encroached a portion of Road Lot 23 which the Gatchalian's had tolerated. But after several years, the lot of Segundo Mendoza was sold and 'subdivided among the new owners including herein respondents. When the latter demonstrated acts of gross ingratitude to the Gatchalian family, petitioner and his family were constrained to withdraw their tolerated possession, use and occupation of the portion of Road Lot 23. Verbal and written demands to vacate were then served upon them but remained unheeded. Their dispute reached the Lupong Tagapamayapa but all in vain. Hence, the filing of the ejectment case against the respondents. For their part, respondents denied that they usurped the property of petitioner. In fact, it was the Gatchalians who have encroached on Road Lot 23 when they put up a fence in their (respondents) property. They insisted that Road Lot 23 is a public road and is now known as *"Don Juan Street Cat-Mendoza".* In the subdivision plan of the GAT Mendoza Housing area, Road Lot 23 is constituted as a right of way. Respondents believed that petitioner has no cause of action against them and has no authority to file the instant case because it is the City Government of Parañaque which has the right to do so.

MeTC rendered a Decision[6] ordering respondents to vacate Road Lot 23. RTC reversed the ruling of the MeTC. CA reversed affirmed the RTC.

ISSUE:

Whether the private character of Road Lot 23 has been stripped by Municipal Ordinance No. 88-04, series of 1988 constituting the said road lot as a public right-of-way. (NO)

RULING:

It is undisputed that the road lot is registered under the name of petitioner's parents. Even the respondents did not dispute this fact. It is also undisputed that the municipal government has not undertaken any expropriation proceedings to acquire the subject property neither did the petitioner donate or sell the same to the municipal government.*1âwphi1* Therefore, absent any expropriation proceedings and without any evidence that the petitioner donated or sold the subject property to the municipal government, the same is still private property.

In the recent case of *Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) v. Sps. Llamas,* this Court held that:

As there is no such thing as an automatic cessation to [the] government of subdivision road lots, an actual transfer must first be effected by the subdivision owner: "subdivision streets belonged to the owner until donated to the government or until expropriated upon payment of just compensation."

Since the local government of Parañaque has not purchased nor undertaken any expropriation proceedings, neither did the petitioner and his siblings donate the subject property, the latter is still a private property and Ordinance No. 88-04 did not convert the same to public property.

B. Ownership

1. In general

PHILIPPINE INDEPENDENT CHURCH, *Petitioner*, *v.* **BISHOP MARTIN BASAÑES**, *Respondent*.
G.R. No. 220220, FIRST DIVISION, August 15, 2018, TIJAM, *J.*

Let it be emphasized that the provisional determination of ownership is not the primordial consideration in an ejectment case. If the courts can resolve the question of who has the better right of physical or material possession, the issue of ownership should not be touched upon, it being unessential in an action for unlawful detainer.

A careful perusal of the assailed CA decision shows that the appellate court precipitately concluded that petitioner and Bishop Basañes are now co-owners of the subject property, being donees of the same, albeit under different deeds of donation executed by different sets of Catalino's heirs. Although this pronouncement as to ownership is admittedly provisional, such is not entirely accurate and misses key factual matters which, if considered, could have easily resolved the issue of the better right of physical or material possession.

FACTS:
As early as the 1900's, Philippine Independent Church built a church and a convent on a portion of land located in Pulupandan, Negros Occidental. Petitioner claimed that in 1903, this land was donated by Catalino Magbanua and was formalized by his heirs under a Declaration of Heirship and Deed of Donation in 2001.

Sometime in the 1980's, a faction, separating from petitioner, was formed. The other heirs of Catalino built a church and a convent on the property and in 2005, executed a donation covering the property in favor of the newly-registered Philippine Independent Catholic Church. However, due to an alleged violation committed by Fr. Ramon Dollosa, petitioner sent him a demand letter dated October 1, 2003 to vacate the premises of the church and the convent. When the demand went unheeded, petitioner filed a **complaint for forcible entry** which was later on amended to one for **unlawful detainer**.

By way of **answer**, Fr. Dollosa countered that the complaint states no cause of action against him, and that in any case, petitioner is not the owner of the subject property since the heirs who executed the Declaration of Heirship and Deed of Donation in petitioner's favor were illegitimate children of Catalino.

The MCTC of Valladolid-San Enrique-Pulupandan, Negros Occidental, rendered a Decision in favor of petitioner. RTC affirmed MCTC's conclusion that petitioner's possessory right antedates that of Bishop Basañes and that the latter's stay thereon was merely by petitioner's tolerance. Aggrieved, Bishop Basañes went to the CA. Departing from the findings of the MCTC and the RTC, CA concluded that both sets of heirs have donated their *pro indiviso* shares in the subject property to the parties and thus, the latter are now co-owners thereof. Thus, the present petition.

ISSUE:
Who, between petitioner and respondent Bishop Basañes of the Philippine Independent Catholic Church, has the better right to the physical possession of the disputed property? (Petitioner Philippine Independent Church)

RULING:
The rule is settled that in an unlawful detainer case, the physical or material possession of the property involved, *independent* of any claim of ownership by any of the parties, is the sole issue for resolution. However, where the issue of ownership is raised, the courts may pass upon said issue in order to determine who has the right to possess the property. This adjudication is only an initial determination of ownership for the purpose of settling the issue of possession, the issue of ownership being inseparably linked thereto. Accordingly, the lower court's adjudication of ownership in the ejectment case is merely provisional and would not bar or prejudice an action between the same parties involving title to the property.

Let it be emphasized that the provisional determination of ownership is not the primordial consideration in an ejectment case. If the courts can resolve the question of who has the better right of physical or material possession, the issue of ownership should not be touched upon, it being unessential in an action for unlawful detainer.

A careful perusal of the assailed CA decision shows that the appellate court precipitately concluded that petitioner and Bishop Basañes are now co-owners of the subject property, being donees of the same, albeit under different deeds of donation executed by different sets of Catalino's heirs. Although this pronouncement as to ownership is admittedly provisional, such is not entirely accurate and misses key factual matters which, if considered, could have easily resolved the issue of the better right of physical or material possession.

Respondent's answer does not refute the fact of prior and continuous possession of the property by the petitioner through its *authorized* parish priests. Instead, respondent banks on the defense that the heirs of Catalino executed a donation covering the property in favor of the newly-registered Philippine Independent Catholic Church. It can, thus, be reasonably inferred that Bishop Basañes' and his predecessor's possession over the property was only by virtue of petitioner's prior authorization. However, such authority to possess the property ceased when Bishop Basañes' predecessor committed a breach of the conditions of being a co-parish priest in operating the Parish of Sta. Felomena of the Philippine Independent Church.

Given the foregoing, the issue of material possession is easily resolved in favor of petitioner even without delving into the issue of ownership raised as a defense. Hence, there is no need for the Court to delve into the issue of ownership which is better threshed out in an appropriate proceeding where such issue becomes properly justiciable.

At any rate, the deed of donation allegedly covering the subject property which the heirs of Catalino executed in favor of the Philippine Independent Catholic Church to which Bishop Basañes claims to belong could not tilt the issue of material possession in the latter's favor. Without necessarily making a pronouncement as to the validity and binding effect of the deed of donation executed in favor of the Philippine Independent Catholic Church, it appears that such deed was executed only as a belated cure which should not have been the determining factor to decide the issue of material possession.

CECILIA T. JAVELOSA, REPRESENTED BY HER ATTORNEY-IN-FACT, MA. DIANA J. JIMENEZ, *PETITIONER,*-versus- EZEQUIEL TAPUS, MARIO MADRIAGA, DANNY M. TAPUZ, JUANITA TAPUS AND AURORA MADRIAGA, *RESPONDENTS.*
G.R. No. 204361, SECOND DIVISION, July 04, 2018 ,REYES, JR., *J.*

Under the law and the Rules of Court, an owner is given an assortment of legal remedies to recover possession of real property from the illegal occupant. The choice of which action to pursue rests on the owner. Should he/she elect to file a summary action for unlawful detainer, he/she must prove all the essential jurisdictional facts for such action to prosper. The most important of which, is the fact that the respondent's entry into the land was lawful and based on the former's permission or tolerance. Absent this essential jurisdictional fact, the action for unlawful detainer must be dismissed.

Considering that the petitioner failed to prove the act of tolerance, the action for unlawful detainer must fail. Tolerance cannot be presumed from the owner's failure to eject the occupants from the land. Rather, "tolerance always carries with it 'permission' and not merely silence or inaction for silence or inaction is negligence, not tolerance." On this score, the petitioner's tenacious claim that the fact of tolerance may be surmised from her refusal for many years to file an action to evict the respondents is obviously flawed. Based on the foregoing, the action for unlawful detainer is dismissed.

FACTS:
The petitioner is the registered owner of a parcel of land located at Sitio Pinaungon, Barangay Balabag, Boracay Island, Malay, Aklan (subject property). The subject property contains an area of 10,198 square meters, more or less, and is covered by Transfer Certificate of Title (TCT) No. T-35394.[5] The subject property was originally covered by Original Certificate of Title (OCT) No. 2222, which the petitioner acquired by donation from her predecessor-in-interest Ciriaco Tirol (Tirol).[6]

The subject property was occupied by Ezequiel Tapus (Ezequiel), Mario Madriaga (Mario), DannyM. Tapuz (Danny), Juanita Tapus (Juanita) and Aurora Madriaga (Aurora) (collectively referred to as the respondents). Allegedly, the respondents' predecessor was assigned as a caretaker of the subject property, and therefore possessed and occupied a portion thereof upon the tolerance and permission of Tirol.

Sometime in 2003, the petitioner's daughter, Diane J. Jimenez (Jimenez), learned that Expedito Tapus, Jr., a relative of the respondents offered the subject property for sale.[8] Alarmed, Jimenez sought the assistance of the Office of Barangay Balabag, Boracay Island, Malay, Aklan. Thereafter, the case was referred to the Office of the *Lupong Tagapamayapa* for a possible alternative resolution of the conflict. However, the parties failed to reach an amicable settlement.[9]

In October 2003, the petitioner sent a demand letter to the respondents ordering them to vacate the subject property. The demand was unheeded.[10] This prompted the petitioner to file a case for unlawful detainer.

In its Decision[14] on November 18, 2005, the Municipal Circuit Trial Court (MCTC) awarded the subject property in favor of the petitioner, and consequently, ordered the respondents to vacate, and pay the petitioner a monthly rental of Php 500.00. To properly determine the issue of possession, the MCTC first provisionally delved into the issue of ownership. In this regard, the MCTC held that the petitioner, being the registered owner of the subject property is entitled to its possession.

On August 8, 2007, the Regional Trial Court (RTC) rendered a Decision[19] affirming the ruling of the MCTC. On March 30, 2012, the CA rendered the assailed Decision,[22] reversing the disquisitions of the MCTC and the RTC.

The CA ratiocinated that although the MCTC had jurisdiction over the unlawful detainer case, the trial court however erred in upholding the petitioner's right to possess the subject property. The CA pointed out that the petitioner failed to prove the fact that the respondents indeed occupied the subject property through her permission and tolerance. It stressed that to make out a case for unlawful detainer, the petitioner must concomitantly prove that the respondents' prior lawful possession has become unlawful due to the expiration of the right to possess the property. The petitioner failed to show that the respondents occupied the subject property pursuant to her tolerance, and that such permission was present from the very start of their occupation. Absent the fact of tolerance, the remedy of unlawful detainer would be inappropriate.

ISSUE:
Whether or not the CA erred in dismissing the case for unlawful detainer. (NO)

RULING:
The petitioner, claiming to be the owner of the subject property, elected to file an action for unlawful detainer. In making this choice, she bore the correlative burden to sufficiently allege, and thereafter prove by a preponderance of evidence all the jurisdictional facts in the said type of action. Specifically, the petitioner was charged with proving the following jurisdictional facts, to wit:

> (i) initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;

(ii) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;

(iii) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and

(iv) within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.

Particularly, the complaint stated that (i) the respondents occupied the subject property upon the tolerance of the petitioner; (ii) the petitioner sent the respondents a demand to vacate sometime in October 2003; (iii) the same demand was unheeded; and (iv) the action for unlawful detainer was filed within one year from the date of the demand.[51] Verily, the following jurisdictional facts properly vested the MCTC of Buruanga, Aklan, with jurisdiction over the case.

However, in order for the petitioner to successfully prosecute her case for unlawful detainer, it is imperative upon her to prove all the assertions in her complaint. After all, "the basic rule is that mere allegation is not evidence and is not equivalent to proof."[52] This, the petitioner failed to do. As correctly observed by the CA, the petitioner failed to adduce evidence to establish that the respondents' occupation of the subject property was actually effected through her tolerance or permission. Unfortunately, the petitioner failed to prove how and when the respondents entered the subject lot, as well as how and when the permission to occupy was purportedly given. In fact, she was conspicuously silent about the details on how the permission to enter was given, save for her bare assertion that the respondents' occupied the premises as caretakers thereof. The absence of such essential details is especially troubling considering that the respondents have been occupying the subject property for more than 70 years, a fact which was not disputed by the petitioner. In this regard, it is must be shown that the respondents first came into the property due to the permission given by the petitioner or her predecessors.

Remarkably, in *Quijano v. Atty. Amante*, the Court ruled that in an action for unlawful detainer, the plaintiff must show that the possession was initially lawful, and thereafter, establish the basis of such lawful possession. Similarly, should the plaintiff claim that the respondent's possession was by his/her tolerance, then such acts of tolerance must be proved. A bare allegation of tolerance will not suffice. At least, the plaintiff must point to the overt acts indicative of his/her or predecessor's permission to occupy the disputed property. Failing in this regard, the occupant's possession could then be deemed to have been illegal from the beginning. Consequently, the action for unlawful detainer will fail. Neither may the ejectment suit be treated as one for forcible entry in the absence of averments that the entry in the property had been effected through force, intimidation, threats, strategy or stealth.

Considering that the petitioner failed to prove the act of tolerance, the action for unlawful detainer must fail. Tolerance cannot be presumed from the owner's failure to eject the occupants from the land. Rather, "tolerance always carries with it 'permission' and not merely silence or inaction for silence or inaction is negligence, not tolerance." On this score, the petitioner's tenacious claim that the fact of tolerance may be surmised from her refusal for many years to file an action to evict the respondents is obviously flawed. Based on the foregoing, the action for unlawful detainer is dismissed.

2. Rules on accession

LEVISTE MANAGEMENT SYSTEM, INC., *Petitioner*, -versus- LEGASPI TOWERS 200, INC., and VIVIAN Y. LOCSIN and PITONG MARCORDE, *Respondents*.
G.R. No. 199353, FIRST DIVISION, April 4, 2018, LEONARDO-DE CASTRO, J.

*The Civil Code provisions on builders in good faith presuppose that the **owner of the land** and the **builder** are two distinct persons who are not bound either by specific legislation on the subject property or by contract. Properties recorded in accordance with Section 4 of Republic Act No. 4726 (otherwise known as the Condominium Act) are governed by said Act; while the Master Deed and the By Laws of the condominium corporation establish the contractual relations between said condominium corporation and the unit owners.*

FACTS:

Legaspi Towers is a condominium building located at Paseo de Roxas, Makati City. It consists of seven (7) floors, with a unit on the roof deck and two levels above said unit called Concession 2 and Concession 3. The use and occupancy of the condominium building is governed by the Master Deed with Declaration of Restrictions of Legaspi Towers (hereafter "Master Deed") annotated on the transfer certificate of title of the developer, Legaspi Towers Development Corporation.

Concession 3 was originally owned by Leon Antonio Mercado. On 9 March 1989, Lemans, through Mr. Conrad Leviste, bought Concession 3 from Mercado.

Sometime in 1989, Lemans decided to build another unit (hereafter "Concession 4") on the roof deck of Concession 3. Lemans was able to secure the building permit for the construction of Concession 4 and commenced the construction thereof on October 1990. Despite Legaspi Corporation's notice that the construction of Concession 4 was illegal, Lemans refused to stop its construction.

Lemans filed the Complaint with the RTC, praying among others that a writ of mandatory injunction be issued to allow the completion of the construction of Concession 4.

The RTC found the application of Article 448 of the Civil Code and the ruling in the *Depra vs. Dumlao* to be proper. It ordered defendant Legaspi Towers 200, Inc. to exercise its option to appropriate the additional structure constructed on top of the penthouse owned by plaintiff Leviste Management Systems, Inc. within sixty [60] days from the time the Decision becomes final and executory. Should defendant Legaspi Towers 200, Inc. choose not to appropriate the additional structure after proper indemnity, the parties shall agree upon the terms of the lease and in case of disagreement, the Court shall fix the terms thereof.

On May 26, 2011, the Court of Appeals, acting on the consolidated appeals of LEMANS and Legaspi Towers, rendered its Decision affirming the decision of the RTC of Makati City.

ISSUE:

Whether Article 448 and 546 of the Civil Code and are applicable to the parties' situation. (NO)

RULING:

We are constrained to deny the Petition of LEMANS in view of our ruling that the doctrine in *Depra* and Articles 448 and 546 of the Civil Code were improperly applied in these cases.

Firstly, it is recognized in jurisprudence that, as a general rule, Article 448 on builders in good faith does not apply where there is a contractual relation between the parties.

Morever, in several cases, this Court has explained that the *raison d'etre* for Article 448 of the Civil Code is to prevent the impracticability of creating a state of forced co-ownership:

> The *raison d'etre* for this provision has been enunciated thus: Where the builder, planter or sower has acted in good faith, a conflict of rights arises between the owners, and it becomes necessary to protect the owner of the improvements without causing injustice to the owner of the land. In view of the impracticability of creating a state of forced co-ownership, the law has provided a just solution by giving the owner of the land the option to acquire the improvements after payment of the proper indemnity, or to oblige the builder or planter to pay for the land and the sower the proper rent. He cannot refuse to exercise either option. It is the owner of the land who is authorized to exercise the option, because his right is older, and because, by the principle of accession, he is entitled to the ownership of the accessory thing.

In the case at bar, however, the land belongs to a condominium corporation, wherein the builder, as a unit owner, is considered a stockholder or member in accordance with Section 10 of the Condominium Act, The builder is therefore already in a co-ownership with other unit owners as members or stockholders of the condominium corporation, whose legal relationship is governed by a special law, the Condominium Act. It is a basic tenet in statutory construction that between a general law and a special law, the special law prevails. *Generalia specialibus non derogant.* The provisions of the Civil Code, a general law, should therefore give way to the Condominium Act, a special law, with regard to properties recorded in accordance with Section 4 31 of said Act. Special laws cover distinct situations, such as the necessary co-ownership between unit owners in condominiums and the need to preserve the structural integrity of condominium buildings; and these special situations deserve, for practicality, a separate set of rules.

Articles 448 and 546 of the Civil Code on builders in good faith are therefore inapplicable in cases covered by the Condominium Act where the *owner of the land* and the *builder* are already bound by specific legislation on the subject property (the Condominium Act), and by contract (the Master Deed and the By-Laws of the condominium corporation). This Court has ruled that upon acquisition of a condominium unit, the purchaser not only affixes his conformity to the sale; he also binds himself to a contract with other unit owners. 32

In accordance therefore with the Master Deed, the By-Laws of Legaspi Towers, and the Condominium Act, the relevant provisions of which were already set forth above, Legaspi Towers is correct that it has the right to demolish Concession 4 at the expense of LEMANS. Indeed, the application of Article 448 to the present situation is highly iniquitous, in that an owner, also found to be in good faith, will be forced to either appropriate the illegal structure (and impliedly be burdened with the cost of its demolition) or to allow the continuance of such an illegal structure that violates the law and the Master Deed, and threatens the structural integrity of the condominium building upon the payment of rent. The Court cannot countenance such an unjust result from an erroneous application of the law and jurisprudence.

SPOUSES GODFREY and MA. TERESA TEVES, *Petitioners,* -versus- INTEGRATED CREDIT & CORPORATE SERVICES, CO. (now CAROL AQUI), *Respondent*.
G.R. No. 216714, FIRST DIVISION, April 4, 2018, DEL CASTILLO, J.

On the contention that the RTC — sitting as a land registration court — does not have jurisdiction to award back rentals or grant relief which should otherwise be sought in an ordinary civil action, this is no longer tenable. The distinction between the trial court acting as a land registration court with limited jurisdiction, on the one hand, and a trial court acting as an ordinary court exercising general jurisdiction, on the other, has already been removed with the effectivity of Presidential Decree No. 1529, or the Property Registration Decree.

FACTS:

Sometime in 1996, Standard Chartered Bank extended various loans to petitioners Godfrey and Ma. Teresa Teves. As security, petitioners mortgaged their property covered by Transfer Certificate of Title No. 107520 (the subject property).

Petitioners defaulted in their loan payments. Standard extrajudicially foreclosed on the mortgage, and the property was sold to Integrated Credit and Corporate Services Co. (ICCS). A new certificate of title was issued in favor of ICCS after petitioners failed to redeem the subject property upon the expiration of the redemption period on May 23, 2007.

ICCS filed a petition for the issuance of a wit of possession. During the proceedings, or in May, 2010, ICCS was substituted by respondent Carol Aqui who appears to have acquired the property from ICCS, and a new certificate of title was issued in Aqui's favor.

On July 14, 2010, the RTC issued two Orders.

The first, issued the writ of possession. The second, ordered the defendants to deliver to petitioner and/or deposit with the Court the monthly rentals of the subject property covering the period from May 24, 2007 up to the time they surrender the possession thereof to the petitioner.

Petitioners filed a Partial Motion for Reconsideration of the Second Order, but RTC denied the same.

Petitioners filed a Petition for *Certiorari* before the CA. The latter dismissed the Petition filed under Rule 65 being an improper remedy. It ratiocinated that the orders subject of the petition partakes the nature of a judgment or final order which is appealable under Rule 41 of the Rules of Court.

Petitioners, praying that this Court set aside the second order of the RTC, argue that Aqui should file an independent action — and not simply seek the same in her petition for issuance of a writ of possession, since (a) the RTC, sitting as a land registration court, does not have jurisdiction to award back rentals or grant relief which should otherwise be sought in an ordinary civil action; and (b) Act No. 3135, as amended by Act No. 4118, contains no provision authorizing the award of back rentals to the purchaser at auction.

ISSUE:

Whether back rentals can be awarded in an ex parte application for writ of possession under Act 3135. (YES)

RULING:

When the redemption period expired on May 23, 2007, ICCS became the owner of the subject property and was, from then on, entitled to the fruits thereof. Petitioners ceased to be the owners of the subject property, and had no right to the same as well as to its fruits. Under Section 32, Rule 39 of the Rules, on Execution, Satisfaction and Effect of Judgments, all rents, earnings and income derived from the property pending redemption shall belong to the judgment obligor, but only until the expiration of his period of redemption. Thus, if petitioners leased out the property to third parties after their period for redemption expired, as was in fact the case here, the rentals collected properly belonged to ICCS or Aqui, as the case may be. Petitioners had no right to collect them.

On the contention that the RTC — sitting as a land registration court — does not have jurisdiction to award back rentals or grant relief which should otherwise be sought in an ordinary civil action, this is no longer tenable. The distinction between the trial court acting as a land registration court with limited jurisdiction, on the one hand, and a trial court acting as an ordinary court exercising general jurisdiction, on the other, has already been removed with the effectivity of Presidential Decree No. 1529, or the Property Registration Decree. "The change has simplified registration proceedings by conferring upon the designated trial courts the authority to act not only on applications for 'original registration' but also 'over all petitions filed after original registration of title, with power to hear and determine all questions arising from such applications or petition.'"

Moreover, under Section 6, Rule 135 of the Rules, on Powers and Duties of Courts and Judicial Officers, it is provided that —

> Sec. 6. *Means to carry jurisdiction into effect.* — When by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears conformable to the spirit of said law or rules.

Given the above-cited rule and the pronouncement in *China Banking Corporation v. Spouses Lozada*, it can be understood why the RTC issued the two separate Orders of July 14, 2010 The First Order was issued relative to the main remedy sought by ICCS — that is, for the court to issue a writ of possession. The Second Order was issued pursuant to the court's authority under Section 6 of Rule 135 of the Rules, to the end that a patent inequity may be immediately remedied and justice served in accordance with the objective of the Rules to secure a just, speedy and inexpensive disposition of every action and proceeding. In the eyes of the law, petitioners clearly had no right to collect rent from the lessee of the subject property; they were no longer the owners thereof, yet they continued to collect and appropriate for themselves the rentals on the property to which ICCS was entitled. This is a clear case of unjust enrichment that the courts may not simply ignore.

3. Quieting of title

JOSEPHINE P. DELOS REYES and JULIUS C. PERALTA, represented by their Attorney-in-fact, J.F. JAVIER D. PERALTA, *Petitioners,* -versus – MUNICIPALITY OF KALIBO, AKLAN, its SANGGUNIANG BAYAN and MAYOR RAYMAR A. REBALDO, *Respondents.*
G.R. No. 214587, SECOND DIVISION, February 26, 2018, PERALTA, J.

In order that an action for quieting of title may prosper, the plaintiff must have legal or equitable title to, or interest in, the property which is the subject matter of the action. While legal title denotes registered ownership, equitable title means beneficial ownership. ***In the absence of such legal or equitable title, or interest, there is no cloud to be prevented or removed****.*

It must be noted that the Peraltas, the petitioners in the instant case, are ***not even registered owners*** *of the area adjacent to the increment claimed, much less of the subject parcels of land. If at all, whatever rights the Peraltas derived from their predecessors-in-interest respecting the area in question came only from the quitclaim of real property executed by Ignacio in Jose's favor in 1955. There is no concrete evidence showing any right of title on Ignacio's part for him to be able to legally and validly cede the property to Jose. In order that a plaintiff may draw to himself an equitable title, he must show that the one from whom he derives his right had himself a right to transfer. Considering the aforementioned facts, the* ***plaintiffs have neither legal nor equitable title over the contested property.***

Since the Peraltas must first establish their legal or equitable title to or interest in the property in order for their action for quieting of title may prosper, failure to do so would mean lack of cause of action on their part to pursue said remedy.

FACTS:

Lot No. 2076 of the Kalibo Cadastre was registered in the name of Ana O. Peralta. Upon her demise, her property passed on to her brother, Jose Peralta, who caused registration of the same in his name. Jose later had the property divided into Lots 2076-A and 2076-B, and sold the latter portion. Lot 2076-A, on the other hand, remained in Jose's name.

In the meantime, allegedly through accretion, land was added to Lot No. 2076. Said area was first occupied by and declared for taxation purposes in the name of Ambrocio Ignacio in 1945. He was the Peraltas' tenant, but he later executed a Quitclaim of Real Property in Jose's favour. When Jose died, Lot 2076-A, together with the supposed area of accretion, was transferred to his son, Juanito Peralta. Subsequently, Juanito likewise died.

On the other hand, the Municipality of Kalibo, through its then Mayor Diego Luces and the members of its Sangguniang Bayan, sought to convert more or less four (4) hectares of said area of accretion into a garbage dumpsite. On November 10, 1992, Juanito, in his capacity as his siblings' representative, opposed said project in a letter. For failure to get a favorable response from the mayor's office, he wrote a formal protest to the Secretary of the Department of Environment and Natural Resources (DENR).

Despite the Peraltas' opposition, the Municipality of Kalibo continued the project under the justification that the contested property is actually part of the public domain. On January 26, 1998, the Peraltas filed a Complaint for quieting of title over the two (2) portions of accretion declared in their names for taxation purposes. The RTC of Kalibo, ruled in their favour. The CA reversed the RTC ruling.

ISSUE:

Whether the CA committed an error when it reversed the RTC, which declared the subject parcels of land as accretion and not part of the public domain. (NO)

RULING:

In order that an action for quieting of title may prosper, the plaintiff must have legal or equitable title to, or interest in, the property which is the subject matter of the action. While legal title denotes registered ownership, equitable title means beneficial ownership. **In the absence of such legal or equitable title, or interest, there is no cloud to be prevented or removed**.

It must be noted that the Peraltas, the petitioners in the instant case, are **not even registered owners** of the area adjacent to the increment claimed, much less of the subject parcels of land. Only the late Juanito became the registered owner of Lot 2076- A, the lot next to the supposed accretion. Assuming that the petitioners are Juanito's rightful successors, they still did not register the subject increment under their names. It is settled that an accretion does not automatically become registered land just because the lot that receives such accretion is covered by a Torrens Title. Ownership of a piece of land is one thing; registration under the Torrens system of that ownership is another. Registration under the Land Registration and Cadastral Act does not vest or give title to the land, but merely conBrms and, hereafter, protects the title already possessed by the owner, making it imprescriptible by occupation of third parties.

If at all, whatever rights the Peraltas derived from their predecessors-in-interest respecting the area in question came only from the quitclaim of real property executed by Ignacio in Jose's favor in 1955. There is no concrete evidence showing any right of title on Ignacio's part for him to be able to legally and validly cede the property to Jose.

In order that a plaintiff may draw to himself an equitable title, he must show that the one from whom he derives his right had himself a right to transfer. Considering the aforementioned facts, **the plaintiffs have neither legal nor equitable title over the contested property.**

Moreover, even the character of the land subject of the quitclaim is highly questionable. Ignacio, who was purportedly the first occupant of the area in 1945 and who was also in the best position to describe the lot, stated that "the said parcel of swampy land is an integral expansion or continuity of the said Cadastral Lot No. 2076, formed by a change of the shoreline of the Visayan Sea.

Article 457 of the Civil Code of the Philippines, under which the Peraltas claim ownership over the disputed parcels of land, provides:

> "Art. 457. To the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters.

Accretion is the process whereby the soil is deposited along the banks of rivers. The deposit of soil, to be considered accretion, must be: (a) gradual and imperceptible; (b) made through the effects of the current of the water; and (c) taking place on land adjacent to the banks of rivers.

Here, Ignacio characterized the land in question as swampy and its increase in size as the effect of the change of the shoreline of the Visayan Sea, and not through the gradual deposits of soil coming from the river or the sea. Also, Baltazar Gerardo, the Officer-in-Charge of the Community

Environment and Natural Resources Office of the Bureau of Lands, found upon inspection in 1987 that the subject area was predominantly composed of sand rather than soil. In addition, the DENR has remained firm and consistent in classifying the area as land of the public domain for being part of either the Visayan Sea of the Sooc Riverbed and is reached by tide water.

The questionable character of the land, which could most probably be part of the public domain, indeed bars Jose from validly transferring the increment to any of his successors.

Indubitably, the plaintiffs are merely successors who derived their alleged right of ownership from tax declarations. Any person who claims ownership by virtue of tax declarations must also prove that he has been in actual possession of the property. In the case at bar, the Peraltas failed to adequately prove their possession and that of their predecessors-in-interest.

Since the Peraltas must first establish their legal or equitable title to or interest in the property in order for their action for quieting of title may prosper, failure to do so would mean lack of cause of action on their part to pursue said remedy.

SPOUSES JAIME and CATHERINE BASA, SPOUSES JUAN and ERLINDA OGALE REPRESENTED BY WINSTON OGALE, SPOUSES ROGELIO and LUCENA LAGASCA REPRESENTED BY LUCENA LAGASCA, and SPOUSES CRESENCIO and ELEADORA APOSTOL, *Petitioners*, -versus- ANGELINE LOY VDA. DE SENLY LOY, HEIRS OF ROBERT CARANTES, THE REGISTER OF DEEDS FOR BAGUIO CITY, and THE CITY ASSESSOR'S OFFICE OF BAGUIO CITY, *Respondents*.
G.R. No. 204131, FIRST DIVISION, June 04, 2018, DEL CASTILLO, J.

An action for quieting of title is essentially a common law remedy grounded on equity. The competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best. But 'for an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy.' "Legal title denotes registered ownership, while equitable title means beneficial ownership."

By petitioners' failure to present the original copies of the purported deeds of sale in their favor, the case for quieting of title did not have a leg to stand on. Petitioners were unable to show their claimed right or title to the disputed property, which is an essential element in a suit for quieting of title. Their belated presentation of the supposed originals of the deeds of sale by attaching the same to their motion for reconsideration does not deserve consideration as well; the documents hardly qualify as evidence.

FACTS:

This case revolves around a 496-square meter residential lot situated in New Lucban, Baguio City covered by Transfer Certificate of Title No. T-30086 (subject property) in the name of the late Busa Carantes, who is the predecessor-in-interest of Manuel Carantes and herein respondent Robert Carantes.

The subject property was mortgaged to respondent Angeline Loy and her husband in 1994. Thereafter, they foreclosed on the mortgage, and at the auction sale, they emerged the highest bidder. On March 31, 2006, after consolidating ownership over the subject property, Branch 6 of the Baguio RTC - in LRC ADM Case No. 1546-R - issued in their favor a writ of possession.

On May 30, 2006, herein petitioners - spouses Jaime and Catherine Basa, spouses Juan and Erlinda Ogale, spouses Rogelio and Lucena Lagasca, and spouses Cresencio and Eleadora Apostol - filed before Branch 7 of the Baguio RTC a petition for quieting of title with prayer for injunctive relief and damages, docketed as Civil Case No. 6280-R, against respondents Angeline Loy, Robert Carantes, the Registry of Deeds for Baguio City, and the Baguio City Sheriff and Assessor's Office. They essentially claimed that in 1992 and 1993, portions of the subject property - totaling 351 square meters - have already been sold to them by respondent Robert Carantes, by virtue of deeds of sale executed in their favor, respectively; that they took possession of the portions sold to them; and that the titles issued in favor of Angeline Loy created a cloud upon their title and are prejudicial to their claim of ownership. They thus prayed that the documents, instruments, and proceedings relative to the sale of the subject property to respondent Angeline Loy be cancelled and annulled, and that they be awarded damages and declared owners of the respective portions sold to them.

On January 22, 2010, the trial court rendered its Decision in Civil Case No. 6280-R, declaring that petitioners failed to discharge their burden of proving the truth of their claims even by preponderance of evidence. Consequently, the RTC denied the reliefs prayed for in their petition.

Aggrieved, the petitioners elevated the case to the CA, which thereafter dismissed the appeal and affirmed the RTC Decision.

ISSUE:

Whether petitioners have proved, by preponderant evidence, their case for quieting of title. (NO)

RULING:

In order that an action for quieting of title may prosper, it is essential that the plaintiff must have legal or equitable title to, or interest in, the property which is the subject-matter of the action. Legal title denotes registered ownership, while equitable title means beneficial ownership. In the absence of such legal or equitable title, or interest, there is no cloud to be prevented or removed.

An action for quieting of title is essentially a common law remedy grounded on equity. The competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best. But 'for an action to quiet title to prosper, two indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.

Petitioners' case for quieting of title was dismissed by the trial court for the reason that they failed to present the originals of the purported deeds of sale executed by respondent Robert Carantes in

their favor. In other words, short of saying that petitioners failed to prove the first element in a suit for quieting of title - the existence of a legal or equitable title - the trial court simply held that they failed to discharge the burden of proof required in such case. Petitioners then attempted to obtain a reversal by attaching the supposed originals of the deeds of sale to their motion for reconsideration, but the trial court did not reconsider as they failed to show that the reason for their failure to present the original copies of the deeds fell within the exceptions under the best evidence rule, or Section 3, Rule 130 of the Rules of Court.

The trial court cannot be faulted for ruling the way it did. By petitioners' failure to present the original copies of the purported deeds of sale in their favor, the case for quieting of title did not have a leg to stand on. Petitioners were unable to show their claimed right or title to the disputed property, which is an essential element in a suit for quieting of title. Their belated presentation of the supposed originals of the deeds of sale by attaching the same to their motion for reconsideration does not deserve consideration as well; the documents hardly qualify as evidence.

To repeat, "for an action to quiet title to prosper, two (2) indispensable requisites must concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy." "Legal title denotes registered ownership, while equitable title means beneficial ownership."

Even if petitioners are in possession of the disputed property, this does not necessarily prove their supposed title. It may be that their possession of the disputed property is by lease or any other agreement or arrangement with the owner - or simply by mere tolerance. Without adequately proving their title or right to the disputed portions of the property, their case for quieting of title simply cannot prosper.

C. Co-ownership

FORTUNATO ANZURES, *Petitioner*, -versus- SPOUSES ERLINDA VENTANILLA AND ARTURO VENTANILLA, *Respondents*.
G.R. No. 222297, THIRD DIVISION, July 09, 2018, GESMUNDO, *J.*

Being a co-owner of the property as heir of Carolina, petitioner cannot be ejected from the subject property. In a co-ownership, the undivided thing or right belong to different persons, with each of them holding the property pro indiviso and exercising [his] rights over the whole property. Each co-owner may use and enjoy the property with no other limitation than that he shall not injure the interests of his co-owners. The underlying rationale is that until a division is actually made, the respective share of each cannot be determined, and every co-owner exercises, together with his co-participants, joint ownership of the pro indiviso property, in addition to his use and enjoyment of it.

Ultimately, respondents do not have a cause of action to eject petitioner based on tolerance because the latter is also entitled to possess and enjoy the subject property. Corollarily, neither of the parties can assert exclusive ownership and possession of the same prior to any partition. If at all, the action for unlawful detainer only resulted in the recognition of co-ownership between the parties over the residential house.

FACTS:

In 2012, respondents Erlinda and Arturo Ventanilla filed a Complaint for Unlawful Detainer against petitioner Fortunato Anzures. In their complaint, respondents alleged that they were the owners of a residential house which stands on a 289 square meter parcel of land registered in the names of petitioner and his wife Carolina Anzures; that by virtue of a Deed of Donation, petitioner and his wife Carolina donated 144 square meters portion of the land in favor of respondents; that being the owners of the property, respondents merely tolerated the occupation of the property by petitioner; that they demanded he vacate the house to give way to the subdivision and partition of the property but to no avail.

In his Answer with Counterclaim, petitioner sought the dismissal of the complaint for lack of cause of action alleging that he and his late spouse Carolina were the owners of the residential house; that he was also the registered owner of the 289 square meter parcel of land, having bought the same from Erlinda Ventanilla as evidenced by the *Pagpapamana sa Labas ng Hukuman na may Pagtalikod sa Bahagi ng Lupa at Bilihang Tuluyan sa Lupa*.

The MTC ruled in favor of respondents and granted the complaint for unlawful detainer. The RTC affirmed judgment of the MTC.

In his petition for review with the CA, petitioner raised that respondents have no cause of action as they failed to sufficiently aver in their complaint the jurisdictional fact of unlawful withholding of the subject premises.

The CA denied the petition. The CA explained that the complaint sufficiently averred the unlawful withholding of the subject residential house by petitioner, constitutive of unlawful detainer.

ISSUE:

Whether respondents have a cause of action to eject petitioner from the subject property. (No)

RULING:

In this case, both parties claim ownership over the subject property. Each presented documents to support their respective claim. Preponderance of the evidence shows that the property was originally owned by one Vicenta Galvez. After her death, Filomena Rodriguez Rivera, Enriqueta Rodriguez and Rosalina Rodriguez, claiming to be her sole heirs, executed a "Waiver of Rights over the Unregistered Parcel of Land" in favor of their nieces, Erlinda Rodriguez and Carolina Rodriguez.

To confirm and firm up the waiver and transfer, Filomena Rodriguez Rivera, Enriqueta Rodriguez and Rosalina Rodriguez executed a "Deed of Absolute Sale of Unregistered Land" in favor of Erlinda and Carolina. In said document, the three sold, transferred and conveyed, absolutely and unconditionally, the subject "parcel of land with improvements" to the two, "their heirs or assigns, free from all liens and encumbrances.

The waiver of rights over unregistered parcel of land and the deed of absolute sale of unregistered land were both notarized in 2000.

It appears that on the same day of sale, the three heirs of Vicenta Galvez, namely, Filomena Rodriguez Rivera, Enriqueta Rodriguez and Rosalina Rodriguez, executed a "*Pagpapamana sa Labas ng Hukuman na may Pagtalikod sa Bahagi ng Lupa at Bilihang Tuluyan sa Lupa*" embodying a) a waiver of rights over parcel of land in favor of Erlinda; and b) an absolute sale by Erlinda of the said parcel of land in favor of Carolina. The document was notarized but the date of its notarization is unknown.

Based on the foregoing, the Court agrees with the MTC that as between the Waiver of Rights over Unregistered Parcel of Land and the Deed of Absolute Sale of Unregistered Land on one hand, and the *Pagpapamana sa Labas ng Hukuman na may Pagtalikod sa Bahagi ng Lupa at Bilihang Tuluyan sa Lupa* on the other, the two former documents prevail because they bore the rubber stamp of the notary public and the signatures appearing thereon were similar with each other.

From the documentary records, the parcel of land is co-owned by Carolina and Erlinda. Being co-owners of the property, they are also the co-owners of the improvement thereon, including the subject house. This is clear from the Deed of Absolute Sale of Unregistered Land executed in favor of Erlinda and Carolina, whereby the three heirs of Vicenta Galvez, namely, Filomena Rodriguez Rivera, Enriqueta Rodriguez and Rosalina Rodriguez sold, transferred and conveyed, absolutely and unconditionally, the subject "parcel of land, with improvements" to the "two," "their heirs or assigns, free from all liens and encumbrances."

Respondents cannot rely on the Extrajudicial Settlement of Estate with Waiver of Rights dated whereby Filomena and Rosalina waived their rights over the house in favor of Erlinda. The reason is as clear as daylight. On said date, Filomena and Rosalina no longer had the right to convey the house as they were no longer the owners thereof. As evidenced by the deed of sale of unregistered land, they already sold the property together with the improvements to the two sisters, Carolina and Erlinda. In fact, the title has been placed in Carolina's name, pursuant to their agreement, "*Pagkakaloob ng Bahagi ng Lupa na may Kasunduan*." No one can give what one does not have.

In sum, the totality of documentary evidence inevitably shows that Carolina and Erlinda are co-owners of the 289 square meters parcel of land with improvement thereon, as originally intended by their predecessors-ininterest, Filomena, Enriqueta and Rosalina.

Being a co-owner of the property as heir of Carolina, petitioner cannot be ejected from the subject property. In a co-ownership, the undivided thing or right belong to different persons, with each of them holding the property *pro indiviso* and exercising [his] rights over the whole property. Each co-owner may use and enjoy the property with no other limitation than that he shall not injure the interests of his co-owners. The underlying rationale is that until a division is actually made, the respective share of each cannot be determined, and every co-owner exercises, together with his co-participants, joint ownership of the *pro indiviso* property, in addition to his use and enjoyment of it.

Ultimately, respondents do not have a cause of action to eject petitioner based on tolerance because the latter is also entitled to possess and enjoy the subject property. Corollarily, neither of the parties can assert exclusive ownership and possession of the same prior to any partition. If at all, the action for unlawful detainer only resulted in the recognition of co-ownership between the parties over the residential house.

The Court notes that respondents have recognized the co-ownership insofar as the parcel of land is concerned when they alleged in their complaint for unlawful detainer their intention to partition

the same. They assert, however, exclusive ownership over the residential house standing thereon by virtue of the deed of donation and extrajudicial settlement of estate. The documentary evidence, however, shows that the parties are also co-owners of the residential house.

The parties, being co-owners of both the land and the building, the remedy of the respondents is to file an action for partition. Article 494 of the New Civil Code reads:

> No co-owner shall be obliged to remain in the co-ownership. Each co-owner may demand at any time the partition of the thing owned in common, insofar as his share is concerned.

D. Possession

1. Kinds of possession

NORMA M. BALEARES, DESIDERIO M. BALEARES, GERTRUDES B. CARIASA, RICHARD BALEARES, JOSEPH BALEARES, SUSAN B. DELA CRUZ, MA. JULIA B. RECTRA, and EDWIN BALEARES, *Petitioners*, -versus- FELIPE B. ESPANTO, rep. by MARCELA B. BALEARES, Attorney-in-Fact, *Respondent.*
G.R. No. 229645, THIRD DIVISION, June 6, 2018, VELASCO, JR., *J.*

An action for unlawful detainer is summary in nature and the only issue that needs to be resolved is who is entitled to physical possession of the premises, possession referring to possession de facto, and not possession de jure. Nonetheless, where the parties to an ejectment case raise the issue of ownership and such is inseparably linked to that of possession, the courts may pass upon that issue to determine who between the parties has the better right to possess the property. The adjudication of the ownership issue, however, is not final and binding. The same is only for the purpose of resolving the issue of possession. Otherwise stated, the adjudication of the issue of ownership is only provisional, and not a bar to an action between the same parties involving title to the property.

Here, the respondent based his claim of ownership and right of possession over the subject property on a certificate of title issued in his name. However, the respondent, being a mere transferee of the subject property who has knowledge that his transferor's mortgaged right over the same has been cancelled with finality by the court, merely stepped into his transferor's shoes, thus, he has no right over the subject property.

It is true that a title issued under the Torrens system is entitled to all the attributes of property ownership, which necessarily includes possession. As such, ordinarily, the Torrens title holder over the subject properties is considered the rightful owner who is entitled to possession thereof. But, in this case, it has not been disputed that the petitioners have been in continuous possession of the subject property in the concept of ownership and not by mere tolerance of the respondent. Moreover, the latter has knowledge that his transferor has no more right to enforce the mortgage over the subject property on the ground of prescription as stated in the RTC Decision in Civil Case No. 98-1360. The trial court also declared therein that Arnold's extrajudicial foreclosure and auction sale of the subject property was non-existent and void, which ruling already attained finality. As such, it would appear that the respondent's right over the subject property is highly questionable. Under these circumstances, the respondent cannot simply oust the petitioners from possession through the summary procedure of an ejectment proceeding.

It bears stressing that the herein ruling is limited only to the determination as to who between the parties has the better right of possession. It will not in any way bar any of the parties from filing an action with the proper court to resolve conclusively the issue of ownership.

FACTS:

The herein respondent is the current registered owner of a parcel of land with improvements situated at No. 3288 A. Mabini St., Poblacion, Makati City (subject property), and covered by Transfer Certificate of Title (TCT) No. 225428. The herein petitioners, on the other hand, were the heirs of Santos Baleares (Santos), one of the original co-owners of the subject property (previously covered by TCT No. 9482), together with his siblings Tomasa, Juha, Matilde, Marcela, Gloria (now deceased), all surnamed Baleares, and his nephew, Ernest B. Nonisa, Jr. (now deceased).

Way back on February 18, 1988, the Baleares siblings mortgaged the subject property to Arnold Maranan (Arnold). The mortgage was registered and annotated at the back of TCT No. 9482 as Entry No. 47847. Unknown to the petitioners, the subject property was apparently foreclosed and sold at public auction on August 13, 1996, where Arnold appeared to be the highest bidder.

Contrariwise, sometime in 1998, believing that Arnold failed to enforce his mortgaged right over the subject property within the 10-year prescriptive period, the petitioners, as heirs of Santos and the possessors and occupants thereof, lodged a **Complaint for the Cancellation of the Mortgage Inscription on TCT No. 9482** grounded on prescription before Branch 134 of RTC-Makati City, **docketed as Civil Case No. 98-1360.** During its pendency, however, a Certificate of Sale dated March 2, 1999 was allegedly issued to Arnold. TCT No. 9482 was consequently cancelled and a new one, TCT No. 225363, was issued in his favor.

Sometime thereafter in April 2000, respondent and his mother likewise filed a complaint against Arnold but for **Nullification of Mortgage and/or Foreclosure with TRO/Injunction** based also on prescription of the latter's mortgaged right. This was lodged before Branch 135 of RTC-Makati City and docketed as Civil Case No. 00-523. Purportedly, respondent and his mother were among the co-owners of the subject property; the latter (respondent's mother) being one of the Baleares siblings.

On July 18, 2003, the RTC rendered a Decision in Civil Case No. 98-1360 (cancellation of mortgage inscription) in favor of the petitioners. The RTC held that there was no valid extrajudicial foreclosure of mortgage and auction sale for non-compliance with the notice and posting of publication requirements set forth under Act No. 3135, as amended. And, since the alleged mortgage loan had been due for more than 10 years, without Arnold having exercised his mortgaged right, thus, the inscription on TCT No. 9482 can now be cancelled on the ground of prescription. The RTC, thus, ordered the Register of Deeds of Makati City to cancel Entry No. 47847 dated February 18, 1988 at the back of TCT No. 9482. The CA affirmed this decision, which became final and executory on February 1, 2008.

In the same year, all this notwithstanding, Arnold was able to sell the subject property to none other than the respondent himself. Later, TCT No. 225428 was issued in respondent's name. The latter, however, did not immediately take possession of the subject property. Instead, he allowed the petitioners, who were its actual occupants, to remain therein as they are his blood relatives.

After some time, the respondent sent a demand letter to the petitioners for them to vacate the subject property as he wanted to construct an apartment thereon but they refused. In so refusing, the petitioners maintained that they have a better right of possession over the subject property being the heirs of its original owners. On June 17, 2009, a final demand was made for the petitioners to vacate the subject property and to pay the reasonable rentals thereon, but this remained unheeded. Even the subsequent barangay settlement proved futile. Thus, the respondent instituted a **Complaint for Unlawful Detainer** before the MeTC-Makati City against the petitioners, **docketed as Civil** Case No. **98995** (the origin of this Petition).

In a Decision dated August 11, 2014, the MeTC ruled for the respondent and granted the Complaint. It found the complaint to be sufficient for an unlawful detainer case and upheld that the case should not be dismissed on the ground of *litis pendentia,* as the issues in the alleged two pending cases before the RTC-Makati City do not abate ejectment suit. The MeTC, thus, ordered the petitioners and all persons claiming rights under them to vacate the subject property and to peaceably surrender its possession to the respondent.

On appeal, the RTC, in a Decision dated July 24, 2015, affirmed in its entirety the MeTC ruling. The petitioners moved to reconsider the same but it was similarly denied for lack of merit in an Order dated December 29, 2015.

On further appeal, the CA, in the now assailed Decision dated January 31, 2017, affirmed both the Decision and the Order of the RTC.

ISSUE:

Who between the petitioners and the respondent has a better right of possession over the subject property? The petitioners who are in possession of the same continuously for a long period of time or the respondent whose right of possession is anchored on a Torrens title obtained through purchase from someone whose right over the subject property has long ceased and he has knowledge of such fact?

RULING:

This Court rules for the petitioners.

This case involved an action for unlawful detainer filed by the respondent against the petitioners. An action for unlawful detainer is summary in nature and the only issue that needs to be resolved is who is entitled to physical possession of the premises, possession referring to possession *de facto,* and not possession *de Jure.* Nonetheless, where the parties to an ejectment case raise the issue of ownership and such is inseparably linked to that of possession, the courts may pass upon that issue to determine who between the parties has the better right to possess the property. The adjudication of the ownership issue, however, is not final and binding. The same is only for the purpose of resolving the issue of possession. Otherwise stated, the adjudication of the issue of ownership is only provisional, and not a bar to an action between the same parties involving title to the property.

Here, the petitioners claim that they have a better right of possession over the subject property as they are the heirs of one of its original co-owners and they have been in lawful possession and

occupation thereof ever since, thus, they cannot be dispossessed of the subject property. The respondent, on the other hand, based his claim of ownership and right of possession over the subject property on a certificate of title issued in his name. However, the respondent, being a mere transferee of the subject property who has knowledge that his transferor's mortgaged right over the same has been cancelled with finality by the court, merely stepped into his transferor's shoes, thus, he has no right over the subject property.

It is true that a title issued under the Torrens system is entitled to all the attributes of property ownership, which necessarily includes possession. As such, ordinarily, the Torrens title holder over the subject properties is considered the rightful owner who is entitled to possession thereof. But, in this case, it has not been disputed that the petitioners have been in continuous possession of the subject property in the concept of ownership and not by mere tolerance of the respondent. Moreover, the latter has knowledge that his transferor has no more right to enforce the mortgage over the subject property on the ground of prescription as stated in the RTC Decision in Civil Case No. 98-1360. The trial court also declared therein that Arnold's extrajudicial foreclosure and auction sale of the subject property was non-existent and void, which ruling already attained finality. As such, it would appear that the respondent's right over the subject property is highly questionable. Under these circumstances, the respondent cannot simply oust the petitioners from possession through the summary procedure of an ejectment proceeding.

It bears stressing that the herein ruling is limited only to the determination as to who between the parties has the better right of possession. It will not in any way bar any of the parties from filing an action with the proper court to resolve conclusively the issue of ownership.

2. Acquisition of possession

3. Effects of possession

E. Usufruct

1. In general

2. Rights and obligations of the usufructuary

3. Extinguishment

F. Easements

1. Modes of acquiring easements

2. Rights and obligations of the owners of the dominant and servient estates

SPOUSES ABRAHAM AND MELCHORA ERMINO, *Petitioners*, -versus- GOLDEN VILLAGE HOMEOWNERS ASSOCIATION, INC., REPRESENTED BY LETICIA C. INUKAI, *Respondent*.

G.R. No. 180808, SECOND DIVISION, August 15, 2018, CAGUIOA, *J*.

An easement or servitude is "a real right constituted on another's property, corporeal and immovable, by virtue of which the owner of the same has to abstain from doing or to allow somebody else to do something on his property for the benefit of another thing or person." Alco Homes and Golden Village are lower in elevation than the Hilltop City Subdivision, and thus, are legally obliged to receive waters

which naturally flow from the latter, as provided under Article 637 of the Civil Code and Article 50 of the Water Code. These provisions refer to easements relating to waters.

In this regard, Hilltop City Subdivision, the immovable in favor of which the easement is established, is the dominant estate; while Alco Homes and Golden Village, those that are subject of the easement, are the servient estates. ***It must be noted, however, that there is a concomitant responsibility on the part of Hilltop City Subdivision not to make the obligation of these lower estates/servient estates more onerous.*** *Thus, the bulldozing and construction works done by E.B. Villarosa, not to mention the denudation of the vegetation at the Hilltop City Subdivision, made Alco Homes and Golden Village's obligation, as lower estates, more burdensome than what the law contemplated.* ***Lower estates are only obliged to receive water naturally flowing from higher estates and such should be free from any human intervention.*** *In the instant case, what flowed from Hilltop City Subdivision was not water that naturally flowed from a higher estate. Therefore, it is ineluctably clear that E.B. Villarosa is responsible for the damage suffered by Spouses Ermino.*

FACTS:

Spouses Ermino are residents of Alco Homes, a subdivision located beside Golden Village Subdivision (Golden Village) in Barangay Carmen, Cagayan de Oro City.

On days prior to August 12, 1995 and September 10, 1995, there was continuous heavy rain which caused a large volume of water to fall from the hilltop subdivision to the subdivisions below. The volume of water directly hit Spouses Ermino's house and damaged their fence, furniture, appliances and car.

Spouses Ermino filed a complaint for damages against E.B. Villarosa, the developer of Hilltop City Subdivision, and GVHAI. The Hilltop City Subdivision is found at the upper portion of Alco Homes, making it a higher estate, while Golden Village is located beside Alco Homes, which makes both Alco Homes and Golden Village lower estates *vis-a-vis* Hilltop City Subdivision.

Spouses Ermino blamed E.B. Villarosa for negligently failing to observe Department of Environment and Natural Resources rules and regulations and to provide retaining walls and other flood control devices which could have prevented the softening of the earth and consequent inundation. They likewise claimed that GVHAI committed a wrongful act in constructing the concrete fence which diverted the flow of water to Alco Homes, hence, making it equally liable to Spouses Ermino.

Spouses Ermino prayed that E.B. Villarosa and GVHAI be made jointly and severally liable in the amount of P500,000.00 as actual damages, P400,000.00 as moral damages and P100,000.00 as exemplary damages. They likewise prayed for attorney's fees and litigation costs and expenses.

E.B. Villarosa argued that the location of the house of Spouses Ermino is located at the lower portion of the Dagong Creek and is indeed flooded every time there is a heavy downpour, and that the damage was further aggravated by GVHAI's construction of the concrete fence. It contended, however, that the damage was due to a fortuitous event. Meanwhile, GVHAI averred that the construction of the concrete fence was in the exercise of its proprietary rights and that it was done in order to prevent outsiders from using the steel grille from entering the subdivision. It likewise asserted that they "should not be made inutile and lame-duck recipients of whatever waters and/or

garbage" that come from Alco Homes. GVHAI attributed sole liability on E.B. Villarosa for having denuded Hilltop City Subdivision and for its failure to provide precautionary measures.

RTC found E.B. Villarosa and GVHAI jointly and severally liable for the damages to Spouses Ermino's properties. The RTC held that the bulldozing by E.B. Villarosa of the proposed Hilltop City Subdivision made the soil soft that it could easily be carried by a flow of water and that if GVHAI did not change the steel grille gate to concrete fence between its subdivision and Alco Homes, the flow of water would have just passed by. Thus, both E.B. Villarosa and GVHAI were negligent and liable to Spouses Ermino.

Only GVHAI appealed to the CA. Thus, the trial court's decision attained its finality as regards E.B. Villarosa. The CA reversed the RTC's Decision and found no liability on the part of GVHAI. The CA held that indeed, GVHAI exercised its proprietary rights when it constructed the concrete fence and that it was also not negligent.

ISSUE:

Whether GVHAI is responsible for the damage to Spouses Ermino's properties. (NO)

RULING:

When GVHAI decided to construct the concrete fence, it could not have reasonably foreseen any harm that could occur to Spouses Ermino. Any prudent person exercising reasonable care and caution could not have envisaged such an outcome from the mere exercise of a proprietary act.[25]

Indeed, the act of replacing the steel grille gate with a concrete fence was within the legitimate exercise of GVHAI's proprietary rights over its property.

Spouses Ermino likewise ascribe liability to GVHAI relying on Article 637 of the Civil Code and Article 50 of the Water Code, which state:

ARTICLE 637. Lower estates are obliged to receive the waters which naturally and without the intervention of man descend from the higher estates, as well as the stones or earth which they carry with them.

The owner of the lower estate cannot construct works which will impede this easement; neither can the owner of the higher estate make works which will increase the burden.

ARTICLE 50. Lower estates are obliged to receive the waters which naturally and without the intervention of man flow from the higher estates, as well as the stone or earth which they carry with them.

Alco Homes and Golden Village are lower in elevation than the Hilltop City Subdivision, and thus, are legally obliged to receive waters which naturally flow from the latter, as provided under Article 637 of the Civil Code and Article 50 of the Water Code. These provisions refer to easements relating to waters. An easement or servitude is "a real right constituted on another's property, corporeal and immovable, by virtue of which the owner of the same has to abstain from doing or to allow

somebody else to do something on his property for the benefit of another thing or person." The statutory basis of this right is Article 613 of the Civil Code which reads:

ARTICLE 613. An easement or servitude is an encumbrance imposed upon an immovable for the benefit of another immovable belonging to a different owner.

The immovable in favor of which the easement is established is called the dominant estate; that which is subject thereto, the servient estate.

In this regard, Hilltop City Subdivision, the immovable in favor of which the easement is established, is the dominant estate; while Alco Homes and Golden Village, those that are subject of the easement, are the servient estates**. It must be noted, however, that there is a concomitant responsibility on the part of Hilltop City Subdivision not to make the obligation of these lower estates/servient estates more onerous.**

Based on the ocular inspection conducted by the RTC of the Hilltop City Subdivision, the area was bulldozed and the hills were flattened. There were no retaining walls constructed to prevent the water from flowing down and the soil was soft. This flattening of the area due to bulldozing changed the course of water, which ultimately led to the passing of said water to the house of Spouses Ermino

Thus, the bulldozing and construction works done by E.B. Villarosa, not to mention the denudation of the vegetation at the Hilltop City Subdivision, made Alco Homes and Golden Village's obligation, as lower estates, more burdensome than what the law contemplated. **Lower estates are only obliged to receive water naturally flowing from higher estates and such should be free from any human intervention.** In the instant case, what flowed from Hilltop City Subdivision was not water that naturally flowed from a higher estate. The bulldozing and flattening of the hills led to the softening of the soil that could then be easily carried by the current of water whenever it rained. Thus, Alco Homes and Golden Village are not anymore obligated to receive such waters and earth coming from Hilltop City Subdivision. Therefore, it is ineluctably clear that E.B. Villarosa is responsible for the damage suffered by Spouses Ermino.

3. Modes of extinguishment

4. Legal vs. voluntary easements

5. Kinds of legal easement

a. Relating to waters

b. Right of way

c. Light and view

G. Nuisance

H. Modes of acquiring ownership

1. Occupation

2. Donation

a. Nature

b. Persons who may give or receive a donation

c. Effects and limitations of donation

d. Revocation and reduction

3. Prescription

a. General provisions

b. Prescription of ownership and other real rights

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus- NORTHERN CEMENT CORPORATION, *Respondent.*
G.R. No. 200256, SECOND DIVISION, April 11, 2018, CAGUIOA, *J.*

The case of Heirs of Crisologo v. Rañon, stated: Prescription is another mode of acquiring ownership and other real rights over immovable property. It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the ***possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse. Possession is open when it is patent, visible, apparent, notorious and not clandestine.It is continuous when uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood .***

Applying the foregoing to the present case, the Court is unconvinced by the pieces of evidence submitted by Northern Cement to prove compliance with the requirement of possession under Section 14(2) of PD 1529 in relation to Articles 1137 and 1118 of the Civil Code for original registration of land.

The tax declarations presented do not qualify as competent evidence to prove the required possession. In addition, Northern Cement failed to prove possession of the Subject Lot in the concept of an owner, with the records bare as to any acts of occupation, development, cultivation or maintenance by it over the property. The cogon grass and unirrigated rice are indications that the land is idle and uncultivated. Thus, Northern Cement did not acquired the subject lot by prescription as it failed to prove that it is in possession of it in the concept of an owner, public, peaceful and uninterrupted for at least thirty years.

FACTS:

Northern Cement filed with the RTC an application for the registration of title over the Subject Lot - 58,617.96 square meters lot in Barangay Labayug, Sison, Pangasinan- pursuant to PD 1529 and to have the title thereto registered and confirmed under its name (Application).

In its Application, Northern Cement alleged that: (1) it is the owner in fee simple of the Subject Lot which it acquired by way of a Deed of Absolute Sale from the former owner, Rodolfo Chichioco (2) the Subject Lot was last assessed at P17,630.00 (3) Northern Cement is occupying said lot.

To support its Application, Northern Cement offered, *inter alia*, the following documents: (1) Deed of Sale (2) Affidavits of alleged adjoining landowners attesting that Northern Cement is the owner and possessor of the Subject Lot; (3) seven (7) Tax Declarationsfor various years from 1971 to 2003 in the name of Northern Cement and a Tax Declarationfor year 1970 in the name of Chichioco; (4) Tax Clearance Certificate; (5) Technical Description of the Subject Lot; (6) Approved Plan certified by the Department of Environment and Natural Resources (DENR) stating that the Subject Lot is "x x x inside alienable and disposable area as per project No. 63, L.C. Map No. 698, certified on November 21, 1927 x x x.

Likewise, Northern Cement submitted a Report from the Community Environment and Natural Resources Office (CENRO), DENR, Urdaneta City, stating, among others, that: (1) the land is agricultural; (2) it has not been earmarked for public purposes; (3) the entire area is within the alienable and disposable zone as classified on November 21, 1927 and (4) Northern Cement is the actual occupant of the Subject Lot with the improvement: "Cogon."

The OSG filed its Notice of Appearance for the Republic, deputizing the City Prosecutor of Urdaneta City to appear in the case.

The RTC granted the Application. The Republic appealed to the CA, alleging that the RTC erred in granting the application for registration despite the failure of Northern Cement to observe the requirements for original registration of title under PD 1529. CA denied the Republic's appeal and ruled that the evidence sufficed to comply with the requirements of PD 1529.

ISSUE:

Whether the CA erred in affirming the RTC's Decision granting the application for registration of title in favor of Northern Cement despite non-compliance with the requirements under PD 1529. (YES)

RULING:

The Application itself does not enlighten as to whether it was filed under Section 14(1) or Section 14(2) of PD 1529. Northern Cement made no allegation nor presented evidence that it had been in possession of the subject property since June 12, 1945 or earlier. At any rate, the evidence presented, the allegations in the pleadings as well as the discussion of the CA and the RTC in their respective decisions and resolutions, reveal that the present controversy was filed and tried based on Section 14(2) of PD 1529. *Thus, the Petition shall be resolved on Northern Cement's proof of its acquisition of the Subject Lot by prescription.*

Unlike Section 14(1) which requires an open, continuous, exclusive, and notorious manner of possession and occupation since June 12, 1945 or earlier, Section 14(2) is silent as to the nature and period of such possession and occupation necessary. This necessitates a reference to the relevant provisions of the Civil Code on prescription - in this case, Articles 1137 and 1118 thereof;

Article 1137. Ownership and other real rights over immovables also prescribe through uninterrupted adverse possession thereof for **thirty years**, without need of title or of good faith.

Article 1118. Possession has to be in the **concept of an owner, public, peaceful and uninterrupted**.

The case of *Heirs of Crisologo v. Rañon*, stated: Prescription is another mode of acquiring ownership and other real rights over immovable property. It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the **possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse. Possession is open when it is patent, visible, apparent, notorious and not clandestine.It is continuous when uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood x x x**

Applying the foregoing to the present case, the Court is unconvinced by the pieces of evidence submitted by Northern Cement to prove compliance with the requirement of possession under Section 14(2) of PD 1529 in relation to Articles 1137 and 1118 of the Civil Code for original registration of land.

First, the 8 tax declarations presented do not qualify as competent evidence to prove the required possession. Tax Declarations are not conclusive evidence of ownership but only a basis for inferring possession. It is only when these tax declarations are coupled with proof of actual possession of the property that they may become the basis of a claim of ownership.

Second, Northern Cement failed to sufficiently demonstrate that its supposed possession was of the nature and character contemplated by law. The two witnesses, claiming to be heirs of the owners of the lands adjoining the subject property, did not testify as to the specific acts of possession and ownership exercised by Northern Cement and/or its predecessors-in-interest.

Lastly, Northern Cement failed to prove possession of the Subject Lot in the concept of an owner, with the records bare as to any acts of occupation, development, cultivation or maintenance by it over the property. Indeed, from the evidence presented, the only "improvements" on the Subject Lot were "cogon" and "unirrigated rice." These grow casually on lands in this country, without need of cultivation, and hardly have utility. More than anything, its presence is usually *indicia* that the land on which it grows are idle.

Thus, Northern Cement did not acquired the subject lot by prescription as it failed to prove that it is in possession of it in the concept of an owner, public, peaceful and uninterrupted for at least thirty years.

REPUBLIC OF THE PHILIPPINES, Petitioner, v. PROSPERIDAD D. BAUTISTA, Respondent.
G.R. No. 211664, THIRD DIVISION, November 12, 2018, REYES, JR., *J.*

In Republic v. De Tensuan, the Court recognized that it had been lenient in some cases and accepted substantial compliance with the evidentiary requirements set forth in T.A.N. Properties. But despite this recognition, the Court still applied the rule on strict compliance taking into consideration the Republic's opposition that the land applied for registration is inalienable. However, the court emphasized that strict compliance with T.A.N. Properties remains to be the general rule. In this case, the effective opposition by the Republic to the application for registration by respondent prevented the

application of substantial compliance. Clearly, the evidence presented by respondent would not suffice to entitle her to a registration of the subject land.

FACTS:

On May 7, 2003, respondent filed with the RTC an application for registration of title over a parcel of land containing an area of 991 square meters and situated in Cagayan de Oro City. In her application, respondent alleged that she is the owner in fee simple of the subject land.

On June 12, 2003, the Republic filed an Opposition, raising the following grounds: (a) that the parcel of land being applied for is part of the public domain belonging to the Republic; (b) that neither the applicant nor her predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the subject land since June 12, 1945 or earlier; and (c) that the muniments of title and/or tax declaration of the applicant attached to the application do not constitute competent and sufficient evidence of bona fide acquisition of the subject land. Two more oppositions were filed by the Heirs of Dante P. Sarraga, who claimed that portions of their property were included in the description of the subject land and by the Regional Director of the DPWH, who alleged that a portion of the subject land encroaches part of the National Highway

The RTC granted the application for registration which was affirmed by the CA. The appellate court acknowledged that in *Republic v. T.A.N. Properties, Inc*., the Court had already ruled that an application for original registration must be accompanied by a copy of the original classification approved by the DENR and that CENRO certifications by themselves would not suffice. Nevertheless, it stressed that applications for land registration may be granted on the basis of substantial compliance. The Republic insists that the prevailing rule in cases involving applications for original registration of title to land remains to be that enunciated in T.A.N. Properties. Respondent counters that the Republic failed to present any evidence controverting the contents of the CENRO certifications to the effect that the subject land is alienable and disposable

ISSUE:

Whether the respondent is entitled to registration of the subject land.

RULING:

The petition is impressed with merit.

Section 14 of Presidential Decree (P.D.) No. 1529 or the Property Registration Decree

> Sec. 14. Who may apply. The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives: (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.(2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.

Registration under Section 14(1) is based on possession; whereas registration under Section 14(2) is based on prescription. Thus, under Section 14(1), it is not necessary for the land applied for to be

alienable and disposable at the beginning of the possession on or before June 12, 1945 - Section 14(1) only requires that the property sought to be registered is alienable and disposable at the time of the filing of the application for registration. However, in Section 14(2), the alienable and disposable character of the land, as well as its declaration as patrimonial property of the State, must exist at the beginning of the relevant period of possession.

The present rule is that an application for original registration must be accompanied by (1) a CENRO or PENRO Certification; and (2) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. In this case, it is undisputed that respondent failed to present a copy of the original land classification covering the subject land; and that she relied solely on the CENRO Certification to prove that the subject land is alienable and disposable. Clearly, the evidence presented by respondent would not suffice to entitle her to a registration of the subject land.

In *Republic v. De Tensuan*, the Court recognized that it had been lenient in some cases and accepted substantial compliance with the evidentiary requirements set forth in T.A.N. Properties**. But despite this recognition, the Court still applied the rule on strict compliance taking into consideration the Republic's opposition that the land applied for registration is inalienable.** The Court finds the pronouncement in De Tensuan applicable to this case. Indeed, the Republic has been consistent in opposing respondent's application for registration on the ground that the subject land is inalienable. This effective opposition prevented the application of substantial compliance. Furthermore, even on the assumption that the Republic failed to raise any opposition to the respondent's application, the rule on substantial compliance would still be unavailing in this case. In the Vega case, the Court clarified that strict compliance with T.A.N. Properties remains to be the general rule.

Conversely, if there is an opportunity for the applicant to comply with the ruling in T.A.N. Properties, the rule on strict compliance shall be applied. From the foregoing, it is clear that substantial compliance may be applied, at the discretion of the courts, only if the trial court rendered its decision on the application prior to June 26, 2008, the date of the promulgation of T.A.N. Properties. In this case, the RTC granted respondent's application for registration of title to the subject land on January 8, 2010, or 18 months after the promulgation of T.A.N. Properties. Accordingly, the rule on strict compliance must be applied. The courts would not have even the slight discretion to apply the rule on substantial compliance.

c. Prescription of actions

SPECIFIED CONTRACTORS & DEVELOPMENT, INC., and SPOUSES ARCHITECT ENRIQUE O. OLONAN and CECILIA R. OLONAN, *Petitioners*, -versus- JOSE A. POBOCAN, *Respondent*.
G.R. No. 212472, FIRST DIVISION, January 11, 2018, TIJAM, *J.*

What determines the nature of the action is the allegations in the complaint and the character of the relief sought. Here, Pobocan prayed that petitioners be compelled to perform their part of the alleged oral agreement by executing and delivering the appropriate deeds of conveyance over the subject units. He did not claim ownership of, nor title to, the subject units. Hence, the present suit is essentially for specific performance – a personal action.

A personal action based upon an oral contract prescribes after six years. Here, the complaint for specific performance was instituted on November 21, 2011, or 17 years from the oral agreement of 1994 and almost 12 years from the oral agreement of December 1, 1999. Hence, prescription had already set in.

FACTS:

Respondent Jose A. Pobocan (Pobocan) was in the employ of petitioner Specified Contractors & Development, Inc. (Specified Conractors) until his retirement. Petitioner Architect Enrique O. Olonan (Architect Olonan), as chairman of Specified Contractors, allegedly agreed to give Pobocan one unit for every building Specified Contractors is able to construct as part of his compensation package. Pursuant to the alleged oral agreement, Specified Contractors supposedly ceded, assigned, and transferred Unit 708 of Xavierville Square Condominium and Unit 208 of Sunrise Holiday Mansion Bldg. I (subject units) in favor of Pobocan. Condominium Certificate of Title (CCT) No. N-1834732 for Unit 708 of Xavierville Square Condominium was issued on September 11, 1997, while CCT No. CT-61333 for Unit 208 of Sunrise Holiday Mansion Building I was issued on March 12, 1996.

In a March 14, 2011 letter addressed to Architect Olonan, Pobocan requested the execution of Deeds of Assignment or Deeds of Sale over the subject units in his favor, along with various other benefits, in view of his impending retirement on March 19, 2011. When his demand was unheeded, he filed a Complaint on November 21, 2011 before the RTC of Quezon City praying that petitioners be ordered to execute and deliver the appropriate deeds of conveyance.

Pobocan cites the year 1994 as when he and Architect Olonan allegedly had an oral agreement from which Unit 208 of Sunrise Holiday Mansion I was allegedly assigned to him. He went on to cite his resignation in October of 1997 and his re-employment with the company on December 1, 1999 for which he was allegedly given Unit 803 of the Xavierville Square Condominium, substituted later on by Unit 708 thereof.

Petitioners, however, interposed a Motion to Dismiss denying the existence of the alleged oral agreement.

ISSUE:

Whether the Pobocan's cause of action had already prescribed. (YES)

RULING:

What determines the nature of the action is the allegations in the complaint and the character of the relief sought. Here, Pobocan prayed that petitioners be compelled to perform their part of the alleged oral agreement by executing and delivering the appropriate deeds of conveyance over the subject units. He did not claim ownership of, nor title to, the subject units. Hence, the present suit is essentially for specific performance – a personal action.

While a real action prescribes after 30 years under Article 1141 of the New Civil Code, a personal action based upon an oral contract prescribes after six years under Article 1145 of the New Civil Code. Here, the complaint for specific performance was instituted on November 21, 2011, or 17

years from the oral agreement of 1994 and almost 12 years from the oral agreement of December 1, 1999.

Pobocan argued that the prescriptive period should not be counted from 1994 because the condominium units were not yet in existence at that time, and that the obligation would have arisen after the units were completed and ready for occupancy. Article 1347 of the New Civil Code is, however, clear that future things may be the object of a contract. In any case, CCT No. N-1834732 for Unit 708 of Xavierville Square Condominium was issued more than 13 years before Pobocan's March 14, 2011 demand letter, while CCT No. CT- 61333 for Unit 208 of Sunrise Holiday Mansion Building I was issued 14 years before the said demand letter.

In view of the instant suit for specific performance being a personal action funded upon an oral contract which must be brought within six years from the accrual of the right, prescription had already set in.

ASIGA MINING CORPORATION, *Petitioner*, -versus- MANILA MINING CORPORATION and BASIANA MINING EXPLORATION CORPORATION, *Respondents.*
G.R. No. 199081, SECOND DIVISION, January 24, 2018, REYES, JR., *J.*

As explained by Justice Paras in Santiago v. Deputy Executive Secretary:
Under the Consolidated Mines Administrative Order (CMAO), implementing PD 463, as amended, the rule that has been consistently applied is that it is the failure to perform the required assessment work, not the failure to file the AAWO that gives rise to abandonment. Interpreted within the context of PD 1902, the last amending decree of PD 463, it is intended, among others, to accelerate the development of our natural resources and to accelerate mineral productions, abandonment under the aforequoted Sec. 27 refers to the failure to perform work obligations which in turn is one of the grounds for the cancellation of the lease contract (Sec. 43(a), Consolidated Mines Administrative Order, implementing PD 463)

Under the Mineral Resources Decree of 1974, as amended, and as properly interpreted by established jurisprudence, abandonment by non-performance of the annual work obligation could be declared only after the observance of due process. In no uncertain terms, the Court has already established that there is no rule of automatic abandonment with respect to mining claims for failure to file the affidavit of annual work obligations. In cases when the holder of the mining claim is involved in a mining dispute/case, allowed the submission of the actual mineral agreement application thirty (30) days from the final resolution of the dispute/case. Considering that the present case is the very mining dispute referred to in Section 8 of DENR DAO No. 97-07, then, contrary to the MAS and CA decisions, Asiga is correct in asserting that it has thirty (30) days from the finality of this decision to pay in full the occupational fees as required by Section 9 thereof

FACTS:

Petitioner Asiga Mining Corporation (Asiga) was the holder of mining claims over hectares of land located in Santiago, Agusan del Norte. These claims, known as MIRADOR and CICAFE, were granted unto Asiga by virtue of the Mining Act of 1936.

Subsequently, when the law was amended by the Mineral Resources Decree of 1974, the petitioner had to follow registration procedures so that its earlier mining claims, MIRADOR and CICAFE, could be recognized under the new law. Following their successful application, their mining claims over the subject area were upheld. Two decades later, the Mineral Resources Decree of 1974 was amended and superseded by the Mining Act of 1995. Like before, Asiga was again required by the supervening law to undergo registration procedures so that its mining claims could be recognized anew.

Hence, on March 31, 1997, Asiga applied with the Mines and Geosciences Bureau (MGB) to convert its mining claims into a Mineral Production Sharing Agreement (MPSA) as required by the Mining Act of 1995 and its implementing rules and regulations. As fate would have it, it was during this application process when Asiga discovered that its mining claims overlapped with that of respondent Manila Mining Corporation (respondent MMC), by about 1,661 hectares, and of respondent Basiana Mining Exploration Corporation (respondent BMEC) by 214 hectares.

Upon knowledge of the foregoing, and to protect its interest over the subject area, Asiga filed before the MGB-CARAGA Regional Office an Adverse Claim with Petition for Preliminary Injunction against the respondents MMC and BMEC, and prayed for the exclusion of the area applied for by the respondents from the bounds of its mining claims. It asserted that: (1) it has vested right to the approved and existing mining claims that were awarded to it since 1975; (2) it has preferential right to enter into any mode of mineral agreement with the government for the period up to 14 September 1997; and (3) the respondents' MPSA applications are null and void because the areas applied for encroached on Asiga's mining claims and thus, were closed to application.

The respondents MMC and BMEC, on the other hand, separately filed a Motion to Dismiss on grounds of prescription and abandonment of mining claims. Collectively, they averred that: (1) **Asiga's adverse claim is rendered void by prescription as it was only filed more than thirty (30) days from the date of the first publication of respondents' Notice of Application for MPSA;** (2) Asiga did not substantiate the alleged encroachment since it failed to submit documents that would prove such claim; (3) Asiga already abandoned its mining claims because it failed to file an Affidavit of Annual Work Obligation (AAWO) showing its work performance over the subject mining areas for more than two (2) consecutive years.

On December 24, 1998, the Panel of Arbitrators organized by the MGB-CARAGA Regional Office rendered a Decision in favor of Asiga. The respondents appealed to the Mines Adjudication Board (MAB) reiterating their arguments of prescription and abandonment, to which the MAB agreed. Aggrieved, Asiga filed a Petition for Review under Rule 43 of the Rules of Court before the CA. On May 12, 2011, the CA promulgated the assailed decision. It ruled that Asiga cannot be considered a holder of valid and existing mining claims. After the dismissal of Asiga 's motion for reconsideration, Asiga filed this petition for review on certiorari.

ISSUES:

1. Whether Asiga could be considered to have abandoned its mining claim over the hectares of land located in Santiago, Agusan del Norte on the basis of (a) non-submission of the affidavit of annual work obligations, and (b) non-payment of fees. (NO)
2. Whether Asiga's adverse claim is rendered void by prescription as it was only filed more than thirty (30) days from the date of the first publication of respondents' Notice of Application for MPSA. (NO)

RULING:

1. **The Court has already established that there is no rule of automatic abandonment with respect to mining claims for failure to file the affidavit of annual work obligations.**

Based on the facts as borne by the records of this case, the Court is of the considered opinion that Asiga did not abandon its mining claims over the subject area. To rule that it did on the basis merely of the non-submission of the affidavit and the non-payment of fees, without considering the relevant implementing rules and regulations of the law as well as settled jurisprudence on the matter, would cause undue injury to a right granted—and thus protected by law—unto the petitioner.

The notion of "automatic abandonment" being invoked by the respondents is provided for in Section 27 of the Mineral Resources Development Decree of 1974. As originally worded, **Section 27 of the Mineral Resources Development Decree of 1974** provided that the failure of a claim owner to submit a sworn statement of its compliance with its annual work obligations for two (2) consecutive years shall "cause the forfeiture of all rights to his claim."

In 1978, **Section 15 of Presidential Decree (P.D.) No. 1385** amended this specific provision. Instead of merely causing the forfeiture of the mining rights upon failure to comply with the required submissions, the section then provided for an "automatic abandonment" of the mining claims, which provides that **failure of the claimowner to comply therewith** for two (2) consecutive years shall constitute automatic abandonment of the mining claims

In 1980, this provision was once again amended. **Section 5 of P.D. No. 1677 retained the "automatic abandonment"** provision and further included that, should a verification be conducted and it was discovered that no work was actually accomplished despite the submission of an affidavit to that effect, the owner/lessee shall likewise automatically lose all the rights appurtenant to his/her mining claims.

Finally, **Section 27, as it now stands, was modified by Section 2 of P.D. No. 1902 which provides that failure of the claimowner to comply therewith** for two (2) consecutive years shall constitute automatic abandonment of the mining claim: Provided, further, That, if it is found upon

field verification that no such work was actually done on the mining claim, the claimowner/lessee shall likewise automatically lose all his rights thereto notwithstanding submission of the aforesaid documents.

What is being asked of this Court by the respondents is a re-interpretation of this most recent iteration of the Mineral Resources Development Decree of 1974. As how it was in Santiago, to arrive at an answer, the subject matter of the provision must first be clarified. Is it the non-submission of the proof of the compliance—the affidavit of annual work obligation—for two consecutive years, or is it the actual non-compliance of the annual work obligation for two consecutive years that would become the basis for the declaration of abandonment of mining claims? The Court opines that it is the latter.

The latest version indicates that there is **focus on the annual work obligations imposed upon claim owners or lessees, and not merely on the submission of proof to this requirement.** Indeed, as ruled in Santiago, the essence of this provision is to exact compliance of the obligations imposed upon claim owners or lessees who are granted the privilege of exploring and/or exploiting the Philippines' natural resources.

Thus, when Section 27 included the phrase **"failure of the claimowner to comply therewith," the phrase was referring to the actual work obligations required of the claim owners, and not merely the submission of the proof of the actual work obligations.** This is the proper interpretation of this section. As explained by Justice Paras in Santiago:

> Under the Consolidated Mines Administrative Order (CMAO), implementing PD 463, as amended, the rule that has been consistently applied is that it is the failure to perform the required assessment work, not the failure to file the AAWO that gives rise to abandonment. Interpreted within the context of PD 1902, the last amending decree of PD 463, it is intended, among others, to accelerate the development of our natural resources and to accelerate mineral productions, abandonment under the aforequoted Sec. 27 refers to the failure to perform work obligations which in turn is one of the grounds for the cancellation of the lease contract (Sec. 43(a), Consolidated Mines Administrative Order, implementing PD 463)

Even Department of Environment and Natural Resources (DENR), was of the opinion that **it is the failure to perform actual work obligations that would give rise to abandonment.** It further interpreted the provision as one which is more of convenience than substance, and that the claim owners or lessees are not precluded from proving their actual compliance through other means.

Further, in declaring claim owners or lessees to have abandoned their mining claims, due process must primarily be observed. In fact, in the recent case of Yinlu Bicol Mining Corporation v. Trans-Asia Oil and Energy Development Corporation, the Court, through Justice Bersamin, had occasion to discuss that the basic tenets of due process require that notice be given to the claim owners if their mining claims are to be considered cancelled.

And so, by jurisprudential rulings, **there is no "automatic abandonment" on the basis of the non-submission of the AAWO alone.** If the claim owners or lessees did indeed fail to perform their obligations as required in Section 27 of the Mineral Resources Development Decree of 1974, as amended, **then the cancellation of their mining claims could only be considered proper upon observance of due process,** which, according to Yinlu, takes the form of: **(1) a written notice of non-compliance to the claim owners and lessees and an ample opportunity to comply; and (2) in the event of the claim owners' and lessees' failure to comply, a written notice effecting the cancellation of their mining claims.**

In this case, nothing on record indicates that the foregoing requirements have been complied with. There were no notices sent to Asiga, which either notified it of its non-compliance to Section 27 or notified it of the cancellation of its mining claims. Thus, on the basis of the foregoing, it could not be said that the petitioner has abandoned its mining claims over the disputed parcels of land.

2. The CA failed to consider **Section 8** of the same administrative order which, in cases when the holder of the mining claim is involved in a mining dispute/case, allowed the submission of the actual mineral agreement application **thirty (30) days from the final resolution of the dispute/case.**

In cases where a claim owner or lessee is involved in a mining dispute, it shall just submit a "Letter of Intent to file the necessary Mineral Agreement application." The actual mineral agreement application, however, should only be filed within thirty (30) days from the final resolution of the dispute of the case. Necessarily, therefore, and contrary to the CA ruling, the **30-day period within which to pay the occupational fees would only commence to run from the filing of the actual mineral agreement application, and not before.**

Considering that the present case is the very mining dispute referred to in Section 8 of DENR DAO No. 97-07, then, contrary to the MAS and CA decisions, Asiga is correct in asserting that it has thirty (30) days from the finality of this decision to pay in full the occupational fees as required by Section 9 thereof.

IV. SUCCESSION

A. General provision

B. Testamentary succession

1. Wills

MARGIE SANTOS MITRA, *Petitioner*, -versus - PERPETUA L. SABLAN- GUEVARRA, REMEGIO L. SABLAN, ET AL., *Respondents*.
G.R. No. 213994, SECOND DIVISION, April 18, 2018, REYES, JR, J.

What is imperative for the allowance of a will despite the existence of omissions is that such omissions must be supplied by an examination of the will itself, without the need of resorting to extrinsic evidence.

An examination of the will in question reveals that the attestation clause indeed failed to state the number of pages comprising the will. However, as was the situation in Taboada, this omission was supplied in the Acknowledgment.

FACTS:

Margie Santos Mitra filed a petition for the probate of the notarial will of Remedios Legaspi. Mitra alleged she is a *de facto* adopted daughter of Legaspi and Legaspi left a notarial will instituting Mitra along with Orlando Castro, Perpetua Sablan-Guevarra, and Remigio LegaspiSablan, as her heirs, legatees and devisees.

Perpetua Sablan-Guevarra and Remegio Sablan opposed the petition. They aver that the will was not executed in accordance with the formalities required by law since the last page of the will which contained the Acknowledgment was not signed by Legaspi and her instrumental witnesses. Further the attestation clause failed to state the number of pages upon which the will was written. The number of pages was however supplied by the Acknowledgment portion.

ISSUES:

1. Whether the failure to sign the last page of the will is fatal to the will's validity (NO)
2. Whether the failure to state the number of pages in the attestation clause will invalidate the will (NO)

RULING:

1. It is a skewed stance in insisting that the testator Legaspi and the instrumental witnesses should have signed on the last page of the subject will. When Article 805 of the Civil Code requires the testator to subscribe at the end of the will, it necessarily refers to the logical end thereof, which is where the last testamentary dispositionends. As the probate court correctly appreciated, the last page of the will does not contain any testamentary disposition; it is but a mere continuation of the Acknowledgment.

2. In *Taboada vs. Hon. Rosal,* the Court allowed the probate of a will notwithstanding that the number of pages was stated not in the attestation clause, but in the Acknowledgment. In *Azuela vs. CA,* the Court ruled that there is substantial compliance with the requirement, if it is stated elsewhere in the will how many pages it is comprised of.

   What is imperative for the allowance of a will despite the existence of omissions is that such omissions must be supplied by an examination of the will itself, without the need of resorting to extrinsic evidence. "However, those omissions which cannot be supplied except by evidence aliunde would result in the invalidation of the attestation clause and ultimately, of the will itself."

   An examination of the will in question reveals that the attestation clause indeed failed to state the number of pages comprising the will. However, as was the situation in *Taboada*,

this omission was supplied in the Acknowledgment. It was specified therein that the will is composed of four pages, the Acknowledgment included.

2. Institution of heirs

3. Substitution of heirs

4. Conditional testamentary dispositions and those with a term

5. Legitime

6. Disinheritance

7. Legacies and devises

C. Legal or intestate succession

1. General provisions; relationship and right of representation

2. Order of intestate succession

D. Provisions common to testate and intestate succession

1. Right of accretion

2. Capacity to succeed by will or by intestacy

3. Acceptance and repudiation of inheritance

4. Partition and distribution of the estate

AMPARO S. CRUZ; ERNESTO HALILI; ALICIA H. FLORENCIO; DONALD HALILI; EDITHA H. RIVERA; ERNESTO HALILI, JR.; and JULITO HALILI, *Petitioners*, -versus- ANGELITO S. CRUZ, CONCEPCION S. CRUZ, SERAFIN S. CRUZ, and VICENTE S. CRUZ, *Respondents*.
G.R. No. 211153, FIRST DIVISION, February 28, 2018, DEL CASTILLO, J.

In The Roman Catholic Bishop of Tuguegarao v. Prudencio, it was held that —

> *Considering that respondents-appellees have **neither knowledge nor participation in the Extra-Judicial Partition, the same is a total nullity**. It is not binding upon them. Thus, in Neri v. Heirs of Hadji Yusop Uy, which involves facts analogous to the present case, we ruled that:*
>
> *[I]n the execution of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale in favor of spouses Uy, all the heirs of Anunciacion should have participated. Considering that Eutropia and Victoria were admittedly excluded and that then minors Rosa and Douglas were not properly represented therein, the settlement was not valid and binding upon them and consequently, a total nullity.*
>
> *The effect of excluding the heirs in the settlement of estate was further elucidated in Segura v. Segura, thus:*

> *It is clear that Section 1 of Rule 74 does not apply to the partition in question which was null and void as far as the plaintiffs were concerned. The rule covers only valid partitions. The partition in the present case was invalid because it excluded six of the nine heirs who were entitled to equal shares in the partitioned property. Under the rule* ***'no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof****.' As the partition was a total nullity and did not affect the excluded heirs, it was not correct for the trial court to hold that their right to challenge the partition had prescribed after two years from its execution.*

Thus, Antonia received 2 lots as against her siblings, including respondent Concepcion, who respectively received only 1 lot each in the subject property. This she was able to achieve through the subject 1986 deed of extrajudicial settlement - which was ***written in English****, a language that was* ***not known to and understood by Concepcion*** *given that she finished only Grade 3* ***elementary education****. With the help of Amparo, Antonia was able to secure Concepcion's consent and signature without the benefit of explaining the contents of the subject deed of extrajudicial settlement.*

FACTS:

In an Amended Complaint filed on April 6, 1999 with the RTC, respondents Angelito, Concepcion, and Serafin alleged that they - together with their siblings, petitioner Amparo and Antonia inherited a 940-square-meter parcel of land from their late parents. On July 31, 1986, the parties **executed a deed of extrajudicial settlement of estate** covering the subject property, on the agreement that each heir was to receive an equal portion of the subject property as mandated by law.

However, in 1998, when the subject property was being subdivided and the subdivision survey plan was shown to respondents, they discovered that Antonia was allocated 2 lots, as against 1 each for the respondents. They alleged that **petitioner Amparo and Antonia** were able to **perpetrate the fraud by inducing Concepcion - who was illiterate - to sign the deed** of extrajudicial settlement of estate, which was written in the English language, without previously reading and explaining the contents thereof to the latter. Respondents prayed to declare null and void the extra-judicial settlement.

In their Answer, petitioners prayed for dismissal, claiming that the July 31, 1986 deed of extrajudicial settlement of estate had been voluntarily and freely executed by the parties and that respondents' cause of action has prescribed. The RTC dismissed the complaint. The CA reversed and set aside the RTC's judgment and the parties' deed of extrajudicial settlement.

ISSUE:

Whether the CA erred in setting aside the deed of extrajudicial settlement of the estate. (NO)

RULING:

The present action involves a situation where one heir was able - through the expedient of an extrajudicial settlement that was written in a language that is not understood by one of her co-heirs - to secure a share in the estate of her parents that was greater than that of her siblings, in violation of the principle in succession that heirs should inherit in equal shares.

Thus, Antonia received 2 lots as against her siblings, including respondent Concepcion, who respectively received only 1 lot each in the subject property. This she was able to achieve through the subject 1986 deed of extrajudicial settlement - which was written in English, a language that was not known to and understood by Concepcion given that she finished only Grade 3 elementary education. With the help of Amparo, Antonia was able to secure Concepcion's consent and signature without the benefit of explaining the contents of the subject deed of extrajudicial settlement.

For this reason, Concepcion did not have adequate knowledge of the contents and ramifications of the subject deed of extrajudicial settlement; she was left unaware of the sharing arrangement contained therein, and realized it only when Antonia attempted to subdivide the subject property in 1998, and the plan of subdivision survey was shown to Concepcion- which revealed that Antonia obtained 2 lots.

In short, this is a simple case of exclusion in legal succession, where **co-heirs were effectively deprived of their rightful share to the estate** of their parents who died without a will - by virtue of a **defective deed of extrajudicial settlement or partition** which granted a bigger share to one of the heirs and was prepared in such a way that **the other heirs would be effectively deprived of discovering and knowing its contents.**

Under the law, "[t]he children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares." In this case, two of Concepcion's co-heirs renounced their shares in the subject property; their shares therefore accrued to the remaining co-heirs, in equal shares as well.

In *The Roman Catholic Bishop of Tuguegarao v. Prudencio*, it was held that —

> Considering that respondents-appellees have **neither knowledge nor participation in the Extra-Judicial Partition, the same is a total nullity**. It is not binding upon them. Thus, in *Neri v. Heirs of Hadji Yusop Uy*, which involves facts analogous to the present case, we ruled that:
>
> [I]n the execution of the Extra-Judicial Settlement of the Estate with Absolute Deed of Sale in favor of spouses Uy, all the heirs of Anunciacion should have participated. Considering that Eutropia and Victoria were admittedly excluded and that then minors Rosa and Douglas were not properly represented therein, the settlement was not valid and binding upon them and consequently, a total nullity.
>
> The effect of excluding the heirs in the settlement of estate was further elucidated in *Segura v. Segura,* thus:
>
> > It is clear that Section 1 of Rule 74 does not apply to the partition in question which was null and void as far as the plaintiffs were concerned. The rule covers only valid partitions. The partition in the present case was invalid because it excluded six of the nine heirs who were entitled to equal shares in the partitioned property. Under the rule **'no extrajudicial settlement shall be binding upon any person who has not participated therein or had no notice thereof**.' As the partition was a total nullity and did not affect the excluded heirs, it was not correct for the trial court to

hold that their right to challenge the partition had prescribed after two years from its execution.

V. OBLIGATIONS AND CONTRACTS

A. Obligations

1. General provisions

2. Nature and effect

SPOUSES FRANCISCO ONG and BETTY LIM ONG, and SPOUSES JOSEPH ONG CHUAN and ESPERANZA ONG CHUAN, *Petitioners*, -versus- BPI FAMILY SAVINGS BANK, INC., *Respondent.*
G.R. No. 208638, SECOND DIVISION, January 24, 2018, REYES, JR., J.

In Subic Bay Metropolitan Authority v. Court of Appeals, the court held that the obligation of one party in a reciprocal obligation is dependent upon the obligation of the other, and the performance should ideally be simultaneous. This means that in a loan, the creditor should release the full loan amount and the debtor repays it when it becomes due and demandable.

Article 1170 of the Civil Code enumerates the instances when parties to a contract may be held liable for damages, viz.:

Article 1170. Those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor thereof, are liable for damages. In this case, BSA incurred delay in the performance of its obligations and subsequently cancelled the omnibus line without petitioners' consent.

FACTS:

Spouses Francisco Ong and Betty Lim Ong and Spouses Joseph Ong Chuan and Esperanza Ong Chuan (collectively referred to as the petitioners) are engaged in the business of printing under the name and style "MELBROS PRINTING CENTER.

Sometime in December 1996, Bank of Southeast Asia's (BSA) managers, Ronnie Denila and Rommel Nayve, visited petitioners' office and discussed the various loan and credit facilities offered by their bank. In view of petitioners' business expansion plans and the assurances made by BSA's managers, they applied for the credit facilities offered by the latter.

Sometime in April 1997, they executed a real estate mortgage (REM) over their property situated in Paco, Manila, covered by Transfer Certificate of Title No. 143457, in favor of BSA as security for a P15,000,000.00 term loan and P5,000,000.00 credit line or a total of P20,000,000.00. With regard to the term loan, only P10,444,271.49 was released by BSA. With regard to the P5,000,000.00 credit line, only P3,000,000.00 was released. BSA promised to release the remaining P2,000,000.00 conditioned upon the payment of the P3,000,000.00 initially released to petitioners.

Petitioners acceded to the condition and paid the P3,000,000.00 in full. However, BSA still refused to release the P2,000,000.00. Petitioners then refused to pay the amortizations due on their term loan. Later on, BPI Family Savings Bank (BPI) merged with BSA, thus, acquired all the latter's rights and assumed its obligations. BPI filed a petition for extrajudicial foreclosure of the REM for petitioners' default in the payment of their term loan.

In order to enjoin the foreclosure, petitioners instituted an action for damages with Temporary Restraining Order and Preliminary Injunction against BPI. On November 10, 2008, the trial court resolves in favor of the plaintiffs and against the defendant bank for the latter to pay the former. BPI thereafter appealed to the CA averring that the court a quo erred when it ruled that petitioners were entitled to damages. BPI posited that petitioners are liable to them on the principal balance of the mortgage loan agreement. The CA reversed the decision of the lower court and ruled in favor of BPI. Petitioners filed a Motion for Reconsideration but the same was denied by the CA. Aggrieved, petitioners filed the present petition.

ISSUE:

Whether BSA incurred delay in the performance of its obligations. (YES)

RULING:

Loan is a reciprocal obligation, as it arises from the same cause where one party is the creditor and the other the debtor. **The obligation of one party in a reciprocal obligation is dependent upon the obligation of the other, and the performance should ideally be simultaneous.** This means that **in a loan, the creditor should release the full loan amount and the debtor repays it when it becomes due and demandable.**

In this case, BSA did not only incur delay in releasing the pre-agreed credit line of P5,000,000.00 but likewise violated the terms of its agreement with petitioners when **it deliberately failed to release the amount of P2,000,000.00 after petitioners complied with their terms and paid the first P3,000,000.00 in full.** The default attributed to petitioners when they stopped paying their amortizations on the term loan cannot be sustained by this Court because long before they sent a Letter to BSA informing the latter of their refusal to continue paying amortizations, BSA had already reneged on its obligation to release the amount previously agreed upon, i.e., the P5,000,000.00 covered by the credit line.

Article 1170 of the Civil Code enumerates the instances when parties to a contract may be held liable for damages, viz.:

> Article 1170. Those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor thereof, are liable for damages.

The direct consequences therefore of the acts of BSA are: the machinery and equipment that were essential to petitioners' business and requisite for its operations had to be procured so late in time and had crippled the printing of school supplies, hence, petitioners were constrained to cancel purchase orders of their clients to petitioners' damage.

BSA claims that the release of the amount covered by the credit line was subject to the "availability of funds" thus only a part of the proceeds of the entire omnibus line was released. Assuming for the sake of discussion that the funds at the time were insufficient to cover the entire P5,000,000.00, BSA should have at least informed petitioners in advance so that the latter could have resorted to other means to secure the amount needed for their printing business. The omnibus line was approved and became effective on January 1997 yet BSA did not allow petitioners to draw from the line until November 1997. Moreover, BSA downgraded petitioners' drawdown to only P3,000,000.00 despite the clear wordings of their credit agreement whereby petitioners were allowed to draw any portion or all of the omnibus line not to exceed P5,000,000.00. The almost 10 months delay in releasing the amount applied for by petitioners negates good faith on the part of BSA.

Since BSA incurred delay in the performance of its obligations and subsequently cancelled the omnibus line without petitioners' consent, its successor BPI cannot be permitted to foreclose the loan for the reason that its successor BSA violated the terms of the contract even prior to petitioners' justified refusal to continue paying the amortizations.

3. Kinds

D.M. RAGASA ENTERPRISES, INC., *Petitioner*, -versus- BANCO DE ORO, INC. (FORMERLY EQUITABLE PCI BANK, INC.), *Respondent*.
G.R. No. 190512, SECOND DIVISION, June 20, 2018, CAGUIOA, J.

The requisites for the demandability of the penal clause are: (1) that the total non-fulfillment of the obligation or the defective fulfillment is chargeable to the fault of the debtor; and (2) that the penalty may be enforced in accordance with the provisions of law. These requisites are present in this case. From the foregoing, the Court accordingly rules that the bank is liable for the forfeiture of the deposit and attorney's fees in the amount of P15,000.00 and such other damages which Ragasa suffered by reason of the breach of the lease period by the bank.

FACTS:

On January 30, 1998, Ragasa and then Equitable Banking Corporationexecuted a Contract of Lease as lessor and lessee, respectively, over the subject premises, for a period of five years. The pertinent provisions of the Lease Contract state:

> 8. The TENANT voluntarily binds himself and agrees to the following without any coercion or force by the LESSOR;

x x x x

m) The full deposit shall be forfeited in favor of the LESSOR upon non-compliance of the Term of the Contract of Lease by the TENANT, and cannot be applied to Rental;

n) To pay a penalty of 3% of the monthly rental, for every month of delay of payment of the monthly rental, [with] a fraction of the month x x x considered [as] one month;

p) Breach or non-compliance of any of the provisions of this Contract, especially non-payment of two consecutive monthly rentals on time, shall mean the termination of this Contract, and within five (5) days from the date of breach, non-compliance, or default, the TENANT shall vacate the premises quietly and peacefully without need of the required judicial proceedings. If he does not vacate the premises, the TENANT has agreed that the LESSOR has no liability whatsoever due to the padlocking of the same;

x x x x

10. In the event that a Court Litigation has been resorted to by the LESSOR or LESSEE, due to non-compliance of any of the foregoing provisions, the aggrieved party shall be paid by the other party, no less than fifteen thousand (P15,000) pesos, Philippine Currency, for Attorney's fees, and other damages that the honorable court may allow; the cost of litigations shall be born[e] or paid by the party in fault, or in default. All unpaid accounts and obligations of the TENANT shall earn interest or bear interest at the rate of 14% per annum or at the allowable rate of interest from the date of default. The legal suits shall be brought in the town of Quezon City.

Pursuant to the Lease Contract, Equitable Bank three months advance rentals, and three months rentals as security deposit. Meanwhile, Equitable Bank entered into a merger PCI Bank thereby forming Equitable PCI Bank, Inc. The latter would eventually, pending the present case, merge with Banco de Oro, Inc. to form the respondent bank. As a result of the merger, the bank closed and joined the branches of its constituent banks which were in close proximity with each other One of which is the branch located in the subject premises.

The bank sent a notice informing Ragasa that the former was pre-terminating their Lease Contract Ragasa responded with a demand letter for payment of monthly rentals for the remaining term of the Lease Contract which was countered by the bank that its only liability for pre-terminating the contract is the forfeiture of its security deposit pursuant to item 8(m) of the Lease Contract. The bank argued that item 8(m) of the Lease Contract is actually a penalty clause which, in line with Article 1226 of the Civil Code, takes the place of damages and interests in case of breach. Hence, for breaching the Lease Contract by pre-terminating the same, the bank is liable to forfeit its security deposit in favor of Ragasa but would not be liable for rentals corresponding to the remaining life of the Contract. The RTC ruled in Ragasa's favor. CA reversed.

ISSUE:

What is the liability of the bank, if any, for its act of pre-terminating the Lease Contract?

RULING:

The stipulations between the parties are clear and show no contravention of law, morals, good customs, public order or public policy. As such, they are valid, and the parties' rights shall be adjudicated according to them, being the primary law between them. When the terms of the contract are clear and leave no doubt as to the intention of the contracting parties, the rule is settled that the literal meaning of its stipulations should control.

In the case at bar, there is no question that the bank breached the Lease Contract. It must be noted that the Lease Contract does not contain a pre-termination clause. Thus, having contravened the tenor of the Lease Contract regarding its term or period, the bank should be liable for damages. However, how much in damages should the bank be liable?

In the present case, there is an express stipulation in item 8(p) of the Lease Contract that *"breach or non-compliance of any of the provisions of this Contract, especially non-payment of two consecutive monthly rentals on time, shall mean the termination of this Contract."* The validity of an automatic termination clause such as the one quoted above is well-settled. In *Manila Bay Club Corp. v. Court of Appeals,* the Court justified the validity of the automatic termination clause for it is well to recall that contracts are respected as the law between the contracting parties, and may establish such stipulations, clauses, terms and conditions as they may want to include as long as such agreements are not contrary to law, morals, good customs, public policy or public order they shall have the force of law between them.

Pursuant to the automatic termination clause of the Lease Contract, which is in furtherance of the autonomy characteristic of contracts, the Lease Contract was terminated upon its unauthorized pre-termination by the bank on June 30, 2001. Ragasa is, thus, precluded from availing of the second option which is to claim damages by reason of the breach and allow the lease to remain in force. With the lease having been automatically resolved or terminated by agreement of the parties, Ragasa is entitled only to indemnification for damages.

Entitlement to rentals after the termination of the lease pursuant to an automatic rescission or termination clause is possible in the case where the lessor invokes the clause and the lessee refuses to vacate the leased premises. That is, however, not the situation here. The bank did not continue to possess the Leased Premises after its automatic termination, as it vacated the same on June 30, 2001.

Item 8(m) of the Lease Contract is an accessory obligation or prestation to the principal obligation of lease. It specifies the stipulated amount of liquidated damages — the full deposit — to be awarded to the injured party in case of breach of the Term or period of the principal obligation. Hence, as to source, it is conventional. The amount of the liquidated damages is purely contractual between the parties; and the courts will intervene only to equitably reduce the liquidated damages, whether intended as an indemnity or a penalty, if they are iniquitous or unconscionable, pursuant

to Articles 2227 and 1229 of the Civil Code. Also, proof of actual damages suffered by the creditor is not necessary in order that the penalty may be demanded.

Item 8(m) does not expressly make a reservation for an additional claim for damages and interests occasioned by the breach of the lease period. There is, however, another provision of the Lease Contract that is triggered by a default in item 8(m), which is item 10. Being provisions on default, item 8(m) and item 10 must be applied jointly and simultaneously. Thus, aside from the forfeiture of the full deposit, the party at fault or in default is liable, pursuant to item 10 of the Lease Contract, for the payment of attorney's fees in an amount which is not less than P15,000.00, other damages that the court may allow, cost of litigation, and 14% interest per annum on unpaid accounts and obligations.

From the foregoing, the Court accordingly rules that the bank is liable for the forfeiture of the deposit and attorney's fees in the amount of P15,000.00 and such other damages which Ragasa suffered by reason of the breach of the lease period by the bank. Clearly, the requisites for the demandability of the penal clause are present in this case. These are: (1) that the total non-fulfillment of the obligation or the defective fulfillment is chargeable to the fault of the debtor; and (2) that the penalty may be enforced in accordance with the provisions of law. Ragasa cannot insist on the performance of the lease, i.e., for the lease to continue until expiration of its term, because the lease has been automatically terminated when the bank breached it by pre-terminating its terms. Thus, Ragasa is only entitled to damages.

4. Extinguishment

JOSE T. ONG BUN, *Petitioner*, - versus - BANK OF THE PHILIPPINE ISLANDS, *Respondent*.
G.R. No. 212362, SECOND DIVISION, March 14, 2018, PERALTA, *J.*

When the existence of a debt is fully established by the evidence contained in the record, the burden of proving that it has been extinguished by payment devolves upon the debtor who offers such defense to the claim of the creditor. Even where it is the plaintiff (petitioner herein) who alleges nonpayment, the general rule is that the burden rests on the defendant (respondent herein) to prove payment, rather than on the plaintiff to prove non-payment.

The claim of BPI that the certificates had been paid, is not supported by credible evidence and, therefore, unsubstantiated. The fact that the petitioner still has a copy of the Custodian Certificate of the Silver Certificates of Time Deposit is material as it is inconceivable that the bank would make payment without requiring the surrender thereof. *Hence, the conclusion that the Silver Certificates of Deposit may have been withdrawn by the petitioner or his wife although they failed to surrender the custodian certificates is speculative and replete of any proof or evidence.*

Furthermore, the surrender of such certificates would have promoted the protection of the bank and would have been more in line with the high standards expected of any banking institution. Banks, their business being impressed with public interest, are expected to exercise more care and prudence than private individuals in their dealings.

FACTS:

In 1989, Ma. Lourdes Ong (Ma. Lourdes), the wife of petitioner Jose Ong Bun, purchased three (3) silver custodian certificates (CC) in the spouses' name from the Far East Bank & Trust Company (FEBTC): (a) CC No. 131157 for P100,000; (b) CC No. 131200 for P500,000; and (c) CC No. 224826 for P150,000. The CCs have the following common provisions:

> This instrument is transferable only in the books of the Custodian by the holder, or in the event of transfer, by the transferee or buyer thereof in person or by a duly authorized attorney-in-fact upon surrender of this instrument together with an acceptable deed of assignment.
>
> The Holder hereof or transferee can withdraw at anytime during office hours his/her Silver Certificate of Deposit herein held in custody.
>
> This instrument shall not be valid unless duly signed by the authorized signatories of the Bank, and shall cease to have force and effect upon payment under the terms hereof.

Thereafter, FEBTC merged with BPI after about 11 years since the said CCs were purchased. After the death of Ma. Lourdes in 2002, petitioner discovered that the three CCs bought from FEBTC were still in the safety vault of his deceased wife and were not surrendered to FEBTC. As such, petitioner sent a letter to BPI to advise him [petitioner Jose Ong] on the procedure for the claim of the said certificates. BPI informed the petitioner that upon its merger with FEBTC in 2000, there were no Silver Certificates of Deposit outstanding, which meant that the certificates were fully paid on their respective participation's maturity dates which did not go beyond 1991. BPI refused to pay petitioner's claim because the latter's certificates were no longer outstanding in its records.

After about three years from his discovery of the certificates, petitioner filed a complaint for collection of sum of money and damages against BPI before the RTC.

BPI insists that as early as 1991, all the Silver Certificates of Deposits, including those issued to petitioner and his wife, were already paid. It claimed that the CCs had terms of only 25 months and that by the year 2000, when it merged with FEBTC, there were no longer any outstanding CCs in its books. It also claimed that FEBTC had fully paid all of its silver certificates of time deposit on their maturity dates. **According to BPI, contrary to petitioner's assertion, the presentation or surrender of the certificates is not a condition precedent for its payment by FEBTC.**

The RTC ruled in favor of petitioner. It ordered BPI to pay petitioner, among others, the respective amounts of the Custodian Certificates. However, the CA reversed and set aside the RTC Decision. The CA ruled that petitioner failed to prove that the deposits, which he claims to be unpaid, are still outstanding. According to the appellate court, the custodian certificates, standing alone, do not prove an outstanding deposit with the bank, but merely certify that FEBTC had in its custody for and in behalf of either petitioner or his late wife the corresponding Silver Certificates of Deposit and nothing more. The CA further ruled that the surrender of the custodian certificates is not required for the withdrawal of the certificates of deposits themselves or for the payment of the Silver Certificates of Deposit, hence, even if the holder has in his possession the said custodian certificates, this does not ipso facto mean that he is an unpaid depositor of the bank.

Petitioner, however, insists that the CCs are evidence that the Silver Certificates of Deposit in his name are in the possession of the Trust Investments Group of FEBTC and constitute an outstanding obligation of respondent BPI with whom FEBTC merged. He adds that since it has been proved that the CCs remained in the possession of the petitioner and has not been converted or shown to be non-existing, the said CCs remain incontrovertible and unrebutted evidence of indebtedness of the respondent because said CCs all openly admit that the Silver Certificates of Deposit in varying amounts owned by the petitioner are in its possession and has not been discharged by payment.

ISSUE:

Whether the Custodian Certificates, as evidence of indebtedness of the respondent, remains unpaid as it was still in the possession of the petitioner. (YES)

RULING:

It is undisputed that petitioner is in possession of three (3) CCs from FEBTC. Simply put, the said CCs are proof that Silver Certificates of Deposits are in the custody of a custodian, which is, in this case, FEBTC. The CA therefore, erred in suggesting that the possession of petitioner of the same CCs does not prove an outstanding deposit because the latter are not the certificates of deposit themselves. What proves the deposits of the petitioner are the Silver Certificates of Deposits that have been admitted by the Trust Investments Group of the FEBTC to be in its custody as clearly shown by the wordings used in the subject CCs.

When the existence of a debt is fully established by the evidence contained in the record, the burden of proving that it has been extinguished by payment devolves upon the debtor who offers such defense to the claim of the creditor. Even where it is the plaintiff (petitioner herein) who alleges nonpayment, the general rule is that the burden rests on the defendant (respondent herein) to prove payment, rather than on the plaintiff to prove non-payment. Verily, an obligation may be extinguished by payment. However, two requisites must concur: (1) identity of the prestation, and (2) its integrity. The first means that the very thing due must be delivered or released; and the second, that the prestation be fulfilled completely. In this case, no acknowledgment nor proof of full payment was presented by respondent but merely a pronouncement that there are no longer any outstanding Silver Certificates of Deposits in its books of accounts.

A promise had been obtained by petitioner from BPI that the custodian certificates would be paid upon maturity. Hence, the latter reneged on its promise when it refused payment thereof after demands were made by petitioner for such payment. **The claim of BPI that the certificates had been paid, is not supported by credible evidence and, therefore, unsubstantiated.** Its position that the Silver Certificates of Time Deposits in question had been paid by the FEBTC as early as the year 1991, when the same matured considering that at the time of the merger between FEBTC and the BPI, no such Silver Certificates of Time Deposits were outstanding on the books of Far FEBTC, **is simply unconvincing.**

The fact that the petitioner still has a copy of the Custodian Certificate of the Silver Certificates of Time Deposit is material as it is inconceivable that the bank would make payment without requiring the surrender thereof. Hence, the conclusion that the Silver

Certificates of Deposit may have been withdrawn by the petitioner or his wife although they failed to surrender the custodian certificates is speculative and replete of any proof or evidence.

The CA further ruled that the surrender of the CCs is not required for the withdrawal of the certificates of deposit themselves or for the payment of the Silver Certificates of Deposit, hence, even if the holder has in his possession the said custodian certificates, this does not *ipso facto* mean that he is an unpaid depositor of the bank. **Such conclusion is illogical** because the very wordings contained in the CCs would suggest otherwise.

> This instrument is transferable only in the books of the Custodian by the holder, or in the event of transfer, by the transferee or buyer thereof in person or by a duly authorized attorney-in-fact **upon surrender of this instrument** together with an acceptable deed of assignment. x x x

Furthermore, the surrender of such certificates would have promoted the protection of the bank and would have been more in line with the high standards expected of any banking institution. Banks, their business being impressed with public interest, are expected to exercise more care and prudence than private individuals in their dealings.

DESIDERIO DALISAY INVESTMENTS, INC., *Petitioner*, -versus- SOCIAL SECURITY SYSTEM, *Respondent*.
G.R. No. 231053, THIRD DIVISION, April 04, 2018, VELASCO JR., J.

*Under the Civil Code, ownership does not pass by mere stipulation but only by delivery. Manresa explains, "**the delivery of the thing . . . signifies that title has passed from the seller to the buyer**." According to Tolentino, the purpose of delivery is not only for the enjoyment of the thing but also a mode of acquiring dominion and determines the transmission of ownership, the birth of the real right. The delivery under any of the forms provided by Articles 1497 to 1505 of the Civil Code **signifies that the transmission of ownership from vendor to vendee has taken place**.*

*It is well to emphasize that **nowhere in their communications or during the discussions at the meeting is it stated that the company will turn over possession of the property to SSS to show its goodwill while the negotiations were pending**.*

FACTS:

Involved is a parcel of land covered by Transfer Certificate of Title (TCT) Nos. T-18203, T-18204, T-255986, and T-255985, with an aggregate area of 2,450 sq.m., including the building erected thereon, situated in Agdao, Davao City.

Sometime in the year 1976, respondent Social Security System (SSS) filed a case before the Social Security Commission (SSC) against the Dalisay Group of Companies (DGC) for the collection of unremitted SSS premium contributions of the latter's employees.

On March 11, 1977, Desiderio Dalisay, then President of petitioner Desiderio Dalisay Investments, Inc. (DDII) part of the DGC, sent a Letter to SSS offering the subject land and building to offset DGC's liabilities at P3,500,000. The parties, however, failed to arrive at an agreement as to the appraised value thereof. Thus, no negotiation took place.

Later, or on December 15, 1981, Desiderio Dalisay sent another Letter seeking further negotiation with SSS by recommending that the appraisal be done by Asian Appraisal, Co. Inc. SSC agreed, but it later turned out that Asian Appraisal, Inc. did not respond to Dalisay's request. Thus, Atty. Honesto Cabarroguis, DGC's lawyer, suggested that the appraisal be done by Joson, Capili and Associates instead. The suggestion was later approved.

On July 24, 1982, DDII's Special Board of Directors issued a Resolution stating that the subject properties together with all improvements thereon be sold to SSS in order to settle the unremitted premiums and penalty obligations of DDII, Davao Stevedore Terminal Co., and Desidal Fruits, Inc. In the same Board Resolution, Desiderio Dalisay, or in his absence, Veronica Dalisay-Tirol (Dalisay-Tirol), was authorized to sign in behalf of the corporation any and all papers pertinent to effect full and absolute transfer of said properties to the SSS.

The offer for *dacion* was accepted at the appraised value of P2,000,000. DDII's total liabilities with SSS covering unpaid premium contributions, inclusive of penalties and salary/calamity loan amortizations, amounted to P4,421,321.62.

The SSC issued a Resolution indicating its acceptance of DDII's proposed *dacion en pago* pegged at the appraised value of P2,000,000. The SSC then informed DDII of its acceptance of the proposed *dacion* in payment, including its specified terms and conditions, via a Letter.

Dalisay-Tirol, then Acting President and General Manager of Dalisay Investment, informed SSS that the company is preparing the subject property, especially the building, for its turnover.

Later, or on July 31, 1982, An Affidavit of Consent for the Sale of Real Property was executed by the surviving heirs of the late Regina L. Dalisay, stating that in order to settle the companies' obligations to SSS, they expressly agree to the sale thereof to the SSS for its partial settlement. Thereafter, Desiderio Dalisay passed away.

As of November 30, 1995, the company's total obligations allegedly amounted to P15,689,684.93. Later, or on December 29, 1995, the Philippine National Bank (PNB) executed a Deed of Confirmatory Sale in favor of DDII for properties that it reacquired, including the property subject of the present dispute.

Eddie A. Jara (Jara), Assistant Vice-President of the SSS - Davao I Branch, executed an Affidavit of Adverse Claim over the properties subject of the instant case because of the companies' failure to turn over the certificates of title to SSS.

DDII, through its Managing Director Edith L. Dalisay-Valenzuela (Dalisay-Valenzuela), wrote a letter addressed to SSS President and Chief Executive Officer Carlos A. Arellano, requesting the reevaluation and reconsideration of their problem. DDII issued a Letter to SSS proposing the "offset of SSS obligations with back rentals on occupied land and building of the obligor." It alleged that SSS is bound to pay back rentals totaling P34,217,988.19 for its use of the subject property from July 1982 up to the present. It likewise demanded for the return of the said property.

Meanwhile, despite repeated written and verbal demands made by SSS for DDII to deliver the titles of the subject property, free from all liens and encumbrances, DDII still failed to comply. On October

8, 2002, DDII filed a complaint for Quieting of Title, Recovery of Possession and Damages against SSS with the Regional Trial Court. RTC resolved the case in favor of DDII, holding that there was no perfected *dacion*in payment between the parties. SSS appealed the case to the CA, and the latter reversed the ruling of the RTC.

ISSUE:

Whether there was a perfected *dacion en pago*. (YES)

RULING:

In *dacion en pago*, property is alienated to the creditor in satisfaction of a debt in money. The debtor delivers and transmits to the creditor the former's ownership over a thing as an accepted equivalent of the payment or performance of an outstanding debt. In such cases, Article 1245 provides that the law on sales shall apply, since the undertaking really partakes—in one sense—of the nature of sale; that is, the creditor is really buying the thing or property of the debtor, the payment for which is to be charged against the debtor's obligation.

As a mode of payment, *dacion en pago* extinguishes the obligation to the extent of the value of the thing delivered, either as agreed upon by the parties or as may be proved, unless the parties by agreement—express or implied, or by their silence—consider the thing as equivalent to the obligation, in which case the obligation is totally extinguished. It requires delivery and transmission of ownership of a thing owned by the debtor to the creditor as an accepted equivalent of the performance of the obligation. There is no *dacion* in payment when there is no transfer of ownership in the creditor's favor, as when the possession of the thing is merely given to the creditor by way of security.

Agreeing with SSS, the CA held that the agreement on *dacion en pago* was consummated by DDII's delivery of the property to SSS. We agree.

The third stage of a contract of sale is consummation which begins when the parties perform their respective undertakings under the contract of sale, culminating in the extinguishment thereof.

While a contract of sale is perfected by mere consent, ownership of the thing sold is acquired only upon its delivery to the buyer. Upon the perfection of the sale, the seller assumes the obligation to transfer ownership and to deliver the thing sold, but the real right of ownership is transferred only "by tradition" or delivery thereof to the buyer.

Under the Civil Code, ownership does not pass by mere stipulation but only by delivery. Manresa explains, "**the delivery of the thing . . . signifies that title has passed from the seller to the buyer**." According to Tolentino, the purpose of delivery is not only for the enjoyment of the thing but also a mode of acquiring dominion and determines the transmission of ownership, the birth of the real right. The delivery under any of the forms provided by Articles 1497 to 1505 of the Civil Code **signifies that the transmission of ownership from vendor to vendee has taken place**.

Here, petitioner DDII insists that its delivery of the property to SSS was only to show its goodwill in the negotiations. The records, however, reveal otherwise.

It is well to emphasize that **nowhere in their communications or during the discussions at the meeting is it stated that the company will turn over possession of the property to SSS to show its goodwill while the negotiations were pending**.

The turnover of the properties to SSS was tantamount to delivery or "tradition" which effectively transferred the real right of ownership over the properties from DDII to SSS.[94] **Even after a review of the records of the case, this Court is unable to find any indication that when they turned over the properties to SSS, the company reserved its ownership over the property and only transferred the *jus possidendi* thereon to SSS.**

BENEDICTO V. YUJUICO, *Petitioner*, -versus- FAR EAST BANK ANDTRUST COMPANY (NOW BANK OF THE PHILIPPINE ISLANDS),SUBSTITUTED BY PHILIPPINE INVESTMENT ONE (SPV-AMC), INC., *Respondent*.
GR No. 186196, SECOND DIVISION, Aug 15, 2018, CAGUIOA, *J*.

Noted civilist Justice Eduardo P. Caguioa elucidated on the concept of novation as follows:

x x x Novation has been defined as the substitution or alteration of an obligation by a subsequent one that cancels or modifies the preceding one. Unlike other modes of extinction of obligations, novation is a juridical act of dual function, in that at the time it extinguishes an obligation, it creates a new one in lieu of the old. This is not to say however, that in every case of novation the old obligation is necessarily extinguished. Our Civil Code now admits of the so-called imperfect or modificatory novation where the original obligation is not extinguished but modified or changed in some of the principal conditions of the obligation. Thus, article 1291 provides that obligations may be modified.

In this case, the Court agrees with the finding of the CA that "the attendant facts do not make out a case of novation" in the sense of a total or extinctive novation. The only modification that the conversion agreement introduced was that GTI's and petitioner Yujuico's loan obligation would be payable in US dollars instead of Philippine pesos. Incidentally, the applicable interest rate is lower on account of the change in currency. These alterations, however, do not suffice to constitute novation. The well-settled rule is that, with respect to obligations to pay a sum of money, the obligation is not novated by an instrument that expressly recognizes the old, changes only the terms of payment, adds other obligations not incompatible with the old ones, or the new contract merely supplements the old one. At most, the changes introduced by the conversion of the loan obligation amount merely to modificatory novation, which results from the alteration of the terms and conditions of an obligation without altering its essence.

FACTS:

On May 14, 1993, appellant then Far East Bank and Trust Company (appellant bank, for brevity) approved the renewal of appellee GTI Sportswear Corporation's Omnibus Credit Line (OCL) with a total amount of P35,000,000.00. The credit line was available in the form of letters of credit, trust receipts, margin loan, export packing credit line, bills purchase line and export bills purchase line. This was secured by a Comprehensive Surety Agreement executed by appellee Benedicto V. Yujuico in his personal capacity. He was also the president of appellee GTI.

Sometime in May 1995, negotiations were undertaken to settle appellee GTI's trust receipt obligation under the OCL. During these negotiations, appellee GTI made known to appellant bank its request for the conversion of its peso loan to US dollar-denominated loan. An exchange of communications concerning the conversion transpired but no definite agreement on the said conversion was put into writing.

On June 26, 1995, appellee Yujuico, in behalf of appellee GTI and in his personal capacity as surety, and appellant's First Vice President Ricardo G. Lazatin, in behalf of appellant bank, signed a Loan Restructuring Agreement (LRA), the subject of which was appellee GTI's outstanding balance on its Omnibus Credit Line in the amount of P25,208,[874].84[5] as of May 31, 1995. The agreement expressly stated that the restructured loan continues to be secured by the Comprehensive Surety Agreement previously executed by appellee Yujuico in favor of appellant bank.

After the signing of the restructuring agreement, appellee GTI, reiterated its request for the re-denomination of its loan obligation to US dollars. Appellant bank, however, denied the request and informed appellees that the conversion was not deemed workable in view of the following considerations: appellant bank requires long-term FCDU loans to be fully collateralized and appellee GTI, as borrower, must have adequate FCDU placements with appellant bank as well as maintain substantial deposit ADB levels.

In a letter dated September 22, 1997, appellant bank demanded that appellee GTI update all its unpaid amortizations on the outstanding restructured loan with a principal balance of P11,376,666.25 not later than September 30, 1997 and to settle all its other past due obligations to avert any legal action.

On October 29, 1997, appellees filed against appellant bank a Complaint for Specific Performance with Preliminary Injunction with the Regional Trial Court of Makati City. Appellees alleged that during the signing of the loan restructuring agreement, they were assured by the officers of appellant bank, namely: Paul Regondola and Jacqueline Fernandez, that after a few payments on its obligation, appellee GTI's peso loan would be converted to US dollars. Also, sometime in October 1996, Paul Regondola confirmed by phone that the conversion of appellee GTI's loan from peso to US Dollars had been approved by appellant bank. This prompted appellee GTFs financial consultant Bermundo to send appellant bank a letter dated October 31, 1996 acknowledging appellant bank's alleged confirmation of the approval of the conversion of the restructured loan. This letter was not denied by appellant bank until December 18, 1996 when it informed appellees that the conversion of the restructured loan to US dollars was not deemed workable because of certain considerations. These considerations, however, were not conveyed to appellees beforehand.

Hence, appellees prayed that appellant bank be directed to convert GTI's loan to US dollars retroactively effective October 1, 1996 and that appellant bank be directed to pay appellees P2,844,228.00 representing savings that could have accrued in favor of appellees in terms of the difference in interest payments.

Appellant bank denied that it made assurances to appellees that it would approve the latter's request for conversion of the peso loan to US dollar. Appellant bank informed appellees that the request for conversion would be considered depending on appellee's performance on the restructuring agreement and their compliance with the requisites set by appellant bank. Sometime in October 1996, Regondola informed appellee GTI's financial consultant, Pablito Bermundo, that

the request was approved in principle, subject to some conditions which appellant bank imposes before approving similar requests for conversion. Appellee GTI, however, was not able to comply with the requirements resulting in the denial of their request for conversion. Hence, appellant bank prayed that the complaint be dismissed.

The court *a quo* ruled that appellant bank indeed agreed to convert to US dollar appellee GTI's peso loan obligation. The conversion also resulted in the novation of appellee GTI's loan obligation. As a result, appellee Yujuico was accordingly released from his obligations as surety pursuant to Article 1215 of the New Civil Code in conjunction with paragraph 1 of Article 1291 of the same Code. On the other hand, the CA ruled that the Omnibus Credit Line and the Loan Restructuring Agreement between appellee GTI Sportswear Corporation (GTI) and appellant bank were not novated and appellee Yujuico remained to be liable as a surety under the Comprehensive Surety Agreement.

ISSUE:

Whether the CA has legal basis to resolve and declare that there was no novation between GTI and respondent. (YES)

RULING:

novation is governed principally by Articles 1291 and 1292 of the Civil Code, which provide:

ART. 1291. Obligations may be modified by:

(1) Changing their object or principal conditions;

(2) Substituting the person of the debtor;

(3) Subrogating a third person in the rights of the creditor.

ART. 1292. In order that an obligation may be extinguished by another which substitutes the same, it is imperative that it be so declared in unequivocal terms, or that the old and the new obligations be on every point incompatible with each other.

Noted civilist Justice Eduardo P. Caguioa elucidated on the concept of novation as follows:

x x x Novation has been defined as the substitution or alteration of an obligation by a subsequent one that cancels or modifies the preceding one. Unlike other modes of extinction of obligations, novation is a juridical act of dual function, in that at the time it extinguishes an obligation, it creates a new one in lieu of the old. This is not to say however, that in every case of novation the old obligation is necessarily extinguished. Our Civil Code now admits of the so-called imperfect or modificatory novation where the original obligation is not extinguished but modified or changed in some of the principal conditions of the obligation. Thus, article 1291 provides that obligations may be *modified*.

In this case, the Court agrees with the finding of the CA that "the attendant facts do not make out a case of novation" in the sense of a total or extinctive novation. As explained by the CA:

A perusal of the records reveals that there is no document that states in unequivocal terms that the agreement to convert the loan from peso to US dollar would abrogate the loan restructuring agreement or the omnibus credit line. Instead what is readily apparent from the exchange of communications concerning the request for conversion is that the parties recognize the subsistence of the loan restructuring agreement. In fact, in the letter dated September 5, 1995 sent by x x x GTI to respondent reiterating the former's request to re-dominate its loan obligation from peso to US dollar, x x x GTI even assured respondent that the other terms of the restructuring agreement would be complied with. Verily, where the parties to the new obligation expressly recognize the continuing existence and validity of the old one, there can be no novation.

Neither is there any substantial incompatibility between the obligations of the parties under the restructuring agreement and the agreement to convert the loan as to warrant a finding of an implied novation. Implied novation necessitates that the incompatibility between the old and new obligations be total on every point such that the old obligation is completely superseded by the new one. This is not the case here. The only modification that the conversion agreement introduced was that GTI's and petitioner Yujuico's loan obligation would be payable in US dollars instead of Philippine pesos. Incidentally, the applicable interest rate is lower on account of the change in currency. These alterations, however, do not suffice to constitute novation. The well-settled rule is that, with respect to obligations to pay a sum of money, the obligation is not novated by an instrument that expressly recognizes the old, changes only the terms of payment, adds other obligations not incompatible with the old ones, or the new contract merely supplements the old one. At most, the changes introduced by the conversion of the loan obligation amount merely to modificatory novation, which results from the alteration of the terms and conditions of an obligation without altering its essence.

From the foregoing, it can be gathered that, at best, the agreement to convert the Peso-denominated restructured loan into a US Dollar-denominated one is an implied or tacit, partial, modificatory novation. There was merely a change in the method of payment.

Furthermore, without a total or extinctive novation, the surety agreement subsists. Aside from the absence of a "perfect" novation, it must be noted that "another circumstance that militates against the release of Yujuico as surety is the fact that he executed a comprehensive or continuing surety, one which is not limited to a single transaction, but which contemplates a future course of dealing, covering a series of transactions, generally for an indefinite time or until revoked."

B. Contracts

1. General provisions

NATIONAL POWER CORPORATION, *Petitioner*, vs. THE COURT OF APPEALS, HON. JOSE D. AZARRAGA, in his capacity as Presiding Judge of Branch 37, Regional Trial Court, Iloilo City, and ATTY. REX C. MUZONES, *Respondents*.
G.R. No. 206167, FIRST DIVISION, March 19, 2018, TIJAM, J.

The payment of attorney's fees is a personal obligation of the clients.

FACTS:

The case stemmed from a Civil Case filed by Spouses Romulo and Elena Javellana to fix lease rental and just compensation; collection of sum of money and damages against NPC and National Transmission Corporation (Transco).

The RTC rendered a Decision in favor of the Spouses Javellana. NPC and Transco filed their respective appeal. On the other hand, Spouses Javellana fied a Motion for Execution Pending Appeal. The RTC granted the motion for execution pending appeal.

In the meantime, Transco negotiated with Spouses Javellana for the extra-judicial settlement of the case. As a result, Transco agreed to buy the property of the Spouses Javellana affected by the transmission lines. Subsequently, Spouses Javellana received the amount of P80,380,822.00 from Transco.

Thereafter, Atty. Rex C. Muzones, the counsel of the Spouses Javellana, filed a Notice of Attorney's lien. Transco then filed a Motion to Dismiss the case in view of the extra-judicial settlement of the case. On his part, Atty. Muzones filed a Motion for Partial Satisfaction of Judgment and Opposition to the Motion to Dismiss.

The respondent judge issued an Order ordering NPC and Transco to pay Atty. Muzones the amount of P52,469,660.00 as his attorney's lien. The respondent judge issued a Clarificatory Order stating that the attorney's fees of P52,469,660.00 is separate and distinct from the amount to be paid to the Spouses Javellana.

Transco filed a Motion for Reconsideration of the orders, while NPC filed its comment to the Clarificatory Order. The respondent judge denied the motion for reconsideration and the comment of NPC.

NPC then filed a motion for reconsideration of the Order which the respondent judge denied.

Aggrieved, NPC filed a Petition for Certiorari with the CA assailing the respondent judge Orders which the CA dismissed NPC's petition for being filed beyond the 60-day reglementary period. Hence, this petition.

ISSUE:

Whether petitioners NPC and Transco are solidarily liable for the payment of attorney's fees to Atty Muzones. (NO)

RULING:

Notwithstanding Our finding that Atty. Muzones is entitled to the amount of P10,047,602.75, NPC is still not liable to pay such amount. It is settled that payment of attorney's fees is the personal obligation of the clients.

As held in the case of Atty. Gubat v. National Power Corporation, the client, in this case, Spouses Javellana, has the right to settle the case even without the participation of Atty. Muzones.

However, NPC cannot be held liable to pay the attorney's fees of Atty. Muzones since the same is a personal obligation of the Spouses Javellana who benefited from the legal services of Atty. Muzones.

Thus, the RTC committed a reversible error when it held NPC and Transco are solidarily liable to pay the amount of P52,469,660.00, representing Atty. Muzones' attorney's fees. The contract for the payment of attorney's fees is strictly a contract between Spouses Javellana and Atty. Muzones. It is basic that a contract takes effect only between the parties, their assigns, and heirs. Thus, NPC cannot be affected by the contract between Spouses Javellana and Atty. Muzones, specially as to the payment of attorney's fees. Therefore, any action as to the satisfaction of the attorney's fees should be brought against the Spouses Javellana and not against NPC.

EXCELLENT ESSENTIALS INTERNATIONAL CORPORATION, *Petitioner*, -versus- EXTRA EXCEL INTERNATIONAL PHILIPPINES, INC., *Respondent*.
G.R. No. 192797, THIRD DIVISION, April 18, 2018, MARTIRES, J.

In So Ping Bun v. CA, we laid out the elements of tortuous interference: (1) existence of a valid contract; (2) knowledge on the part of the third person of the existence of contract; and (3) interference of the third person is without legal justification or excuse.

Contrary to Excellent Essentials' argument in the instant petition, its participation in the scheme against Excel Philippines transgressed the bounds of permissible financial interest. Its mere corporate existence played an important factor for Stewart to revoke Excel Philippines' exclusive right to distribute E. Excel products in the Philippines. For without it, or the participation of its incorporators, Excel International would not have the means to connect with the marketing network Excel Philippines established. Excellent Essentials became the vessel for the breach of Excel International's contractual undertaking with Excel Philippines.

FACTS:

Excel International and Excel Philippines entered into an exclusive rights contract wherein the latter was granted exclusive rights to distribute E. Excel products in the Philippines. Over the years, Excel International experienced intra-corporate struggle over the control of the corporation and the operations of its various exclusive distributors in Asia. Eventually, Jau-Hwa Stewart, a principal stakeholder of Excel International, somehow succeeded in gaining control of the company.

Stewart, in her capacity as president of Excel International, revoked Excel Philippines' exclusive rights contract and appointed Excellent Essentials as its new exclusive distributor in the Philippines. Excel International, through counsel, demanded that Excel Philippines cease from selling, importing, distributing, or advertising any and all of E. Excel products. With its demand unheeded, Excel International and Excellent Essentials filed a complaint for injunction and damages against Excel Philippines.

Excel Philippines filed its answer with counterclaims saying that Excel International had no right to unilaterally revoke its exclusive right to distribute E. Excel products in the Philippines. Attached to its answer was an agreement dated 22 May 1995 between Excel International and Bright Vision Consultants, Ltd. showing that Excel Philippines' exclusive distributorship was irrevocable. In fact, it was because of this agreement that Excel Philippines was incorporated so that it would become Excel International's exclusive distributor within the Philippines.

The RTC rendered a decision dismissing Excellent Essentials' complaint. It found the issue on who was Excel International's exclusive distributor in the Philippines moot and academic after the Utah Court came out with a decision annulling Stewart's actions, as president of Excel International, in revoking Excel Philippines' exclusive distributorship and designating Excellent Essentials as its new distributor in the Philippines.

As for Excel Philippines' counterclaims for damages, it held that there was no bad faith and malice on the part of Excellent Essentials who merely relied on the actions of Stewart, who was then acting in her capacity as president of Excel International. Unsatisfied with the outcome, Excel Philippines appealed from this decision before the CA. The CA granted the appeal and ordered Excellent Essentials to pay Excel Philippines temperate and exemplary damages, attorney's fees, and costs of suit:

ISSUE:

Whether Excellent Essentials was guilty of tortious interference (YES)

RULING:

Under the principle of relativity of contracts, only those who are parties to a contract are liable to its breach. Under Article 1314 of the Civil Code, however, any third person who induces another to violate his contract shall be liable to damages to the other contracting party. Said provision of law embodies what we often refer to as tortuous or contractual interference. In *So Ping Bun v. CA,* we laid out the elements of tortuous interference: (1) existence of a valid contract; (2) knowledge on the part of the third person of the existence of contract; and (3) interference of the third person is without legal justification or excuse.

Prior to the revocation of its exclusive distributorship, Excel International had an existing contract with Bright Vision wherein they agreed to set up a corporation to exclusively distribute E. Excel products within the Philippines. This corporation, eventually, turned out to be Excel Philippines who was given the irrevocable and exclusive right to distribute, market, and/or sell. Under its agreement with Bright Vision, Excel Philippines' exclusive distributorship right was irrevocable and may only be modified, transferred, or terminated upon the mutual consent of both parties. This agreement was effective from 22 May 1995 until 21 May 2005.

The relationship between Excel International and Excel Philippines took an unexpected turn when Stewart, acting as Excel International's president, unilaterally revoked Excel Philippines' right and conferred it to Excellent Essentials. Although Stewart's actions were later considered unlawful by the Utah Court, whose opinion was adopted by both the RTC and the CA, Excellent Essentials was able to set up shop and disrupt Excel Philippines' distribution of E. Excel products in the Philippines.

At this point, Excel International had already breached its contractual obligations by unilaterally revoking Excel Philippines' exclusive distributorship even if it was prohibited from doing so under the 22 May 1995 agreement. Stewart, as Excel International's interim president, was bound by the

company's grant of exclusive distributorship to Excel Philippines and the conditions that came with it.

Having established the first element of tortuous interference, we now have to determine if Excellent Essentials had knowledge of Excel Philippines' exclusive right. On this score, we note that the exclusive distributorship right was granted to Excellent Essentials before it existed. This circumstance suggests that even before Excellent Essentials was organized, its incorporators had the preconceived plan to maneuver around Excel Philippines. Worse, there is evidence showing that Excellent Essentials' incorporators were officers of and/or affiliated with Excel Philippines. In fact, these incorporators remained at work with Excel Philippines during this time and started to pirate its supervisors, employees, and agents to join Excellent Essentials' multi-level marketing system.

Under these circumstances, we can conclude that those behind Excellent Essentials not only had knowledge that Excel International had the obligation to honor Excel Philippines' exclusive right, but also conspired with Stewart to undermine Excel Philippines.

On the last element, therefore, we cannot ascribe to Excellent Essentials' claim that it was not guilty of malice or bad faith.

A duty which the law of torts is concerned with is respect for the property of others, and cause of action *ex delicto* may be predicated by an unlawful interference by any person of the enjoyment of the other of his private property. This may pertain to a situation where a third person induces a person to renege on or violate his undertaking under a contract.

To sustain a case for tortuous interference, the defendant must have acted with malice or must have been driven by purely impure reasons to injure plaintiff; otherwise, his act of interference cannot be justified. We further explained that the word induce refers to situations where a person causes another to choose one course of conduct by persuasion or intimidation.

Contrary to Excellent Essentials' argument in the instant petition, its participation in the scheme against Excel Philippines transgressed the bounds of permissible financial interest. Its mere corporate existence played an important factor for Stewart to revoke Excel Philippines' exclusive right to distribute E. Excel products in the Philippines. For without it, or the participation of its incorporators, Excel International would not have the means to connect with the marketing network Excel Philippines established. Excellent Essentials became the vessel for the breach of Excel International's contractual undertaking with Excel Philippines.

2. Essential requisites

METRO RAIL TRANSIT DEVELOPMENT CORPORATION, *Petitioner*, -versus- GAMMON PHILIPPINES, INC., *Respondent*.
G.R. No. 200401, THIRD DIVISION, January 17, 2018, LEONEN, J.

A contract is perfected when both parties have consented to the object and cause of the contract. There is consent when the offer of one party is absolutely accepted by the other party. The acceptance of the other party may be express or implied. However, the offering party may impose the time, place,

and manner of acceptance by the other party, and the other party must comply. In bidding contracts, this Court has ruled that the award of the contract to the bidder is an acceptance of the bidder's offer. Its effect is to perfect a contract between the bidder and the contractor upon notice of the award to the bidder.Thus, the award of a contract to a bidder perfects the contract. Failure to sign the physical contract does not affect the contract's existence or the obligations arising from it.

Applying this principle to the case at bar, this Court finds that there is a perfected contract between the parties. MRT has already awarded the contract to Gammon, and Gammon's acceptance of the award was communicated to MRT before MRT rescinded the contract.

FACTS:

This case involves MRT's MRT-3 North Triangle Description Project (Project), covering 54 hectares of land, out of which 16 hectares were allotted for a commercial center. Parsons Interpro JV (Parsons) was the Management Team authorized to oversee the construction's execution.[8]

On April 30, 1997, Gammon received from Parsons an invitation to bid for the complete concrete works of the Podium. Gammon submitted three (3) separate bids. Gammon won the bid. On August 27, 1997, Parsons issued a Letter of Award and Notice to Proceed (First Notice to Proceed) to Gammon.[11] It was accompanied by the formal contract documents. Gammon signed and returned the First Notice to Proceed without the contract documents. Gammon transmitted to Parsons a signed Letter of Comfort to guarantee its obligations in the Project.[15] However, in a Letter dated September 8, 1997, MRT wrote Gammon that it would need one (1) or two (2) weeks before it could issue the latter the Formal Notice to Proceed:

In a facsimile transmission sent on the same day, Parsons directed Gammon "to hold any further mobilization activities. On April 2, 1998, MRT issued in favor of Gammon another Notice of Award and Notice to Proceed (Third Notice to Proceed). Gammon received from Parsons the Contract for the Construction and Development of the Superstructure, MRT-3 North Triangle - Amended Notice to Proceed dated June 10, 1998 (Fourth Notice to Proceed). Gammon wrote MRT, acknowledging the latter's intent to grant the Fourth Notice to Proceed to another party despite having granted the First Notice to Proceed to Gammon. Thus, it notified MRT of its claims for reimbursement for costs, losses, charges, damages, and expenses it had incurred due to the rapid mobilization program in response to MRT's additional work instructions, suspension order, ongoing discussions, and the consequences of its award to another party.[45]

In a Letter dated July 15, 1998, MRT expressed its disagreement with Gammon and its amenability to discussing claims for reimbursement. Gammon filed a Notice of Claim before CIAC against MRT. CIAC ruled in favor of Gammon. CA affirmed the decision.

ISSUE:

Whether there was a perfected contract of sale between MRT and Gammon. (YES)

RULING:

This Court rules that there is a perfected contract between MRT and Gammon.

The requisites of a valid contract are provided for in Article 1318 of the Civil Code:

(1) Consent of the contracting parties;
(2) Object certain which is the subject matter of the contract;
(3) Cause of the obligation which is established.

A contract is perfected when both parties have consented to the object and cause of the contract. There is consent when the offer of one party is absolutely accepted by the other party. The acceptance of the other party may be express or implied. However, the offering party may impose the time, place, and manner of acceptance by the other party, and the other party must comply. In bidding contracts, this Court has ruled that the award of the contract to the bidder is an acceptance of the bidder's offer. Its effect is to perfect a contract between the bidder and the contractor upon notice of the award to the bidder. Thus, the award of a contract to a bidder perfects the contract. Failure to sign the physical contract does not affect the contract's existence or the obligations arising from it.

Applying this principle to the case at bar, this Court finds that there is a perfected contract between the parties. MRT has already awarded the contract to Gammon, and Gammon's acceptance of the award was communicated to MRT before MRT rescinded the contract. The Invitation to Bid issued to Gammon stated that MRT "will select the Bidder that [MRT] judges to be the most suitable, most qualified, most responsible and responsive, and with the most attractive Price and *will enter into earnest negotiations to finalize and execute the Contract*."

On May 30, 1997, Gammon tendered its bids. In a Letter dated July 14, 1997, Gammon submitted another offer to MRT in response to the latter's invitation to submit a final offer considering the fluctuation in foreign exchange rates and an odd-and-even vehicle restriction plan. Parsons thereafter issued the First Notice to Proceed In its First Letter, Gammon signed and returned the First Notice to Proceed to signify its consent to its prestations. In its Second Letter, Gammon transmitted to Parsons the signed Letter of Comfort to guarantee its obligations in the Project.

On September 9, 1997, Gammon returned to Parsons the contract documents. MRT argues that the return of the contract documents occurred after it had already revoked its offer However, MRT had already accepted the offered bid of Gammon and had made known to Gammon its acceptance when it awarded the contract and issued it the First Notice to Proceed on August 27, 1997. The First Notice to Proceed clearly laid out the object and the cause of the contract. In exchange for P1,401,672,095.00, Gammon was to furnish "labor, supervision, materials, plant, equipment and other facilities and appurtenances necessary to perform all the works in accordance with [its bid]."

This acceptance is also manifested in the First Notice to Proceed when it authorized Gammon to proceed with the work seven (7) days from its receipt or from the time the site is de-watered and cleaned up. Thus, Gammon's receipt of the First Notice to Proceed constitutes the acceptance that is necessary to perfect the contract.

NORTHERN MINDANAO INDUSTRIAL PORT and SERVICES CORPORATION, *Petitioners*, - versus- ILIGAN CEMENT CORPORATION, *Respondent.*
G.R. No. 215387, FIRST DIVISION, April 23, 2018, DEL CASTILLO, J.

Article 1326 of the Civil Code, which specifically tackles offer and acceptance of bids, provides that advertisements for bidders are simply invitations to make proposals, and that an advertiser is not bound to accept the highest bidder unless the contrary appears.

ICC had the right to reject bids, and it cannot be compelled to accept a bidder's proposal, and execute a contract in its favour.

FACTS:

Iligan Cement Corporation (ICC) invited Northern Mindanao Industrial & Port Services Corporation (NOMIPSCO) to a pre-bidding conference for a two-year cargo handling contract. NOMIPSCO thereafter submitted its proposal in which it offered the lowest bid of P1.788 per a 40 kilogram bag.

ICC, however, awarded the cargo handling contract to Europort Logistics and Equipment Incorporated (Europort).

NOMIPSCO filed a complaint for damages alleging that upon inquiry, it was revealed that the bid award was based on a new company policy to prioritize new contractors which was never made known to the bidders. NOMIPSCO claimed that ICC was guilty of bad faith when it still invited NOMIPSCO to join the pre-bidding conference despite knowledge of its status as old contractor. NOMIPSCO contended that the acts of ICC amounted to an abuse of its rights or authority.

ICC counters that NOMIPSCO had no cause of action against it.

ISSUE:

Whether NOMIPSCO has a cause of action against ICC (NONE)

RULING:

The Court finds nothing wrong in the policy of ICC to award the contract to a new contractor. This is the prerogative of ICC and NOMIPSCO had no right to interfere in the exercise thereof. An advertisement to possible bidders is simply an invitation to make proposals, and that an advertiser is not bound, to accept the lowest bidder unless the contrary appears; ICC had the right to reject bids, and it cannot be compelled to accept a bidder's proposal, and execute a contract in its favor. Indeed, under Article 1326 of the Civil Code, ''advertisements for bidders are simply invitations to make proposals, and the advertiser is not bound to accept the highest or lowest bidder, unless the contrary appears." "As the discretion to accept or reject bids and award contracts is of such wide latitude, courts will not interfere, unless it is apparent that such discretion is exercised arbitrarily, or used as a shield to a fraudulent award. The exercise of that discretion is a policy decision that necessitates prior inquiry, investigation, comparison, evaluation, and deliberation."

Article 1326 of the Civil Code, which specifically tackles offer and acceptance of bids, provides that advertisements for bidders are simply invitations to make proposals, and that an advertiser is not bound to accept the highest bidder unless the contrary appears. In *Leoquinco v. The Postal Savings Bank and C & C Commercial Corporation v. Menor*, we explained that this right to reject bids signifies

that the participants of the bidding process cannot compel the party who called for bids to accept the bid or execute a deed of sale in the former's favor.

PHILIPPINE NATIONAL BANK, *Petitioner*, - versus - ANTONIO BACANI, RODOLFO BACANI, ROSALIA VDA. DE BAYAUA, JOSE BAYAUA and JOVITA VDA. DE BAYAUA, *Respondent*.
G.R. No. 194983, SECOND DIVISION, June 20, 2018, REYES, JR., *J.*

ART. 1326. Advertisements for bidders are simply invitations to make proposals, and the advertiser is not bound to accept the highest or lowest bidder, unless the contrary appears. Thus, the fact that the Invitation to Bid was published cannot bind PNB to any offer from any party. PNB merely notified interested parties to submit their proposals for the purchase of the subject property, which PNB may either accept or reject as the absolute owner thereof. In the same manner, the published bidding schedule was not an offer from PNB, notice and acceptance of which would compel the bank to sell the subject property to such party.

FACTS:

Respondent Rodolfo was the registered owner of a parcel of land located in Centro East, Santiago, Isabela, covered by Transfer Certificate of Title. The other respondents in this case were the occupants of the subject property. On July 16, 1980, the subject property was used to secure the Php 80,000.00 loan that Spouses Bacani obtained from PNB. When Spouses Bacani failed to pay their loan, PNB extrajudicially foreclosed the subject property which was awarded to PNB as the highest bidder.
The Spouses Bacani failed to redeem the property. Consequently, on June 6, 1989, Rodolfo's title was cancelled, and in its place, TCT No. T-185028 was issued in the name of PNB.

On November 29, 1989, PNB issued SEL Circular No. 8-7/89 in which former owners or their heirs, as the case may be, were given priority in the re-acquisition of their foreclosed assets '"on negotiated basis without public bidding." Spouses Bacani initiated negotiations with PNB regarding the re-acquisition of their property. Initially, the Spouses Bacani's written offer to purchase the subject property was fixed at Php 150,000.00. On November 25, 1991, the Spouses Bacani sent another letter, increasing the offer to Php 220,000.00. Mr. Santos advised them to increase their offer because their initial proposal was low. Spouses Bacani accordingly offered to repurchase the subject property for Php 200,000.00 in cash and Php 100,000.00 payable in installments for two years. PNB later informed the Spouses Bacani that the request for repurchase was refused and instead, the subject property would be sold in a public auction. It stated that the reason for the rejection was the low offer from the Spouses Bacani. Spouses Bacani increased their offer to Php 350,000.00. Their efforts, however, remained unsuccessful.

On January 29, 1996, the Spouses Bacani received a notice that the PNB had begun to accept offers for the purchase of various properties, including the subject property. They were provided with a copy of the Invitation to Bid. PNB set the floor bid price to Php 4,000,000.00. PNB sold the subject property through a negotiated sale to Renato de Leon (Renata), for the price of Php1,500,000.00. Renato later on filed an ejectment case against the respondents which was favorably granted by the Municipal Trial Court. On March 19, 1997, the respondents filed a complaint for the annulment of

the sale and Renato's title. The respondents alleged that PNB schemed to prevent the Spouses Bacani from buying back the subject property.

RTC ruled in favor of the respondents, and found that PNB acted in bad faith. The RTC ruled that PNB failed to observe its own policy granting priority right to the former owners of its acquired assets. The CA affirmed the trial court 's findings that the sale of the subject property to Renato was fraudulent because the Spouses Bacani were unable to exercise their right to buy back their foreclosed property at the scheduled public bidding. The CA also applied the doctrine on constructive trust as regards Renato's acquisition of title over the subject property, in order to justify its reconveyance to the Spouses Bacani. PNB's motion for reconsideration was denied.

ISSUE:

Whether respondent-spouses have the right to repurchase the subject property. (NO)

RULING:

Both the RTC and the CA gravely erred in relying on PNB SEL Circular No. 8-7/89 to nullify the sale of the subject property. Upon the expiration of the period to redeem, the Spouses Bacani do not have an enforceable right to repurchase the subject property. The effect of the consolidation of title over a foreclosed property was satisfactorily explained by the Court in *Spouses Marquez v. Spouses Alindog*, wherein the court ruled that the buyer in a foreclosure sale becomes the absolute owner of the property purchased if it is not redeemed during the period of one year after the registration of the sale. As such, he is entitled to the possession of the said property and can demand it at any time following the consolidation of ownership in his name and the issuance to him of a new transfer certificate of title.

In this case, PNB's certificate of sale was registered on October 10, 1986 and one year lapsed from this date without the Spouses Bacani exercising their right to redeem the subject property. Due to the unfortunate failure of the Spouses Bacani to exercise their redemption right, the title of Rodolfo over the subject property was cancelled and a new one was issued in the name of PNB. At this point, PNB became the absolute owner of the property and Rodolfo, as well as his wife, lost all their rights and interests over it. Verily, PNB not only had the right to its possession, but also all the other rights considered as essential attributes of ownership—including the right to dispose or alienate the subject property.

When the Spouses Bacani made its initial offer to repurchase the subject property on August 26, 1991, almost four (4) years passed since the redemption period expired. Thus, by the time the parties started negotiating the Spouses Bacani's reacquisition of the subject property, PNB was already the absolute owner.

The Spouses Bacani, however, anchored their claim on PNB SEL Circular No. 8-7/89, which embodied the bank's policy of giving priority to former owners in the disposition of its acquired assets. But when the circular was issued on November 29, 1989, the redemption period has expired and the title over the subject property was already consolidated in favor of PNB as its purchaser

during the foreclosure sale. For this reason, any offer on the part of the Spouses Bacani is merely an offer to repurchase, and PNB was not statutorily or contractually bound to accept such offer.

In addition, said circular was an internal memorandum intended for the information of bank employees and personnel. Thus, as an internal bank policy, the Spouses Bacani do not have a legally enforceable right to be prioritized over all other buyers of the subject property. Even if the Court considers the bank circular as a binding obligation on the part of PNB to prioritize the former owners of its acquired assets, the circular provides several terms and conditions before former owners are able to repurchase their foreclosed properties. The circular pertinently states:

> 1. Selling price of assets shall be based on total Bank's claim or fair market value, whichever is higher. x x x
>
> 7. The former owners or their heirs shall exercise their right to repurchase their properties within ninety (90) days from receipt of notice from the Bank.

Spouses Bacani were clearly unable to fulfill the very first condition of PNB SEL Circular No. 8-7/89. The offer was lower than either the total claim of PNB, or the fair market value of the property. PNB duly communicated the rejection of their offer, including the grounds for the rejection, in several letters sent and received by the Spouses Bacani. Neither does the publication of the Invitation to Bid constitute a binding obligation on the part of PNB to sell the subject property to the Spouses Bacani. The publication of the Invitation to Bid, which included the subject property, was not a binding obligation on the part of PNB. Article 1326 of the Civil Code clearly provides that:

> ART. 1326. Advertisements for bidders are simply invitations to make proposals, and the advertiser is not bound to accept the highest or lowest bidder, unless the contrary appears.

Thus, the fact that the Invitation to Bid was published cannot bind PNB to any offer from any party. PNB merely notified interested parties to submit their proposals for the purchase of the subject property, which PNB may either accept or reject as the absolute owner thereof. In the same manner, the published bidding schedule was not an offer from PNB, notice and acceptance of which would compel the bank to sell the subject property to such party.

LOLITA ESPIRITU SANTO MENDOZA and SPS. ALEXANDER AND ELIZABETH GUTIERREZ, ***Petitioners*****, - versus - SPS. RAMON, SR. AND NATIVIDAD PALUGOD**, ***Respondents***.
G.R. No. 220517, SECOND DIVISION, June 20, 2018, CAGUIOA, *J.*

As correctly pointed out by petitioner Lolita, the DAS is itself the proof that the sale of the property is supported by sufficient consideration*. This is anchored on the disputable presumption of consideration inherent in every contract. Thus, Article 1354 of the Civil Code provides: "Although the cause is not stated in the contract, it is presumed that it exists and is lawful, unless the debtor proves the contrary." Petitioners stand to benefit from the disputable presumption of consideration with the presentation of the DAS.*

FACTS:

Petitioner Lolita Espiritu Santo Mendoza and Jasminia Palugod were close friends. In 1991, Lolita and Jasminia bought the subject lot on installment for one year until they decided to pay the balance in full. In 1995, Jasminia became afflicted with breast cancer. Sometime in 1996, Lolita and Jasminia constructed a residential house on the subject lot. Although Lolita has no receipts, she shared in the cost of the construction of the house from her income in the catering business and selling of various products. On May 11, 2004, Jasminia executed a Deed of Absolute Sale in favor of Lolita, who eventually mortgaged the subject property to Elizabeth Gutierrez as a security for a loan in the amount of Php800,000.00.

On the other hand, respondent spouses Palugod alleged that their daughter, the late Jasminia, acquired the property located in Sagana Homes, Habay, Bacoor, Cavite. Prior to and after the said acquisition of the subject property, Jasminia was living with Lolita, a lesbian. Unfortunately, Jasminia was afflicted with Stage IV breast cancer. When she was nearing her death, she told her mother, respondent Natividad Palugod, that her house and lot shall go to her brother Ramonito Palugod, but petitioner shall be allowed to stay therein Meanwhile, Lolita, taking advantage of her relationship with Jasminia, caused the latter to sign a Deed of Absolute Sale in her favor. Upon learning from the Office of the Registry of Deeds that Jasminia's certificate of title has been cancelled, respondents executed an Affidavit of Adverse Claim of their right and interest over the property as the only compulsory and legitimate heirs of Jasminia. However, Lolita, knowing fully well of the impending suit, made it appear that she mortgaged the property to Spouses Gutierrez as a security for a loan amounting to Php800,000.00.

Thus, respondents filed a complaint for Declaration of Nullity of the Deed of Absolute Sale and the Deed of Real Estate Mortgage with the RTC. The RTC declared that there can be no contract unless the following concur: (a) consent; (2) object certain; and (3) cause of the obligation. It held that the respondents were able to prove by preponderance of evidence that the Deed of Sale involved no actual monetary consideration. CA affirmed. Hence, the present Petition

ISSUE:

Whether the conveyance was void for lack of monetary consideration. (NO)

RULING:

The Petition is meritorious. Both the RTC and the CA declared the DAS void on the ground that it was fictitious or simulated on account of lack of consideration. While petitioner Lolita concedes that she did not pay the consideration for the purchase of the subject property before Notary Public Atty. Jesus Bongon, she asserts that the payment was made prior to the notarization of the DAS as shown in her testimony taken on February 23, 2010. The lower courts failed to properly consider the foregoing argument and evidence that petitioner Lolita raised and adduced. The outcome of the case would have been different had the lower courts given them the due consideration they deserved.

As correctly pointed out by petitioner Lolita, the DAS is itself the proof that the sale of the property is supported by sufficient consideration. This is anchored on the disputable presumption of consideration inherent in every contract. Thus, Article 1354 of the Civil Code provides: "*Although the cause is not stated in the contract, it is presumed that it exists and is lawful, unless the debtor proves the contrary."* Petitioners stand to benefit from the disputable presumption of consideration with the presentation of the DAS.

With the presumption in favor of petitioner Lolita who is the vendee, it became incumbent upon respondents to present preponderant evidence to prove lack of consideration. Respondents' mere assertion that the DAS has no consideration is inadequate.

As mentioned earlier, respondents relied solely on the testimony of respondent Natividad to prove the lack of consideration. Respondent Natividad simply reiterated the allegations in the Affidavit of Adverse Claim that she and her husband, respondent Ramon, executed. On the other hand, petitioner Lolita disputed the assertion that she has no income and means of livelihood, and presented documents in support thereof. The testimony of petitioner Lolita and the documentary evidence in support thereof show that she had income and the means to pay the consideration stated in the DAS. It is evident to the Court that petitioner Lolita's proof of payment of the DAS' consideration was her sworn testimony. Testimony, given under oath, and subjected to cross-examination is proof. Unfortunately, both the CA and the RTC brushed this aside only because the RTC zeroed in on the lack of receipts.

Since the evidence of the parties are mainly testimonial, the Court is called upon weigh the version of respondents against that of petitioners. Before the narrations of respondent Natividad and petitioner Lolita are pitted against each other to determine which one preponderates over the other, the Court notes the glaring inconsistencies in respondent Natividad's testimony. Given the significant inconsistencies in the testimony of respondent Natividad, the credibility of her testimony is, to the Court, doubtful. To be sure, a witness' credibility is determined by the probability or improbability of his testimony. The improbability of respondent Natividad's assertions is demonstrated by the evidence, both documentary and testimonial, that petitioner Lolita adduced to rebut the same. The RTC and the CA also did not even mention the glaring inconsistencies noted above, which if properly considered, would have seriously affected the outcome of the case.

Given the foregoing, contrary to the findings of the CA and the RTC, which evidently arose from their misapprehension and non-consideration of relevant facts, respondents have not discharged their burden of proof to rebut either the presumption of sufficient consideration of the DAS or the evidence of petitioner Lolita. In fine, respondents failed to establish their cause of action by preponderance of evidence. Consequently, the DAS executed by Jasminia in favor of petitioner Lolita over the subject property is valid, the presumption that it has sufficient consideration not having been rebutted. The same holds true regarding the Real Estate Mortgage between petitioner Lolita and petitioners spouses Alexander and Elizabeth Gutierrez.

3. Reformation of instruments

MAKATI TUSCANY CONDOMINIUM CORPORATION, *Petitioner*, -versus- MULTI-REALTY DEVELOPMENT CORPORATION, *Respondent*.
G.R. No. 185530, THIRD DIVISION, April 18, 2018, LEONEN, *J.*

Respondent argues that what was written in the Master Deed and Deed of Transfer failed to fully capture what was actually intended by the parties. However, intentions involve a state of mind, making them difficult to decipher; therefore, the subsequent and contemporaneous acts of the parties must be presented into evidence to reflect the parties' intentions.

FACTS:

In 1974, Multi-Realty built Makati Tuscany, a 26-storey condominium building located in Makati City. In 1975, Multi-Realty, through its president Henry Sy, Sr., executed and signed Makati Tuscany's Master Deed and Declaration of Restrictions **(Master Deed),** which was registered with the Register of Deeds of Makati in 1977.

Pursuant to RA No. 4726 or the Condominium Act, Multi-Realty created and incorporated Makati Tuscany Condominium Corporation (MATUSCO) sometime in 1977 to hold title over and manage Makati Tuscany's common areas. That same year, Multi-Realty executed a **Deed of Transfer** of ownership of Makati Tuscany's common areas to MATUSCO.

In 1990, Multi-Realty filed a **complaint for damages and/or reformation of instrument with prayer for temporary restraining order and/or preliminary injunction** against MATUSCO before the Makati RTC. Multi-Realty alleged in its complaint that of the 106 parking slots designated in the Master Deed as part of the common areas, only eight (8) slots were actually intended to be guest parking slots; thus, it retained ownership of the remaining 98 parking slots. Multi-Realty claimed that its ownership over the 98 parking slots was mistakenly not reflected in the Master Deed.

RTC dismissed Multi-Realty's complaint, noting that Multi-Realty itself prepared the Master Deed and Deed of Transfer. It also emphasized that Multi-Realty's prayer for the reformation of the Master Deed could not be granted absent proof that MATUSCO acted fraudulently or inequitably towards Multi-Realty. Finally, it ruled that Multi-Realty was guilty of estoppel by deed.

Both parties appealed to the CA. In dismissing Multi-Realty's appeal, the CA held that an action for reformation of an instrument must be brought within 10 years from the execution of the contract. As to the dismissal of MATUSCO's appeal, CA ruled that its claim was based on a personal right to collect a sum of money, which had a prescriptive period of four (4) years, and not based on a real right, with a prescriptive period of 30 years.

Multi-Realty moved for reconsideration, but its motion was denied. It then filed a petition for review before the Supreme Court. The Supreme Court granted Multi-Realty's petition, set aside the assailed CA's Decision, and directed the latter to resolve Multi-Realty's appeal.

Thereafter, the CA initially denied both appeals. On Multi-Realty's motion for reconsideration, however, CA reversed its Decision and directed the reformation of the Master Deed and Deed of

Transfer. MATUSCO moved for the reconsideration of the Amended Decision, but its motion was denied. Hence, MATUSCO filed its Petition for Review on Certiorari before this Court.

ISSUES:
(1) Whether there is a need to reform the Master Deed and the Deed of Transfer. (YES)
(2) Whether respondent is barred by the doctrine of estoppel. (NO)

RULING:
(1) An action for reformation of an instrument finds its basis in Article 1359 of the Civil Code. *The National Irrigation Administration v. Gamit* stated that there must be a concurrence of the following requisites for an action for reformation of instrument to prosper:

> (1) there must have been a meeting of the minds of the parties to the contract;
> (2) the instrument does not express the true intention of the parties; and
> (3) the failure of the instrument to express the true intention of the parties is due to mistake, fraud, inequitable conduct or accident.

The burden of proof then rests upon the party asking for the reformation of the instrument to overturn the presumption that a written instrument already sets out the true intentions of the contracting parties.

A plain and literal reading of Section 7(d) in relation to Section 5 shows that all parking areas which are not assigned to units come under petitioner's authority because they are part of the common areas.

Respondent argues that what was written in the Master Deed and Deed of Transfer failed to fully capture what was actually intended by the parties. However, intentions involve a state of mind, making them difficult to decipher; therefore, the subsequent and contemporaneous acts of the parties must be presented into evidence to reflect the parties' intentions. To substantiate its claim that there was a difference between the written terms in the Master Deed and Deed of Transfer and the parties' intentions, respondent refers to their prior and subsequent acts:

> First, respondent points out that in the color-coded floor plans for the ground floor, upper basement, and lower basement, only eight (8) guest parking slots were indicated as part of the common areas. However, respondent alleges that due to its inexperience with documenting condominium developments, it failed to reflect the correct number of guest parking slots in the Master Deed and Deed of Transfer.
>
> Second, acting under the honest belief that it continued to own the 98 parking slots, respondent sold 26 of them to Makati Tuscany's unit owners from 1977 to 1986, without any hint of a complaint or opposition from petitioner. Respondent also states that petitioner repeatedly cooperated and supported its sales by issuing Certificates of Management for the condominium units and parking slots sold by respondent.
>
> Third, petitioner's Board of Directors made repeated offers to purchase the parking slots from respondent, signifying petitioner's recognition of respondent's retained ownership over the disputed parking slots. This was made evident in an excerpt from the minutes of the June 14, 1979 meeting of MATUSCO's Board of Directors.

> Finally, respondent highlights that it was only in September 1989, when the value of the 72 remaining unallocated parking slots had risen to approximately P250,000.00 each or approximately P18,000,000.00 for the 72 parking slots, that petitioner first claimed ownership of the remaining parking slots.

The totality of the undisputed evidence proving the parties' acts is consistent with the conclusion that the parties never meant to include the 98 parking slots among the common areas to be transferred to petitioner. The evidence is consistent to support the view that petitioner was aware of this fact. At this juncture, it must be pointed out that petitioner never rebutted in its Reply any of respondent's statements regarding the subsequent acts of the parties after the execution and registration of the Master Deed and Deed of Transfer.

Petitioner claims that it was confusion and not bad faith that caused its belated assertion of ownership over the parking slots. Whether or not it acted in bad faith was never in issue. Further, it is difficult to impute confusion and bad faith, which are states of mind appropriate for a natural individual person, to an entire corporation. To grant the argument that a corporation, like a natural person, was confused or not in bad faith is to extend to it too much analogy and to endow it more of the human characteristics beyond its legal fiction. The Court is not endowed with such god-like qualities of a creator or should allow illicit extensions of legal fiction to cause injustice.

(2) Petitioner asserts that respondent's admission of committing a mistake in drafting the Master Deed and Deed of Transfer makes it liable to suffer the consequences of its mistake and should be bound by the plain meaning and import of the instruments. It contends that respondent should be estopped from claiming that the Master Deed and Deed of Transfer failed to show the parties' true intentions.

Again, petitioner fails to convince. In *Philippine National Bank v. Court of Appeals*, the Court held: "The doctrine of estoppel is based upon the grounds of public policy, fair dealing, good faith and justice, and its purpose is to forbid one to speak against his own act, representations, or commitments to the injury of one to whom they were directed and who reasonably relied thereon. The doctrine of estoppel springs from equitable principles and the equities in the case."

In this case, except for the words in the contract, all of respondent's acts were consistent with its position in the case. In addition, petitioner cannot claim the benefits of estoppel. It was never made to rely on any false representations. It knew from its inception as a corporation that ownership of the parking slots remained with respondent. Its dealings with respondent and the actuations of its Board of Directors convincingly show that it was aware of and respected respondent's ownership.

4. Interpretation of contracts

5. Rescissible contracts

6. Voidable contracts

7. Unenforceable contracts

8. Void or inexistent contracts

HEIRS OF JOSE MARIANO and HELEN S. MARIANO, REPRESENTED BY DANILO DAVID S. MARIANO, MARY THERESE IRENE S. MARIANO, MA. CATALINA SOPHIA S. MARIANO, JOSE MARIO S. MARIANO, MA. LENOR S. MARIANO, MACARIO S. MARIANO AND HEIRS OF ERLINDA MARIANO-VILLANUEVA, REPRESENTED IN THIS ACT BY IRENE LOURDES M. VILLANUEVA THROUGH HER ATTORNEY-IN-FACT EDITHA S. SANTUYO and BENJAMIN B. SANTUYO, *Petitioners*, - versus - CITY OF NAGA, *Respondent*.
G.R. No. 197743, FIRST DIVISION, March 12, 2018, TIJAM, J.

Generally, contracts are obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity are present. However, when the law requires that a contract be in some form to be valid, such requirement is absolute and indispensable. Its non-observance renders the contract void and of no effect. One such law is Article 749 of the Civil Code of the Philippines which requires that, in order for the donation of an immovable to be valid, it must be made in a public document.

The purported Deed of Donation submitted by the City cannot be considered a public document. Not being a public document, the purported Deed of Donation is void. *Since void contracts cannot be the source of rights,* ***the City has no possessory right over the subject property.***

Indeed, title to the subject property remains registered in the names of Macario and Gimenez. The alleged Deed of Donation does not appear to have been registered and TCT No. 671 does not bear any inscription of said Deed.

A fundamental principle in land registration is that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. It is conclusive evidence as regards ownership of the land therein described, and the titleholder is entitled to all the attributes of ownership of the property, including possession. Thus, the Court has time and again reiterated the age-old rule that the person who has a Torrens title over a parcel of land is entitled to possession thereof. Accordingly, as against the City's unregistered claim, ***the Torrens title in the name of Macario and Gimenez must prevail, conferring upon the registered owners the better right of possession.***

Thus, it has been consistently held that registered owners have the right to evict any person unlawfully occupying their property, and this right is imprescriptible and can never be barred by laches. Even if it be supposed that they were aware of the occupant's possession of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. Moreover, it is well settled that the rule on imprescriptibility of registered lands not only applies to the registered owner but extends to the heirs of the registered owner as well.

FACTS:

Eusebio M. Lopez, Sr., Soledad L. Dolor, Jose A. Gimenez and Eusebio Lopez, Jr., as the President, Secretary, Treasurer, and General Manager of the City Heights Subdivision (Subdivision), respectively, wrote to the mayor of the City of Naga (City), offering to construct the Naga City Hall within the premises of the Subdivision. Their letter indicated that the City Hall would be built on an area of not less than two (2) hectares within the Subdivision, which would be designated as the open space reserved for a public purpose.

The City's Municipal Board subsequently passed Resolution No. 75, asking the Subdivision for a bigger area on which the City Hall would stand. Consequently, the Subdivision amended its offer and agreed to donate five (5) hectares to the City. The area is a portion of the land registered in the names of Macario Mariano (Macario) and Jose Gimenez (Gimenez) under TCT No. 671 of the Registry of Deeds for Naga City, measuring a total of 22.9301 hectares.

The amended offer was signed by Macario and Gimenez to indicate their conforme, and by their respective spouses, Irene Mariano (Irene) and Rose Fitzgerald De Gimenez (through one Josie Gimenez), to indicate their marital consent.

The Municipal Board adopted Resolution No. 89 accepting the Subdivision's offer of donation and its proposed contract. The Resolution also authorized the City Mayor to execute the deed of donation on the City's behalf. The parties, however, submitted divergent accounts on what happened after Resolution No. 89 was passed.

According to the City, the City Mayor of Naga, Monico Imperial (Mayor Imperial), and the registered landowners, Macario and Gimenez, executed a Deed of Donation, whereby the latter donated five hectares of land (subject property), two hectares of which to be used as the City Hall site, another two hectares for the public plaza, and the remaining hectare for the public market. By virtue of said Deed, the City entered the property and began construction of the government center. It also declared the five-hectare property in its name for tax purposes.

In contrast, petitioners averred that the landowners' plan to donate five hectares to the City did not materialize as the contract to build the City Hall was not awarded to the Subdivision. Petitioners alleged that the construction contract was eventually awarded by the Bureau of Public Works (BPW) to a local contractor, Francisco Sabaria (Sabaria), who won in a public bidding. Thereafter, the Municipal Board adopted Resolution No. 11 authorizing the City Mayor to enter into a contract with Sabaria for the construction of the City Hall.

Petitioners claimed that Macario and officers of the Subdivision met with Mayor Imperial to demand the return of the five-hectare lot as the condition for the donation was not complied with. Mayor Imperial purportedly assured them that the City would buy the property from them. The purchase, however, did not materialize. Petitioners alleged that 10 years later, Macario wrote to Lopez Jr., instructing him to make a follow-up on the City's payment for the subject lot. However, Macario died without receiving payment from the City.

Irene, the wife of Macario, later on died. Jose [son of Macario and Irene] also died the following year. After a protracted litigation, Jose, then represented by his heirs, and Erlinda [daughter of Macario and Irene] were declared as Irene's heirs. The probate court issued letters of administration to Danilo David S. Mariano (Danilo), for the administration of Irene's estate. Thereafter, Danilo demanded upon the City Mayor of Naga to vacate and return the subject property. When the City did not comply, petitioners, as heirs of Jose and Erlinda, filed a Complaint for unlawful detainer against the City.

Petitioners averred that there was no donation of the subject property to the City as the obligation to donate on the part of Macario and Gimenez, conditioned on the Subdivision undertaking the construction of the City Hall therein, was abrogated when the City eventually awarded the

construction contract to Sabaria. Petitioners further alleged that Macario thereafter demanded the return of the property, but was assured by Mayor Imperial that the City would buy the same. The purchase, however, never materialized. Petitioners, thus, argued that the City's possession of the subject property was by mere tolerance which ceased when they required its return.

The City countered that the donation actually took place, as evidenced by a Deed of Donation, making the City the owner and lawful possessor of the subject property. Further, the subject property had long been declared in the City's name for tax purposes. Granting there was no donation, the City stressed that ownership of the premises automatically vested in it when they were designated as open spaces of the subdivision-project, donation thereof being a mere formality. The City also argued that since the property was already occupied by several government offices for about 50 years, recovery thereof was no longer feasible, and the landowners may simply demand just compensation from the City. The City further contended that the complaint was dismissible on the grounds of laches and prescription. In any case, the City averred that it could not be ejected from the premises as it possessed the rights of a builder in good faith.

Petitioners, in turn, denied that laches had set in because Macario supposedly made a demand for the City to return the property, and subsequently, to abide by Mayor Imperial's commitment to purchase the same. Furthermore, as heirs of Macario and Irene, they themselves sought to recover the subject property after learning of their rights thereto.

Petitioners also argued that title to the property, which remained registered in the names of Macario and Gimenez, was indefeasible and could not be lost by prescription or be defeated by tax declarations. They further asserted that the requirement of open space in the subdivision for public use was already satisfied with the landowners' donation of road lots to the City as annotated on TCT No. 671. Petitioners contended that the City was a builder in bad faith because it continued to construct the City Hall and allowed other government agencies to build their offices on the subject property, knowing that the donation had been aborted when the condition therefor was not fulfilled and that its avowed purchase of the property was not forthcoming.

ISSUE:

Whether the petitioners have the better right of possession over the subject property. (YES)

RULING:

Generally, contracts are obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity are present. However, when the law requires that a contract be in some form to be valid, such requirement is absolute and indispensable. Its non-observance renders the contract void and of no effect. One such law is Article 749 of the Civil Code of the Philippines which requires that, in order for the donation of an immovable to be valid, it must be made in a public document, specifying therein the property donated and the value of the charges which the donee must satisfy. Thus, donation of real property, which is a solemn contract, is void without the formalities specified in the foregoing provision.

The purported Deed of Donation submitted by the City cannot be considered a public document. While it contains an Acknowledgment before a notary public, the same is manifestly

defective as it was made neither by the alleged donors and their respective spouses, or by the donee, but only by the Subdivision's President, Vice President, Secretary, and General Manager.

Said Deed also shows that Mayor Imperial affixed his signature thereon only four days after it was notarized, thus he could not have acknowledged the same before the notary public. Verily, the notary public could not have certified to knowing the parties to the donation, or to their execution of the instrument, or to the voluntariness of their act. This glaring defect is fatal to the validity of the alleged donation. **Not being a public document, the purported Deed of Donation is void.** A void or inexistent contract has no force and effect from the very beginning, as if it had never been entered into. Since void contracts cannot be the source of rights, **the City has no possessory right over the subject property.** In this light, to resolve whether to admit the copy of the purported Deed of Donation as secondary evidence will be futile as the instrument in any case produces no legal effect.

Indeed, title to the subject property remains registered in the names of Macario and Gimenez. The alleged Deed of Donation does not appear to have been registered and TCT No. 671 does not bear any inscription of said Deed.

A fundamental principle in land registration is that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. It is conclusive evidence as regards ownership of the land therein described, and the titleholder is entitled to all the attributes of ownership of the property, including possession. Thus, the Court has time and again reiterated the age-old rule that the person who has a Torrens title over a parcel of land is entitled to possession thereof.

Furthermore, it has been held that a certificate of title has a superior probative value as against that of an unregistered deed of conveyance in ejectment cases. Accordingly, as against the City's unregistered claim, **the Torrens title in the name of Macario and Gimenez must prevail, conferring upon the registered owners the better right of possession.** This superior or preferred right of possession applies to petitioners as Macario's hereditary successors who have stepped into said decedent's shoes by operation of law.

As to the open space in the subdivision, contrary to the position of petitioners, the use of the subdivision roads by the general public does not strip it of its private character. The road is not converted into public property by mere tolerance of the subdivision owner of the public's passage through it. To repeat, the local government should first acquire them by donation, purchase, or expropriation, if they are to be utilized as a public road.

As to the defense of the City that it is a builder in good faith, it must be noted that, under the law, one is considered in good faith if he is not aware that there exists in his title or mode of acquisition any flaw which invalidates it. **By these standards, the City cannot be deemed a builder in good faith.**

The evidence shows that the contract for the construction of the City Hall by the Subdivision was an integral component of the latter's offer of donation, constituting an essential condition for the intended conveyance. However, the Municipal Board issued Resolution No. 11 authorizing the City Mayor to enter into a contract with Sabaria for the construction of the City Hall. Thus, the City could not have been unaware that by awarding the same construction contract to Sabaria, it no longer

had any cause to continue occupying the subject property as the condition for the proposed donation had not been satisfied. **Accordingly, it cannot be considered to have acted in good faith. Thus, petitioners, as hereditary successors of the registered owners of the subject property, have the right to appropriate what has been built on the property, without any obligation to pay indemnity therefor, and the City has no right to a refund of any improvement built therein.**

As to the matter regarding laches, Macario, through his letters, has been shown to have taken steps to have the City act on Mayor Imperial's proposal to "buy instead" the subject property. Furthermore, petitioners had been engaged in litigation to establish their right to inherit from Macario and Irene. **Given these circumstances, the Court is not disposed to conclude that there was an unreasonable or unexplained delay that will render petitioners' claim stale.**

Thus, it has been consistently held that registered owners have the right to evict any person unlawfully occupying their property, and this right is imprescriptible and can never be barred by laches. Even if it be supposed that they were aware of the occupant's possession of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. Moreover, it is well settled that the rule on imprescriptibility of registered lands not only applies to the registered owner but extends to the heirs of the registered owner as well.

Lastly, it must be emphasized that the ruling in this case is limited only to the determination of who between the parties has a better right to possession. This adjudication is not a final determination on the issue of ownership and, thus, will not bar or prejudice an action between the same parties involving title to the property, if and when such action is brought seasonably before the proper forum.

C. Natural obligations

D. Estoppel

E. Trusts

VI. SALES

A. Nature and form

1. Essential requisites

2. Perfection

NORMA M. DIAMPOC, *Petitioner*, - versus- JESSIE BUENAVENTURA and THE REGISTRY OF DEEDS FOR THE CITY OF TAGUIG, *Respondents*.
G.R. No. 200383, FIRST DIVISION, March 19, 2018, DEL CASTILLO

Article 1358 of the Civil Code requires that the form of a contract that transmits or extinguishes real rights over immovable property should be in a public document, yet the failure to observe the proper form does not render the transaction invalid. The necessity of a public document for said contracts is

only for convenience; it is not essential for validity or enforceability. Even a sale of real property, though not contained in a public instrument or formal writing, is nevertheless valid and binding, for even a verbal contract of sale or real estate produces legal effects between the parties. Consequently, when there is a defect in the notarization of a document, the clear and convincing evidentiary standard originally attached to a duly-notarized document is dispensed with, and the measure to test the validity of such document is preponderance of evidence.

FACTS:

Petitioner Norma M. Diampoc and her husband Wilbur L. Diampoc (the Diampocs) filed a Complaint for annulment of deed of sale and recovery of duplicate original copy of title, with damages, against respondent Jessie Buenaventura (Buenaventura) and the Registry of Deeds for the Province of Rizal.

The Diampocs alleged in their Complaint that they owned a parcel of land (subject property). Buenaventura asked to borrow the owner's copy of the TCT to be used as security for a P1 million loan she wished to secure. The Diampocs acceded on the condition that Buenaventura should not sell the subject property and that Buenaventura promised to give them P300,000.00 out of the P1 million loan proceeds.

Further, the Diampocs alleged that Buenaventura caused them to sign a folded document without giving them the opportunity to read its contents. However, Buenaventura failed to give them a copy of the document which they signed. The Diampocs later discovered that Buenaventura became the owner of a one-half portion of the subject property by virtue of a supposed deed of sale in her favor. When the Diampocs proceeded to the notary public who notarized the said purported deed of sale, they discovered that the said 87-square meter portion was purportedly sold to Buenaventura for P200,000.00.

The Diampocs alleged that the purported deed of sale is spurious and that the deed was secured through fraud and deceit, and thus null and void. The Diampocs thus prayed that the purported deed of sale be annulled and the annotation thereof on the TCT be canceled and that the owner's duplicate copy of the TCT be returned to them.

In her Answer, Buenaventura claimed that the Diampocs have no cause of action; that the case is a rehash of an estafa case they previously filed against her but which was dismissed; and that the case is dismissible for lack of merit and due to procedural lapses.

The RTC and the CA ruled in favor of respondent Buenaventura essentially ruling that notarized documents, like the deed in question, enjoy the presumption of regularity which can be overturned only by clear, convincing and more than merely preponderant evidence. Miserably, appellants failed to discharge this burden.

ISSUE:

Whether the CA erred in applying the prima facie presumption of regularity of notarized documents and upholding the validity of the notarized deed of sale. (NO)

RULING:

The RTC and the CA are unanimous in declaring that the deed should be sustained on account of petitioner's failure to discredit it with her evidence. The CA further found that petitioner and her husband received in full the consideration of P200,000.00 for the sale. As far as the lower courts are concerned, the three requirements of cause, object, and consideration concurred. This Court is left with no option but to respect the lower courts' findings, for its jurisdiction in a petition for review on certiorari is limited to reviewing only errors of law since it is not a trier of facts. This is especially so in view of the identical conclusions arrived at by them.

Indeed, petitioner and her husband conceded that there was such a deed of sale, but only that they were induced to sign it without being given the opportunity to read its contents — believing that the document they were signing was a mere authorization to obtain a bank loan. According to petitioner, the document was "folded" when she affixed her signature thereon; on the other hand, her husband added that at the time he signed the same, it was "dark." These circumstances, however, did not prevent them from discovering the true nature of the document; being high school graduates and thus literate, they were not completely precluded from reading the contents thereof, as they should have done if they were prudent enough. Petitioner's excuses are therefore flimsy and specious.

Petitioner and her husband's admission that they failed to exercise prudence can only be fatal to their cause. They are not unlettered people possessed with a modicum of intelligence; they are educated property owners capable of securing themselves and their property from unwarranted intrusion when required. They knew the wherewithal of property ownership. Their failure to thus observe the care and circumspect expected of them precludes the courts from lending a helping hand, and so they must bear the consequences flowing from their own negligence.

The rule that one who signs a contract is presumed to know its contents has been applied even to contracts of illiterate persons on the ground that if such persons are unable to read, they are negligent if they fail to have the contract read to them. If a person cannot read the instrument, it is as much his duty to procure some reliable persons to read and explain it to him, before he signs it, as it would be to read it before he signed it if he were able to do so and his failure to obtain a reading and explanation of it is such gross negligence as will estop him from avoiding it on the ground that he was ignorant of its contents.

3. Contract of sale vs. contract to sell

DEMOSTHENES R. ARBILON, *Petitioner*, -versus- SOFRONIO MANLANGIT, *Respondent*.
G.R. No. 197920, FIRST DIVISION, January 22, 2018, TIJAM, J.

In a contract to sell, the seller explicitly reserves the transfer of title to the buyer until the fulfillment of a condition, that is, the full payment of the purchase price. Title to the property is retained by the seller until the buyer fully paid the price of the thing sold.

Nevertheless, the records of the case show that Leanillo paid the compressor in behalf of respondent. Having ruled that Leanillo paid the compressor in behalf of respondent, the latter has therefore complied with his obligation to fully pay the compressor. Ownership of the compressor can now legally pass to respondent.

FACTS:

This case stemmed from a Complaint for recovery of possession of personal properties with writ of replevin and/or sum of money, with damages and attorney's fees filed by respondent against petitioner.

In his complaint, respondent alleged that he purchased on credit one (1) compressor and one (1) unit of Stainless Pump, horsepower, single phase for P200,000.00 and P65,000.00, respectively, from Davao Diamond Industrial Supply (Davao Diamond). Respondent claimed that the compressor had been in the possession of petitioner from November 1997 up to the time of the filing of the complaint, that despite demand, petitioner failed to return the same to respondent.

In his Answer with Counterclaim, petitioner argued that the respondent is not the owner of the compressor. Petitioner alleged that the ownership of the compressor was never vested to respondent since the latter failed to pay the purchase price of P200,000.00. Petitioner alleged that he voluntarily assumed the obligation to pay the compressor to Davao Diamond in four installments as it was indispensable in the mining operations of Double A. The RTC in its Decision dated May 5, 2003, ruled in favor of the petitioner. The CA in its Decision dated January 14, 2011 reversed the RTC ruling and held that respondent is the owner of the compressor.

ISSUE:

Whether the CA erred when it ruled that respondent is the owner of the compressor, hence entitled to its possession. (NO)

RULING:

To determine who has the better right to possession of the compressor, examination of the contract between respondent and Davao Diamond is in order. The CA is of the opinion that the contract between respondent and Davao Diamond is merely a contract to sell, as such, mere delivery of the thing sold does not result to the transfer of ownership to the buyer.

In a contract to sell, the seller explicitly reserves the transfer of title to the buyer until the fulfillment of a condition, that is, the full payment of the purchase price. Title to the property is retained by the seller until the buyer fully paid the price of the thing sold.

As found by the CA and undisputed by the respondent, the Sales Invoice No. 82911[16] covering the disputed compressor contained the following stipulation:

Note: It is hereby agreed that the goods listed to this invoice shall remain the property of the seller until fully paid by the buyer. Failure of the buyer to pay the goods as agreed upon, the seller may extra-judicially take possession of the goods and dispose them accordingly.

While the sales invoice is not a formal contract to sell, the sales invoice is nevertheless the best evidence of the transaction between the respondent and Davao Diamond. The next question now is whether the respondent has complied with his obligation to fully pay the purchase price? Other

than the self-serving statements of Leanillo, no other evidence was presented to support her allegation that Davao Diamond entered into a separate contract with her.

Moreover, it must be considered that in view of the existing contract to sell between respondent and Davao Diamond, the latter cannot simply sell the property to petitioner. A contact to sell is a bilateral contract whereby the prospective seller, while expressly reserving the ownership over the thing sold despite the delivery thereof to the prospective buyer, binds himself to sell the property exclusively to the prospective buyer upon full payment of the purchase price. Thus, in the absence of any revocation or cancellation of the contract to sell with respondent, Davao Diamond cannot legally sell the compressor to petitioner.

Nevertheless, the records of the case show that Leanillo paid the compressor in behalf of respondent. Having ruled that Leanillo paid the compressor in behalf of respondent, the latter has therefore complied with his obligation to fully pay the compressor. Ownership of the compressor can now legally pass to respondent. As such, the latter has the right to possess the compressor since possession is an attribute of ownership.

SPOUSES CIPRIANO PAMPLONA and BIBIANA INTAC, *Petitioners*, -versus- SPOUSES LILIA I. CUETO and VEDASTO CUETO, *Respondents*.
G.R. No. 204735, THIRD DIVISION, February 19, 2018, BERSAMIN, *J.*

Secondly, the admissions by Roilan and Vedasto of the petitioners' ownership of the property could not be appreciated in favor of the petitioners. That Bibiana and Lilia had entered into a contract to sell instead of a contract of sale must be well-noted. The differences between a contract to sell and a contract of sale are well-settled in jurisprudence. As early as 1951, in Sing Yee v. Santos, the SC held that:

> *x x x [a] distinction must be made between a contract of sale in which title passes to the buyer upon delivery of the thing sold and a contract to sell x x x where by agreement the ownership is reserved in the seller and is not to pass until the full payment, of the purchase price is made. In the first case, non-payment of the price is a negative resolutory condition; in the second case, full payment is a positive suspensive condition. Being contraries, their effect in law cannot be identical. In the first case, the vendor has lost and cannot recover the ownership of the land sold until and unless the contract of sale is itself resolved and set aside. In the second case, however, the title remains in the vendor if the vendee does not comply with the condition precedent of making payment at the time specified in the contract.*

The distinctions delineate why the admissions by Roilan and Vedasto were consistent with the existence of the oral contract to sell between Lilia and Bibiana.

FACTS:

Petitioners Cipriano Pamplona and Bibiana Intac are the registered owners of a parcel of land situated in Batangas City. In 1989, Respondent Lilia Cueto and petitioners mutually agreed that the former would buy and the latter would sell on installment the aforementioned immovable including the house standing thereon.

Petitioners voluntarily transferred the peaceful possession of the subject property to Lilia and from the date of the agreement, the latter had remitted to the former her monthly installments through

registered mail. Lilia allowed her son Rolando Cueto to reside at the subject property as Lilia had to leave for abroad. Lilia, through her son, has religiously paid the annual realty taxes on the premises, including electric and water bills.

In 1997, petitioners filed a case for unlawful detainer against Rolando Cueto and his wife Liza Cueto. Being indigent, spouses Rolando and Liza failed to defend themselves resulting in a judgment by default and they were finally evicted therefrom.

Lilia learned of the eviction case when she returned home from Italy; she then executed an Affidavit of Adverse Claim and registered the same with the land records of Batangas City. Through Lilia's lawyer, a written tender of payment of US$11,000 was sent to petitioners by registered mail and received by Bibiana. Earnest efforts were resorted to compromise the controversy as shown by the final demand letter sent by registered mail to petitioners. As a consequence of the latter's unreasonable refusal to recognize respondent's just and valid demand, respondents were constrained to consign the US$11,000 as final payment to defendants. After complying with her contractual obligation, Lilia demanded from petitioners to immediately execute the necessary deed of conveyance and delivery of the owner's copy of TCT. Respondents Lilia and Vedasto thus filed a complaint for specific performance, conveyance, consignation and damages against petitioners.

In their Answer with Counterclaim, petitioners alleged that the amounts paid by the respondents were payment for the latter's indebtedness for a previous loan; that here exists no agreement duly signed by them, as in truth and in fact they never sold the said property to the respondents; that Vedasto and Rolando were allowed by petitioners to stay in the said house, by mere tolerance; and that Vedasto had recognized the petitioners' right of ownership over the property in question when he undertook to vacate the same.

The RTC held that the respondents did not prove the existence of the partially executed contract to sell involving the property; that neither documentary nor object evidence confirmed the supposed partially executed contract to sell; and that the respondents accordingly failed to support their cause of action by preponderance of evidence.

The CA reversed the RTC, and declared that the respondents presented sufficient evidence to establish that petitioner Bibiana and her sister, respondent Lilia, had entered into an oral contract to sell.

ISSUE

Whether there was sufficient evidence to show the existence of a partially executed contract to sell. (YES)

RULING:

The existence of the partially executed contract to sell between Bibiana and Lilia was sufficiently established.

It is uncontested that Lilia sent money to Bibiana. The latter did not deny her receipt of the money. Moreover, the records showed that the parties further agreed for Vedasto and Roilan to occupy the property during the period when Lilia was remitting money to Bibiana; and that Lilia immediately

took steps to protect her interests in the property once the petitioners started to deny the existence of the oral contract to sell by annotating her adverse claim on the petitioners' title and instituting this action against the latter. Thus, the respondents had adduced enough evidence to establish the existence of the partially executed contract to sell between Lilia and Bibiana.

The petitioners have contended that the sums of money received from Lilia were payments of the latter's obligations incurred in the past; that the admission by Roilan and his wife that the petitioners owned the property negated the absence of the contract to sell; and that the admission by Vedasto that the petitioners owned the property was an admission against interest that likewise belied the contract to sell between Lilia and Bibiana.

The contentions of the petitioners are factually and legally unwarranted.

To start with, it was incumbent upon Bibiana to prove her allegation in the answer that the money sent to her by Lilia was in payment of past debts. This conforms to the principle that each party must prove her affirmative allegations. Yet, the petitioners presented nothing to establish the allegation. Without proof of the allegation, therefore, the inference to be properly drawn from Bibiana's receipt of the sums of money was that the sums of money were for the purchase of the property, as claimed by the respondents.

Secondly, the admissions by Roilan and Vedasto of the petitioners' ownership of the property could not be appreciated in favor of the petitioners. That Bibiana and Lilia had entered into a contract to sell instead of a contract of sale must be well-noted.The differences between a contract to sell and a contract of sale are well-settled in jurisprudence. As early as 1951, in *Sing Yee v. Santos,* the SC held that:

> x x x [a] distinction must be made between a contract of sale in which title passes to the buyer upon delivery of the thing sold and a contract to sell x x x where by agreement the ownership is reserved in the seller and is not to pass until the full payment, of the purchase price is made. In the first case, non-payment of the price is a negative resolutory condition; in the second case, full payment is a positive suspensive condition. Being contraries, their effect in law cannot be identical. In the first case, the vendor has lost and cannot recover the ownership of the land sold until and unless the contract of sale is itself resolved and set aside. In the second case, however, the title remains in the vendor if the vendee does not comply with the condition precedent of making payment at the time specified in the contract.

The distinctions delineate why the admissions by Roilan and Vedasto were consistent with the existence of the oral contract to sell between Lilia and Bibiana.

Thirdly, the failure of Roilan to raise as a defense in the unlawful detainer suit against him the existence of the contract to sell between Bibiana and Lilia could not be properly construed as an admission by silence on the part of Lilia. It is basic that the rights of a party cannot be prejudiced by an act, declaration, or omission of another. As an exception to the rule, the act or declaration made in the presence and within the hearing or observation of a party who does or says nothing may be admitted as evidence against a party who fails to refute or reject it. This is known as admission by silence, and is covered by Section 32, Rule 130 of the *Rules of Court,* 4

For an act or declaration to be admissible against a party as an admission by silence, the following requirements must be present, namely: (a) the party must have heard or observed the act or declaration of the other person; (b) he must have had the opportunity to deny it; (c) he must have understood the act or declaration; (d) he must have an interest to object as he would naturally have done if the act or declaration was not true; (e) the facts are within his knowledge; and (f) the fact admitted or the inference to be drawn from his silence is material to the issue.

The first two requirements are lacking in the case of Lilia. She was not shown to have heard or seen the admissions by Vedasto and Roilan that were in writing because she was then abroad. Also, she was not shown to have had the opportunity to deny their written admissions simply because she was not a party to the written admissions. The rule on admission by silence applies to adverse statements in writing only when the party to be thereby bound was carrying on a mutual correspondence with the declarant. Without such mutual correspondence, the rule is relaxed on the theory that although the party would have immediately reacted had the statements been orally made in his presence, such prompt response can generally not be expected if the party still has to resort to a written reply.

In the context of the norms set by jurisprudence for the application of the rule on admission by silence, Lilia could not be properly held to have admitted by her silence her lack of interest in the property. On the contrary, the records reveal otherwise. Upon her return to the country, she communicated with Bibiana on the terms of payment, and immediately took steps to preserve her interest in the property by annotating the adverse claim in the land records, and by commencing this suit against the petitioners. Such affirmative acts definitively belied any claim of her being silent in the face of the assault to her interest.

LILY S. VILLAMIL substituted by her heirs RUDY E. VILLAMIL, SOLOMON E. VILLAMIL, TEDDY E. VILLAMIL, JR., DEBORAH E. VILLAMIL, FLORENCE E. VILLAMIL, GENEVIEVE E. VILLAMIL, and MARC ANTHONY E. VILLAMIL, *Petitioners*, -versus-
SPOUSES JUANITO ERGUIZA and MILA ERGUIZA,
Respondents.
G.R. No. 195999, THIRD DIVISION, June 20, 2018, MARTIRES, J.

A contract to sell is defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the subject property despite delivery thereof to the prospective buyer, binds himself to sell the said property exclusively to the latter upon his fulfillment of the conditions agreed upon, i.e., the full payment of the purchase price and/or compliance with the other obligations stated in the contract to sell. Given its contingent nature, the failure of the prospective buyer to make full payment and/or abide by his commitments stated in the contract to sell prevents the obligation of the prospective seller to execute the corresponding deed of sale to effect the transfer of ownership to the buyer from arising.

FACTS:

On 6 February 2003, Petitioner Lily Villamil filed a Complaint for recovery of possession and damages against respondent-spouses Juanito and Mila Erguiza before the *MTCC* of Dagupan City. The Agreement, which petitioner and respondent-spouses entered into in the sale and purchase of the subject property, states:

KNOW ALL MEN BY THESE PRESENTS:
That we, CORAZON G. VILLAMIL, widow, LILY VILLAMIL, married and TEDDY S. VILLAMIL, married, all of legal ages, Filipinos and residents of Dagupan City, Philippines, for and in consideration of the sum two thousand six hundred fifty seven pesos (P2,657.00), Philippine currency, to us in hand paid and a receipt of which is hereby acknowledged of JUANITO ERGUIZA, married, of legal age, Filipino and a resident of Dagupan City, Philippines, BY THESE PRESENTS do hereby promise to sell absolutely unto the said Juanito Erguiza, his heirs or assigns, a parcel of land covered [by] Transfer Certificate of Title No. 23988 of the land records of Dagupan City, identified as Lot No. 2371 under the following terms and conditions:

1. That the total purchase price of the said land is FIVE THOUSAND ONE HUNDRED FIFTY-SEVEN PESOS P5,157.00. Because of us receiving today the sum of two thousand six hundred and fifty-seven pesos (P2,657.00), there is still a balance of two thousand five hundred pesos (P2,500.00);
2. That because there is still lacking document or that court approval of the sale of the shares of the minor-owners of parts of this land, the final deed of absolute sale be made and executed upon issuance by the competent court; that the balance of P2,500.00 will also be given in this stage of execution of this document;
3. In the event however that the petition for the sale of the shares of the minor-owners of the parts of this land is [disapproved] by the court, the amount of P2,657.00 be considered as lease of the land subject matter of this contract for a duration of twenty (20) years.

On 26 May 2003, respondent-spouses filed their Answer, which effectively denied the material allegations in petitioner's complaint and by way of special and affirmative defenses.

On 14 October 2004, the MTCC dismissed the complaint on the ground that the cause of action thereof was one for the interpretation of the agreement and the determination of the parties' respective rights. It reasoned that such action was incapable of pecuniary estimation and, therefore, jurisdiction lies with the RTC.

On appeal, the RTC reversed the decision of the MTCC on the ground that the cause of action was one for recovery of possession of real property. Considering that the assessed value of the subject property is P2,290.00, the MTCC has original and exclusive jurisdiction over the case. Thus, the case was remanded to the MTCC.

The MTCC ruled in favor of petitioner. Aggrieved, respondent-spouses elevated an appeal to the RTC which, however, affirmed the ruling of the MTCC. Unconvinced, respondent-spouses moved for reconsideration which was likewise denied for lack of notice of hearing. However, the CA reversed and set aside the decision of the RTC. The appellate court declared that the agreement between the parties was a contract to sell involving the subject property because the vendors reserved ownership and it was subject to a suspensive condition, i.e., submission of the sellers of lacking documents or court approval of the sale of the shares of the minor owners. It concluded that respondent-spouses had more right to possess the subject property pending consummation of the agreement or any outcome thereof. The petitioner moved for reconsideration, but the CA denied the same. Hence, this petition.

ISSUE:

Whether the parties entered into a contract to sell. (YES)

RULING:

A contract to sell is defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the subject property despite delivery thereof to the prospective buyer, binds himself to sell the said property exclusively to the latter upon his fulfillment of the conditions agreed upon, i.e., the full payment of the purchase price and/or compliance with the other obligations stated in the contract to sell. Given its contingent nature, the failure of the prospective buyer to make full payment and/or abide by his commitments stated in the contract to sell prevents the obligation of the prospective seller to execute the corresponding deed of sale to effect the transfer of ownership to the buyer from arising. A contract to sell is akin to a conditional sale where the efficacy or obligatory force of the vendor's obligation to transfer title is subordinated to the happening of a future and uncertain event, so that if the suspensive condition does not take place, the parties would stand as if the conditional obligation had never existed. In a contract to sell, the fulfillment of the suspensive condition will not automatically transfer ownership to the buyer although the property may have been previously delivered to him. The prospective seller still has to convey title to the prospective buyer by entering into a contract of absolute sale. On the other hand, in a conditional contract of sale, the fulfillment of the suspensive condition renders the sale absolute and the previous delivery of the property has the effect of automatically transferring the seller's ownership or title to the property to the buyer.

In this case, an examination of the agreement would reveal that the parties entered into a contract to sell the subject property. *First*, petitioner and her siblings who were then co-owners merely promised to sell the subject property, thus, signifying their intention to reserve ownership. *Second*, the execution of a deed of absolute sale was made dependent upon the proper court's approval of the sale of the shares of the minor owners. *Third*, the agreement between the parties was not embodied in a deed of sale. The absence of a formal deed of conveyance is a strong indication that the parties did not intend immediate transfer of ownership. *Fourth*, petitioner retained possession of the certificate of title of the lot. This is an additional indication that the agreement did not transfer to private respondents, either by actual or constructive delivery, ownership of the property. *Finally*, respondent Juanito admitted during trial that they have not finalized the sale in 1972 because there were minor owners such that when they constructed their house thereon, they sought the permission of petitioner.

Hence, inasmuch as the sellers allowed them to have the subject property in their possession pending the execution of a deed of sale, respondent-spouses are entitled to possession pending the outcome of the contract to sell.

B. Capacity to buy or sell

SPOUSES FREDESWINDA DRILON YBIOSA and ALFREDO YBIOSA, *Petitioners*, -versus - INOCENCIO DRILON, *Respondent*.
G.R. No. 212866, FIRST DIVISION, April 23, 2018, DEL CASTILLO, J.

In Morta, Sr. v. Occidental, this Court held that there must be a tenancy relationship between the parties for the DARAB to have jurisdiction over a case. It is essential to establish all of the following

indispensable elements, to wit: (1) that the parties are the landowner and the tenant or agricultural lessee; (2) that the subject matter of the relationship is an agricultural land; (3) that there is consent between the parties to the relationship; (4) that the purpose of the relationship is to bring about agricultural production; (5) that there is personal cultivation on the part of the tenant or agricultural lessee; and (6) that the harvest is shared between the landowner and the tenant or agricultural lessee.

Considering that the allegations in the complaint negate the existence of an agrarian dispute among the parties, the DARAB is bereft of jurisdiction to take cognizance of the same as it is the DAR Secretary who has authority to resolve the dispute raised by petitioners

FACTS:

Inocencio filed a complaint for'Annulment of Deed of Absolute Sale, Original Certificate of Title and Damages' alleging that he is the owner of the subject property after he purchased the same from the late Gabriel Drilon as evinced by receipts. He further alleged that Eustaquia Eumague Drilon connived with Spouses Fredeswinda Drilon Ybiosa and Alfredo Ybiosa, in effecting a deed of sale in favor of the said spouses where the signature of the late Gabriel Drilon was written by another person. He added that the late Gabriel Drilon could not have signed the said Deed in 1992 as he was already old and sickly.

The Original Certificate of Title was issued pursuant to Certificate of Land Ownership Award No. 00113116 of the Department of Agrarian Reform.

In their Answer, Eustaquia and Spouses Fredeswinda and Alfredo Ybios denied the material allegations in the complaint, maintaining that the questioned Deed of Absolute Sale executed in favor of spouses was executed freely and voluntarily by the late Gabriel Drilon and Eustaquia; and that Inocencio has long known about this sale and did not contest the same.

The RTC dismissed the complaint. According to the RTC, the court does not have jurisdiction to annul a Certificate of Land Ownership Award. The Department of Agrarian Reform Adjudication Board (DARAB) has jurisdiction over those involving the correction, partition, cancellation, secondary and subsequent issuances of Certificates of Land Ownership Awards (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority

ISSUE:

Whether the RTC has jurisdiction (NONE)

RULING:

The subject property was originally an unregistered land, meaning it is public land owned by the State. It is presumed to belong to the State, and not privately owned by Gabriel. Thus, any sale made by Gabriel covering the subject property - whether to petitioners or respondent - is considered null and void unless the contrary is proved, **on the principle that one cannot sell or dispose what he does not own.** This is underscored by the fact that petitioners were able to obtain a CLOA over the subject property - and, later on, an original certificate of title in their favor.

For the above reasons, the RTC had no jurisdiction over Civil Case No. 11985, as it primarily seeks to cancel the CLOA and certificate of title issued to petitioners.

Section 1, Rule II of the 1994 DARAB Rules of Procedure, the rule in force at the time of the filing of the complaint by petitioners in 2001, provides:

> SECTION 1. Primary and Exclusive Original and Appellate Jurisdiction. The Board shall have primary and exclusive jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes involving the implementation of the Comprehensive Agrarian Reform Program (CARP) under Republic Act No. 6657, Executive Order Nos. 228, 229 and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations. Specifically, such jurisdiction shall include but not be limited to cases involving the following:
>
> xxxx
>
> f) Those involving the issuance, correction and cancellation of Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs) which are registered with the Land Registration Authority;
>
> xxxx

However, it is not enough that the controversy involves the cancellation of a CLOA registered with the Land Registration Authority for the DARAB to have jurisdiction. What is of primordial consideration is the existence of an agrarian dispute between the parties.

In *Morta, Sr. v. Occidental,* this Court held that there must be a tenancy relationship between the parties for the DARAB to have jurisdiction over a case. It is essential to establish all of the following indispensable elements, to wit: (1) that the parties are the landowner and the tenant or agricultural lessee; (2) that the subject matter of the relationship is an agricultural land; (3) that there is consent between the parties to the relationship; (4) that the purpose of the relationship is to bring about agricultural production; (5) that there is personal cultivation on the part of the tenant or agricultural lessee; and (6) that the harvest is shared between the landowner and the tenant or agricultural lessee.

Considering that the allegations in the complaint negate the existence of an agrarian dispute among the parties, the DARAB is bereft of jurisdiction to take cognizance of the same as it is the DAR Secretary who has authority to resolve the dispute raised by petitioners. Thus, it is the DAR Secretary who had jurisdiction over the instant case for cancellation of petitioners' CLOA and certificate of title; Inocencio should have filed his case against petitioners before the said office, and not the RTC.

C. Effects of the contract when the thing sold has been lost

D. Obligations of the vendor

E. Obligations of the vendee

F. Breach of contract

1. Remedies

2. Recto Law and Maceda Law

G. Extinguishment

1. In general

2. Pacto de retro sale

3. Equitable mortgage

H. Assignment of credits

UNITED COCONUT PLANTERS BANK, *Petitioner*, -versus- SPOUSES WALTER UY and LILY UY, *Respondents*.
G.R. No. 204039, THIRD DIVISION, January 10, 2018, MARTIRES, J.

An assignment of credit is defined as an agreement by virtue of which the owner of a credit, known as the assignor, by a legal cause and without need of the debtor's consent, transfers that credit and its accessory rights to another, known as the assignee, who acquires the power to enforce it to the same extent as the assignor could have enforced it against the debtor. An assignment will be construed in accordance with the rules of construction governing contracts. Here, PPGI assigned the right to collect its receivables to UCPB. It did not assume the obligations and liabilities of PPGI under its contract to sell with the spouses Uy. Hence, UCPB is only jointly liable with PPGI and is bound to refund only the amount it had unquestionably received from the spouses.

FACTS:

Prime Town Property Group, Inc. (PPGI) and E. Ganzon Inc. were the joint developers of the Kiener Hills Mactan Condominium Project (Kiener Hills). Respondent spouses Walter and Lily Uy (spouses Uy) entered into a Contract to Sell with PPGI for a unit in Kiener Hills.

PPGI and petitioner United Coconut Planters Bank (UCPB) executed a Memorandum of Agreement (MOA) and Sale of Receivables and Assignment of Rights and Interests. By virtue of the said agreements, PPGI transferred the right to collect the receivables of the buyers, which included the spouses Uy's unit in Kiener Hills.

The Housing and Land Use Regulatory Board Regional Office (HLURB Regional Office) received the spouses Uy's complaint for sum of money and damages against PPGI and UCPB. They claimed that in spite of their full payment of the purchase price, PPGI failed to complete the construction of their units in Kiener Hills.

ISSUE:

Whether UCPB is only jointly liable to the spouses Uy. (YES)

RULING:

An assignment of credit is defined as an agreement by virtue of which the owner of a credit, known as the assignor, by a legal cause and without need of the debtor's consent, transfers that credit and its accessory rights to another, known as the assignee, who acquires the power to enforce it to the

same extent as the assignor could have enforced it against the debtor. An assignment will be construed in accordance with the rules of construction governing contracts.

In *Spouses Choi v. UCPB (Choi)*, the Supreme Court (SC) ruled that UCPB is a mere assignee of the rights and receivables under a similar agreement. Consequently, it did not assume the obligations and liabilities of Primetown under its contract to sell with Spouses Choi. The SC further observed that UCPB's demand letters to the buyers only assured them of the completion of their units by the developer. UCPB did not represent to be the new owner of Kiener or that UCPB itself would complete Kiener. Hence, estoppel would not lie.

In *Liam v. UCPB* (*Liam*), the SC maintained its position that the transaction between PPGI and UCPB was merely an assignment of credit. Hence, what was transferred to UCPB was only the right to collect PPGI's receivables from the purchases of Kiener Hills and not the obligation to complete the said condominium project.

The circumstances and issues in *Choi* and *Liam* fall squarely with the case at bar. First, PPGI and UCPB were prominent parties in the cited cases. Second, it involved the same documents and agreement between PPGI and UCPB whereby the right to collect the receivables were assigned to the latter. Third, the controversy arose from the complaints of disgruntled unit owners to recover the amount they had paid from PPGI or UCPB after Kiener Hills was not completed.

Guided by the previous pronouncements of the SC, it is settled that UCPB is only jointly liable with PPGI to the disgruntled purchasers of Kiener Hills, including the spouses Uy. Hence, UCPB is only bound to refund the amount it had unquestionably received from the spouses.

VII. LEASE

A. General provisions

J.V. LAGON REALTY CORP., REPRESENTED BY NENITA L. LAGON IN HER CAPACITY AS PRESIDENT, *Petitioner*, -versus- HEIRS OF LEOCADIA VDA. DE TERRE, NAMELY: PURIFICACION T. BANSILOY, EMILY T. CAMARAO, and DOMINADOR A. TERRE, AS REPRESENTED BY DIONISIA T. CORTEZ, *Respondents*.
G.R. No. 219670, THIRD DIVISION, June 27, 2018, MARTIRES, J.

There is a tenancy relationship if the following essential elements concur: 1) the parties are the landowner and the tenant or agricultural lessee; 2) the subject matter of the relationship is an agricultural land; 3) there is consent between the parties to the relationship; 4) the purpose of the relationship is to bring about agricultural production; 5) there is personal cultivation on the part of the tenant or agricultural lessee; and 6) the harvest is shared between landowner and tenant or agricultural lessee.

The onus rests on Leocadia to prove her affirmative allegation of tenancy.

The evidence on record, however, is bereft of any affirmative and positive showing that tenancy was maintained on the land throughout the three decades leading to J.V. Lagon's acquisition in 1988. Before Leocadia's claims against J.V. Lagon can prosper, it must first be established that the latter acquired land which was tenanted. On this premise, the scope of judicial inquiry inexorably backtracks

to Gonzales' epoch. Were there agricultural tenants on the land during Gonzales' ownership? The answer could have easily been supplied by none other than Gonzales himself who was in the best position to attest on the status of the land acquired by J.V. Lagon. A testimony or an affidavit from Gonzales would have served to substantiate Leocadia's allegation that she had been a tenant on the land prior to J.V. Lagon's entry. Unfortunately, the record only contains an affidavit from Pedral, a person whose ownership of the land is, borrowing Justice Leonen's term, "thrice-removed" from J.V. Lagon.

FACTS:

In an illegal ejecment complaint it was alleged that sometime in 1952, Antonio Pedral instituted Leocadia and her spouse, Delfin Terre, to work as share tenants over his 5-hectare agricultural landholding known as Lot 587 located at Tacurong, Sultan Kudarat. Three years later, Pedral sold the land to Jose Abis who, in turn, sold the same to Augusto Gonzales in 1958.

During the said transfers of ownership, the spouses Terre were allegedly retained as tenants of the entire 5-hectare landholding. In the 1960s, Gonzales reduced their tillage to 2.5 hectares, and the other half of the land was given to Landislao Bedua and Antonillo Silla to till. On their 2.5 hectares, the Spouses Terre constructed a house and that of their daughter's.

In 1988, the spouses Terre were surprised when they were informed that J.V. Lagon had already bought the entire 5-hectare land from the heirs of Gonzales. Later on, J.V. Lagon constructed a scale house within the 2.5 hectare land tilled by the spouses Terre. A complaint was lodged before the Municipal Agrarian Reform Officer (MARO). No appropriate action, however, was taken on the said complaints until the dispute was eventually brought before the PARAD.

Leocadia claimed that the works done by J.V. Lagon were tantamount to conversion of the land for non-agricultural purposes. Also, Leocadia averred that she was not duly notified in writing about the sale between Gonzales and J.V. Lagon. Thus, her 180-day right of redemption pursuant to Section 12 of R.A. No. 3844, as amended by R.A. No. 6389, did not commence. Accordingly, it was prayed that she be allowed to exercise her right of redemption over the land, the expenses thereof to be shouldered by the Land Bank of the Philippines.

On the other hand, J.V. Lagon countered that Leocadia had no cause of action simply because there was no tenancy to speak of. J.V. Lagon asseverated that Lot 587 had ceased to be agricultural and was already classified as commercial, the same having been utilized as the site of the Rural Bank of Tacurong. Also, at the time the landholding was purchased from Gonzales in 1988, no tenant was found cultivating the land.

Further, J.V. Lagon argued that there was a dearth of evidence to prove the allegation of tenancy, in that it was not even established as to whom Leocadia had paid rentals to. In the same vein, it raised the affirmative defense of prescription, contending that the complaint was filed more than three (3) years after the cause of action accrued in 1988.

PARAD ruled in favor of J.V. Lagon. DARAB reversed and set aside the PARAD's ruling. CA affirmed in toto the DARAB's ruling.

ISSUE:

Whether there is a tenancy relationship between J.V. Lagon Realty and Leocadia. (NO)

RULING:

There is a tenancy relationship if the following essential elements concur: 1) the parties are the landowner and the tenant or agricultural lessee; 2) the subject matter of the relationship is an agricultural land; 3) there is consent between the parties to the relationship; 4) the purpose of the relationship is to bring about agricultural production; 5) there is personal cultivation on the part of the tenant or agricultural lessee; and 6) the harvest is shared between landowner and tenant or agricultural lessee.

All of the above requisites are indispensable in order to create or establish tenancy relationship between the parties. The absence of at least one requisite does not make the alleged tenant a de facto one, for the simple reason that unless an individual has established one's status as a de jure tenant, he is not entitled to security of tenure guaranteed by agricultural tenancy laws.

The onus rests on Leocadia to prove her affirmative allegation of tenancy.

To recall, the land was involved in three transfers over the course of 33 years, to wit: Pedral to Abis, Abis to Gonzales, and finally from Gonzales to J.V. Lagon. This series of transfers shows that Pedral was not J.V. Lagon's immediate predecessor-in-interest. When J.V. Lagon became the absolute owner of the land, it was subrogated to the rights and obligations of Gonzales, not Pedral 's. Gonzales was the person privy to the sale that brought forth J.V. Lagon's ownership. In short, title to the land was derived from Gonzales. This being the case, the DARAB and the CA erred when they relied upon Pedral's affidavit to support the conclusion that J.V. Lagon acquired a tenanted land. Whether or not the land was tenanted at the time of J.V. Lagon's entry is a matter already beyond the competence of Pedral to testify on.

Leocadia anchors her claim against J.V. Lagon on Section 10 of the Agricultural Land Reform Code which, in essence, states that the existence of an agricultural leasehold relationship is not terminated by changes in ownership in case of sale or transfer of legal possession. The fundamental theory of her case parlays the notion that she was an agricultural lessee during the period of Abis' and Gonzales' respective ownership of the land spanning from 1955-1988; such that at the time J.V. Lagon came into possession, there was a subsisting tenancy which the latter assumed by operation of law.

The evidence on record, however, is bereft of any affirmative and positive showing that tenancy was maintained on the land throughout the three decades leading to J.V. Lagon's acquisition in 1988. Before Leocadia's claims against J.V. Lagon can prosper, it must first be established that the latter acquired land which was tenanted. On this premise, the scope of judicial inquiry inexorably backtracks to Gonzales' epoch. Were there agricultural tenants on the land during Gonzales' ownership? The answer could have easily been supplied by none other than Gonzales himself who was in the best position to attest on the status of the land acquired by J.V. Lagon. A testimony or an affidavit from Gonzales would have served to substantiate Leocadia's allegation that she had been a tenant on the land prior to J.V. Lagon's entry. Unfortunately, the record only contains an affidavit from Pedral, a person whose ownership of the land is, borrowing Justice Leonen's term, "thrice-removed" from J.V. Lagon.

> In Berenguer, Jr. v. Court of Appeals, we ruled that the respondents' self-serving statements regarding tenancy relations could not establish the claimed relationship. The fact alone of working on another's landholding does not raise a presumption of the existence of agricultural tenancy. There must be substantial evidence on record adequate enough to prove the element of sharing.
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> xxx
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> To prove such sharing of harvests, a receipt or any other evidence must be presented. Self-serving statements are deemed inadequate; competent proof must be adduced.

Further to the lack of receipts, the record is likewise devoid of testimony from either Pedral, Abis or Gonzales acknowledging the fact that they received a share in the harvest of a tenant. In the absence of receipts or any concrete evidence from which it can be inferred that Leocadia transmitted the landowner's share of her produce, the Court is constrained to declare that not all elements of tenancy relationship are present.

It is well-entrenched in our jurisprudence that certifications of administrative agencies and officers declaring the existence of a tenancy relation are merely provisional. They are persuasive but not binding on the courts, which must make their own findings.

B. Rights and obligations of lessor

C. Rights and obligations of lessee

VICTORIA N. RACELIS, IN HER CAPACITY AS ADMINISTRATOR, *Petitioner,* -versus- SPOUSES GERMIL JAVIER and REBECCA JAVIER, *Respondents.*
G.R. No. 189609, THIRD DIVISION, January 29, 2018, LEONEN, *J.*

In Goldstein v. Roces:
Nobody has in any manner disputed, objected to, or placed any difficulties in the way of plaintiff's peaceful enjoyment, or his quiet and peaceable possession of the floor he occupies. The lessors, therefore, have not failed to maintain him in the peaceful enjoyment of the floor leased to him and he continues to enjoy this status without the slightest change, without the least opposition on the part of any one. That there was a disturbance of the peace or order in which he maintained his things in the leased story does not mean that he lost the peaceful enjoyment of the thing rented. The peace would likewise have been disturbed or lost had some tenant of the Hotel de Francia, living above the floor leased by plaintiff, continually poured water on the latter's bar and sprinkled his bar-tender and his customers and tarnished his furniture; or had some gay patrons of the hotel gone down into his saloon and broken his crockery or glassware, or stunned him with deafening noises. Numerous examples could be given to show how the lessee might fail peacefully to enjoy the floor leased by him, in all of which cases he would, of course, have a right of action for the recovery of damages from those who disturbed his peace, but he would have no action against the lessor to compel the latter to maintain him in his peaceful enjoyment of the thing rented. The lessor can do nothing, nor is it incumbent upon him to do anything, in the examples or cases mentioned, to restore his lessees peace.

True it is that, pursuant to paragraph 3, of article 1554, the lessor must maintain the lessee in the peaceful enjoyment of the lease during all of the time covered by the contract, and that, in consequence thereof, he is obliged to remove such obstacles as impede said enjoyment; but, as in warranty in a case of eviction (to which doctrine the one we are now examining is very similar, since it is necessary, as we have explained, that the cause of eviction be in a certain manner imputable to the vendor, which must be understood as saying that it must be prior to the sale), the obstacles to enjoyment which the lessor must remove are those that in some manner or other cast doubt upon the right by virtue of which the lessor himself executed the lease and, strictly speaking, it is this right that the lessor should guarantee to the lessee.

Lessees are entitled to suspend the payment of rent under Article 1658 of the Civil Code if their legal possession is disturbed. Acts of physical disturbance that do not affect legal possession is beyond the scope of this rule. Lessees who exercise their right under Article 1658 of the Civil Code are not freed from the obligations imposed by law or contract. Assuming that parties were entitled to invoke their right under Article 1658 of the Civil Code, this does exonerate them from their obligation under Article 1657 of the civil Code "to pay the price of the lease according to the terms stipulated."

FACTS:

Before his death, the late Pedro Nacu, Sr. (Nacu) appointed his daughter, Racelis, to administer his properties, among which was a residential house and lot located in Marikina City. Nacu requested his heirs to sell this property first. Acting on this request, Racelis immediately advertised it for sale.

In August 2001, the Spouses Javier offered to purchase the Marikina property. However, they could not afford to pay the price of P3,500,000.00. The parties agreed on a month-to-month lease and rent of P11,000.00 per month. The Spouses Javier used the property as their residence and as the site of their tutorial school, the Niño Good Shepherd Tutorial Center.

Sometime in July 2002, Racelis inquired whether the Spouses Javier were still interested to purchase the property. The Spouses Javier reassured her of their commitment and even promised to pay P100,000.00 to buy them more time within which to pay the purchase price. On July 26, 2002, the Spouses Javier tendered the sum of P65,000.00 representing "initial payment or goodwill money." On several occasions, they tendered small sums of money to complete the promised P100,000.00, but by the end of 2003, they only delivered a total of P78,000.00.

Meanwhile, they continued to lease the property. They consistently paid rent but started to fall behind by February 2004. Realizing that the Spouses Javier had no genuine intention of purchasing the property, Racelis wrote to inform them that her family had decided to terminate the lease agreement and to offer the property to other interested buyers. **In the same letter, Racelis demanded that they vacate the property by May 30, 2004.**

The Spouses Javier refused to vacate due to the ongoing operation of their tutorial business. They insisted that the sum of P78,000.00 was advanced rent and proposed that this amount be applied to their outstanding liability until they vacate the premises. Disagreeing on the application of the P78,000.00, Racelis and the Spouses Javier brought the matter to the barangay for conciliation. Unfortunately, the parties failed to reach a settlement. During the proceedings, Racelis demanded the Spouses Javier to vacate the premises by the end of April 30, 2004. However, the Spouses Javier refused to give up possession of the property and even refused to pay rent for the succeeding months.

On May 12, 2004, Racelis caused the disconnection of the electrical service over the property forcing the Spouses Javier to purchase a generator. This matter became the subject of a complaint for damages filed by the Spouses Javier against Racelis. Racelis was absolved from liability.

Meanwhile, Racelis filed a complaint for ejectment against the Spouses Javier before the Metropolitan Trial Court in Marikina City. The case was docketed as Civil Case No. 04-7710. Racelis alleged that she agreed to lease the property to the Spouses Javier based on the understanding that they would eventually purchase it. Spouses Javier averred that they never agreed to purchase the property from Racelis because they found a more affordable property at Greenheights Subdivision in Marikina City. They claimed that the amount of P78,000.00 was actually advanced rent. During trial, the Spouses Javier vacated the property and moved to their new residence at Greenheights Subdivision

On August 19, 2005, the Metropolitan Trial Court rendered a Decision dismissing the complaint. It ruled that the Spouses Javier were entitled to suspend the payment of rent under Article 1658 of the Civil Code due to Racelis' act of disconnecting electric service over the property.

The Metropolitan Trial Court declared that the Spouses Javier's obligation had been extinguished. Their advanced rent and deposit were sufficient to cover their unpaid rent. The Metropolitan Trial Court, however, did not characterize the P78,000.00 as advanced rent but as earnest money.

On appeal, the Regional Trial Court rendered a Decision reversing the Metropolitan Trial Court August 19, 2005 Decision. The Regional Trial Court held that the Spouses Javier were not justified in suspending rental payments. However, their liability could not be offset by the P78,000.00. The Regional Trial Court explained that the parties entered into two (2) separate and distinct contracts—a lease contract and a contract of sale. Based on the evidence presented, the P78,000.00 was not intended as advanced rent, but as part of the purchase price of the property. The Spouses Javier moved for reconsideration. The Regional Trial Court reduced the Spouses Javier's unpaid rentals by their advanced rental deposit. They were ordered to pay P54,000.00 instead. The Spouses Javier appeal.

On January 13, 2009, the Court of Appeals rendered a Decision declaring the Spouses Javier justified in withholding rental payments due to the disconnection of electrical service over the property.

Nevertheless, the Court of Appeals stated that they were not exonerated from their obligation to pay accrued rent. On the other hand, Racelis was bound to return the sum of P78,000.00 in view of her waiver. Racelis moved for reconsideration but her motion was denied in the Court of Appeals. On November 25, 2009, Racelis filed a Petition for Review

ISSUE:

Whether respondents Spouses Germil and Rebecca Javier can invoke their right to suspend the payment of rent under Article 1658 of the Civil Code. (NO)

RULING:

A **contract of lease** is a "consensual, bilateral, onerous and commutative contract by which the owner temporarily grants the use of his property to another who undertakes to pay rent therefor."

Article 1658 of the Civil Code allows a lessee to postpone the payment of rent if the lessor fails to either (1) "make the necessary repairs" on the property or (2) "maintain the lessee in peaceful and adequate enjoyment of the property leased." This provision implements the obligation imposed on lessors under Article 1654(3) of the Civil Code.

The failure to maintain the lessee in the peaceful and adequate enjoyment of the property leased does not contemplate all acts of disturbance. **Lessees may suspend the payment of rent under Article 1658 of the Civil Code only if their legal possession is disrupted.**

In this case, the disconnection of electrical service over the leased premises on May 14, 2004 was not just an act of physical disturbance but one that is meant to remove respondents from the leased premises and disturb their legal possession as lessees. Ordinarily, this would have entitled respondents to invoke the right accorded by Article 1658 of the Civil Code.

However, this rule will not apply in the present case because the lease had already expired when petitioner requested for the temporary disconnection of electrical service. Petitioner demanded respondents to vacate the premises by May 30, 2004. Instead of surrendering the premises to petitioner, respondents unlawfully withheld possession of the property. Respondents continued to stay in the premises until they moved to their new residence on September 26, 2004. At that point, petitioner was no longer obligated to maintain respondents in the "peaceful and adequate enjoyment of the lease for the entire duration of the contract." Therefore, respondents cannot use the disconnection of electrical service as justification to suspend the payment of rent.

Assuming that respondents were entitled **to invoke their right under Article 1658 of the Civil Code, this does exonerate them from their obligation under Article 1657 of the civil Code "to pay the price of the lease according to the terms stipulated."**

Lessees who exercise their right under Article 1658 of the Civil Code are not freed from the obligations imposed by law or contract. Moreover, respondents' obligation to pay rent was not extinguished when they transferred to their new residence. Respondents are liable for a reasonable amount of rent for the use and continued occupation of the property upon the expiration of the lease. To hold otherwise would unjustly enrich respondents at petitioner's expense.

THELMA C. MULLER, GRACE M. GRECIA, KURT FREDERICK FRITZ C. MULLER, AND HOPE C. MULLER, IN SUBSTITUTION OF THE LATE FRITZ D. MULLER, *Petitioners,* -versus- PHILIPPINE NATIONAL BANK, *Respondent.*
G.R. No. 215922, FIRST DIVISION, October 1, 2018, DEL CASTILLO, J.

Under Article 1670 of the Civil Code, "[i]f at the end of the contract the lessee should continue enjoying the thing leased for fifteen days with the acquiescence of the lessor, and unless a notice to the contrary by either party has previously been given, it is understood that there is an implied new lease, not for the period of the original contract, but for the time established in Articles 1682 and 1687. The other terms of the original contract shall be revived." Thus, when petitioners' written lease agreement with respondent expired on June 1, 1987 and they did not vacate the subject properties, the terms of the written lease, other than that covering the period thereof, were revived. The lease thus continued.

FACTS:

Spouses Fritz and Thelma Muller are the occupants of 2 parcel of land with improvements located at Abeto Subdivision, Brgy. Sta. Rosa, Manduriao, Iloilo City owned by the Philippine National Bank with an aggregate area of 1,250 sq. meters.

On May 26, 1987, PNB informed spouses Muller that their lease will expire on June 1, 1987; that they had rental arrears for 2 ½ years amounting to PhP18,000.00. Seeking to renew the lease contract for another year, Fritz wrote a letter to PNB, proposing to buy the subject properties. However, PNB denied the request for renewal of the lease. Consequently, on October 2, 1987, PNB informed Fritz that his offer to purchase the subject properties was not given due course by the Head Office.

On March 17, 1988, PNB demanded spouses Muller to vacate the subject properties within 15 days from the said date, in view of the expiration of the lease. However, the demand was left unheeded. Hence, PNB sent its final demand letter dated July 17, 2006, demanding from them the payment of the rental arrears from June 1984 up to June 1, 2006.

Spouses Muller failed to pay due attention to the written demands against them which prompted PNB to institute a Complaint for Ejectment before the MTCC of Iloilo City, which rendered a Decision on October 17, 2007 in favor of PNB.

Spouses Muller filed a Notice of Appeal. On February 1, 2008, PNB filed an Urgent Motion for Execution of the MTCC Judgment praying for its immediate execution for failure of spouses Muller to file a supersedeas bond to stay the execution of the judgment.

On June 2, 2008, the RTC rendered its Decision declaring that the reckoning point from which a claimant in an unlawful detainer case, in this case, the PNB, may invoke the accrual of its claims is

the date of receipt of last demand; that the MTCC cannot take judicial notice of the fair rental value of the subject properties; and that prescription is applicable to the case.

PNB appealed before the CA, which issued its Decision on October 30, 2013 decreeing that (1) contrary to the RTC ruling, reasonable compensation for the use and occupancy of the subject properties should be reckoned from receipt of initial demand and not receipt of last demand; (2) prescription does not apply hence PNB can collect rentals which accrued prior to receipt of last demand; and (3) the MTCC properly fixed the rental value of the subject properties.

Petitioners moved to reconsider, but in a November 14, 2014 Resolution, the CA held its ground. Hence, the present Petition.

ISSUE:

Whether petitioner is liable to pay rent prior to July 17, 2006. (YES)

RULING:

Under Article 1670 of the Civil Code, "[i]f at the end of the contract the lessee should continue enjoying the thing leased for fifteen days with the acquiescence of the lessor, and unless a notice to the contrary by either party has previously been given, it is understood that there is an implied new lease, not for the period of the original contract, but for the time established in Articles 1682 and 1687. The other terms of the original contract shall be revived." Thus, when petitioners' written lease agreement with respondent expired on June 1, 1987 and they did not vacate the subject properties, the terms of the written lease, other than that covering the period thereof, were revived. The lease thus continued.

Even then, it can be said that so long as petitioners continued to occupy the subject properties - with or without PNB's consent - there was a lease agreement between them. They cannot escape the payment of rent, by any manner whatsoever. First of all, given the circumstances where liberality is obviously not present and was never a consideration for the lease contract, petitioners cannot be allowed to enjoy PNB's properties without paying compensation therefor; this would be contrary to fundamental rules of fair play, equity, and law. Basically, Article 19 of the Civil Code states that "[e]very person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith," and Article 20 provides that "[e]very person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same."

Secondly, even when the parties' lease agreement ended and petitioners failed or refused to vacate the premises, it may be said that a forced lease was thus created where petitioners were still obligated to pay rent to respondent as reasonable compensation for the use and occupation of the subject properties. Indeed, even when there is no lease agreement between the parties, or even when the parties occupant and property owner - are strangers as against each other, still the occupant is liable to pay rent to the property owner by virtue of the forced lease that is created by the former's use and occupation of the latter's property.

Indeed, petitioners' obstinate refusal to pay rent and vacate the subject properties, and their insistence that respondent sell the same to them but without meeting respondent's price, is an

underhanded maneuver that unduly tied respondent's hand and deprived it of the use and enjoyment of its properties. This is tantamount to holding the properties hostage and forcing respondent to accede to whatever petitioners desired. This practice cannot be sanctioned; on the contrary, it must be condemned.

VIII. PARTNERSHIP

A. General provisions

ANICETO G. SALUDO, JR., *Petitioner*, *v.* **PHILIPPINE NATIONAL BANK**, *Respondent*.
G.R. No. 193138, FIRST DIVISION, August 20, 2018, JARDELEZA, *J.*

Article 1767 of the Civil Code provides that by a contract of partnership, two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves. Two or more persons may also form a partnership for the exercise of a profession.

Here, absent evidence of an earlier agreement, SAFA Law Office was constituted as a partnership at the time its partners signed the Articles of Partnership. The subsequent registration of the Articles of Partnership with the SEC was made in compliance with Article 1772 of the Civil Code, since the initial capital of the partnership was P500,000.00. The other provisions of the Articles of Partnership also positively identify SAFA Law Office as a partnership. It also provided for the term of the partnership, distribution of net profits and losses, and management of the firm in which "the partners shall have equal interest in the conduct of [its] affairs." Moreover, it provided for the cause and manner of dissolution of the partnership. These provisions would not have been necessary if what had been established was a sole proprietorship.

FACTS:
SAFA Law Office entered into a **Contract of Lease** with PNB, whereby the latter agreed to lease the second floor of the PNB Financial Center Building in Quezon City for a period of three years. The Contract of Lease expired in 2001, but it was only in 2005 when SAFA Law Office finally vacated the leased premises. Consequently, PNB then made a final demand for SAFA Law Office to pay its outstanding rental obligations in the amount of P25,587,838.09.

Saludo, in his capacity as managing partner of SAFA Law Office, then filed an **amended complaint for accounting and/or recomputation of unpaid rentals and damages** against PNB. PNB filed a motion to include SAFA Law Office as principal plaintiff. Thereafter, PNB filed its answer. By way of compulsory counterclaim, it sought payment from SAFA Law Office in the sum representing overdue rentals.

Saludo filed his **motion to dismiss counterclaims**, mainly arguing that SAFA Law Office is neither a legal entity nor party litigant. As it is only a relationship or association of lawyers in the practice of law and a single proprietorship which may only be sued through its owner or proprietor, no valid counterclaims may be asserted against it.

RTC issued an **Omnibus Order** denying PNB's motion to include an indispensable party as plaintiff and granting Saludo's motion to dismiss counterclaims. PNB filed its motion for reconsideration, which the RTC denied. Consequently, PNB filed a **petition for *certiorari*** with the CA. CA held that

Saludo is estopped from claiming that SAFA Law Office is a single proprietorship since SAFA Law Office was the one that entered into the lease contract and not Saludo. Hence, this petition.

ISSUES:

(1) Whether or not SAFA Law Office is a sole proprietorship? (NO)
(2) If not, whether or not the MOU converted SAFA Law Office into one? (NO)
(3) Whether or not SAFA Law Office acquired juridical personality? (YES)

RULING:

(1) Contrary to Saludo's submission, SAFA Law Office is a partnership and not a single proprietorship. Article 1767 of the Civil Code provides that by a contract of partnership, two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves. *Two or more persons may also form a partnership for the exercise of a profession.*

Under Article 1771, a partnership may be constituted in any form, except where immovable property or real rights are contributed thereto, in which case a public instrument shall be necessary. Article 1784, on the other hand, provides that a partnership begins from the moment of the execution of the contract, unless it is otherwise stipulated.

Here, absent evidence of an earlier agreement, SAFA Law Office was constituted as a partnership at the time its partners signed the Articles of Partnership. The subsequent registration of the Articles of Partnership with the SEC was made in compliance with Article 1772 of the Civil Code, since the initial capital of the partnership was P500,000.00. The other provisions of the Articles of Partnership also positively identify SAFA Law Office as a partnership. It also provided for the term of the partnership, distribution of net profits and losses, and management of the firm in which "the partners shall have equal interest in the conduct of [its] affairs." Moreover, it provided for the cause and manner of dissolution of the partnership. These provisions would not have been necessary if what had been established was a sole proprietorship.

(2) Saludo asserts that SAFA Law Office is a sole proprietorship on the basis of the MOU executed by the partners of the firm. The MOU evinces the parties' intention to entirely shift any liability that may be incurred by SAFA Law Office in the course of its operation to Saludo, who shall also receive all the remaining assets of the firm upon its dissolution. This MOU, however, does not serve to convert SAFA Law Office into a sole proprietorship. As discussed, SAFA Law Office was manifestly established as a partnership based on the Articles of Partnership.

The law, in its wisdom, recognized the possibility that partners in a partnership may decide to place a limit on their individual accountability, but such agreement may only be valid as among them, pursuant to Article 1817 of the Civil Code. Hence, the Court cannot sustain Saludo's position that SAFA Law Office is a sole proprietorship.

(3) Having settled that SAFA Law Office is a partnership, the Court held that it acquired juridical personality by operation of law. The perfection and validity of a contract of partnership brings about the creation of a juridical person separate and distinct from the individuals comprising the partnership, pursuant to Article 1768 of the Civil Code. Article 44 of the Civil Code likewise provides that partnerships are juridical persons. It is this juridical personality that allows a partnership to enter into business transactions to fulfill its purposes, pursuant to Article 46 of the Civil Code.

In view of the above, there is nothing to support the position of the RTC and the CA, as well as Saludo, that SAFA Law Office is not a partnership and a legal entity. In holding that SAFA Law Office, a partnership for the practice of law, is not a legal entity, the CA cited the case of *Petition for Authority to Continue Use of the Firm Name "Sycip, Salazar, Feliciano, Hernandez & Castillo"* (*Sycip* case) wherein the Court held that "[a] partnership for the practice of law is not a legal entity. It is a mere relationship or association for a particular purpose. It is not a partnership formed for the purpose of carrying on trade or business or of holding property." These are direct quotes from the US case of *In re Crawford's Estate*. The Court held, however, that its reference to this US case is an *obiter dictum* which cannot serve as a binding precedent for the following reasons:

> *First*, the Court thus cannot hold that a partnership for the practice of law is not a legal entity without running into conflict with Articles 44 and 1768 of the Civil Code which provide that a partnership has a juridical personality separate and distinct from that of each of the partners.
>
> *Second*, Philippine law on partnership does not exclude partnerships for the practice of law from its coverage. Article 1767 of the Civil Code provides that "[t]wo or more persons may also form a partnership for the exercise of a profession." Article 1783, on the other hand, states that "[a] particular partnership has for its object determinate things, their use or fruits, or a specific undertaking, or the exercise of a profession or vocation." Since the law uses the word "profession" in the general sense, and does not distinguish which professional partnerships are covered by its provisions and which are not, then no valid distinction may be made.
>
> *Finally*, the Court stresses that unlike Philippine law, American law does not treat of partnerships as forming a separate juridical personality for all purposes.

Jurisprudence has long recognized that American common law does not treat of partnerships as a separate juridical entity unlike Philippine law. Indeed, under the old and new Civil Codes, Philippine law has consistently treated partnerships as having a juridical personality separate from its partners.

B. Obligations of the partners

C. Dissolution and winding up D. Limited partnership

IX. AGENCY

A. Nature, form, and kinds

AYALA LAND, INC., *Petitioner*, -versus - ASB REALTY CORPORATION AND E.M. RAMOS & SONS, INC., *Respondents*.
G.R. No. 210043, FIRST DIVISION, September 26, 2018, DEL CASTILLO, J.

[U]nder the doctrine of apparent authority, the question in every case is whether the principal has by his [/her] voluntary act placed the agent in such a situation that a person of ordinary prudence, conversant with business usages and the nature of the particular business, is justified in presuming that such agent has authority to perform the particular act in question.

For juridical entities, consent is given through its board of directors. As this Court held in First Philippine Holdings Corporation v. Trans Middle East (Phils.) Equities, Inc., a juridical entity, like EMRASON, "cannot act except through its board of directors as a collective body, which is vested with the power and responsibility to decide whether the corporation should enter in a contract that will bind the corporation, subject to the articles incorporation, by-laws, or relevant provisions of law."

Here, Ramos, Sr.'s authority to execute and enter into the Letter-Agreement with ASBRC was clearly proven.

ALI's argument that "respondents failed to establish that [Ramos], Sr. had been in the habit of executing contracts on behalf of EMRASON" is negated by the fact that correspondences between ALI and EMRASON had always been addressed to Ramos, Sr. In fact, ALI must be deemed to have acknowledged the authority of Ramos, Sr. to act on behalf of EMRASON when ALI relied on the August 3, 1993 letter of Ramos, Sr. In any case, this Court clarified in People's Aircargo that "[i]t is not the quantity of similar acts which establishes apparent authority, but the vesting of a corporate officer with the power to bind the corporation." Together with this Court's pronouncement that "a party dealing with the president of a corporation is entitled to assume that he has the authority to enter, on behalf of the corporation, into contracts that are within the scope of the powers of said corporation and that do not violate any statute or rule on public policy," the inevitable conclusion is that Ramos, Sr. was properly authorized to, and validly executed with ASBRC, the said Letter-Agreement.

FACTS:

ALI and ASBRC are domestic corporations engaged in real estate development. On the other hand, EMRASON is a domestic corporation principally organized to manage a 372- hectare property located in Dasmariñas, Cavite (Dasmariñas Property).

ALI claimed that, sometime in August 1992, EMRASON's brokers sent a proposal for a joint venture agreement (JVA) between ALI and EMRASON for the development of EMRASON's Dasmariñas Property. According to ALI, EMRASON made it appear that Ramos, Jr., Antonio, and Januario had full authority to act on EMRASON's behalf in relation to the JVA. ALI alleged that Emerita Ramos, Sr. (Ramos, Sr.), then EMRASON's President and Chairman, wrote to ALI and therein acknowledged that Ramos, Jr. and Antonio were fully authorized to represent EMRASON in the JVA, as shown in Ramos, Sr.'s letter dated August 3, 1993.

ALI and the Ramos children subsequently entered into a Contract to Sell dated May 18, 1994, under which ALI agreed to purchase the Dasmariñas Property.

ALI alleged that it came to know that a Letter-Agreement dated May 21, 1994 (Letter-Agreement) and a Real Estate Mortgage respecting the Dasmariñas Property had been executed by Ramos, Sr. and Antonio for and in behalf of EMRASON, on one hand, and ASBRC on the other. It also alleged that the Ramos children wrote to Luke C. Roxas, ASBRC's President, informing the latter of the Contract to Sell between ALI and EMRASON.

In a Decision dated June 29, 2010, the RTC declared the Contract to Sell between ALI and the Ramos children void because of the latter's lack of authority to sign the Contract to Sell on behalf of EMRASON.

In addition, the RTC declared valid the Letter-Agreement deeding the Dasmariñas Property to ASBRC. Following this Court's ruling in *People's Aircargo and Warehousing Company, Inc. v. Court of Appeals*, the RTC held that Ramos, Sr., as President of EMRASON, had the authority to enter into the Letter-Agreement because "the president is presumed to have the authority to act within the domain of the general objectives of [a company's] business and within the scope of [the president's] usual duties.

The RTC further explained that, assuming *arguendo* that the signing of the Letter-Agreement "was outside the usual powers of Emerito Ramos, Sr., as president," EMRASON's ratification of the Letter-Agreement via a stockholders' meeting on March 6, 1995, cured the defect caused by Ramos, Sr.'s apparent lack of authority.

Dissatisfied with the RTC's verdict ALI, Ramos, Jr. and Horacia appealed to the CA.

In its April 30, 2013 Decision, the CA dismissed the appeal and affirmed the RTC's findings.

ISSUE:

Whether or not the Court of Appeals gravely erred in annulling the Contract to Sell between petitioner and EMRASON notwithstanding clear evidence consistent with statute and case law showing EMRASON's own confirmation that the Ramos children with whom petitioner dealt, had both authority and capacity to close the sale between them. (NO)

RULING:

We deny the Petition for raising factual issues and failure to show that the CA committed any reversible error in its assailed Decision as to warrant the exercise of this Court's discretionary appellate jurisdiction.

"A contract is void if one of the essential requisites of contracts under Article 1318 of the New Civil Code is lacking." Consent, being one of these requisites, is vital to the existence of a contract "and where it is wanting, the contract is non-existent."

For juridical entities, consent is given through its board of directors. As this Court held in *First Philippine Holdings Corporation v. Trans Middle East (Phils.) Equities, Inc*., a juridical entity, like EMRASON, "cannot act except through its board of directors as a collective body, which is vested with the power and responsibility to decide whether the corporation should enter in a contract that will bind the corporation, subject to the articles incorporation, by-laws, or relevant provisions of law." Although the general rule is that "no person, not even its officers, can validly bind a corporation" without the authority of the corporation's board of directors, this Court has recognized instances where third persons' actions bound a corporation under the doctrine of apparent authority or ostensible agency.

In *Nogales v. Capitol Medical Center*, this Court explained the doctrine of apparent authority or ostensible agency, which is actually a species of the doctrine of estoppel, thus –

> The doctrine of apparent authority is a species of the doctrine of estoppel. Article 1431 of the Civil Code provides that '[t]hrough estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.' Estoppel rests on this rule: 'Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it.'

Given this jurisprudential teaching, ALI insists that the August 3, 1993 letter of Ramos, Sr. to ALI was proof that EMRASON had acknowledged the authority of the Ramos children to transact with ALI and that such letter met the requisites for the application of the doctrine, following this Court's ruling in *Woodchild Holdings, Inc. v. Roxas Electric and Construction Company, Inc.*

ALI's argument does not persuade.

A perusal of the August 3, 1993 letter shows that EMRASON, through Ramos, Sr. authorized Ramos, Jr. and Antonio merely to "*collaborate and continue negotiating and discussing with [ALI] terms and conditions* that are mutually beneficial" to the parties therein. Nothing more, nothing less. To construe the letter as a virtual carte blanche for the Ramos children to enter into a Contract to Sell regarding the Dasmariñas Property would be unduly stretching one's imagination. "[A]cts done by [the] corporate officers beyond the scope of their authority cannot bind the corporation unless it has ratified such acts expressly or is estopped from denying them." What is clear from the letter is that EMRASON authorized the Ramos children **only** to negotiate the terms of a **potential** sale over the Dasmariñas Property, and not to sell the property in an absolute way or act as signatories in the contract.

As correctly held by the RTC and the CA, and stressed in *Banate v. Philippine Countryside Rural Bank (Liloan, Cebu), Inc*.:

> It is a settled rule that persons dealing with an agent are bound at their peril, if they would hold the principal liable, to ascertain not only the fact of agency **but also the nature and extent of the agent's authority**, and in case either is controverted, the burden of proof is upon them to establish it.

In *People's Aircargo,* this Court zeroed in on the apparent authority of a *corporate president* to bind the corporation, viz.:

> Inasmuch as a corporate president is often given general supervision and control over corporate operations, the strict rule that said officer has no inherent power to act for the corporation is slowly giving way to the realization that such officer has certain limited powers in the transaction of the usual and ordinary business of the corporation. In the absence of a charter or bylaw provision to the contrary. the president is presumed to have the authority to act within the domain of the general objectives of its business and within the scope of his or her usual duties.

> Hence, it has been held in other jurisdictions that the president of a corporation possesses the power to enter into a contract for the corporation, when the 'conduct on the part of both the president and the corporation [shows] that he had been in the habit of acting in similar matters on behalf of the company and that the company had authorized him so to act and had recognized, approved and ratified his former and similar actions.' Furthermore, a party dealing with the president of a corporation is entitled to assume that he has the authority to enter, on behalf of the corporation, into contracts that are within the scope of the powers of said corporation and that do not violate any statute or rule on public policy.

Here, Ramos, Sr.'s authority to execute and enter into the Letter-Agreement with ASBRC was clearly proven.

ALI's argument that "respondents failed to establish that [Ramos], Sr. had been in the habit of executing contracts on behalf of EMRASON" is negated by the fact that correspondences between ALI and EMRASON had always been addressed to Ramos, Sr. In fact, ALI must be deemed to have acknowledged the authority of Ramos, Sr. to act on behalf of EMRASON when ALI relied on the August 3, 1993 letter of Ramos, Sr. In any case, this Court clarified in *People's Aircargo* that "[i]t is **not** the quantity of similar acts which establishes apparent authority, but the vesting of a corporate officer with the power to bind the corporation." Together with this Court's pronouncement that "a party dealing with the president of a corporation is entitled to assume that he has the authority to enter, on behalf of the corporation, into contracts that are within the scope of the powers of said corporation and that do not violate any statute or rule on public policy," the inevitable conclusion is that Ramos, Sr. was properly authorized to, and validly executed with ASBRC, the said Letter-Agreement.

More than these, this Court cannot gloss over the formal defects in the Contract to Sell, which further shows that ALI did entertain doubts as to the Ramos children's authority to enter into the said contract. Consider the following pronouncement of the RTC, to wit:

> In this connection, the Court observes numerous formal defects in the Contract to Sell which would further support the fact that defendant ALI knew the **absence** of authority of defendant Ramos children to execute the same. Oddly, the first page of the contract failed to include the names of the duly authorized representative/s of EMRASON as the space specifically provided therefor was left in blank. In contrast, the duly appointed [a]ttorneys-in-fact of ALI are clearly named therein and designated as such. Similarly, page eighteen (18) of the said contract merely provided blank spaces to be filled up by the signatories of EMRASON vis-a-vis that of defendant ALI where the names of the [a]ttorney's-in-[f]act of defendant ALI are typewritten. Even in the acknowledgment page, only the names of the representatives of ALI were included. Interestingly, the acknowledgment failed to mention the names of signatories of EMRASON and their respective Community Tax Certificate Numbers. Considering that the subject contract involves a multi-million transaction, the Court finds it absolutely incredible that the parties thereto would fail to include the names of the signatories, their respective positions and/or authorities to enter into the said contract.

Against this backdrop, this Court must uphold, as it hereby upholds, the validity of the Letter-Agreement entered into by and between EMRASON and ASBRC. Under the same parity of reasoning,

this Court must affirm, as it hereby affirms, the RTC and CA's declaration of the invalidity or nullity of the Contract to Sell entered into by and between ALI and the Ramos children.

B. Obligations of the agent

DALE STRICKLAND, *Petitioner*, *-versus-* ERNST & YOUNG LLP, *Respondent*.

G.R. No. 193782, FIRST DIVISION, August 01, 2018, JARDELEZA, *J*.

Having established the fact of agency, there is no question that P&A derives its authority for the UHLP liquidation from Ernst & Young Asia. As such agent, P&A cannot sue and be sued on the contract of employment between Strickland and Ernst & Young Asia. As explained by a recognized authority in civil law:

"(a) Normally, the agent has neither rights nor liabilities as against the third party. ***He cannot sue or be sued on the contract. Since the contract may be violated only by the parties thereto against each other, the real party-in-interest, either as plaintiff or defendant in an action upon that contract must, generally be a party to said contract.****"*

In this case, the conflict arose from the terms of Strickland's employment contract with Ernst & Young Asia and P&A's involvement in the same was a mere consequence that the termination occurred while the UHLP was ongoing. The fact of agency in itself and the aforequoted discussion of its effects shows that [PA's] liability is anchored on that of Ernst & Young Asia, giving rise to a reason why the trial court's proceedings must be suspended in the light of the pending arbitration proceedings between [PA's] principal[, EYLLP,] and x x x Strickland.

FACTS:

National Home Mortgage Finance Corporation (NHMFC) and Punongbayan & Araullo (PA) entered into a Financial Advisory Services Agreement (FASA) for the liquidation of the NHMFC's Unified Home Lending Program (UHLP). At the time of the engagement, PA was the Philippine member of respondent global company, EYLLP. In the March 26, 2002 letter of PA to NHMFC confirming their engagement as exclusive Financial Advisor for the UHLP Project, PA is designated as P&A/Ernst & Young.

During this period, Strickland was a partner of EYLLP seconded to respondent Ernst & Young Asia Pacific Financial Solutions (EYAPFS), who was listed in the FASA as member of the Engagement Team. Significantly, Strickland played a role in negotiating the FASA between PA and NHMFC. EYLLP wrote PA of the termination of its membership in EYLLP. Despite the termination, the working relationship among the parties continued. In an assignment letter dated November 15, 2002, EYLLP confirmed Strickland's assignment to Manila as a partner.

In an exchange of letters, notice was given to NHMFC of PA's intention to remove Strickland from the NHMFC Engagement Team as a result of Strickland's resignation from EYLLP and/or EYAPFS effective on July 2, 2004. Since NHMFC was intent on retaining Strickland's services despite his separation from EYLLP and/or EYAPFS, the parties entered into negotiations to define

Strickland's possible continued participation in the UHLP Project. PA, NHMFC, and Strickland exchanged letters containing proposed amendments to cover the new engagement and Strickland's participation within the UHLP Project. No actual written and final agreement among the parties amending the original engagement letter of March 26, 2002 materialized.

PA wrote a letter,[19] signed by its President/Chairman & CEO, Benjamin R. Punongbayan, to NHMFC to initiate discussions on a "mutual voluntary termination of the NHMFC Agreement." Subsequently, conflict on Strickland's actual participation and concurrent designation on the project arose among PA, NHMFC, and Strickland as reflected in the proposed revisions to the "Draft Financial Advisory Services" initially prepared by PA.

Counsel for Strickland wrote PA asking for "equitable compensation for professional services" rendered to NHMFC on the UHLP Project from the time of his separation from EYLLP and/or EYAPFS. Thus, Strickland filed a Complaint, which included EYAPFS, PA and NHMFC among the defendants. Subsequent to the complaint, EYLLP and/or EYAPFS filed a Motion to Refer to Arbitration, which was, however, denied. When brought to the CA, the latter reversed the said order.

ISSUE:

Whether PA is an agent of EYLLP. (YES)

RULING:

PA was unequivocally an agent of EYLLP at the time it executed, as Philippine Member of the EYLLP global company, the FASA with NHMFC for the UHLP Project.

This fact of agency relationship between PA and EYLLP cannot be denied and avoided by Strickland, given Articles 1868 and 1873 of the Civil Code which provides, thus:

> Art. 1868. By the contract of agency a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.
>
> Art. 1873. If a person specially informs another or states by public advertisement that he has given a power of attorney to a third person, the latter thereby becomes a duly authorized agent, in the former case with respect to the person who received the special information, and in the latter case with regard to any person.

PA is considered an agent of EYLLP. We quote with favor the analysis of the CA in CA-G.R. SP No. 120897:

> Strickland admitted the following: (1) that he is an employee of Ernst & Young Asia, assigned to different projects in Korea, Japan, Thailand, China and the Philippines; and (2) that x x x P&A is an agent of Ernst & Young Asia. Such agency is also reflected in the letter addressed to Strickland, dated April 15, 2002, stating that P&A was

representing Ernst & Young Asia, being its member firm located in the Philippines. P&A, as agent of Ernst & Young Asia, was authorized to act in behalf of the latter with regard to the liquidation of the UHLP as financial advisor for NHMFC.

Having established the fact of agency, there is no question that P&A derives its authority for the UHLP liquidation from Ernst & Young Asia. As such agent, P&A cannot sue and be sued on the contract of employment between Strickland and Ernst & Young Asia. As explained by a recognized authority in civil law:

"*(a) Normally, the agent has neither rights nor liabilities as against the third party.* ***He cannot sue or be sued on the contract. Since the contract may be violated only by the parties thereto against each other, the real party-in-interest, either as plaintiff or defendant in an action upon that contract must, generally be a party to said contract.***"

In this case, the conflict arose from the terms of Strickland's employment contract with Ernst & Young Asia and P&A's involvement in the same was a mere consequence that the termination occurred while the UHLP was ongoing. The fact of agency in itself and the aforequoted discussion of its effects shows that [PA's] liability is anchored on that of Ernst & Young Asia, giving rise to a reason why the trial court's proceedings must be suspended in the light of the pending arbitration proceedings between [PA's] principal[, EYLLP,] and x x x Strickland.

C. Obligations of the principal

CITYSTATE SAVINGS BANK, *Petitioner*, -versus- TERESITA TOBIAS AND SHELLIDIE VALDEZ, *Respondents*.
G.R. No. 227990, SECOND DIVISION, March 07, 2018, REYES, JR., *J.*

Nonetheless, while it is clear that the proximate cause of respondents' loss is the misappropriation of Robles, petitioner is still liable under Article 1911 of the Civil Code, to wit:

> ***Art. 1911.*** *Even when the agent has exceeded his authority,* ***the principal is solidarity liable with the agent if the former allowed the latter to act as though he had full powers****.*

The case of Prudential Bank v. CA lends support to this conclusion. There, this Court first laid down the doctrine of apparent authority, with specific reference to banks, viz.:

> *A bank is liable for wrongful acts of its officers done in the interests of the bank or in the course of dealings of the officers in their representative capacity but not for acts outside the scope of their authority. A bank holding out its officers and agent as worthy of confidence will not be permitted to profit by the frauds they may thus be enabled to perpetuate in the apparent scope of their employment; nor will it be permitted to shirk its responsibility for such frauds, even though no benefit may accrue to the bank therefrom. Accordingly,* ***a banking corporation is liable to innocent third persons where the representation is made in the course of its business by an agent acting within the general scope of his authority even though, in the particular case, the agent is secretly abusing his authority and***

attempting to perpetrate a fraud upon his principal or some other person, for his own ultimate benefit.

As aptly pointed by the CA, petitioner's evidence bolsters the case against it, as they support the finding that Robles as branch manager, has been ***vested with the apparent or implied authority to act for the petitioner in offering and facilitating banking transactions****. In this light, respondents cannot be blamed for believing that Robles has the authority to transact for and on behalf of the petitioner and for relying upon the representations made by him. After all, Robles as branch manager is recognized "****within his field and as to third persons as the general agent and is in general charge of the corporation, with apparent authority commensurate with the ordinary business entrusted him and the usual course and conduct thereof****."*

FACTS:

Rolando Robles, a CPA, has been employed with petitioner Citystate Savings Bank since July 1998. Robles **was eventually promoted as manager** for petitioner's Baliuag, Bulacan branch. Sometime in 2002, respondent Teresita Tobias was introduced by her youngest son to Robles. Robles **persuaded** Tobias to open an account with the petitioner and place her money in some high interest rate mechanism, to which the latter yielded.

Tobias was later **offered** by Robles to sign-up in petitioner's back-to-back scheme which is supposedly offered only to petitioner's most valued clients. Under the scheme, the depositors authorize the bank to use their bank deposits and invest the same in different business ventures that yield high interest. Lured by the attractive offer, Tobias signed the pertinent documents without reading its contents and invested a total of Php 1,800,000 to petitioner through Robles. Later, Tobias included her daughter respondent Valdez, as co-depositor in her accounts with the petitioner.

In 2005, Robles failed to remit to respondents the interest as scheduled. In a meeting with Robles' siblings, it was disclosed to the respondents that Robles **withdrew the money and appropriated it for personal use**. Robles later talked to the respondents, promised that he would return the money. Robles, however, reneged on his promise.

On January 8, 2007, respondents filed a Complaint for sum of money and damages against Robles and the petitioner. Respondents alleged that Robles committed fraud in the performance of his duties as branch manager when he lured Tobias in signing several pieces of blank documents, under the assurance as bank manager of petitioner, everything was in order. The RTC ruled in favor of respondents. The CA modified the decision and ruled that petitioner and Robles are **jointly and solidarily liable**.

ISSUE:

Whether the CA erred in ruling that petitioner is jointly and solidarily liable with Robles. (NO)

RULING:

The business of banking is one **imbued with public interest**. As such, banking institutions are obliged to exercise the highest degree of diligence as well as high standards of integrity and

performance in all its transactions. The law expressly imposes upon the banks a fiduciary duty towards its clients and to treat in this regard the accounts of its depositors with meticulous care. The contract between the bank and its depositor is **governed by the provisions of the Civil Code on simple loan or *mutuum***, with the bank as the debtor and the depositor as the creditor.

In light of these, **banking institutions may be held liable for damages for failure to exercise the diligence required** of it resulting to contractual breach or where the act or omission complained of constitutes an actionable tort.

It is without question that when the action against the bank is premised on breach of contractual obligations, a bank's liability as debtor is not merely vicarious but primary, in that the defense of exercise of due diligence in the selection and supervision of its employees is not available. Liability of banks is also primary and sole when the loss or damage to its depositors is directly attributable to its acts, finding that the proximate cause of the loss was due to the bank's negligence or breach. The bank, in its capacity as principal, may also be adjudged liable under the doctrine of apparent authority. The principal's liability in this case, however, is solidary with that of his employee.

The doctrine of apparent authority or the "holding out" theory, or the doctrine of ostensible agency, imposes liability, *not* "*as the result of the reality of a contractual relationship*, but rather because of **the actions of a principal or an employer in somehow misleading the public into believing that the relationship or the authority exists.**" It is defined as:

> [T]he power to affect the legal relations of another person by transactions with third persons arising from the other's manifestations to such third person such that the liability of the principal for the acts and contracts of his agent extends to those which are within the apparent scope of the authority conferred on him, although no actual authority to do such acts or to make such contracts has been conferred.

Succinctly stating the foregoing principles, **the liability of a bank to third persons for acts done by its agents or employees is limited to the consequences of the latter's acts which it has ratified**, or those that **resulted in performance of acts within the scope of actual or apparent authority it has vested**.

In the case at bar, **petitioner does not deny the validity of respondents' accounts**, in fact it suggests that transactions with it have all been accounted for as it is based on official documents containing authentic signatures of Tobias. In fine, respondents' claim for damages is not predicated on breach of their contractual relationship with petitioner, but rather on Robles' act of misappropriation. At any rate, it cannot be said that the petitioner is guilty of breach of contract so as to warrant the imposition of liability *solely* upon it.

Nonetheless, while it is clear that the proximate cause of respondents' loss is the misappropriation of Robles, petitioner is still liable under Article 1911 of the Civil Code, *to wit*:

> **Art. 1911.** Even when the agent has exceeded his authority, **the principal is solidarity liable with the agent if the former allowed the latter to act as though he had full powers**.

The case of *Prudential Bank v. CA* lends support to this conclusion. There, this Court first laid down the doctrine of apparent authority, with specific reference to banks, *viz*.:

> Conformably, we have declared in countless decisions that the principal is liable for obligations contracted by the agent. The agent's apparent representation yields to the principal's true representation and the contract is considered as entered into between the principal and the third person,
>
> A bank is liable for wrongful acts of its officers done in the interests of the bank or in the course of dealings of the officers in their representative capacity but not for acts outside the scope of their authority. A bank holding out its officers and agent as worthy of confidence will not be permitted to profit by the frauds they may thus be enabled to perpetuate in the apparent scope of their employment; nor will it be permitted to shirk its responsibility for such frauds, even though no benefit may accrue to the bank therefrom. Accordingly, **a banking corporation is liable to innocent third persons where the representation is made in the course of its business by an agent acting within the general scope of his authority even though, in the particular case, the agent is secretly abusing his authority and attempting to perpetrate a fraud upon his principal or some other person, for his own ultimate benefit**.
>
> Application of these principles in especially necessary because banks have a fiduciary relationship with the public and their stability depends on the confidence of the people in their honesty and efficiency. Such faith will be eroded where banks do not exercise strict care in the selection and supervision of its employees, resulting in prejudice to their depositors.

The existence of apparent or implied authority is measured by **previous acts that have been ratified or approved or where the accruing benefits have been accepted by the principal**. It may also be established by proof of the course of business, usages and practices of the bank; or **knowledge that the bank or its officials have, or is presumed to have of its responsible officers' acts** regarding bank branch affairs.

As aptly pointed by the CA, petitioner's evidence bolsters the case against it, as they support the finding that Robles as branch manager, has been **vested with the apparent or implied authority to act for the petitioner in offering and facilitating banking transactions**. In this light, respondents cannot be blamed for believing that Robles has the authority to transact for and on behalf of the petitioner and for relying upon the representations made by him. After all, Robles as branch manager is recognized "**within his field and as to third persons as the general agent and is in general charge of the corporation, with apparent authority commensurate with the ordinary business entrusted him and the usual course and conduct thereof**."

BELINA CANCIO and JEREMY PAMPOLINA, *Petitioners*, -versus-
PERFORMANCE FOREIGN EXCHANGE CORPORATION, *Respondent*.
G.R. No. 182307, THIRD DIVISION, June 6, 2018, LEONEN, J.

A principal who gives broad and unbridled authorization to his or her agent cannot later hold third persons who relied on that authorization liable for damages that may arise from the agent's fraudulent acts.

FACTS:

Performance Forex is a corporation operating as a financial broker/agent between market participants in foreign exchange transactions. Foreign currency exchange trading or forex trading is the speculative trade of foreign currency for the sole purpose of gaining profit from the change in prices. The forex market is a "global, decentralized," and essentially "an over-the-counter (OTC) market where the different currency trading locations around the globe electronically form a unified, interconnected market entity."

Sometime in 2000, Cancio and Pampolina accepted Hipol's invitation to open a joint account with Performance Forex. Cancio and Pampolina deposited the required margin account deposit of US$10,000.00 for trading. The parties executed an application for the opening of a joint account, with a trust/trading facilities agreement between Performance Forex, and Cancio and Pampolina. They likewise entered into an agreement for appointment of an agent between Hipol, and Cancio and Pampolina. They agreed that Cancio and Pampolina would make use of Performance Forex's credit line to trade in the forex market while Hipol would act as their commission agent and would deal on their behalf in the forex market.

The trust/trading facilities agreement between Performance Forex, and Cancio and Pampolina provided that all parties agreed that the trading would only be executed by Cancio and Pampolina, or, upon instructions to their agent, Hipol. The trading orders to Hipol would be coursed through phone calls from Cancio and Pampolina.
From March 9, 2000 to April 4, 2000, Cancio and Pampolina earned US$7,223.98. They stopped trading for more or less two (2) weeks, after which, however, Cancio again instructed Hipol to execute trading currency orders. When she called to close her position, Hipol told her that he would talk to her personally.

Cancio later found out that Hipol never executed her orders. Hipol confessed to her that he made unauthorized transactions using their joint account from April 5, 2000 to April 12, 2000. The unauthorized transactions resulted in the loss of all their money, leaving a negative balance of US$35.72 in their Statement of Account. Cancio later informed Pampolina about the problem.

Pampolina met with 2 Performance Forex officers, Dave Almarinez and Al Reyes, to complain about Hipol's unauthorized trading on their account and to confront them about his past unauthorized trades with Performance Forex's other client, Justine Dela Rosa. The officers apologized for Hipol's actions and promised to settle their account. However, they stayed quiet about Hipol's past unauthorized trading.

Performance Forex offered US$5,000.00 to settle the matter but Cancio and Pampolina rejected this offer. Their demand letters to Hipol were also unheeded. Thus, they filed a Complaint for damages against Performance Forex and Hipol before the Regional Trial Court of Mandaluyong City.
Hipol was declared in default. Since the parties were unable to come to a settlement, trial commenced.

The RTC rendered its Decision finding Performance Forex and Hipol solidarity liable to Cancio and Pampolina for damages. According to the Regional Trial Court, Performance Forex should have disclosed to Cancio and Pampolina that Hipol made similar unauthorized trading activities in the

past, which could have affected their consent to Hipol's appointment as their agent. It also noted that innocent third persons should not be prejudiced due to Performance Forex's failure to adopt the necessary measures to prevent unauthorized trading by its agents.

Performance Forex appealed this Decision to the CA. The CA, in granting the appeal, held that Performance Forex was a trading facility that acted only on whatever their clients or their representatives would order. It was not privy to anything that happened between its clients and their representatives. It found that Cancio admitted to giving Hipol pre-signed authorizations to trade; hence, Performance Forex relied on these orders and on Hipol's designation as their agent to facilitate the trades from April 5, 2000 to April 9, 2000. Thus, the CA concluded that Cancio and Pampolina's action should only be against Hipol.

Cancio and Pampolina moved for reconsideration but were denied by the CA in its March 31, 2008 Resolution. Hence, this Petition.

ISSUE:

Whether respondent Performance Forex Exchange Corporation should be held solidarity liable with petitioners Belina Cancio and Jeremy Pampolina's broker, Hipol, for damages due to the latter's unauthorized transactions in the foreign currency exchange trading market. (NO)

RULING:

A principal who gives broad and unbridled authorization to his or her agent cannot later hold third persons who relied on that authorization liable for damages that may arise from the agent's fraudulent acts.

Petitioners opened a joint account with respondent, through their broker, Hipol, to engage in foreign currency exchange trading. Respondent had a leverage system of trading, wherein clients may use its credit line to facilitate transactions. This means that clients may actually trade more than what was actually in their accounts, signifying a higher degree of risk. The contract between petitioners and respondent provided that respondent was irrevocably authorized to follow bonafide instructions from petitioners or their broker.

Hipol, petitioners' agent, was not employed with respondent. He was categorized as an independent broker for commission. In *Behn, Meyer, and Co. v. Nolting*:

> A broker is generally defined as one who is engaged, for others, on a commission, negotiating contracts relative to property with the custody of which he has no concern; the negotiator between other parties. never acting in his own name, but in the name of those who employed him; he is strictly a middleman and for some purposes the agent of both parties.

When Hipol became petitioners' agent, he had committed only one (1) known prior infraction against a client of respondent. Respondent might have been construed this as an isolated incident that did not warrant heightened scrutiny. Hipol's infraction committed against petitioners was his second known infraction. Respondent cancelled his accreditation when petitioners informed them of his unauthorized transactions.

Moreover, petitioners conferred trading authority to Hipol. Respondent was not obligated to question whether Hipol exceeded that authority whenever he made purchase orders. Respondent was likewise not privy on how petitioners instructed Hipol to carry out their orders. It did not assign Hipol to be petitioners' agent. Hipol was the one who approached petitioners and offered to be their agent. Petitioners were highly educated and were "[a]lready knowledgeable in playing in this foreign exchange trading." They would have been aware of the extent of authority they granted to Hipol when they handed to him 10 pre-signed blank purchase order forms. Under Article 1900 of the Civil Code:

> Article 1900. So far as third persons are concerned, an act is deemed to have been performed within the scope of the agent's authority, if such act is within the terms of the power of attorney, as written, even if the agent has in fact exceeded the limits of his authority according to an understanding between the principal and the agent.

Before a claimant can be entitled to damages, "the claimant should satisfactorily show the existence of the factual basis of damages and its causal connection to defendant's acts." The acts of petitioners' agent, Hipol, were the direct cause of their injury. There is no reason to hold respondent liable for actual and moral damages. Since the basis for moral damages has not been established, there would likewise be no basis to recover exemplary damages and attorney's fees from respondent. If there was any fault, the fault remains with petitioners' agent and him alone.

D. Modes of extinguishment

MARCELINO E. LOPEZ, FELIZA LOPEZ, ZOILO LOPEZ, LEONARDO LOPEZ, and SERGIO F. ANGELES, *petitioners* –versus- THE HON. COURT OF APPEALS and PRIMEX CORPORATION, *respondents*.
G.R. No. 163959, THIRD DIVISION, August 1, 2018, BERSAMIN, *J.*

An agency is extinguished by the death of the principal. Any act by the agent subsequent to the principal's death is void ab initio, unless any of the exceptions expressly recognized in Article 1930 and Article 1931 of the Civil Code is applicable.

Considering that Atty. Angeles had ceased to be the agent upon the death of Marcelino Lopez, Atty. Angeles' execution and submission of the Compromise Agreement in behalf of the Lopezes by virtue of the special power of attorney executed in his favor by Marcelino Lopez were void ab initio and of no effect.

FACTS:

On March 7, 2012, the Court definitively decided this case by promulgating the resolution: (1) noting the *Compromise Agreement* entered into by the parties; (2) granting the *Joint Motion to Dismiss and Withdraw* the petition for review on *certiorari*; and (3) denying the petitions for review on *certiorari* in these consolidated appeals on the ground of mootness.

Thereafter, the heirs of Marcelino Lopez filed their oppositions arguing that Atty. Angeles no longer had the authority to enter into and submit the *Compromise Agreement* because the special power of attorney in his favor had ceased to have force and effect **upon the death** of Marcelino Lopez.

Before Us now is the so-called *Urgent Motion to Recall or Reconsider the March 7, 2012 Resolution Giving Effect to the so-called "Compromise Agreement" submitted by Atty. Sergio Angeles and Primex President Ang and to Cite Them in Contempt of Court* filed by the heirs of deceased Marcelino E. Lopez, one of the original petitioners herein, in order to oppose and object to the *Compromise Agreement* on the ground that Atty. Sergio Angeles, a counsel of the petitioners and also a petitioner himself, had entered into the same without valid authority.

ISSUE:

Whether Atty. Angeles had the authority to enter into and submit the Compromise Agreement. (NO)

RULING:

By the contract of agency, a person binds himself to render some service or to do something in representation or on behalf of another with the consent or authority of the latter. For a contract of agency to exist, therefore, the following requisites must concur, namely: (1) there must be consent coming from persons or entities having the juridical capacity and capacity to act to enter into such contract; (2) there must exist an object in the form of services to be undertaken by the agent in favor of the principal; and (3) there must be a cause or consideration for the agency.

One of the modes of extinguishing a contract of agency is by the death of either the principal or the agent. In *Rallos v. Felix Go Chan & Sons Realty Corporation*, the Court declared that because death of the principal extinguished the agency, it should follow *a fortiori* that any act of the agent *after* the death of his principal should be held *void ab initio* unless the act fell under the exceptions established under Article 1930 and Article 1931 of the *Civil Code*. The exceptions should be strictly construed. In other words, the general rule is that the death of the principal or, by analogy, the agent extinguishes the contract of agency, unless any of the circumstances provided for under Article 1930 or Article 1931 obtains; in which case, notwithstanding the death of either principal or agent, the contract of agency continues to exist.

Atty. Angeles asserted that he had been authorized by the Lopezes to enter into the *Compromise Agreement*; and that his authority had formed part of the original pre-trial records of the RTC.

Marcelino Lopez died on December 3, 2009, as borne out by the Certificate of Death submitted by his heirs. As such, the *Compromise Agreement*, which was filed on February 2, 2012, was entered into more than two years after the death of Marcelino Lopez. Considering that Atty. Angeles had ceased to be the agent upon the death of Marcelino Lopez, Atty. Angeles' execution and submission of the *Compromise Agreement* in behalf of the Lopezes by virtue of the special power of attorney executed in his favor by Marcelino Lopez were void *ab initio* and of no effect. The special power of attorney executed by Marcelino Lopez in favor of Atty. Angeles had by then become *functus officio*. For the same reason, Atty. Angeles had no authority to withdraw the petition for review on *certiorari* as far as the interest in the suit of the now-deceased principal and his successors-in-interest was concerned.

The want of authority in favor of Atty. Angeles was aggravated by the fact that he did not disclose the death of the late Marcelino Lopez to the Court. His omission reflected the height of unprofessionalism on his part, for it engendered the suspicion that he thereby tried to pass off

the *Compromise Agreement* as genuine and valid despite his authority under the special power of attorney having terminated for all legal purposes.

X. CREDIT TRANSACTIONS

A. Loan

REPUBLIC OF THE PHILIPPINES, represented by the DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH), *Petitioner*, - versus- LEONOR MACABAGDAL, represented by EULOGIA MACABAGDAL PASCUAL (formerly John Doe "DDD"), *Respondent*.
G.R.NO: 227215, SECOND DIVISION, JANUARY 10, 2018, PERLAS-BERNABE, J.

Delay in the payment of just compensation amounts to an effective forbearance of money, entitling the landowner to interest on the difference in the amount between the final amount as adjudged by the court and the initial payment made by the government.

However, as aptly pointed out by petitioner, the 12% p.a. rate of legal interest is only applicable until June 30, 2013 because of BSP-MB Circular No. 799. Thereafter, legal interest shall be at 6%.

FACTS:

On January 23, 2008, the Republic of the Philippines represented by the DPWH, filed before the RTC a complaint against an unknown owner for the expropriation of a 200-sq. m. lot in Valenzuela City, for the construction of NLEX.

Petitioner applied for and was granted a writ of possession over the subject lot on May 5, 2008, and was required to make a provisional deposit with the court of the amount of ₱550,000.00

Respondent Leonor Macabagdal was substituted as party upon showing that the TCT is registered in her name. She did not oppose the expropriation, and she received the provisional deposit.

The RTC appointed a board of commissioners which recommended a fair market value of ₱9,000.00/sq. m. as the just compensation which the RTC later held to be reasonable and just.

The RTC fixed the just compensation at ₱9,000.00/ sq. m.; directed petitioner to pay the same, less the provisional deposit of ₱550,000.00; and imposed legal interest at the rate of 12% p.a. on the unpaid balance, computed from the time of the taking of the subject lot until full payment.

Petitioner went to the CA, questioning the just compensation of ₱9,000.00/sq. m. and the award of 12% interest p.a. instead of 6% p.a. as provided under BSP-MB Circular No. 799, Series of 2013.

The CA affirmed the RTC ruling.

Petitioner claims that the CA did not rule on the issue of the applicable rate of interest which should be at twelve percent (12%) p.a. from the filing of the complaint until June 30, 2013, and thereafter, at six percent (6%) p.a. until full payment.

ISSUE:

Whether the CA committed reversible error in affirming the RTC's imposition of interest at the rate of twelve percent (12%) p.a. on the unpaid balance, computed from the time of the taking of the subject lot until full payment

RULING:

The petition is partly meritorious.

The court recognizes that the owner's loss is not only his property, but also its income-generating potential. Thus, when property is taken, full compensation of its value must be immediately paid to achieve a fair exchange for the property and the potential income lost. The value of the landholdings should be equivalent to the principal sum of the just compensation due, and **interest is due and should be paid to compensate for the unpaid balance of this principal sum after taking has been completed.** This shall comprise the *real, substantial, full,* and *ample* value of the expropriated property, and constitutes due compliance with the constitutional requirement of just compensation.

In this case, from the date of the taking of the subject lot on May 5, 2008 when the RTC issued a writ of possession in favor of petitioner, until the just compensation therefor was finally fixed at ₱9,000.00/sq. m., petitioner had only paid a provisional deposit in the amount of ₱550,000.00 *(i.e.,* at ₱2,750.00/sq. m.). Thus, this left an unpaid balance of the "principal sum of the just compensation," warranting the imposition of interest. It is settled that the **delay in the payment of just compensation amounts to an effective forbearance of money, entitling the landowner to interest on the difference in the amount between the final amount as adjudged by the court and the initial payment** made by the government.

However, as aptly pointed out by petitioner, the 12% p.a. rate of legal interest is only applicable until June 30, 2013. Thereafter, legal interest shall be at 6% p.a. in line with BSP-MB Circular No. 799, Series of 2013. Prevailing jurisprudence has upheld the applicability of this circular to forbearances of money in expropriation cases, contrary to respondent's contention. The cases of *Sy v. Local Government of Quezon* City and *Land Bank of the Philippines v. Wycoco,* cited by respondent are both inapplicable because they were all decided prior to the effectivity of the circular.

Legal interest shall run *not* from the date of the filing of the complaint but from the date of the issuance of the Writ of Possession on May 5, 2008, the date of deprivation of property.

The legal interest to be imposed on the unpaid balance of the just compensation for the subject lot, is to be computed at the rate of twelve percent 12% p.a. from the date of the taking on May 5, 2008 until June 30, 2013. Thereafter, or beginning July 1, 2013, until fully paid, the just compensation due respondent shall earn legal interest at the rate of 6% p. a. The rest of the CA decision stands.

PHILIPPINE NATIONAL BANK, *Petitioner*, -versus- JAMES T. CUA, *Respondent*.
G.R. No. 199161, THIRD DIVISION, April 18, 2018, MARTIRES, J.

In Ycong v. Court of Appeals, the petitioners alleged that they did not receive the proceeds of the loan despite executing a promissory note containing the words "for a loan received today xxx." The trial court ruled in favor of the petitioners holding that they were merely intimidated, pressured and coerced into signing the promissory note. On appeal, the appellate court reversed the factual findings by the trial court. In sustaining the reversal by the appellate court, the Court ratiocinated that the promissory note is the best evidence to prove the existence of the loan and there was no need for the respondent to submit a separate receipt to prove that the petitioners received the proceeds thereof.

Similarly, by affixing his signature on PN No. 001162815224006, dated 26 February 2002, which contained the words "FOR VALUE RECEIVED," James acknowledged receipt of the proceeds of the loan in the stated amount and committed to pay the same under the conditions stated therein.

FACTS:

Respondent James T. Cua filed a Complaint for Sum of Money with Damages against herein petitioner Philippine National Bank (PNB).

James averred that he and his brother maintained a US Dollar Savings Time Deposit with PNB, evidenced by Certificate of Time Deposit (CTD) No. B-630178 and which replaced CTD No. B-658788. Later, James learned that he had a loan obligation with PNB which had allegedly become due and demandable. He maintained, however, that although he had pre-signed loan documents for pre-arranged loans with his time deposit as collateral, he had never availed of its proceeds.

To revive his cash-strapped machine shop business, James requested from PNB the release of P500,000.00 to be secured by CTD No. B-630178. PNB rejected his loan application. James inquired about the reason for the denial. PNB explained that his dollar time deposit had been applied in payment to the loans he had with the bank, in accordance with the loan application and other documents he had executed. Thereafter, James demanded the release of his entire dollar time deposit asserting that he never made use of any loan amount from his pre-arranged loan from the time he was issued CTD No. B-630178. PNB failed to heed his demand.

In its Answer, PNB argued that James already made use of his hold-out facility with PNB and received the proceeds of his loan. PNB explained that James was considered as one of its valued clients such that when he came to the bank on certain dates inquiring if he could use the hold-out loan facilities of the bank, the latter gladly obliged. Hence, immediately after James applied for the respective loans, the same were granted on the very same day, and the proceeds released in the form of manager's checks. PNB averred that when the subject loan fell due, demands to pay were made on James who, however, failed to heed the demands. Thus, it was prompted to set off James' obligations with his dollar time deposit with the bank, in accordance with the provisions of the promissory notes.

The RTC ruled in favor of James. It explained that the burden of proof shifted from James to PNB when the latter asserted an affirmative defense – that the loan proceeds were released to James and, thus, PNB properly applied his time deposit as payment of his unpaid loan in accordance with the provisions of the promissory note. PNB, however, failed to substantiate this affirmative defense.

The appellate court concurred with the trial court that the burden of proof shifted to PNB. The appellate court, thus, found no reversible error in the trial court's disquisition that PNB should be held liable to James.

ISSUE:

Whether James had a loan obligation to PNB (YES)

RULING:

A promissory note is a solemn acknowledgment of a debt and a formal commitment to repay it on the date and under the conditions agreed upon by the borrower and the lender. A person who signs such an instrument is bound to honor it as a legitimate obligation duly assumed by him through the signature he affixes thereto as a token of his good faith. If he reneges on his promise without cause, he forfeits the sympathy and assistance of this Court and deserves instead its sharp repudiation. The promissory note is the best evidence to prove the existence of the loan.

In this case, James does not deny that he executed several promissory notes in favor of PNB. In fact, during the pre-trial as well as in his Comment/Opposition to PNB's formal offer of documentary evidence, James admitted the genuineness of his signatures as appearing on several promissory notes, including PN No. 0011628152240006, albeit with the caveat that the same were pre-signed for pre-arranged loans which he allegedly never availed of.

The trial court apparently believed James' claim that the loan documents were just pre-signed for pre-arranged loans despite the absence of any corroborating evidence to support it. As a result, it ruled that PNB, indeed, failed to prove that the proceeds of the loan subject of the pre-signed loan application were released to James. The trial court's reliance on James' self-serving allegation, however, is erroneous.

Nothing in PN No. 0011628152240006 dawould suggest that it was executed merely to secure future loans. In fact, it is clear from the wordings used therein that James acknowledged receipt of the proceeds of the loan. The said promissory note provides:

FOR VALUE RECEIVED, I/We, solidarily promise to pay to the order of the PHILIPPINE NATIONAL BANK (the "BANK") on the stipulated due date/s the sum of Pesos DOLLARS: FIFTY THOUSAND ONLY (P $50,000.00) (the "Loan"), together with interest at 3.85% p.a. per annum.[26] x x x (emphasis supplied)

In *Ycong v. Court of Appeals*, the petitioners alleged that they did not receive the proceeds of the loan despite executing a promissory note containing the words "for a loan received today xxx." The trial court ruled in favor of the petitioners holding that they were merely intimidated, pressured and coerced into signing the promissory note. On appeal, the appellate court reversed the factual findings by the trial court. In sustaining the reversal by the appellate court, the Court ratiocinated that the promissory note is the best evidence to prove the existence of the loan and there was no need for the respondent to submit a separate receipt to prove that the petitioners received the proceeds thereof.

Similarly, by affixing his signature on PN No. 0011628152240006, dated 26 February 2002, which contained the words "FOR VALUE RECEIVED," James acknowledged receipt of the proceeds of the

loan in the stated amount and committed to pay the same under the conditions stated therein. As a businessman, James cannot claim unfamiliarity with commercial documents. He could not also pretend not understanding the contents of the promissory note he signed considering that he is a lettered-person and a college graduate. He certainly understood the import and was fully aware of the consequences of signing a promissory note. Indeed, no reasonable and prudent man would acknowledge a debt, and even secure it with valuable assets, if the same does not exist.

ARCH. EUSEBIO B. BERNAL, DOING BUSINESS UNDER THE NAME AND STYLE CONTEMPORARY BUILDERS, *Petitioner*, -versus-
DR. VIVENCIO VILLAFLOR AND DRA. GREGORIA VILLAFLOR, *Respondents*.
G.R. No. 213617, SECOND DIVISION, April 18, 2018, REYES, JR., J.

When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the discretion of the court at the rate of 6% per annum. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty.

The petitioner's original demand does not equate to a loan or forbearance of money but pertains to the cost of construction and services, the amount of which has not yet been determined with certainty even up to the time of the complaint's filing with the RTC. Respondents' liability was reasonably ascertained only at the time the CA rendered its Decision on February 14, 2014. Thus, CA decision should be modified, but only in that the interest of 6% per annum on the award of P1,710,271.21 shall be reckoned from the time of the CA Decision's promulgation on February 14, 2014.

FACTS:

Sometime in 1995, respondents obtained the expertise and services of petitioner for the construction of the Medical Arts Building in Caranglaan District, Dagupan City. Thereafter, petitioner Bernal instituted an action for sum of money with damages, demanding from the respondents the payment of P3,241,800.00.

On January 28, 2009, the RTC, Branch 41 of Dagupan City ordered the respondents to pay petitioner the amount of Php2,848,000.00 plus interest thereon at the legal rate from March 4, 2008 until the amount is fully paid.

Dissatisfied, the respondents appealed the RTC's decision to the CA. CA modified the RTC's Decision by further reducing the total award to the amount of P1,710,271.21. For the CA, it was clear that the respondents had an unpaid obligation to the petitioner for the construction of the Medical Arts Building and the 18 change orders that were effected in relation thereto.

In addition, the CA also changed the rate and reckoning date of the interest on the award, declaring that the principal amount of P1,710,271.21 shall earn interest at the rate of 6% *per annum* from "date of finality of the judgment until full satisfaction" following the Court's ruling in *Nacar vs. Gallery Frames and/or Bordey, Jr.*

Hence, this petition for review. Petitioner argues that the interest should be computed at the rate of 6% *per annum* from the time of either the last extrajudicial demand on July 5, 1998 or judicial

demand on November 16, 1998, plus 12% per annum interest from the date of judgment until full payment.

ISSUE:
Whether CA erred in the manner by which interest should be determined. (NO)

RULING:

CA decision should be modified, but only in that the interest of 6% *per annum* on the award of P1,710,271.21 shall be reckoned from the time of the CA Decision's promulgation on February 14, 2014.

In *Eastern Shipping Lines, Inc. vs. Court of Appeals*, the Court made the pronouncement, that:

> **2. When an obligation, not constituting a loan or forbearance of money, is breached, an interest on the amount of damages awarded may be imposed at the *discretion* of the court at the rate of 6% *per annum*. No interest, however, shall be adjudged on unliquidated claims or damages except when or until the demand can be established with reasonable certainty.** Accordingly, where the demand is established with reasonable certainty, the interest shall begin to run from the time the claim is made judicially or extrajudicially (Art. 1169, Civil Code) but when such certainty cannot be so reasonably established at the time the demand is made, the interest shall begin to run only from the date the judgment of the court is made (at which time the quantification of damages may be deemed to have been reasonably ascertained). The actual base for the computation of legal interest shall, in any case, be on the amount finally adjudged.

In this case, the award of interest is discretionary on the part of the court. The petitioner's original demand does not equate to a loan or forbearance of money but pertains to the cost of construction and services, the amount of which has not yet been determined with certainty even up to the time of the complaint's filing with the RTC.

The uncertainty was brought about by the numerous change orders that happened while the subject Medical Arts Building was being constructed. Clearly, at the time of the petitioner's judicial and extrajudicial demands, the amount of the respondents' obligation remained uncertain. It is clear that respondents' liability was reasonably ascertained only at the time the CA rendered its Decision on February 14, 2014. The amount of the award, specifically P1,710,271.21, was no longer questioned in petitioner's motion for reconsideration with the CA, or in his petition for review before this Court.

NYMPHA S. ODIAMAR,**Petitioner, v.* **LINDA ODIAMAR VALENCIA**, *Respondent*.
G.R. No. 213582, Special First Division, September 12, 2018, PERLAS-BERNABE, *J.*

Monetary interest is the compensation fixed by the parties for the use or forbearance of money. On the other hand, compensatory interest is that imposed by law or by the courts as penalty or indemnity for damages. In other words, the right to recover interest arises only either by virtue of a contract

(monetary interest) or as damages for the delay or failure to pay the principal loan on which the interest is demanded (compensatory interest).

Applying the case of Nacar v. Gallery Frames, in the absence of an express stipulation as to the rate of interest that would govern the parties, the rate of legal interest for loans or forbearance of any money, goods or credits and the rate allowed in judgments shall no longer be twelve percent (12%) per annum but will now be six percent (6%) per annum effective July 1, 2013.

FACTS:

Respondent Linda Odiamar Valencia filed a Motion for Reconsideration assailing the Decision dated June 28, 2016 of the Court which affirmed the Decision dated March 16, 2012 and the Resolution dated July 14, 2014 of the Court of Appeals (CA) in C.A. G.R. CV No. 93624, with modification ordering petitioner Nympha S. Odiamar (petitioner) to pay respondent the amount of P1,010,049.00 representing the remaining balance of petitioner's debt to the latter in the original amount of P1,400,000.00.

In said motion, respondent prays for the imposition of legal interest on the monetary award due her. She likewise insists that petitioner's loan obligation to her is not just P1,400,000.00 but P2,100,000.00 and, as such, she should be made to pay the latter amount.

ISSUE:

Whether or not it is appropriate to grant imposition of legal interest on the monetary amount due to respondent. (YES)

RULING:

Respondent's contentions are partly meritorious.

At the outset, the Court notes that there are two (2) types of interest, namely, monetary interest and compensatory interest. Monetary interest is the compensation fixed by the parties for the use or forbearance of money. On the other hand, compensatory interest is that imposed by law or by the courts as penalty or indemnity for damages. In other words, the right to recover interest arises only either by virtue of a contract (monetary interest) or as damages for the delay or failure to pay the principal loan on which the interest is demanded (compensatory interest).

Anent monetary interest, it is an elementary rule that no interest shall be due unless it has been expressly stipulated in writing. In this case, no monetary interest may be imposed on the loan obligation, considering that there was no written agreement expressly providing for such.

This notwithstanding, such loan obligation may still be subjected to compensatory interest, following the guidelines laid down in Nacar v. Gallery Frames, as follows:

in the absence of an express stipulation as to the rate of interest that would govern the parties, the rate of legal interest for loans or forbearance of any money, goods or credits and the rate allowed in judgments shall no longer be twelve percent (12%) per annum — as reflected in the case of [Eastern Shipping Lines, Inc. v. CA (Eastern Shipping Lines) but will now be six percent (6%) per annum effective July 1, 2013. It should be noted, nonetheless, that the new rate could only be applied prospectively and not retroactively. Consequently, the twelve percent (12%) per annum legal interest shall apply only until June 30, 2013. Come July 1, 2013 the new rate of six percent (6%) per annum shall be the prevailing rate of interest when applicable.

Applying the foregoing parameters to this case, petitioner's loan obligation to respondent shall be subjected to compensatory interest at the legal rate of twelve percent (12%) per annum from the date of judicial demand, i.e., August 20, 2003,[13] until June 30, 2013, and thereafter at the legal rate of six percent (6%) per annum from July 1, 2013 until finality of this ruling. Moreover, all monetary awards[14] due to respondent shall earn legal interest of six percent (6%) per annum from finality of this ruling until fully paid.

B. Deposit

C. Guaranty and Suretyship

D. Antichresis

E. Real estate mortgage

COCA-COLA BOTTLERS PHILS., INC., *Petitioner*, -versus- SPOUSES EFREN and LOLITA SORIANO, *Respondents.*
G.R. No. 211232, FIRST DIVISION, April 11, 2018, TIJAM, J.

Based on the second sentence of Article 2125 "If the instrument is not recorded, the mortgage is nevertheless binding between the parties.", it is clear that as between the parties to a mortgage, the non-registration of a REM deed is immaterial to its validity. In the case of Paradigm Development Corporation of the Philippines, v. Bank of the Philippine Islands, the mortgagee allegedly represented that it will not register one of the REMs signed by the mortgagor. In upholding the validity of the questioned REM between the said parties, the Court ruled that "with or without the registration of the REMs, as between the parties thereto, the same is valid and the mortgagor is bound thereby."

In the present case, the Court resolving for the validity of the REM executed by Spouses Soriano and its foreclosure, cited its ruling in the case of Mobil Oil Philippines, Inc., v. Ruth R. Diocares, et al.:" The mortgage subsists; the parties are bound. As between them, the mere fact that there is as yet no compliance with the requirement that it be recorded cannot be a bar to foreclosure."

FACTS:

Spouses Soriano are engaged in the business of selling Coca-Cola products in Tuguegarao City, Cagayan. Sometime in 1999, Coca-Cola thru Cipriano informed the spouses that the former required

security for the continuation of their business. Spouses Soriano were convinced to hand over two (2) certificates of titles over their property and were made to sign a document. Cipriano assured the spouses that it will be a mere formality and will never be notarized.

Subsequently, the spouses informed Coca-Cola of their intention to stop selling Coca-Cola products due to their advanced age. Thus, spouses Soriano verbally demanded from Coca-Cola the return of their certificates of titles. However, the titles were not given back to them.

When the spouses were contemplating on filing a petition for the issuance of new titles, they discovered for the first time that their land was mortgaged in favor of Coca-Cola. Worse, the mortgage land was already foreclosed. Hence, spouses Soriano filed a complaint for annulment of sheriffs foreclosure sale. They alleged that they never signed a mortgaged document and that they were never notified of the foreclosure sale. In addition, Sorianos aver that they never had monetary obligations or debts with Coca-Cola. They always paid their product deliveries in cash.

Furthermore, spouses Soriano claimed that they merely signed a document in Tuguegarao. They never signed any document in Ilagan, lsabela nor did they appear before a certain Atty. Reymundo Ilagan on 06 January 2000 for the notarization of the said mortgage document.

On their part, Coca-Cola alleged that spouses Soriano are indebted to them. Soriano's admission that they signed the real estate mortgage document in Tuguegarao, Cagayan indicates that the mortgage agreement was duly executed. The failure of the parties to appear before the notary public for the execution of the document does not render the same null and void or unenforceable.

The RTC rendered its decision nullifying the real estate mortgage and the foreclosure proceedings. CA rendered the assailed decision affirming the RTC decision *in toto*. The CA ruled that the Real Estate Mortgage deed (REM deed) failed to comply substantially with the required form. CA noted that a careful perusal of the mortgage deed has revealed that although the spouses signed the real estate mortgage deed, they never acknowledged the same before the Clerk of Court during the notarization.

ISSUE:

Whether the REM is valid. (YES)

RULING:

Article 2125 of the Civil Code provides:

Article 2125. In addition to the requisites stated in Article 2085, it is indispensable, in order that a mortgage may be validly constituted, that the document in which it appears be recorded in the Registry of Property. If the instrument is not recorded, the mortgage is nevertheless binding between the parties.

Thus, as between the parties to a mortgage, the non-registration of a REM deed is immaterial to its validity. In the case of *Paradigm Development Corporation of the Philippines, v. Bank of the Philippine Islands*, the mortgagee allegedly represented that it will not register one of the REMs signed by the

mortgagor. In upholding the validity of the questioned REM between the said parties, the Court ruled that "with or without the registration of the REMs, as between the parties thereto, the same is valid and the mortgagor is bound thereby." The Court, thus, cited its ruling in the case of *Mobil Oil Philippines, Inc., v. Ruth R. Diocares, et al*.:

The mortgage subsists; the parties are bound. As between them, the mere fact that there is as yet no compliance with the requirement that it be recorded cannot be a bar to foreclosure.

In addition, despite the meritorious respondents' argument that the REM agreement is not a public document because it was notarized by a Clerk of Court of the RTC of Ilagan who is not allowed by law to notarize private documents not related to their functions as clerk of court. CA erred in declaring the REM agreement as invalid because of the defect in the notarization. It failed to take note that the defective notarization of the REM agreement merely strips it of its public character and reduces it to a private document. Although Article 1358 of the New Civil Code requires that the form of a contract transmitting or extinguishing real rights over immovable property should be in a public document, the failure to observe such required form does not render the transaction invalid. The necessity of a public document for the said contracts is only for convenience; it is not essential for its validity or enforceability.

Thus, the non-registration and defective notarization of the REM agreement does not make it invalid as it remains valid between the parties.

BANCO DE ORO UNIBANK, INC., *Petitioner*, -versus- VTL REALTY, INC., *Respondent*.
G.R. No. 193499, SECOND DIVISION, April 23, 2018, REYES, JR., J.

As stated in the case of DBP vs. Zaragosa, supra, when the foreclosure proceedings are completed and the mortgaged property is sold to the purchaser then all interest of the mortgagor are cut off from the property. Prior to the completion of the foreclosure, the mortgagor is liable for the interests on the mortgage. However, after the foreclosure proceedings and the execution of the corresponding certificate of sale of the property sold at public auction in favor of the successful bidder, the redemptioner mortgagor would be bound to pay only for the amount of the purchase price with interests thereon at the rate of one per centum per month in addition up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after the purchase and interest on such last named amount at the same rate.

FACTS:

Victor T. Bollozos (Bollozos) was the registered owner of a parcel of land with a building situated at Barangay Guizo, Mandaue City. He mortgaged his property to petitioner Banco de Oro Unibank, Inc. (BDO) to secure the loan of World's Arts & Crafts, Inc.

On August 12, 1994, Bollozos sold the property to VTL Realty Corporation (VTL) and A Deed of Definite Sale with Assumption of Mortgage was executed between the parties. However, BDO refused to accept VTL's payment as it does not recognize VTL as the new owner of the property. For BDO, the loan obligation that Bollozos and/or World's Arts and Crafts, Inc. contracted should be settled prior to any change in the ownership of the mortgaged property. This led VTL to institute an action for specific performance with damages against BDO with the Regional Trial Court (RTC) of Cebu City. In the course of the proceedings, the obligation remained unpaid, prompting BDO to

foreclose the real estate mortgage on March 29, 1995. A Certificate of Sale was issued to BDO as the lone bidder at the auction sale. Upon the expiration of the redemption period with no redemption being made, BDO consolidated ownership over the property.

RTC rendered a Decision directing BDO to furnish VTL with Bollozos and/or World's Arts and Crafts Inc.'s new Statement of Account based on the Statement of Account dated August 12, 1994, plus the corresponding interests and penalty charges that have accrued thereafter. By the same token, VTL was directed to assume and pay Bollozos' obligation to BDO upon receipt of such Statement of Account. VTL appealed the RTC judgment to the Court of Appeals (CA), which affirmed the same.

BDO then submitted a Statement of Accounts showing that the total obligation of Victor Bollozos and/or World's Arts & Crafts, Inc. amounted to P41,769,596.94 as of March 16, 2007.

VTL filed a Motion to Order Defendant to Correct Statement of Account, praying that BDO be ordered to compute interests and penalties due only up to April 28, 1995, which is the date of registration of the Certificate of Sale.

RTC granted VTL's motion based on its interpretation of *DBP vs. Zaragoza*. Consequently, it ruled in its Order that the amount to be paid by VTL is P6,631,840.95 corresponding to the principal, interests, and penalty charges as of April 28,1995. However, upon BDO's motion for reconsideration, the RTC reversed its previous stance. VTL filed a motion for reconsideration, which the RTC denied. Consequently, VTL lodged a petition for *certiorari* with the CA.
CA granted the petition and set aside the decision of the RTC. Per the CA's construal of *DBP vs. Zaragoza*, the counting of interest must stop once the foreclosure proceedings have been completed by the execution, acknowledgment, and recording of the Certificate of Sale in favor of the purchaser.

ISSUE:

Whether interest may be properly charged to the mortgagor after the completion of the foreclosure sale. (NO)

RULING:

In DBP V. Zaragoza, it must be noted that a foreclosure of mortgage means the termination of all rights of the mortgagor in the property covered by the mortgage. It denotes the procedure adopted by the mortgagee to terminate the rights of the mortgagor on the property and includes the sale itself. In judicial foreclosures, the "foreclosure" is not complete until the Sheriffs Certificate is executed, acknowledged and recorded. In the absence of a Certificate of Sale, no title passes by the foreclosure proceedings to the vendee. It is only when the foreclosure proceedings are completed and the mortgaged property sold to the purchaser that all interests of the mortgagor are cut off from the property. This principle is applicable to extrajudicial foreclosures. Consequently, in the case at bar, prior to the completion of the foreclosure, the mortgagor is, therefore, liable for the interest on the mortgage.

As stated in the case of *DBP vs. Zaragosa, supra*, when the foreclosure proceedings are completed and the mortgaged property is sold to the purchasers then all interest of the mortgagor are cut off from the property. Prior to the completion of the foreclosure, the mortgagor is liable for the

interests on the mortgage. However, after the foreclosure proceedings and the execution of the corresponding certificate of sale of the property sold at public auction in favor of the successful bidder, the redemptioner mortgagor would be bound to pay only for the amount of the purchase price with interests thereon at the rate of one per centum per month in addition up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after the purchase and interest on such last named amount at the same rate.

In the present case, there is no redemption price to speak of, since no right of redemption was exercised. As the RTC found, VTL neither made a tender of payment nor did it deposit any amount, if only to stop the running of interest and imposition of penalty charges.VTL also did not make an effort pending the redemption period to redeem the property from BDO, who became the absolute owner thereof. What VTL undoubtedly wants is to purchase the property from BDO, not to redeem it, since the period for redemption has already lapsed.

It is imperative that tender of payment must be made in order to stop the running of interest and imposition of penalty charges. It is not enough that they merely allege that they are interested but it is important that payment should be made. The only way that the mortgage could be released is by settling all the outstanding balance of Mr. Bollozos in order for the property to be free from all encumbrances.

By virtue of the foregoing, the decision of the CA was set aside and the decision of the RTC was reinstated.

CONCHITA GLORIA and MARIA LOURDES GLORIA-PAYDUAN, *Petitioners*, -versus- BUILDERS SAVINGS AND LOAN ASSOCIATION, INC., *Respondent*.

G.R. No. 202324, FIRST DIVISION, June 04, 2018, DEL CASTILLO, J.

In a real estate mortgage contract, it is essential that the mortgagor be the absolute owner of the property to be mortgaged; otherwise, the mortgage is void." And "when the instrument presented for registration is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not thereby lose his title, and neither does the mortgagee acquire any right or title to the property. In such a case, the mortgagee under the forged instrument is not a mortgagee protected by Law." Lastly, when "the person applying for the loan is other than the registered owner of the real property being mortgaged[,it] should have already raised a red flag and x x x should have induced the [mortgagee] to make inquiries into and confirm [the authority of the mortgagor].

The Court finds the trial court to be correct in issuing the March 12, 2004 Order declaring the mortgage and promissory note as null and void. The evidence indicates that these documents were indeed simulated; as far as petitioners were concerned, they merely entrusted the title to the subject property to Biag for the purpose of reconstituting the same as he claimed that the title on file with the Registrar of Deeds of Quezon City may have been lost by fire. Petitioners did not intend for Biag to mortgage the subject property in 1991 to secure a loan; yet the latter, without petitioners' knowledge and consent, proceeded to do just that, and in the process, he falsified the loan and mortgage documents and the accompanying promissory note by securing Conchita's signatures thereon through fraud and misrepresentation and taking advantage of her advanced age and naivete and forged Juan's signature and made it appear that the latter was still alive at the time, when in truth and in fact, he had passed away in 1987.

FACTS:

Spouses Juan and herein petitioner Conchita Gloria (Conchita) are registered owners of a parcel of land located in Kamuning, Quezon City covered by Transfer Certificate of Title No. 35814 (TCT 35814). Petitioner Maria Lourdes Gloria-Payduan (Lourdes) is their daughter. On August 14, 1987, Juan passed away.

On December 7, 1993, Conchita and Lourdes filed before the RTC a Second Amended Complaint against respondent Builders Savings and Loan Association, Inc. (Builders Savings), Benildo Biag (Biag), and Manuel F. Lorenzo for "declaration of null and void real estate mortgage, promissory note, cancellation of notation in the transfer certificate of title, and damages" with prayer for injunctive relief. The case was docketed as Civil Case No. Q-93-16621. Petitioners claimed that Biag duped them into surrendering TCT 35814 to him under the pretense that Biag would verify the title, which he claimed might have been fraudulently transferred to another on account of a fire that gutted the Quezon City Registry of Deeds; that Biag claimed that the title might need to be reconstituted; that Biag instead used the title to mortgage the Kamuning property to respondent Builders Savings; that Conchita was fraudulently made to sign the subject loan and mortgage documents by Biag, who deceived Conchita into believing that it was actually Lourdes who requested that these documents be signed; that the subject Mortgage and Promissory Note contained the signature not only of Conchita, but of Juan, who was by then already long deceased, as mortgagor and co-maker; that at the time the loan and mortgage documents were supposedly executed, Conchita was already sickly and senile, and could no longer leave her house; that Biag and Builders Savings conspired in the execution of the forged loan and mortgage documents, that the forged loan and mortgage documents were not signed/affirmed before a notary public; that on account of Biag and Builders Savings' collusion, the subject property was foreclosed and sold at auction to the latter; and that the loan and mortgage documents, as well as the foreclosure and sale proceedings, were null and void and should he annulled. Petitioners thus prayed that the Mortgage and Promissory Note be declared null and void; that the encumbrances/annotations in the subject title be cancelled; that the certificate of title be returned to them; and that they be awarded P500,000.00 moral damages, P50,000.00 exemplary damages, P20,000.00 actual damages, P20,000.00 attorney's fees and other legal expenses, and costs of suit.

On March 12, 2004, the RTC issued its Order declaring the real estate mortgage dated June 26, 2001 and the promissory note dated June 28, 2001 null and void.

Respondent interposed an appeal before the CA. On March 13, 2012, the CA issued the assailed Decision, decreeing as follows:

> In fine, BSLA asserts that x x x Conchita voluntarily executed the real estate mortgage who submitted supporting documents to secure the loan of Benildo Biag. The testimony of Maria Lourdes assailing the contract was merely hearsay and could not be used as evidence and basis for the nullification of the contract

ISSUE:

Whether the mortgage and promissory note should be declared as null and void. (YES)

RULING:

The Court finds the trial court to be correct in issuing the March 12, 2004 Order declaring the mortgage and promissory note as null and void. The evidence indicates that these documents were indeed simulated; as far as petitioners were concerned, they merely entrusted the title to the subject property to Biag for the purpose of reconstituting the same as he claimed that the title on file with the Registrar of Deeds of Quezon City may have been lost by fire. Petitioners did not intend for Biag to mortgage the subject property in 1991 to secure a loan; yet the latter, without petitioners' knowledge and consent, proceeded to do just that, and in the process, he falsified the loan and mortgage documents and the accompanying promissory note by securing Conchita's signatures thereon through fraud and misrepresentation and taking advantage of her advanced age and naivete and forged Juan's signature and made it appear that the latter was still alive at the time, when in truth and in fact, he had passed away in 1987. A Certificate of Death issue d by the Quezon City Local Civil Registrar and marked as Exhibit "D" and admitted by the trial court proves this fact. Under the Civil Code,

> Art. 1346. An absolutely simulated or fictitious contract is void. x x x
>
> Art. 1409. The following contracts are in existent and void from the beginning:
>
> (1) x x x;
>
> (2) Those which are absolutely simulated or fictitious;

In the case of *Spouses Solivel v. Judge Francisco,* the Court made the following pronouncement:

> x x x Thus, in *Ayroso,* this Court annulled a mortgage executed by an impostor who had unauthorizedly gained possession of the certificate of title thru the owner's daughter and forged said owner's name to the deed of mortgage which was subsequently registered. In so doing, the Court found more applicable the case of *Ch. Veloso vs. La Urbana and Del Mar,* which also voided a mortgage of real property owned by plaintiff Veloso constituted by her brother-in-law, the defendant Del Mar, using two powers-of-attorney to which he had forged the signatures of said plaintiff and her husband, and which mortgage was later registered with the aid of the certificate of title that had come into Del Mar's possession by unknown means. x x x
>
> Even more in point and decisive or the issue here raised, however, is the much later case of *Joaquin vs. Madrid,* where the spouses Abundio Madrid and Rosalinda Yu, owners of a residential lot in Makati, seeking a building construction loan from the then Rehabilitation Finance Corporation, entrusted their certificate of title for surrender to the RFC to Rosalinda's godmother, a certain Carmencita de Jesus, who had offered to expedite the approval of the loan. Later having obtained a loan from another source, the spouses decided to withdraw the application they had filed with the RFC and asked Carmencita to retrieve their title and return it to them. Carmencita failed to do so, giving the excuse that the employee in charge of keeping the title was on leave. It turned out, however, that through the machinations of Carmencita, the property had been mortgaged to Constancio Joaquin in a deed signed by two persons posing as the owners and that after said deed had been registered, the amount for which the mortgage was constituted had been given to the person who had passed herself off as Rosalinda Yu. x x x

As a consequence of Biag's fraud and forgery of the loan and mortgage documents, the same were rendered null and void. This proceeds from the fact that Biag was not the Owner of the subject property and may not thus validly mortgage it, as well as the well-entrenched rule that a forged or fraudulent deed is a nullity and conveys no title. "In a real estate mortgage contract, it is essential that the mortgagor be the absolute owner of the property to be mortgaged; otherwise, the mortgage is void." And "when the instrument presented for registration is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not thereby lose his title, and neither does the mortgagee acquire any right or title to the property. In such a case, the mortgagee under the forged instrument is not a mortgagee protected by Law." Lastly, when "the person applying for the loan is other than the registered owner of the real property being mortgaged[,it] should have already raised a red flag and x x x should have induced the [mortgagee] to make inquiries into and confirm [the authority of the mortgagor]."

SECURITY BANK CORPORATION, *Petitioner*, -versus- SPOUSES RODRIGO and ERLINDA MERCADO, *Respondents*.
G.R. No. 192934, FIRST DIVISION, June 27, 2018, JARDELEZA, J.

Failure to advertise a mortgage foreclosure sale in compliance with statutory requirements constitutes a jurisdictional defect which invalidates the sale. This jurisdictional requirement may not be waived by the parties; to allow them to do so would convert the required public sale into a private sale. Thus, the statutory provisions governing publication of notice of mortgage foreclosure sale must be strictly complied with and that even slight deviations therefrom will invalidate the notice and render the sale at least voidable.

In this case, the errors in the notice consist of: (1) TCT No. T-33150- "Lot 952-C-1" which should be "Lot 952-C-1-B;" (2) TCT No. T-89822 "Lot 1931, Cadm- 164-D" which should be "Lot 1931 Cadm 464-D;''64 and (3) the omission of the location. While the errors seem inconsequential, they in fact constitute data important to prospective bidders when they decide whether to acquire any of the lots announced to be auctioned. First, the published notice misidentified the identity of the properties. Since the lot numbers are misstated, the notice effectively identified lots other than the ones sought to be sold. Second, the published notice omitted the exact locations of the properties. As a result, prospective buyers are left completely unaware of the type of neighborhood and conforming areas they may consider buying into. With the properties misidentified and their locations omitted, the properties' sizes and ultimately, the determination of their probable market prices, are consequently compromised. The errors are of such nature that they will significantly affect the public's decision on whether to participate in the public auction. We find that the errors can deter or mislead bidders, depreciate the value of the properties or prevent the process from fetching a fair price.

FACTS:

On September 13, 1996, Security Bank granted spouses Mercado a revolving credit line in the amount of P1,000,000.00. To secure the credit line, the spouses Mercado executed a Real Estate Mortgage in favor of Security Bank over their properties covered by Transfer Certificate of Title (TCT) No. T-103519 (located in Lipa City, Batangas), and TCT No. T-89822 (located in San Jose, Batangas). The spouses Mercado executed another Real Estate Mortgage in favor of Security Bank this time over their properties located in Batangas City, Batangas covered by TCT Nos. T-33150, T-

34288, and T-34289 to secure an additional amount of P7,000,000.00 under the same revolving credit agreement.

Subsequently, the spouses Mercado defaulted in their payment under the revolving credit line agreement. Security Bank requested the spouses Mercado to update their account, and sent a final demand letter on March 31, 1999.12 Thereafter, it filed a petition for extrajudicial foreclosure pursuant to Act No. 3135,13 as amended, with respect to the parcel of land situated in Lipa City. Security Bank likewise filed a similar petition with the Office of the Clerk of Court and Ex-Officio Sheriff of the RTC of Batangas City with respect to the parcels of land located in San Jose, Batangas and Batangas City.

The respective notices of the foreclosure sales of the properties were published in newspapers of general circulation once a week for three consecutive weeks as required by Act No. 3135, as amended. However, the publication of the notices of the foreclosure of the properties in Batangas City and San Jose, Batangas contained errors with respect to their technical description. Security Bank caused the publication of an erratum in a newspaper to correct these errors. The corrections consist of the following: (1) TCT No. 33150 – "Lot 952-C-1" to "Lot 952-C-1-B;" and (2) TCT No. 89822 – "Lot 1931 Cadm- 164-D" to "Lot 1931 Cadm 464-D." The erratum was published only once, and did not correct the lack of indication of location in both cases.

The foreclosure sale of the parcel of land in Lipa City, Batangas was held wherein Security Bank was adjudged as the winning bidder. A similar foreclosure sale was conducted over the parcels of land in Batangas City and San Jose, Batangas where Security Bank was likewise adjudged as the winning bidder. The spouses Mercado offered to redeem the foreclosed properties for P10,000,000.00. However, Security Bank allegedly refused the offer and made a counter-offer in the amount of P15,000,000.00.

The spouses Mercado filed a complaint for annulment of foreclosure sale, damages, injunction, specific performance, and accounting with application for temporary restraining order and/or preliminary injunction with the RTC of Batangas City. In the complaint, the spouses Mercado averred that: (1) the parcel of land in San Jose, Batangas should not have been foreclosed together with the properties in Batangas City because they are covered by separate real estate mortgages; (2) the requirements of posting and publication of the notice under Act No. 3135, as amended, were not complied with; (3) Security Bank acted arbitrarily in disallowing the redemption of the foreclosed properties for P10,000,000.00; (4) the total price for all of the parcels of land only amounted to P4723,620.00; and (5) the interests and the penalties imposed by Security Bank on their obligations were iniquitous and unconscionable.

Meanwhile, Security Bank, after having consolidated its titles to the foreclosed parcels of land, filed an ex-parte petition for issuance of a writ of possession over the parcels of land located in Batangas City and San Jose, Batangas.

RTC declared that: (1) the foreclosure sales of the five parcels of land void; (2) the interest rates contained in the revolving credit line agreement void for being potestative or solely based on the will of Security Bank; and (3) thesum of P8,000,000.00 as the true and correct obligation of the spouses Mercado to Security Bank. RTC modified its Decision in an Amendatory Order where it declared that: (1) only the foreclosure sales of the parcels of land in Batangas City and San Jose, Batangas are void as it has no jurisdiction over the properties in Lipa City, Batangas; (2) the

obligation of the spouses Mercado is P7,500,000.00, after deducting P500,000.00 from the principal loan of P1,000,000.00; and (3) as "cost of money," the obligation shall bear the interest at the rate of 6% from the time of date of the Amendatory Order until fully paid. The CA, on appeal, affirmed with modifications the RTC Amended Decision.

ISSUES:

(1) Whether the foreclosure sales of the parcels of land in Batangas City and San Jose, Batangas are valid. (NO)

(2) Whether the provisions on interest rate in the revolving credit line agreement and its addendum are void for being violative of the principle of mutuality of contracts. (YES)

(3) Whether interest and penalty are due and demandable from date of auction sale until finality of the judgment declaring the foreclosure void under the doctrine of operative facts. (NO)

RULING:

(1) The foreclosure sales of the properties in Batangas City and San Jose, Batangas are void for non-compliance with the publication requirement of the notice of sale.

Act No. 3135, as amended, provides for the statutory requirements for a valid extrajudicial foreclosure sale. Among the requisites is a valid notice of sale. Section 3, as amended, requires that when the value of the property reaches a threshold, the notice of sale must be published once a week for at least three consecutive weeks in a newspaper of general circulation:

> Sec. 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and if such property is worth more than four hundred pesos, such notice shall also be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city.

Failure to advertise a mortgage foreclosure sale in compliance with statutory requirements constitutes a jurisdictional defect which invalidates the sale. This jurisdictional requirement may not be waived by the parties; to allow them to do so would convert the required public sale into a private sale. Thus, the statutory provisions governing publication of notice of mortgage foreclosure sale must be strictly complied with and that even slight deviations therefrom will invalidate the notice and render the sale at least voidable.

Nevertheless, the validity of a notice of sale is not affected by immaterial errors. Only a substantial error or omission in a notice of sale will render the notice insufficient and vitiate the sale. An error is substantial if it will deter or mislead bidders, depreciate the value of the property or prevent it from bringing a fair price.

In this case, the errors in the notice consist of: (1) TCT No. T-33150- "Lot 952-C-1" which should be "Lot 952-C-1-B;" (2) TCT No. T-89822 "Lot 1931, Cadm- 164-D" which should be "Lot 1931 Cadm 464-D;''64 and (3) the omission of the location. While the errors seem inconsequential, they in fact constitute data important to prospective bidders when they decide whether to acquire any of the

lots announced to be auctioned. First, the published notice misidentified the identity of the properties. Since the lot numbers are misstated, the notice effectively identified lots other than the ones sought to be sold. Second, the published notice omitted the exact locations of the properties. As a result, prospective buyers are left completely unaware of the type of neighborhood and conforming areas they may consider buying into. With the properties misidentified and their locations omitted, the properties' sizes and ultimately, the determination of their probable market prices, are consequently compromised. The errors are of such nature that they will significantly affect the public's decision on whether to participate in the public auction. We find that the errors can deter or mislead bidders, depreciate the value of the properties or prevent the process from fetching a fair price.

The publication of a single erratum, however, does not cure the defect. As correctly pointed out by the RTC, "[t]he act of making only one corrective publication in the publication requirement, instead of three (3) corrections is a fatal omission committed by the mortgagee bank." To reiterate, the published notices that contain fatal errors are nullities. Thus, the erratum is considered as a new notice that is subject to the publication requirement for once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city where the property is located. Here, however, it was published only once.

(2) The interest rate provisions in the parties' agreement violate the principle of mutuality of contracts.

The principle of mutuality of contracts is found in Article 1308 of the New Civil Code, which states that contracts must bind both contracting parties, and its validity or compliance cannot be left to the will of one of them. The binding effect of any agreement between parties to a contract is premised on two settled principles: (I) that any obligation arising from contract has the force of law between the parties; and (2) that there must be mutuality between the parties based on their essential equality. As such, any contract which appears to be heavily weighed in favor of one of the parties so as to lead to an unconscionable result is void. Likewise, any stipulation regarding the validity or compliance of the contract that is potestative or is left solely to the will of one of the parties is invalid. This holds true not only as to the original terms of the contract but also to its modifications. Consequently, any change in a contract must be made with the consent of the contracting parties, and must be mutually agreed upon. Otherwise, it has no binding effect.

Stipulations as to the payment of interest are subject to the principle of mutuality of contracts. As a principal condition and an important component in contracts of loan, interest rates are only allowed if agreed upon by express stipulation of the parties, and only when reduced into writing.

Here, the spouses Mercado supposedly: (1) agreed to pay an annual interest based on a "floating rate of interest;" (2) to be determined solely by Security Bank; (3) on the basis of Security Bank's own prevailing lending rate; (4) which shall not exceed the total monthly prevailing rate as computed by Security Bank; and (5) without need of additional confirmation to the interests stipulated as computed by Security Bank.

Notably, stipulations on floating rate of interest differ from escalation clauses. Escalation clauses are stipulations which allow for the increase (as well as the mandatory decrease) of the original fixed interest rate. Meanwhile, floating rates of interest refer to the variable interest rate stated on a market-based reference rate agreed upon by the parties. The former refers to the method by which

fixed rates may be increased, while the latter pertains to the interest rate itself that is not fixed. Nevertheless, both are contractual provisions that entail adjustment of interest rates subject to the principle of mutuality of contracts. Thus, while the cited cases involve escalation clauses, the principles they lay down on mutuality equally apply to floating interest rate clauses.

The Banko Sentral ng Pilipinas (BSP) Manual of Regulations for Banks (MORB) allows banks and borrowers to agree on a floating rate of interest, provided that it must be based on market-based reference rates:

> § X305.3 Floating rates of interest. The rate of interest on a floating rate loan during each interest period shall be stated on the basis of Manila Reference Rates (MRRs), T-Bill Rates or other market based reference rates plus a margin as may be agreed upon by the parties.
>
> The MRRs for various interest periods shall be determined and announced by the Bangko Sentral every week and shall be based on the weighted average of the interest rates paid during the immediately preceding week by the ten (10) KBs with the highest combined levels of outstanding deposit substitutes and time deposits, on promissory notes issued and time deposits received by such banks, of P100,000 and over per transaction account, with maturities corresponding to the interest periods tor which such MRRs are being determined. Such rates and the composition of the sample KBs shall be reviewed and determined at the beginning of every calendar semester on the basis of the banks' combined levels of outstanding deposit substitutes and time deposits as of 31 May or 30 November, as the case may be.
>
> The rate of interest on floating rate loans existing and outstanding as of 23 December 1995 shall continue to be determined on the basis of the MRRs obtained in accordance with the provisions of the rules existing as of 01 January 1989: Provided, however, That the parties to such existing floating rate loan agreements are not precluded from amending or modifying their loan agreements by adopting a floating rate of interest determined on the basis of the TBR or other market based reference rates.
>
> Where the loan agreement provides for a floating interest rate, the interest period, which shall be such period of time for which the rate of interest is fixed, shall be such period as may be agreed upon by the parties.
>
> For the purpose of computing the MRRs, banks shall accomplish the report forms, RS Form 2D and Form 2E (BSP 5-17-34A).

This BSP requirement is consistent with the principle that the determination of interest rates cannot be left solely to the will of one party. It further emphasizes that the reference rate must be stated in writing, and must be agreed upon by the parties.

The authority to change the interest rate was given to Security Bank alone as the lender, without need of the written assent of the spouses Mercado. This unbridled discretion given to Security Bank is evidenced by the clause "I hereby give my continuing consent without need of additional confirmation to the interests stipulated as computed by [Security Bank]." The lopsidedness of the imposition of interest rates is further highlighted by the lack of a breakdown of the interest rates imposed by Security Bank in its statement of account accompanying its demand letter.

The interest rate to be imposed is determined solely by Security Bank for lack of a stated, valid reference rate. The reference rate of "Security Bank's prevailing lending rate" is not pegged on a market-based reference rate as required by the BSP. The stipulated interest rate based on "Security Bank's prevailing lending rate" is not synonymous with "prevailing market rate." For one, Security Bank is still the one who determines its own prevailing lending rate. More, the argument that Security Bank is guided by other facts (or external factors such as Singapore Rate, London Rate, Inter-Bank Rate) in determining its prevailing monthly rate fails because these reference rates are not contained in writing as required by law and the BSP.

Nevertheless, while we find that no stipulated interest rate may be imposed on the obligation, legal interest may still be imposed on the outstanding loan. Eastern Shipping Lines, Inc. v. Court of Appeals and Nacar v. Gallery Frames provide that in the absence of a stipulated interest. a loan obligation shall earn legal interest from the time of default, i.e., from judicial or extrajudicial demand.

(3) For purposes of computing when legal interest shall run, it is enough that the debtor be in default on the principal obligation. To be considered in default under the revolving credit line agreement, the borrower need not be in default for the whole amount, but for any amount due. The spouses Mercado never challenged Security Bank's claim that they defaulted as to the payment of the principal obligation of P8,000,000.00. Thus, we find they have defaulted to this amount at the time Security Bank made an extrajudicial demand on March 31, 1999.

We also find no merit in their argument that penalty charges should not be imposed. While we see no legal basis to strike down the penalty stipulation, however, we reduce the penalty of 2% per month or 24% per annum for being iniquitous and unconscionable as allowed under Article 1229 of the Civil Code.

In MCMP Construction Corp. v. Monark Equipment Corp.,103 we declared the rate of 36% per annum unconscionable and reduced it to 6% per annum. We thus similarly reduce the penalty here from 24% per annum to 6% per annum from the time of default, i.e., extrajudicial demand.

We also modify the amount of the outstanding obligation of the spouses Mercado to Security Bank. To recall, the foreclosure sale over the parcel of land in Lipa City is not affected by the annulment proceedings. We thus find that the proceeds of the foreclosure sale over the parcel of land in Lipa City in the amount of P483,120.00 should be applied to the principal obligation of P8,000,000.00 plus interest and penalty from extrajudicial demand (March 31, 1999) until date of foreclosure sale (October 19, 1999). The resulting deficiency shall earn legal interest at the rate of 12% from the filing of Security Bank's answer with counterclaim105 on January 5, 2001 until June 30, 2013, and shall earn legal interest at the present rate of 6% from July 1, 2013 until finality of judgment.

WELBIT CONSTRUCTION CORP., WACK WACK CONDOMINIUM CORP., AND SPOUSES EUGENIO JUAN GONZALEZ AND MATILDE GONZALEZ, *Petitioners*, *v.* HEIRS OF CRESENCIANO C. DE CASTRO, *Respondents.*

G.R. No. 210286, FIRST DIVISION, July 23, 2018, TIJAM, *J.*

Section 20 of the Condominium Act *merely provides that* ***the assessments****, upon any condominium made in accordance with a duly registered declaration of restrictions,* ***shall be a lien*** *upon the said condominium, and also prescribes the procedure by which such liens may be enforced. Indeed, it* ***does not grant*** *the petitioners* ***the authority to foreclose****.*

The aforecited provision clearly provides that ***the rules on extra-judicial foreclosure of mortgage*** *or real property* ***should be followed****. Accordingly, Section 1 of Act No. 3135, which prescribes for the procedure for the extra-judicial foreclosure of real properties subject to real estate mortgage, in relation to Circular No. 7-2002 and SC A.M. No. 99-10-05-0* ***requires*** *that the petition for extra-judicial foreclosure be supported by evidence that petitioners hold a* ***special power or authority to foreclose****.*

In First Marbella, the Court held that "[w]ithout proof of petitioner's special authority to foreclose, the Clerk of Court as Ex-Officio Sheriff is precluded from acting on the application for extra-judicial foreclosure." Unlike in First Marbella, however, the CA erred in ruling that herein petitioners have no such special authority to foreclose. In the case at bar, ***the foreclosure was not merely based on the notice of assessment*** *annotated on CCT No. 2826* ***nor solely upon the Condominium Act but also on the Master Deed and the condominium corporation's By-Laws****.*

FACTS:

Petitioners Welbit Construction Corporation and Wack Wack Condominium Corporation are the developer and management body of Wack Wack Apartments Building (**condominium**), respectively, while Spouses Gonzalez are the owners thereof. The late Cresenciano C. De Castro is the registered owner of Unit 802 of the condominium, covered by CCT No. 2826.

For failure to pay assessment dues amounting to P79,905.41 as of July 31, 1986 despite demand, Welbit Construction Corp., Wack Wack Condominium Corp., and Spouses Gonzalez (petitioners) **caused the annotation of a lien for unpaid assessments** and other dues **at the back of De Castro's title** on August 14, 1986 **pursuant to Section 4 of the Master Deed** with Declaration of Restrictions of Wack Wack Condominium.

As the said dues remained unsettled, petitioners filed a petition for the extra-judicial foreclosure of the subject property. The requirements of publication and posting of the notice were then complied with and the public auction was set on February 10, 1987. Petitioners emerged as the highest bidder. Accordingly, a certificate of sale was issued in their favor. The sale was registered with the Register of Deeds and annotated at the back of De Castro's title. De Castro failed to redeem the property.

When requested to surrender his owner's duplicate copy of CCT No. 2826, De Castro filed a petition for annulment of foreclosure proceedings before the SEC which then had the jurisdiction over intra-corporate disputes.

The RTC ruled for the validity of the extra-judicial foreclosure proceedings instituted by the petitioners. The RTC held that De Castro is bound by the **Master Deed**, **which gave authority to the petitioners to issue assessments against him for his unpaid dues and penalties**. The CA reversed the RTC Decision, on the sole ground that the petitioners have no sufficient authority to extra-judicially foreclose the subject property.

ISSUE:

Whether or not the CA erred in declaring the extra-judicial foreclosure proceeding null and void. (YES)

RULING:

As can be gleaned from the CA's assailed Decision, its conclusion that the extra-judicial foreclosure proceeding instituted by the petitioners is null and void for the latter's lack of proof of authority is heavily anchored upon the case of *First Marbella*. A careful perusal of the said case, however, would show that the same is not applicable in the case at bar.

Section 20 of the Condominium Act merely provides that **the assessments**, upon any condominium made in accordance with a duly registered declaration of restrictions, **shall be a lien** upon the said condominium, and also prescribes the procedure by which such liens may be enforced. Indeed, it **does not grant** the petitioners **the authority to foreclose**.

The aforecited provision clearly provides that **the rules on extra-judicial foreclosure of mortgage** or real property **should be followed**. Accordingly, Section 1 of Act No. 3135, which prescribes for the procedure for the extra-judicial foreclosure of real properties subject to real estate mortgage, in relation to Circular No. 7-2002 and SC A.M. No. 99-10-05-0 **requires** that the petition for extra-judicial foreclosure be supported by evidence that petitioners hold a **special power or authority to foreclose**.

In First *Marbella*, the Court held that "[w]ithout proof of petitioner's special authority to foreclose, the Clerk of Court as *Ex-Officio* Sheriff is precluded from acting on the application for extra-judicial foreclosure." Unlike in *First Marbella*, however, the CA erred in ruling that herein petitioners have no such special authority to foreclose. In the case at bar, **the foreclosure was not merely based on the notice of assessment** annotated on CCT No. 2826 **nor solely upon the Condominium Act but also on the Master Deed and the condominium corporation's By-Laws**. As correctly found by the RTC:

> Thus, Section 1 of the Article V of the By-laws of the Condominium Corporation authorizes the board to assess the unit owner penalties and expenses for maintenance and repairs necessary to protect the common areas or any portion of the building or safeguard the value and attractiveness of the condominium. **Under Section 5 of Article [V] of the By-Laws, in the event a member defaults in the payment of any assessment duly levied in accordance with the Master Deed and the By-Laws, the Board of Directors may enforce collection thereof by any of the remedies provided by the Condominium Act and other pertinent laws, such as foreclosure.** x x x.
>
> **The Master Deed with Declaration of Restrictions of the Condominium Project is annotated on the Condominium Certificate of title 2826. The Master Deed and By-Laws constitute as the contract between the unit owner and the condominium corporation. As a unit owner, [De Castro] is bound by the rules and restrictions embodied in the said Master Deed and by-Laws pursuant to the provisions of the Condominium Act. Under the Condominium Act (*Section 20 of RA 4726*) and the by-**

> **laws (*Section 5 of Article [V]*) of the Wack Wack, the assessments upon a condominium constitute a lien on such condominium and may be enforced by judicial or extra-judicial foreclosure.**

Clearly, petitioners were authorized to institute the foreclosure proceeding to enforce the lien upon the condominium unit. Moreover, this conclusion finds support in the 1984 condominium corporation's Board Resolution No. 84-007, also signed by De Castro as a member of the Board of Directors at that time.

Furthermore, in the similar case of *Wack Wack Condominium Corp. v. Court of Appeals*, involving petitioners and another unit owner, wherein the petitioners likewise extra-judicially foreclosed a condominium unit to enforce assessments albeit the issue therein was the jurisdiction of the SEC, this Court had already ruled that the Condominium Act and the By-Laws of the condominium corporation recognize and authorize assessments upon a condominium unit to constitute a lien on such unit which may be enforced by judicial or extra-judicial foreclosure. **Clearly, petitioners' authority to foreclose a condominium unit to enforce assessments, pursuant to the Condominium Act and the condominium corporation's Master Deed and By-Laws, had long been established.**

LIFESTYLE REDEFINED REALTY CORPORATION AND EVELYN S. BARTE, *Petitioners*, -versus - HEIRS OF DENNIS A. UVAS, *Respondents*.
G.R. No. 217716, FIRST DIVISION, September 17, 2018, TIJAM, J.

RIZAL COMMERCIAL BANKING CORPORATION, *Petitioner*, -versus - HEIRS OF DENNIS A. UVAS, LIFESTYLE REDEFINED REALTY CORPORATION AND EVELYN BARTE, *Respondents*.
G.R. NO. 217857, FIRST DIVISION, September 17, 2018, TIJAM, J.

As a rule, an ordinary buyer may rely on the certificate of title issued in the name of the seller, and need not investigate beyond what the title of the subject property states. In order to be considered a buyer in good faith, a person must buy the property without notice of a right or interest of another party, and pay the purchase price at the time of sale or before notice of a claim on the property. "The protection of innocent purchasers in good faith for value grounds on the social interest embedded in the legal concept granting indefeasibility of titles. Between the third party and the owner, the latter would be more familiar with the history and status of the titled property."

The honesty of intention that constitutes good faith implies freedom from knowledge of circumstances that ought to put a prudent person on inquiry. Good faith consists in the belief of the possessors that the persons from whom they received the thing are its rightful owners who could convey their title. "Good faith, while always presumed in the absence of proof to the contrary, requires this well-founded belief."

In this case, the annotation of lis pendens, per se, does not automatically equate to the conclusion that Lifestyle Corporation and Evelyn intentionally bought the property with knowledge, or to defeat respondent Heirs' claims on the subject property. In the first place, the title of the subject property, at

the time of the negotiations and payment of the sale was in the name of RCBC. At that time, the title of the subject property did not contain any indication that respondent Heirs have a claim thereon, or that the foreclosure sale from which RCBC bought the subject property was void. Plainly, it can be said that Lifestyle Corporation and Evelyn were not expected to make further investigations on the property. The rule is settled that "one who deals with property registered under the Torrens System is charged with notice only of such burdens and claims as are annotated on the title." "The law protects to a greater degree a purchaser who buys from the registered owner himself."

FACTS:

U-Bex Integrated Resources, Inc. (U-Bex), controlled by Spouses Dennis (Dennis) and Nimfa Uvas (Nimfa) (Spouses Uvas), obtained various amounts of loans from RCBC in the amounts of P1 Million and P2 Million. To secure the said loans, Spouses Uvas executed a Real Estate Mortgage dated October 25, 1993 over a parcel of land covered by Transfer Certificate of Title (TCT) No. 190706 pertaining to a property located at 1928 Leon Guinto Street, Malate, which also consists of a building and apartment units (subject property).

It appears that on November 24, 2003, an auction sale was conducted where the subject property was sold to RCBC as the highest bidder. On September 26, 2005, RCBC consolidated its title on the subject property. TCT No. 269709 was issued in its name.

Subsequently, the subject property was sold to Lifestyle Corporation and Evelyn. Lifestyle Corporation and/or Evelyn was a lessee of Spouses Uvas in the subject property during the time of the loan up to the time RCBC sold the same to her.

On September 6, 2006, Heirs of Dennis Uvas (respondent Heirs) filed a Complaint for annulment of foreclosure sale, certificate of sale, and cancellation of TCT No. 269709 with damages against RCBC, Jennifer Dela Cruz-Buendia, Ex-Officio Sheriff of the RTC of Manila, Benjamin Del Rosario, Jr. as Sheriff of Branch 9, RTC Manila, and the Registry of Deeds of Manila. The case was docketed as Civil Case No. 06-115798.

Respondent Heirs questioned the foreclosure stating that they were never informed of the foreclosure, and that they were surprised that RCBC was already the registered owner of the subject property. They claimed that the foreclosure sale is void for lack of publication and notice to them. They pointed out that the date of auction indicated in the Notice of Extrajudicial Sale was October 8, 2003. Hence, the implementing officers of the court should not have allowed the auction sale to be conducted on November 24, 2003 without republication of the notice of sale. They claimed that RCBC was in bad faith since it sent the notices of auction sale to their former address at 9345 Dongon Street, San Antonio Village, Makati City despite knowledge that they are actually residing at 1928 Leon Guinto Street, Malate, Manila.

On October 20, 2013, the RTC rendered a Decision in favor of respondent Heir and against RCBC, Lifestyle Corporation and Evelyn.

Dissatisfied, Lifestyle Corporation and Evelyn, and RCBC filed their respective Appellant's Briefs.

After the filing of the parties' respective pleadings, the CA rendered the assailed Decision affirming the RTC Decision.

ISSUE:

Whether or not Lifestyle Corporation and Evelyn acted in good faith when they purchased the subject property from RCBC. (YES)

RULING:

At the outset, this Court is cognizant of the rule that republication of the notice of sale in the manner prescribed by Act No. 3135 is necessary for the validity of a postponed extrajudicial foreclosure sale. A foreclosure sale which deviates from the statutory requirements constitutes a jurisdictional defect invalidating the sale. The Court is mindful of the purpose of publication of the notice of auction sale, which is to give the foreclosure sale a reasonably wide publicity such that those interested might attend the public sale. Otherwise, the sale might be converted into a private one.

However, jurisprudence is also replete with cases which relaxes the aforesaid rule in case of a purchaser in a foreclosure sale who is in good faith and bought the property for value. As aforesaid, it is thus relevant for this Court to make a determination on the purported good faith of Petitioners Lifestyle Corporation and Evelyn in purchasing the subject property.

Lifestyle Corporation and Evelyn had a right to rely on the clean title of the subject property at the time of the sale

The CA in this case opined that the annotation of *lis pendens* on RCBC's title on September 6, 2006, prior to the notarization of the sale between Lifestyle Corporation and Evelyn, and RCBC on October 2, 2006, is sufficient notice of the respondent Heirs' claim over the subject property.

Examination of the factual circumstances of the case in its entirety leads this Court to a different conclusion.

As a rule, an ordinary buyer may rely on the certificate of title issued in the name of the seller, and need not investigate beyond what the title of the subject property states. In order to be considered a buyer in good faith, a person must buy the property without notice of a right or interest of another party, and pay the purchase price at the time of sale or before notice of a claim on the

property. "The protection of innocent purchasers in good faith for value grounds on the social interest embedded in the legal concept granting indefeasibility of titles. Between the third party and the owner, the latter would be more familiar with the history and status of the titled property."

The honesty of intention that constitutes good faith implies freedom from knowledge of circumstances that ought to put a prudent person on inquiry. Good faith consists in the belief of the possessors that the persons from whom they received the thing are its rightful owners who could convey their title. "Good faith, while always presumed in the absence of proof to the contrary, requires this well-founded belief."

In this case, the annotation of *lis pendens*, per se, does not automatically equate to the conclusion that Lifestyle Corporation and Evelyn intentionally bought the property with knowledge, or to defeat respondent Heirs' claims on the subject property. In the first place, the title of the subject property, at the time of the negotiations and payment of the sale was in the name of RCBC. At that time, the title of the subject property did not contain any indication that respondent Heirs have a claim thereon, or that the foreclosure sale from which RCBC bought the subject property was void. Plainly, it can be said that Lifestyle Corporation and Evelyn were not expected to make further investigations on the property. The rule is settled that "one who deals with property registered under the Torrens System is charged with notice only of such burdens and claims as are annotated on the title." "The law protects to a greater degree a purchaser who buys from the registered owner himself."

We also note that at the time of the annotation of *lis pendens*, the sale was already consummated. It must be emphasized that Lifestyle Corporation and/or Evelyn was already finished paying for the subject property as early as August 24, 2006. This was not controverted by respondent Heirs. Hence, Lifestyle Corporation and Evelyn already acquired ownership of the subject property as of that time. The law provides that the ownership of the thing sold is acquired by the vendee from the moment it is delivered to him in any of the ways specified in Article 1497 to 1501. Delivery may either be actual or constructive.

In this case, considering that Lifestyle Corporation and Evelyn were already in possession of the subject property, being former lessees of respondent Heirs' mother, her full payment of the property consummated the transfer of ownership in her favor on August 24, 2006. Evidently, such consummation of the sale between RCBC and Lifestyle Corporation and Evelyn was way before the annotation of the *lis pendens*, on September 6, 2006.

Further, Lifestyle Corporation and Evelyn, at the time of the sale, had no reason to believe that respondent Heirs would eventually dispute the auction sale. It bears to emphasize that respondent Heirs' mother, Nimfa, brokered the sale between Lifestyle Corporation and Evelyn, and RCBC. Carl James Uvas (Carl James), in his testimony before the trial court, stated that his mother negotiated for Evelyn to buy the subject property.

Verily, considering that the purchase would not have materialized had it not been for the prodding of respondent Heirs' mother, it is safe to conclude that at the time of the sale, Lifestyle Corporation and Evelyn were in honest belief that it was entering into a *bona fide* transaction, free from any adverse interests, especially from respondent Heirs or their predecessors in interest.

In sum, considering Lifestyle Corporation and Evelyn's good faith in purchasing the subject property, there appears no reason to set aside the transfers of the subject property. The foreclosure, as well as the subsequent sale of the property to Lifestyle Corporation and Evelyn must be upheld. Further, considering the validity of the sale of the subject property, the foreclosure of the property results in the satisfaction of respondent Heirs' loan liabilities.

SPOUSES FLAVIO P. BAUTISTA AND ZENAIDA L. BAUTISTA, ***Petitioners*, *v.* PREMIERE DEVELOPMENT BANK; AND ATTY. PACITA ARAOS, SENIOR ASSISTANT VICE PRESIDENT & ACTING HEAD OF LEGAL AND COLLECTION GROUP, PREMIERE DEVELOPMENT BANK**, ***Respondents.***
G.R. No. 201881, FIRST DIVISION, September 05, 2018, BERSAMIN, *J.*

Applying the case of Philippine National Bank v. Nepomuceno Productions, Inc.,the Court has expounded on the significance and primary purpose of the requirements for the posting of the notice of the sale and its publication in a newspaper of general circulation, viz.:

The principal object of a notice of sale in a foreclosure of mortgage is not so much to notify the mortgagor as to inform the public generally of the nature and condition of the property to be sold, and of the time, place, and terms of the sale. ***Notices are given to secure bidders and to prevent a sacrifice of the property. Clearly, the statutory requirements of posting and publication are mandated, not for the mortgagor's benefit, but for the public or third persons. In fact, personal notice to the mortgagor in extrajudicial foreclosure proceedings is not even necessary, unless stipulated. As such, it is imbued with public policy consideration and any waiver thereon would be inconsistent with the letter and intent of Act No. 3135.***

FACTS:

The petitioners are the registered owners of the parcel of land located in Rodriguez, Montalban, Rizal, covered by Transfer Certificate of Title (TCT) No. 150668 of the Registry of Deeds of Marikina City.

On January 7, 1994, the petitioners obtained a loan of P500,000.00 from respondent Premiere Development Bank (Premiere Bank) for which they executed the corresponding promissory note. To secure the performance of their obligation, they also executed a real estate mortgage over the above stated parcel of land and its improvements. The loan agreement stipulated that the obligation would be payable in three years through monthly amortizations of P20,412.51, subject to interest and penalty charges.

Premiere Bank collected the monthly amortizations by debiting the same from the petitioners' savings account. For failure of the petitioners to settle their obligation in full, the sheriff sent the first notice of extrajudicial foreclosure sale to them on October 17, 1995, informing that the mortgaged property would be sold in a public sale to be conducted on November 17, 1995.The petitioners requested the postponement of the scheduled sale as well as a detailed computation of their outstanding obligations several times, as borne out by the exchange of letters between them and Premiere Bank.

On December 6, 2001, the sheriff prepared sent notice of the extrajudicial foreclosure sale to be held on January 15, 2002.The notice was published in *The Challenger News*, a newspaper of general circulation in the Province of Rizal, in the issues of December 10, 17, and 24, 2001. The sheriff posted the notice of the sale in public places within San Mateo, Rizal and in the place where the property was located. However, the sale did not push through as scheduled because the representative of Premiere Bank did not appear, and was rescheduled to February 18, 2002.

Although no publication and posting of the notice of the rescheduled date of February 18, 2002 were made thereafter, the sheriff conducted the foreclosure sale on February 18, 2002, and struck off the property of the petitioners to Premiere Bank as the lone bidder. The sheriff issued the certificate of sale in the name of Premiere Bank, and the same was annotated on the original copy of TCT No. 150668 on November 7, 2002.

The petitioners redeemed the property within the required period by tendering the amount of P401,820.00. The sheriff issued the certificate of redemption in their name, but Premiere Bank refused to accept the redemption price because their total unpaid outstanding obligation had accumulated to P2,062,254.26. Premiere Bank then consolidated its ownership, and the Register of Deeds of Marikina City issued TCT No. 452198 in the name of Premiere Bank

The petitioners sued the respondents in the RTC to seek the annulment of the sheriff's foreclosure sale held on February 18, 2002 on the ground of the failure of the respondents to comply with the mandatory and jurisdictional requirements of publication and posting of the notice of sale in accordance with Act No. 3135. RTC dismissed the petitioner's complaint. The petitioners appealed. The CA affirmed the validity of the February 18, 2002 foreclosure sale despite the non-posting and non-publication of the notice of the rescheduled sale.It stated that the petitioners were estopped from challenging the validity of the extrajudicial proceedings because they did not seek judicial relief therefrom, and because they redeemed the foreclosed property and tendered the redemption price without any condition or reservation.

ISSUE:

Whether or not the CA erred in declaring that the extrajudicial foreclosure sale was valid despite the failure to publish and post the notice of the rescheduled foreclosure sale; (NO)

RULING:

Act No. 3135 prescribes the requirements of posting and publication of the notice for the extrajudicial foreclosure sale. The law specifically mandates the publication of the notice in a

newspaper of general circulation for at least three consecutive weeks if the value of the property is more than P400,000.00. The requirements for the posting and publication of the notice for the extrajudicial foreclosure sale set on January 15, 2002 were complied with by posting the notice in public places in Rizal and in the place where the property of the petitioners was located, and by publishing the notice in *The Challenger News*, a newspaper of general circulation in Rizal. However, the sale set on January 15, 2002 did not push through because the representative of Premiere Bank did not appear, and was rescheduled to February 18, 2002. Thereafter, the notice for the *rescheduled* foreclosure sale was not posted and published as required by Act No. 3135.

The invalidity of the public sale of the petitioners' property sprang from such non-compliance with the requirements under Act No. 3135.

In *Philippine National Bank v. Nepomuceno Productions, Inc*., the Court has expounded on the significance and primary purpose of the requirements for the posting of the notice of the sale and its publication in a newspaper of general circulation, *viz*.:

The principal object of a notice of sale in a foreclosure of mortgage is not so much to notify the mortgagor as to inform the public generally of the nature and condition of the property to be sold, and of the time, place, and terms of the sale. **Notices are given to secure bidders and to prevent a sacrifice of the property. Clearly, the statutory requirements of posting and publication are mandated, not for the mortgagor's benefit, but for the public or third persons. In fact, personal notice to the mortgagor in extrajudicial foreclosure proceedings is not even necessary, unless stipulated. As such, it is imbued with public policy consideration and any waiver thereon would be inconsistent with the letter and intent of Act No. 3135.**

The respondents should not be held in *estoppel* for inducing the former to re-schedule the sale without need of republication and reposting of the notice of sale.

Records show that respondents, indeed, requested for the postponement of the foreclosure sale. That, however, is all that respondents sought. Nowhere in the records was it shown that respondents purposely sought re-scheduling of the sale *without need of republication and reposting of the notice of sale*. To request postponement of the sale is one thing; to request it without need of compliance with the statutory requirements is another. Respondents, therefore, did not commit any act that would have estopped them from questioning the validity of the foreclosure sale for non-compliance with Act No. 3135.

XI. LAND TITLES AND DEEDS

A. Torrens system; general principles

ROBUSTUM AGRICULTURAL CORPORATION, *Petitioner*, -versus- DEPARTMENT OF AGRARIAN REFORM AND LAND BANK OF THE PHILIPPINES, *Respondents*.
G.R. No. 221484, THIRD DIVISION, November 19, 2018, PERALTA, J.

Section 30 of RA No. 9700 did not vest any kind of jurisdiction over any kind of case unto the regular courts. By its language, the provision is simply an authorization for the DAR to continue to process,

bring to finality and execute "any case or proceeding involving the implementation of the agrarian reform law" already pending as of June 30, 2014 even beyond the said date. Nothing more.

Since the sole question raised in the petition a quo is really only an agrarian reform matter that arose from an on-going proceeding for compulsory land acquisition and distribution, jurisdiction to resolve the same - as is the case for the main proceeding itself - must rest too with the DAR. As already pointed out, the authority given to the DAR under Section 30 of RA No. 9700 to conclude any agrarian reform proceeding pending as of June 30, 2014, by necessity, includes an authority for the same to continue exercising its quasi-judicial powers under Section 50 of RA No. 6657 with respect to any agrarian reform matter or controversy that may arise in such proceeding.

FACTS:

Petitioner Robustum Agricultural Corporation is the registered owner of a 50,000-square meter parcel of agricultural land in Silay City per TCT No. T-15256.4 The subject land was formerly a part of a 300,000-square meter agricultural estate owned by Puyas Agro, Inc. (PAI), petitioner's predecessor-in--interest.

The Department of Agrarian Reform, through Provincial Agrarian Reform Officer II Teresita R. Mabunay, prepared a letter, denominated as "Transmittal of NOC to the Landowner-Transferee/s," addressed to petitioner. The letter sought to furnish petitioner with a copy of a notice of coverage previously issued by the DAR which identifies the mother estate as subject to the agrarian reform program. The letter also aims to inform petitioner that, as a transferee of a portion of the mother estate, it will be included by the DAR as an "alternative land owner and payee" for purposes of "documentation of the claim folder, the issuance of a memorandum of valuation and the payment of compensation proceeds for the mother estate." Petitioner refused to receive the foregoing letter, as well as the notice of coverage attached thereto.

The DAR issued another notice of coverage that identified the mother estate and the subject land, as well as several other agricultural lands in Negros Occidental, as subject to the government's agrarian reform program. This notice was published the following day in an issue of the Philippine Star.

Petitioner filed before the RTC of Silay City a petition for quieting of title and declaratory relief against the DAR and the Land Bank of the Philippines. Therein, petitioner questioned the efficacy of the notice coverage published by the DAR. Petitioner reckoned such notice as ineffective on two (2) accounts:

First. The notice of coverage - for being merely published in a newspaper of general circulation - was not properly served. The publication of the said notice was not preceded by any attempt on the part of the DAR to effect personal service of the same. Such immediate resort to publication, in turn, violates Section 16 of DAR AO No. 07-11 which prescribes personal service as the "primary" means of serving notices of coverage.

Second. Even assuming that the notice of coverage was properly served by publication, the same still cannot be enforced as against the subject land. Such notice remains infirm because it was never posted at a conspicuous place within the subject land and on a bulletin board in the city or barangay

hall, where the subject land is located, for seven (7) days, as required under Section 19 of DAR AO No. 07-11.18

Verily, petitioner prayed that the subject land be declared free from the coverage of the agrarian reform program, and that the DAR and the LBP be restrained from taking or performing any actions against the subject land pursuant to, or in implementation of, the published notice of coverage.

The DAR and the LBP shared a common objection against the jurisdiction of the RTC. Both contended that the RTC lacked jurisdiction to hear and decide the petition, pointing out that the issues raised therein but pertain to matters of "implementation of the agrarian reform program" which belong to the exclusive competence of the DAR to determine.

The RTC sided with the DAR and the LBP. RTC issued an Order dismissing the petition on the ground of lack of jurisdiction.

ISSUE:

Whether or not the court has jurisdiction over the case. (NO)

RULING:

Section 30 of RA No. 9700 did not vest any kind of jurisdiction over any kind of case unto the regular courts. By its language, the provision is simply an authorization for the DAR to continue to process, bring to finality and execute "any case or proceeding involving the implementation of the agrarian reform law" already pending as of June 30, 2014 even beyond the said date. Nothing more.

One of the "proceedings involving the implementation of the agrarian reform law" contemplated under Section 30 of RA No. 9700 is that for compulsory land acquisition and distribution pursuant to Section 16 of RA No. 6657, as amended. Per established DAR regulations, a proceeding for compulsory land acquisition and distribution is deemed commenced by the issuance of a notice of coverage.

Here, two (2) notices of coverage involving the subject land have already been issued before June 30, 2014. The first is the original notice of coverage for the mother estate referred to, and attached in, PARO II Mabunay's Transmittal of NOC to the Landowner-Transferee/s dated December 5, 2013. Another is the published notice of coverage dated June 11, 2014. The issuances of these notices indicate that a proceeding for compulsory land acquisition and distribution against PAI and petitioner, concerning the mother estate and the subject land, was already pending before June 30, 2014. As such, the DAR maintains its authority to bring the said proceeding into conclusion pursuant precisely to Section 30 of RA No. 9700.

Given this context, it becomes apparent why the petition a quo, notwithstanding the date of its filing, must fail. The petition - as both parties readily concede - is a mere challenge to the efficacy of the notice of coverage published by the DAR. This kind of challenge, however, is undoubtedly a matter involving the implementation of agrarian reform which is only part and parcel of a proceeding for compulsory land acquisition and distribution.

Since the sole question raised in the petition is really only an agrarian reform matter incidental to an on-going proceeding for compulsory land acquisition and distribution, jurisdiction to resolve the same - as is the case for the main proceeding itself - must rest too with the DAR. The authority given to the DAR under Section 30 of RA No. 9700 to conclude any agrarian reform proceeding pending as of June 30, 2014, by necessity, includes an authority for the same to continue exercising its quasi-judicial powers under Section 50 of RA No. 6657 with respect to any agrarian reform matter or controversy that may arise in such proceeding.

It can be said that Section 30 of RA No. 9700 essentially clarifies the parameters of the extension of the period for land acquisition and distribution granted in the law. RA No. 9700 did not intend to fix June 30, 2014 as an absolute deadline for the completion and cessation of all land acquisition and distribution proceedings; the law rather sets the said date as the final date when such proceedings may be initiated by the DAR. This is the import of Section 30 of RA No. 9700.

Since the sole question raised in the petition a quo is really only an agrarian reform matter that arose from an on-going proceeding for compulsory land acquisition and distribution, jurisdiction to resolve the same - as is the case for the main proceeding itself - must rest too with the DAR. As already pointed out, the authority given to the DAR under Section 30 of RA No. 9700 to conclude any agrarian reform proceeding pending as of June 30, 2014, by necessity, includes an authority for the same to continue exercising its quasi-judicial powers under Section 50 of RA No. 6657 with respect to any agrarian reform matter or controversy that may arise in such proceeding.

EVERSLEY CHILDS SANITARIUM, represented by DR. GERARDO M. AQUINO, JR. (now DR. PRIMO JOEL S. ALVEZ) CHIEF OF SANITARIUM*, Petitioner*, -versus- SPOUSES ANASTACIO and PERLA BARBARONA, *Respondents*.
G.R. No. 195814, THIRD DIVISION, April 4, 2018, LEONEN, J.

It is true that defects in TCT No. 53698 or even Decree No. 699021 will not affect the fact of ownership, considering that a certificate of title does not vest ownership. The Torrens system "simply recognizes and documents ownership and provides for the consequences of issuing paper titles."

Without TCT No. 53698, however, respondents have no other proof on which to anchor their claim. The Deed of Full Renunciation of Rights, Conveyance of Full Ownership and Full Waiver of Title and Interest executed in their favor by the heirs of the Spouses Gonzales is insufficient to prove conveyance of property since no evidence was introduced to prove that ownership over the property was validly transferred to the Spouses Gonzales' heirs upon their death.

FACTS:

Eversley has occupied a portion of a parcel of land denominated as Lot No. 1936 in Jagobiao, Mandaue City, Cebu since 1930.

Spouses Anastacio and Perla Barbarona (the Spouses Barbarona) allege that they are the owners of Lot No. 1936 by virtue of Transfer Certificate of Title (TCT) No. 53698. They claim that they have acquired the property from the Spouses Tarcelo B. Gonzales and Cirila Alba (the Spouses Gonzales), whose ownership was covered by Original Certificate of Title (OCT) No. R0-824.

On May 6, 2005, the Spouses Barbarona filed a Complaint for Ejectment before the Municipal Trial Court in Cities of Mandaue City against the occupants of Lot No. 1936, namely, Eversley, Jagobiao National High School, the Bureau of Food and Drugs, and some residents (collectively, the occupants).

The MTC ruled in favor of the respondent spouses. The occupants appealed to the Regional Trial Court. The Regional Trial Court affirmed *in toto* the Decision of the Municipal Trial Court in Cities.

Meanwhile, the Court of Appeals in another case rendered a Decision, cancelling OCT No. R0-824 and its derivative titles, including that of the respondent spouses, for lack of notice to the owners of the adjoining properties and its occupants.

Eversley filed a Petition for Review with the Court of Appeals, arguing that the Regional Trial Court erred in not recognizing that the subsequent invalidation of the Spouses Barbarona's certificate of title was prejudicial to their cause of action. But the CA denied the same.

ISSUE:

Whether the subsequent nullification of the TCT of the respondent spouses had the effect of invalidating their right of possession over the disputed property. (YES)

RULING:

In this instance, respondents anchor their right of possession over the disputed property on TCT No. 53698 issued in their names. It is true that a registered owner has a right of possession over the property as this is one of the attributes of ownership.

Here, respondents alleged that their right of ownership was derived from their predecessors-in-interest, the Spouses Gonzales, whose Decree No. 699021 was issued on March 29, 1939. The Register of Deeds certified that there was no original certificate of title or owner's duplicate issued over the property, or if there was, it may have been lost or destroyed during the Second World War. The heirs of the Spouses Gonzales subsequently executed a Deed of Full Renunciation of Rights, Conveyance of Full Ownership and Full Waiver of Title and Interest on March 24, 2004 in respondents' favor. Thus, respondent Anastacio Barbarona succeeded in having Decree No. 699021 reconstituted on July 27, 2004 and having TCT No. 53698 issued in respondents' names on February 7, 2005.

During the interim, the Republic of the Philippines, represented by the Office of the Solicitor General, filed a Petition for Annulment of Judgment before the Court of Appeals to assail the reconstitution of Decree No. 699021, docketed as CA-G.R. SP No. 01503. On February 19, 2007, the Court of Appeals in that case found that the trial court reconstituted the title without having issued the required notice and initial hearing to the actual occupants, rendering all proceedings void.

Petitioner, a public hospital operating as a leprosarium dedicated to treating persons suffering from Hansen's disease, has been occupying the property since May 30, 1930.

Proclamation No. 507 was issued on October 21, 1932, "which reserved certain parcels of land in Jagobiao, Mandaue City, Cebu as additional leprosarium site for the Eversley Childs Treatment

Station." Petitioner's possession of the property, therefore, pre-dates that of respondents' predecessors-in-interest, whose Decree No. 699021 was issued in 1939.

It is true that defects in TCT No. 53698 or even Decree No. 699021 will not affect the fact of ownership, considering that a certificate of title does not vest ownership. The Torrens system "simply recognizes and documents ownership and provides for the consequences of issuing paper titles."

Without TCT No. 53698, however, respondents have no other proof on which to anchor their claim. The Deed of Full Renunciation of Rights, Conveyance of Full Ownership and Full Waiver of Title and Interest executed in their favor by the heirs of the Spouses Gonzales is insufficient to prove conveyance of property since no evidence was introduced to prove that ownership over the property was validly transferred to the Spouses Gonzales' heirs upon their death.

Moreover, Proclamation No. 507, series of 1932, *reserved* portions of the property specifically for petitioner's use as a leprosarium. Even assuming that Decree No. 699021 is eventually held as a valid Torrens title, a title under the Torrens system is always issued subject to the annotated liens or encumbrances, or what the law warrants or reserves.

Portions occupied by petitioner, having been reserved by law, cannot be affected by the issuance of a Torrens title. Petitioner cannot be considered as one occupying under mere tolerance of the registered owner since its occupation was by virtue of law. Petitioner's right of possession, therefore, shall remain unencumbered subject to the final disposition on the issue of the property's ownership.

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus- LAUREANA MALIJAN-JAVIER and IDEN MALIJAN-JAVIER, *Respondents*.
G.R. No. 214367, THIRD DIVISION, April 4, 2018, LEONEN, J.

It is well-settled that a CENRO or PENRO certification is not enough to establish that a land is alienable and disposable. It should be "accompanied by an official publication of the DENR Secretary's issuance declaring the land alienable and disposable."

In this case, although respondents were able to present a CENRO certification, a DENR-CENRO report with the testimony of the DENR officer who made the report, and the survey plan showing that the property is already considered alienable and disposable, these pieces of evidence are still not sufficient to prove that the land sought to be registered is alienable and disposable. Absent the DENR Secretary's issuance declaring the land alienable and disposable, the land remains part of the public domain.

FACTS:

This case involves Respondents Laureana and Iden's application for registration of land title over a parcel situated in Barangay Tranca, Talisay, Batangas filed in June 2009 before the Municipal Circuit Trial Court of Talisay-Laurel, Batangas. The land, regarded as Lot No. 1591, Cad. 729, Talisay Cadastre, had an area of 9,629 square meters.

On September 10, 2009, Republic of the Philippines (Republic) filed an Opposition to the application on the ground that: (1) the respondents failed to comply with the possession and occupation requirement of the law; (2) the tax declarations relied upon by appellees do not constitute competent and sufficient evidence of a *bona fide* acquisition of the land; and (3) the parcel of land applied for is a land of public domain and, as such, not subject to private appropriation.

An initial hearing was scheduled and since nobody appeared to oppose Laureana and Iden's application, the trial court issued an Order of General Default against the whole world except the Republic.

After the hearing, the trial court rendered a Decision granting Laureana and Iden's application for registration of title. It held that they were able to establish that the property was alienable and disposable since September 10, 1997 and that the respondents and their predecessors-in-interest had been in open, continuous, exclusive, and notorious possession of the subject property, in the concept of an owner, even prior to 12 June 1945

The Republic elevated the case to the Court of Appeals. It averred that there should be: (1) a CENRO or PENRO Certification; and (2) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records attached to the application for title registration. It added that Laureana and Iden failed to attach the second requirement. But the Republic's appeal was dismissed.

ISSUE:

Whether the Repondents' application for registration of property should be approved. (NO)

RULING:

Land registration is governed by Section 14 of Presidential Decree No. 1529 or the Property Registration Decree. Applicants whose circumstances fall under Section 14(1) need to establish only the following:

> *First,* that the subject land forms part of the disposable and alienable lands of the public domain; *second,* that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the [land]; and *third,* that it is under a *bonafide* claim ownership since June 12, 1945, or earlier.

It is well-settled that a CENRO or PENRO certification is not enough to establish that a land is alienable and disposable. It should be "accompanied by an official publication of the DENR Secretary's issuance declaring the land alienable and disposable." In *Republic* v. *T.A.N. Properties*:

> [I]t is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition, *the applicant for land registration must present a copy of the*

original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable.

In this case, although respondents were able to present a CENRO certification, a DENR-CENRO report with the testimony of the DENR officer who made the report, and the survey plan showing that the property is already considered alienable and disposable, these pieces of evidence are still not sufficient to prove that the land sought to be registered is alienable and disposable. Absent the DENR Secretary's issuance declaring the land alienable and disposable, the land remains part of the public domain.

REPUBLIC OF THE PHILIPPINES, ***Petitioner*, -versus- LAKAMBINI C. JABSON, PARALUMAN C. JABSON, MAGPURI C. JABSON, MANUEL C. JABSON III, EDGARDO C. JABSON, RENATO C. JABSON, NOEL C. JABSON, and NESTOR C. JABSON, represented by LAKAMBINI C. JABSON, Attorney-in-Fact**, ***Respondents*.**
G.R. No. 200223, FIRST DIVISION, June 6, 2018, LEONARDO-DE CASTRO, J.

While the PENRO and CENRO are authorized to issue certifications as to the status of land classification, only the DENR Secretary is empowered to declare that a certain parcel of land forms part of the alienable and disposable portion of the public domain.

FACTS:

There are two parcels of land being applied for registration — one is located at Barrio San Jose, Pasig City, and the other is situated in Barangay Bagong Katipunan, Pasig City. Both used to form part of seven parcels of land owned and possessed by the Jabson family as early as 1909. Each and every applicant herein claims undivided share and participation as follows: Lakambini C. Jabson — 1/5; Paraluman Jabson — 1/5; Magpuri Jabson — 1/5 & Tala J. Olega — 1/5; Manuel III, Edgardo, Renato, Noel & Nestor Jabson as legal heirs of their father Manuel Jabson, Jr. — 1/5.

Sometime in 1978, applicants had already applied for registration of the same parcels of land. However, said previous application docketed as LRC No. 9572 was dismissed by the CFI of Rizal, Branch 11, as per Order dated 29 December 1978 for failure of the applicants to comply with the recommendation of the then Land Registration Commission to include in their application the complete names and postal addresses of all the lessees occupying the lands sought to be registered.

On February 17, 1999, siblings Lakambini, Paraluman, Tala, and Magpuri together with Manuel III, Edgardo, Renato, Noel, and Nestor representing their father, Manuel, Jr., all surnamed Jabson (respondents Jabson), filed for the second time an Application for Registration of Title (Application) before the RTC, Branch 161, Pasig City docketed as LRC Case No. N-11402. Respondents Jabson acquired the San Jose and Bagong Katipunan properties via inheritance and purchase from their predecessors-in-interest. At the time of filing, it is not disputed that Lakambini, Paraluman, and Magpuri have already built their residences on the San Jose property, with remaining portions of the land occupied by third parties either thru lease or applicants' mere acquiescence. As to the Bagong Katipunan property, respondents Jabson alleged that they have leased portions of it to various third parties who have been paying rentals thereon.
The RTC, on October 28, 2003, rendered its Decision in favor of respondents Jabson. The RTC found that respondents Jabson acquired the properties from their predecessors-in-interest who, in turn,

have possessed the same since time immemorial. Thus, the RTC ruled that respondents Jabson satisfactorily proved and established their rights over the subject properties, in compliance with Section 14 (1) and (2) of Presidential Decree No. 1529.

On appeal to the CA, the appellate court rendered a Decision on January 30, 2009 in favor of the petitioner. Upon respondent Jabson's motion for reconsideration, the CA issued its Amended Decision dated November 4, 2010. The CA found that respondents Jabson sufficiently established that: (a) they have had open, continuous, exclusive, and notorious possession of the subject properties; and (b) such properties formed part of the alienable and disposable lands of the public domain.

Further, the appellate court ruled that respondents Jabson sufficiently established their adverse possession of the subject properties through the following: (a) by exercising specific acts of ownership such as constructing residential houses on the subject properties and leasing the same to third parties, and (b) as admitted by petitioner Republic, by possessing and occupying the San Jose property since 1944.

Aggrieved, petitioner moved for reconsideration which was, however, denied. Hence, the present petition.

ISSUE:

Whether the grant of respondents Jabson's application for registration of title to the subject property was proper under the law and current jurisprudence. (NO)

RULING:

We cannot give probative value to the DENR Certification dated February 19, 2009 as submitted by respondents Jabson.

First, respondents Jabson's belated submission of a supposed vital document tending to prove the subject properties' alienability is fatal to their cause. Second, as correctly pointed out by petitioner Republic, Carlito P. Castañeda, a *DENR Sr. Forest Management Specialist*, was not authorized to issue certifications as to land classification, much less order for the release of lands of the public domain as alienable and disposable. While the PENRO and CENRO are authorized to issue certifications as to the status of land classification, only the DENR Secretary is empowered to declare that a certain parcel of land forms part of the alienable and disposable portion of the public domain. *Third*, a certification alone is not sufficient in proving the subject land's alienable and disposable nature. We have already ruled that a PENRO and/or CENRO certification must be accompanied by a copy of the original classification, certified as a true copy by the legal custodian of the official records, which: (a) released the subject land of the public domain as alienable and disposable, and (b) was approved by the DENR Secretary. *Fourth*, even assuming *arguendo* that the DENR Certification dated February 19, 2009 does not suffer the aforementioned shortcomings, the same only served to prove the land classification of one of the subject properties — Bagong Katipunan.

All told, from the foregoing, it is clear that respondents Jabson did not overcome the presumption that the parcels of land sought to be registered still formed part of the public domain. Thus, there

was absolutely no basis for the Court of Appeals to approve respondents Jabson's application pertaining to the Bagong Katipunan property, and much less the San Jose property.

SAMUEL AND EDGAR BUYCO, *Petitioners,* - versus - REPUBLIC OF THE PHILIPPINES, *Respondent.*

G.R. No. 197733, SECOND DIVISION, August 29, 2018, CAGUIOA, J.

There are TWO documents that must be presented to prove that the land subject of the application for registration is alienable and disposable: (1) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records, and (2) a certificate of land classification status issued by the CENRO or the Provincial Environment and Natural Resources Office (PENRO) based on the land classification approved by the DENR Secretary.

Given that the proofs which the petitioners presented in this case to prove the alienable and disposable character of the Subject Land proceed mainly from a Certification by the CENRO which is insufficient, their second attempt to register the Subject Land under the Torrens system must suffer the same fate as their first.

FACTS:

On October 14, 1976, brothers Edgardo H. Buyco and Samuel H. Buyco, through their attorney-in-fact Rieven H. Buyco, filed an application for registration of a parcel of land. The Republic through the Director of Lands opposed the application. The Land Registration Court granted the application. The same reached the Supreme Court which ultimately denied the application on the ground the land is not alienable and disposable.

On December 6, 1995, or approximately six (6) years later, Edgar Buyco and Samuel Buyco filed for the second time an application for registration of title covering the same parcel of land.

They presented the following to prove the alienable and disposable character of the land: (1) blue print copy of the Sketch Plan with technical description and a certification by the Land Investigator that the same is within the alienable and disposable zone; (2) one-page report of Land Management Officer III, of the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR) and the Land Investigator who conducted an ocular inspection of the property stating that the same n the alienable and disposable zone; (3) The testimony of the Land Management Officer III narrating how the officer ascertained that the land falls within the alienable and disposable zone.

ISSUE:

Whether the land is alienable and disposable (NO)

RULING:

In the recent case of *In Re: Application for Land Registration Suprema T. Dumo v. Republic of the Philippines (Dumo),* the Court reiterated the requirement it set in *Republic of the Philippines v. T.A.N. Properties, Inc*. that there are TWO documents that must be presented to prove that the land subject of the application for registration is alienable and disposable: (1) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official

records, and (2) a certificate of land classification status issued by the CENRO or the Provincial Environment and Natural Resources Office (PENRO) based on the land classification approved by the DENR Secretary.

Dumo also stated that: "a CENRO or PENRO certification is not enough to prove the alienable and disposable nature of the property sought to be registered because the only way to prove the classification of the land is through the original classification approved by the DENR Secretary or the President himself."

Given that the proofs which the petitioners presented in this case to prove the alienable and disposable character of the Subject Land proceed mainly from a Certification by the CENRO which is insufficient, their second attempt to register the Subject Land under the Torrens system must suffer the same fate as their first.

REPUBLIC OF THE PHILIPPINES, *Petitioner*, - versus - HEIRS OF IGNACIO DAQUER and THE REGISTER OF DEEDS, PROVINCE OF PALAWAN, *Respondents*

G.R. No. 193657, EN BANC, September 04, 2018, LEONEN, J.

It must be emphasized that in classifying lands of the public domain as alienable and disposable, there must be a positive act from the government declaring them as open for alienation and disposition. A positive act is an act which clearly and positively manifests the intention to declassify lands of the public domain into alienable and disposable. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable."

In this case, the records are bereft of any evidence showing that the land has been classified as alienable and disposable. Respondents presented no proof to show that a law or official proclamation had been issued declaring the land covered by Homestead Patent No. V-67820 to be alienable and disposable.

FACTS:

On October 22, 1933, Ignacio Daquer, married to Fernanda Abela, applied for a homestead patent grant over Lot No. H-19731, situated at Brgy. Corong-Corong, Centro, Bacuit, Palawan. Daquer lodged Homestead Application No. 197317 before the Bureau of Lands, now Land Management Bureau.

On September 3, 1936, the Provincial Environment and Natural Resources Officer, by the Director of the Bureau of Lands' authority, approved Daquer's application and issued him Homestead Patent No. V- 67820. Thereafter, Homestead Patent No. V-67820 was transmitted to the Registrar of Deeds of Palawan for registration. After registration, Original Certificate of Title (OCT) No. G-3287 was issued in Daquer's name.

On April 3, 1969, Daquer passed away. He was survived by his children, who were his legal heirs.

Subsequently, the Department Secretary and the Undersecretary for Legal Affairs of the Department of Agriculture and Natural Resources instructed the Community Environment and Natural Resource Office (CENRO) "to submit an inventory of suspected spurious titles cases which

may fall within timberland and classified public forest. Pursuant to their directive, the Land Management Officer III of CENRO, Taytay, Palawan, investigated to determine whether lands covered by approved patent applications were indeed alienable or disposable.

Upon investigation, it was discovered that the land covered by Homestead Application No. 197317 and OCT No. G-3287 fell within the zone of unclassified public forest. Consequently, the Republic of the Philippines (the Republic) filed a Complaint for Cancellation of Free Patent, Original Certificate of Title and Reversion of land to public domain on April 1, 2003.

ISSUE:

Whether the mere issuance of a homestead patent could classify an otherwise unclassified public land into an alienable and disposable agricultural land of the public domain (NO)

Whether the Original Certificate of Title should be cancelled (YES)

RULING:

1. A homestead patent is a gratuitous grant from the government "designed to distribute disposable agricultural lots of the State to land -destitute citizens for their home and cultivation." Being a gratuitous grant, a homestead patent applicant must strictly comply with the requirements laid down by the law.

When Daquer filed Homestead Application No. 197317 on October 22, 1933, the governing law was Act No. 2874 or the Public Land Act, which outlined the procedure for the classification and disposition of lands of the public domain.

Under the Public Land Act, the Governor-General (now the President), upon the recommendation of the Secretary of Agriculture and Natural Resources (now Department of Environment and Natural Resources), shall have the power to classify lands of the public domain into: (1) alienable or disposable; (2) timber; and (3) mineral lands.

Lands of public domain which have been classified as alienable or disposable may further be classified into: (1) agricultural; (2) commercial, industrial, or for similar productive purposes; (3) educational, charitable and other similar purposes; and (4) reservations for town sites, and for public and quasi-public uses.

Once lands of public domain have been classified as public agricultural lands, they may be disposed through any of the following means: (1) homestead settlement; (2) sale; (3) lease; or (4) confirmation of imperfect or incomplete titles

Chapter IV of the Public Land Act governs the disposition of public agricultural lands through a homestead settlement. Section 12 provides: Any citizen of the Philippine Islands or of the United States, over the age of eighteen years, or the head of a family, who does not own more than twenty-four hectares of land in said Islands or has not had the benefit of any gratuitous allotment of more than twenty-four hectares of land since the occupation of the Philippine Islands by the United States, may enter a homestead of not exceeding twenty-four hectares of agricultural land of the public domain.

Thereafter, should the Director of Lands find the application compliant with the requirements of the law, he or she would approve it. Only lands of the public domain which have been classified as public agricultural lands may be disposed of through homestead settlement.

The Public Land Act vested the exclusive prerogative to classify lands of the public domain to the Executive Department, specifically with the Governor-General, now the President. Thus, until and unless lands of the public domain have been classified as public agricultural lands, they are inalienable and not capable of private appropriation.

It must be emphasized that in classifying lands of the public domain as alienable and disposable, there must be a positive act from the government declaring them as open for alienation and disposition. A positive act is an act which clearly and positively manifests the intention to declassify lands of the public domain into alienable and disposable. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable."

In this case, the records are bereft of any evidence showing that the land has been classified as alienable and disposable. Respondents presented no proof to show that a law or official proclamation had been issued declaring the land covered by Homestead Patent No. V-67820 to be alienable and disposable.

Act No. 2874 merely outlines the procedure for the administration and disposition of alienable lands of the public domain. Clearly, the lack of any qualifying words that explicitly declare the lands as alienable and disposable or convey ownership over them proves that Act No. 2874 was enacted merely to serve as a guideline for the proper administration and disposition of alienable lands. Act No. 2874, Section 8 provides that only lands which have been officially delimited and classified as alienable may be disposed of through any of the authorized methods.

Therefore, the issuance of Homestead Patent No. V-67820 in favor of Daquer, pursuant to the Public Land Act, did not, by itself, reclassify Lot No. H-19731 into alienable and disposable public agricultural land.

2. As a rule, a certificate of title issued pursuant to a homestead patent partakes the nature of a certificate of title issued through a judicial proceeding and becomes incontrovertible upon the expiration of one (1) year. Nevertheless, the rule that "a certificate of title issued pursuant to a homestead patent becomes indefeasible after one year, is subject to the proviso that 'the land covered by said certificate is a disposable public land within the contemplation of the Public Land Law."

When the property covered by a homestead patent is part of the inalienable land of the public domain, the title issued pursuant to it is null and void, and the rule on indefeasibility of title will not apply. In *Republic v. Ramos*, this Court held that despite the registration of the land and the issuance of a Torrens title, the State may still file an action for reversion of a homestead land that was granted in violation of the law. The action is not barred by the statute of limitations, especially against the State. *Heirs of Spouses Vda. De Palanca v. Republic* also held that the State may recover non-disposable public lands registered under the Land Registration Act "at any time and the defense of res judicata would not apply as courts have no jurisdiction to dispose of such lands of the public domain."

PHILIPPINE NATIONAL BANK, *Petitioner,* -versus- SPOUSES ANGEL AND BUENVENIDA ANAY, AND SPOUSES FRANCISCO AND DOLORES LEE, *Respondents.*
G.R. No. 197831, FIRST DIVISION, July 09, 2018, TIJAM, *J.*

In Ereña v. Querrer-Kauffman, it held that:

> *The doctrine of a mortgagee in good faith finds similar basis on the rule that persons dealing with property covered by a Torrens Certificates of Title, either as buyers or as mortgagees, are not required to go beyond what appears on the face of the title.*

This doctrine, however, does not apply in the instant case. For one, the issue of being a mortgagee in good faith is a factual matter, which cannot be raised in this petition. For another, the doctrine of mortgagee in good faith "presupposes that the mortgagor, who is not the rightful owner of the property, has already succeeded in obtaining Torrens title over the property in his name and that, after obtaining the said title, he succeeds in mortgaging the property to another who relies on what appears on the title." Such is not the case here as the fact that the Spouses Anay were the registered owners of the subject property was never disputed, thus the genuineness of the latter's title was never an issue. What is controversial is the authority of the Spouses Lee to mortgage the property of the Spouses Anay.

FACTS:
The Spouses Lee obtained a loan from PNB initially in the amount of P400,000.00 but which was later on increased to P7,500,000.00 under a Revolving Credit Line.

To cover the increased credit accommodation, the Spouses Lee offered additional securities which included a parcel of land registered in the name of the Spouses Anay located at Iponan, Cagayan de Oro City with an area of 5,503 square meters and covered by Transfer Certificate of Title (TCT) No. T- 25805. For this purpose, the Spouses Anay executed a Special Power of Attorney (SPA) in favor of the Spouses Lee, authorizing the latter to use the subject property as security for the loan.

The Spouses Lee failed to pay their loan obligations. Consequently, PNB initiated extrajudicial foreclosure proceedings against the mortgaged properties, including that of the Spouses Anay. PNB emerged as the highest bidder in the auction sale and a Sheriff's Certificate of Sale was thereafter issued. When the redemption period expired without the Spouses Lee or the Spouses Anay having exercised the right of redemption, PNB consolidated its title over the foreclosed properties. As such, TCT No. T-25805 was canceled and in lieu thereof, a new title, TCT No. T-120269, was issued in PNB's name.

The Spouses Anay filed a Complaint against the Spouses Lee and PNB for annulment of the SPA, foreclosure proceedings and the Sheriffs Certificate of Sale on the ground of vitiated consent. It appears that the Spouses Lee urged Marietta Anay Cabinatan (Marietta), a daughter of the Spouses Anay, to let them borrow the latter's property to be used as additional security to cover their increased loan with the PNB.

Marietta could not refuse since the Spouses Lee were her employers. At that time, the Spouses Anay were both of old age, weak, hard of hearing and could barely see. So much so that Marietta had to move her father's hand to sign and had to hold her mother's hand while affixing her thumbmark on the SPA. The contents of the SPA were neither explained to the poor couple as Marietta summarily told them to "just sign" the SPA. The Spouses Anay also did not receive any amount out of the loan obtained by the Spouses Lee from PNB. In all, the RTC reached the conclusion that the Spouses Anay's consent to the SPA were vitiated, if not totally absent. PNB's motion for reconsideration was denied prompting an appeal before the CA. The CA dismissed the appeal. It held that the cancellation of PNB's title does not constitute an indirect or collateral attack because said title was irregularly and illegally issued to begin with, it having emanated from an annulled SPA. PNB's motion for reconsideration met similar denial. Hence, this petition.

ISSUE:

Whether PNB is a mortgagee in good faith?

RULING:

No. PNB seeks protection as mortgagee in good faith as it allegedly had no hand in the fraud or bad faith perpetrated by the Spouses Lee in securing the SPA. The **doctrine of a mortgagee in good faith** finds similar basis on the rule that persons dealing with property covered by a Torrens Certificates of Title, either as buyers or as mortgagees, are not required to go beyond what appears on the face of the title.

This doctrine, however, does not apply in the instant case. For one, the issue of being **a mortgagee in good faith is a factual matter,** which cannot be raised in this petition. For another, the **doctrine of mortgagee in good faith "presupposes that the mortgagor, who is not the rightful owner of the property, has already succeeded in obtaining Torrens title over the property in his name and that, after obtaining the said title, he succeeds in mortgaging the property to another who relies on what appears on the title.**" Such is not the case here as the fact that the Spouses Anay were the registered owners of the subject property was never disputed, thus the genuineness of the latter's title was never an issue. What is controversial is the authority of the Spouses Lee to mortgage the property of the Spouses Anay.

It is in this regard that PNB denies having knowledge of, or participation in the manner and the circumstances surrounding the execution of the SPA. PNB's self-serving claim is, however, easily dispelled by the testimony of its very own employee, PNB Inspector Marcial Abucay (PNB Inspector Abucay) who was present, together with another PNB employee Jun Abella, at the time of the signing of the SPA.

Based on the testimonial evidence offered by PNB itself through PNB Inspector Abucay, when the Spouses Anay were made to sign the previously prepared SPA, the husband was already bedridden, half-blind, not able to recognize, cannot read the SPA, and his hand had to be moved by Marietta to approximate the act of signing. PNB Inspector Abucay further testified that he did not hear whether Marietta explained the contents of the document to the Spouses Anay before she made them sign.

PNB's theory of being a mortgagee in good faith is therefore unavailing. It having been established that the SPA was secured through vitiated consent and there being no ratification on the part of the Spouses Anay, the SPA is, consequently void. As such, the SPA cannot be the basis of a valid mortgage contract, nor of the subsequent foreclosure and consolidation of title in favor of PNB.

B. Original registration

1. Ordinary registration

a. Who may apply

REPUBLIC OF THE PHILIPPINES, *Petitioner,* - versus- ROVENCY REALTY AND DEVELOPMENT CORPORATION, *Respondent*.
G.R. No. 190817, THIRD DIVISION, January 10, 2018, MARTIRES, J.

RRDC failed to establish that when it or P.N. Roa Enterprises, Inc., also a corporation and its direct predecessor-in-interest, acquired the subject land, it had already been converted to private property, thus, the prohibition on the corporation's acquisition of agricultural lands of the public domain under Section 3, Article XII of the 1987 Constitution applies.

FACTS:

On 22 March 2001, RRDC filed before the RTC an Amended Application for Registration covering a parcel of land identified as Lot No. 3009 situated in Cagayan de Oro City.

RRDC alleged that it is the absolute owner in fee simple of the subject land having acquired the same from its previous owner, P.N. Roa Enterprises, Inc., by virtue of a notarized deed of absolute sale executed on 05 March 1997; that it had paid taxes thereon, and immediately after acquiring the subject land, it took actual physical possession of the same and has been continuously occupying the subject land; and that it and its predecessors-in- interest have been in open, continuous, adverse, and peaceful possession in concept of owner of the subject land since time immemorial, or for more than thirty (30) years.

An opposition to the application was filed by the Heirs of Paulino Avancena. They alleged, that the subject land was already claimed and owned by the late Atty. Paulino Avancena their father and predecessor-in-interest, as early as 1926; that Paulino had been in open, continuous, notorious, adverse, and exclusive possession and occupation of the subject land; that Paulino registered the subject land for taxation purposes and has paid the taxes due thereon in 1948; that their parents, Paulino and Rizalina Neri merely allowed and tolerated Pedro N. Roa's possession of the subject land after the latter approached them and requested that he be allowed to use the subject land for

his businesses; that Pedro is one of RRDC's predecessors-in-interest; that sometime in 1994, Rizalina demanded the return of the subject land from the heirs of Pedro, but to no avail; that in 1996, Rizalina died leaving the private oppositors as the rightful heirs of the subject land; that their parents never sold the subject land to Pedro nor to RRDC, and as such, no right or title over the subject land was passed on to RRDC. Thus, they prayed that RRDC's application be dismissed, and that their opposition be treated as their own application for registration.

During trial, RRDC presented documents in support of its application including deeds of sale in favor of its predecessors in interest, a certification from the Community Environment and Natural Resources Office (CENRO), Cagayan de Oro City, certifying that the subject land is alienable and disposable and not covered by any public land application patent, and several tax declarations in the name of its predecessors-in-interest, the earliest of which is T.D. No. 91264, which showed that realty taxes on the subject land have been paid in 1947.

Petitioner Republic of the Philippines through the Office of the Solicitor General filed its opposition to the application on the following grounds: that neither RRDC nor its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land in question since 12 June 1945 or prior thereto; that the subject land exceeds the twelve (12)-hectare limit for confirmation of imperfect title set by Section 47 of Commonwealth Act (CA.) No. 141, as amended by Republic Act (R.A.) No. 6940; and that the subject land forms part of the public domain belonging to the Republic and, thus, not subject to private appropriation.

The RTC granted RRDC's application for registration of the subject land, ruling that the land is alienable and disposable and not covered by any public land application. It further ruled, that RRDC and its predecessors-in-interest had been in open and continuous possession under a bona fide claim of ownership over the subject land based on the documentary and testimonial evidence offered by RRDC, without discussing how these pieces of evidence established the possession. The trial court further brushed aside the opposition interposed by the heirs of Paulino Avanceña. It was not convinced that the evidence they presented were sufficient to grant their application.

Unconvinced, the Republic, through the OSG, and private oppositors heirs of Paulino Avancena, elevated their respective appeals to the CA.

The Republic contended that land applied for is in excess of what is allowed by the Constitution; and that the Corporation Code further prohibits RRDC to acquire the subject land unless the acquisition thereof is reasonably necessary for its business. The Avancena heirs insisted that they are the rightful owners of the subject land.

The CA affirmed the 7 November 2003 RTC decision.

ISSUE:

Whether the trial court erred in ordering the issuance of a decree of registration. (NO)

RULING:

The 12-hectare prohibition in Section 3, Article XII applies only to lands of the public domain. Private lands are, therefore, outside of the prohibitions and limitations stated therein. Thus, the

appellate court correctly declared that the 12-hectare limitation on the acquisition of lands under Section 3, Article XII of the 1987 Constitution has no application to private lands.

The limitation and the prohibition on corporations to acquire lands, do not cover ownership of private lands. Whether RRDC can acquire the subject land and to what extent, depends on whether the pieces of evidence it presented before the trial court sufficiently established that the subject land is alienable and disposable land of the public domain; and that the nature and duration of the possession of its individual predecessors-in-interest converted the subject land to private land by operation of law.

Applicants for original registration of title to land must first establish compliance with the provisions of either Section 14(1) or Section 14(2) of P.D. No. 1529, which state:

> Sec. 14. Who may apply. The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:
>
> (1) Those who by themselves or through their predecessors-in interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.
>
> (2) Those who have acquired ownership of private lands by prescription under the provision of

In the present case, to prove that the subject land is alienable and disposable, RRDC presented a CENRO certification stating that the subject land is "alienable and disposable and not covered by any public land application." **RRDC, however, failed to present a certified true copy of the original classification approved by the DENR Secretary declaring the subject land alienable and disposable.** Clearly, the evidence presented by RRDC falls short of the requirements in TA.N. Properties. **Thus, the trial and appellate courts erred when they ruled that the subject land is alienable and disposable part of the public domain and susceptible to original registration.**

Furthermore, RRDC also failed to prove that it and its individual predecessors-in-interest sufficiently complied with the required period and nature of possession.

An applicant for land registration must exhibit that it and its predecessors-in-interest had been in open, continuous, exclusive, and notorious possession and occupation of the land under a bona fide claim of ownership since 12 June 1945 or earlier.

In this case, aside from the deeds of absolute sale covering the subject land which were executed prior to 12 June 1945, **RRDC did not present any evidence which would show that its predecessors-in-interest actually exercised acts of dominion over the subject land even before the cut-off period.** As such, RRDC failed to prove that its possession of the land, or at the very least, its individual predecessors-in-interest's possession over the same was not mere fiction.

Neither would the tax declarations presented by RRDC suffice to prove the required possession. To recall, the earliest of these tax declarations dates back only to 1948. Clearly, the required possession and occupation since 12 June 1945 or earlier, was not demonstrated.

From the foregoing, it is clear **that RRDC failed to prove that its individual predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the subject land under a bona fide claim of ownership since 12 June 1945 or earlier; and that said possession and occupation converted the subject land into a private property by operation of law.** Consequently, the **subject land cannot be registered in the name of RRDC** under Section 14(1) of P.D. No. 1529.

In this case, **RRDC did not present any evidence which would show that the subject land was expressly declared as no longer intended for public service or the development of the national wealth, or that the property has been converted into patrimonial. Hence, it failed to prove that acquisitive prescription has begun to run against the State**, and that it has acquired title to the subject land by virtue thereof.

In fine, RRDC failed to satisfy all the requisites for registration of title to land under either Sections 14(1) or (2) of P.D. No. 1529**. RRDC also failed to establish that when it or P.N. Roa Enterprises, Inc., also a corporation and its direct predecessor-in-interest, acquired the subject land, it had already been converted to private property, thus, the prohibition on the corporation's acquisition of agricultural lands of the public domain under Section 3, Article XII of the 1987 Constitution applies.** RRDC's application for original registration of imperfect title over Lot No. 3009 **must perforce be denied.**

ALEX A. JAUCIAN, PETITIONER, VS. MARLON DE JORAS AND QUINTIN DE JORAS, RESPONDENTS.
G.*R. No. 221928, SECOND DIVISION, September 05, 2018,* CARPIO, *J*

*The **Director of Lands has no authority to grant to another free patent for land that has ceased to be a public land and has passed to private ownership**. x x x. (Emphasis supplied)*

*In this case, the subject lands, at the time Jaucian applied for a free patent registration, were already in the possession of Quintin. However, Quintin has not shown, in this case at least, that he or his predecessors-in-interest have been in possession of the subject lands for a period of at least 30 years prior to 15 April 1990. **While the Director of the Land Management Bureau had no authority to vest any title to Jaucian who was not qualified for a free patent, the subject lands cannot also be awarded in this case to Quintin and his heirs. In any event, the free patent issued to Jaucian was null and void.***

FACTS:

Jaucian filed a Complaint against Quintin and his nephew, Marlon, for recovery of possession of the properties and damages.

The RTC found that Quintin's action for reconveyance and quieting of title is really one for reversion of land to the State because Quintin seeks the annulment of title issued pursuant to a free patent, implying that the land is public land. Thus, the RTC held that Quintin had no legal standing to institute an action for reversion; only the Office of the Solicitor General can bring an action for reversion on behalf of the Republic.

On the other hand, the Court of Appeals found that the case may be filed by Quintin and his heirs as the real parties-in-interest because the allegations in Quintin's complaint pertaining to the ownership of the land refer to an action for reconveyance and declaration of nullity of the free patent and certificate of title over the subject properties.

ISSUE:

Whether Jaucian is entitled to the possession of the subject properties and to recover damages. (NO)

RULING:

We affirm the decision of the Court of Appeals. Jaucian is not entitled to the possession of the properties and to recover damages because the free patent registered under his name is null and void. However, the subject properties cannot be awarded to Quintin and his heirs.

I. Quintin's allegations in the complaint.

Quintin's original complaint against Jaucian was an action for reconveyance and quieting of title with damages. X X X

An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. **The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified.** In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land. X X X

On the other hand, **a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant's fraud or mistake[,]** as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff. In such a case, **the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow, and whatever patent or certificate of title obtained therefor is consequently void ab initio. The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant**. (Emphasis supplied)

We agree with the Court of Appeals that Quintin's original complaint could not have been an action for reversion because the allegations did not admit State ownership. The Court of Appeals was correct when it held that the proper action is reconveyance and declaration of nullity of title because of Quintin's allegations as to the "character of ownership of the realty whose title is sought to be nullified." Quintin's allegations refer to (1) his preexisting right of ownership over the contested lots prior to the issuance of the free patent and certificate of title to Jaucian and (2) Jaucian's use of fraudulent schemes and gross misrepresentation to obtain the documents of title.

First of all, Quintin's allegations of a pre-existing right of ownership over the disputed lots prior to the issuance of the free patent and the OCT to Jaucian were clear in Quintin's complaint X X X

Thus, the Court of Appeals was correct when it held that what controls in determining the nature of the action are plaintiff's allegations in the complaint, and not the RTC's presumption that "the character of the disputed lot [was] public land simply from the proposition that it was acquired by virtue of a free patent."

II. The free patent under Jaucian's name is null and void.

The applicant for a free patent should comply with the following requisites: (1) the applicant must be a natural-born citizen of the Philippines; (2) the applicant must not own more than 12 hectares of land; (3) the applicant or his or her predecessor-in-interest must have continuously occupied and cultivated the land; (4) the continuous occupation and cultivation must be for a period of at least 30 years before April 15, 1990, which is the date of effectivity of Republic Act No. 6940; and (5) payment of real estate taxes on the land while it has not been occupied by other persons.

The case of *Republic v. Spouses Lasmarias* added:

Moreover, the application must be accompanied by a map and the technical description of the land occupied, along with affidavits proving his occupancy from two disinterested persons residing in the municipality or barrio where the land may be located.

In the present case, Jaucian applied for a free patent only in August 1992, and the free patent was granted only in 1995. Jaucian claimed that his predecessors-in-interest were in possession of the properties since 1945 when Vicente Abajero sold the properties to Eriberta dela Rosa. However, Jaucian did not present any evidence to prove the sale in 1945. Jaucian only presented the Deed of Sale executed between him and Eriberta dela Rosa on 7 July 1986.

In short, Jaucian failed to establish that he and his predecessors-in-interest had been in continuous possession of the subject lands for at least 30 years prior to 15 April 1990, or at least since 15 April 1960, as required in Section 44 of Commonwealth Act No. 141, as amended by Republic Act No. 6940. For this reason alone, Jaucian is not entitled to a free patent to the subject lands.

Moreover, the free patent application was not accompanied by a map and technical description of the land, along with affidavits of two disinterested persons proving Jaucian's occupancy. At the very least, Jaucian only attached the Deed of Sale and tax declarations both dated 7 July 1986. X X X

In *Heirs of Spouses De Guzman v. Heirs of Bandong*, we held that "a free patent that purports to convey land to which the Government did not have any title at the time of its issuance does not vest any title in the patentee as against the true owner." We further held that:

Private ownership of land x x x is not affected by the issuance of a free patent over the same land, because the Public Land Law applies only to lands of the public domain. The **Director of Lands has**

no authority to grant to another free patent for land that has ceased to be a public land and has passed to private ownership. x x x. (Emphasis supplied)

In this case, the subject lands, at the time Jaucian applied for a free patent registration, were already in the possession of Quintin. However, Quintin has not shown, in this case at least, that he or his predecessors-in-interest have been in possession of the subject lands for a period of at least 30 years prior to 15 April 1990. **While the Director of the Land Management Bureau had no authority to vest any title to Jaucian who was not qualified for a free patent, the subject lands cannot also be awarded in this case to Quintin and his heirs. In any event, the free patent issued to Jaucian was null and void.**

II. Quintin may apply for a free patent registration under his name.

Nevertheless, Quintin and his heirs may, on their own, apply for free patent registration of the subject lands under their name, provided they can satisfy the requirements in *Taar v. Lawan* and *Republic v. Spouses Lasmarias* as discussed above. Their application must, among others, be accompanied by a map and the technical description of the land occupied, along with affidavits proving their occupancy from two disinterested persons residing in the municipality or barrio where the lands are located. Of course, the subject lands must first be shown to have been classified by a positive act as alienable and disposable in accordance with law.

KAWAYAN HILLS CORPORATION, *Petitioner*, *v.* **THE HONORABLE COURT OF APPEALS, JUSTICES JUAN ENRIQUEZ, JR., APOLINARIO BRUSELAS, JR., MANUEL BARRIOS, AMELITA G. TOLENTINO, AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENTS**, *Respondents*.

G.R. No. 203090, THIRD DIVISION, September 05, 2018, LEONEN, *J.*

The Court of Appeals was in serious error in granting the Republic's appeal and in concluding that title over Lot No. 2512 cannot be confirmed and registered in petitioner's favor. It failed to acknowledge the prolonged duration of consistent and uninterrupted payment of real property taxes; the absence of any adverse claim, save the Republic's opposition; and the confirmation and tillage since 1942. Its haphazard reliance on the notion that real property tax declarations are not conclusive evidence of ownership demonstrates its failure to go about its duty of resolving the case with care and precision. It indicates grave abuse of discretion.

In this case, the payment of real property taxes since as far back as 1931 by petitioner Kawayan Hills' predecessor-in interest, Andres, should not be dismissed so easily.

FACTS:

Kawayan Hills is a domestic corporation dealing with real estate. It is in possession of a 1,461-square-meter parcel of land identified as Lot No. 2512. All other lots surrounding Lot No. 2512 have been titled in Kawayan Hills' name. Kawayan Hills, through its President, Pastor Laya, filed an application for confirmation and registration of Lot No. 2512's title in its name before the Municipal Circuit Trial Court. The Republic, through the Office of the Solicitor General (OSG), filed its Opposition to the application.

The MCTC granted the application. However, the CA granted the appeal of the OSG. The MR by petitioner was denied. Hence, the current petition.

ISSUE: Whether or not petitioner Kawayan Hills Corporation is entitled to have title over Lot No. 2512 confirmed and registered in its favor. (YES)

RULING:

The Court of Appeals was in serious error in granting the Republic's appeal and in concluding that title over Lot No. 2512 cannot be confirmed and registered in petitioner's favor. It failed to acknowledge the prolonged duration of consistent and uninterrupted payment of real property taxes; the absence of any adverse claim, save the Republic's opposition; and the confirmation and tillage since 1942. Its haphazard reliance on the notion that real property tax declarations are not conclusive evidence of ownership demonstrates its failure to go about its duty of resolving the case with care and precision. It indicates grave abuse of discretion.

X X X

I. Contrary to the Court of Appeals' conclusion, petitioner is entitled to registration under Section 14(1).

Citing *Republic v. Hanover Worldwide Trading Corp*., *Canlas* broadly considered the requisites for availing registration under Section 14(1):

An applicant for land registration or judicial confirmation of incomplete or imperfect title under Section 14 (1) of Presidential Decree No. 1529 must prove the following requisites: "(1) that the subject land forms part of the disposable and alienable lands of the public domain, and (2) that [the applicant has] been in open, continuous, exclusive and notorious possession and occupation of the same under a bona fide claim of ownership since June 12, 1945, or earlier." Concomitantly, the burden to prove these requisites rests on the applicant.

Thus, two (2) things must be shown to enable registration under Section 14(1). First is the object of the application, i.e., land that is "part of the disposable and alienable lands of the public domain." Second is possession. This possession, in turn, must be: first, "open, continuous, exclusive, and notorious"; second, under a bona fide claim of acquisition of ownership; and third, has taken place since June 12, 1945, or earlier. X X X

II. The Court of Appeals' grossly dismissive consideration of tax declarations dating back to 1931 is a serious error.

While recognizing that tax declarations do not absolutely attest to ownership, this Court has also recognized that "**[t]he voluntary declaration of a piece of property for taxation purposes ... strengthens one's bona fide claim of acquisition of ownership. It has stated that payment of real property taxes "is good indicia of possession in the concept of an owner, and when coupled with continuous possession, it constitutes strong evidence of title."** For after all:

No person in the right mind would pay taxes on real property over which he or she does not claim any title. Its declaration not only manifests a sincere desire to obtain title to a property; it may be considered as an announcement of an adverse claim against State ownership. It would be unjust for the State to take properties which have been continuously and exclusively held since time immemorial without showing any basis for the taking, especially when it has accepted tax payments without question. X X X

III. [T]he payment of real property taxes since as far back as 1931 by petitioner Kawayan Hills' predecessor-in interest, Andres, should not be dismissed so easily. To the contrary, coupled with evidence of continuous possession, it is a strong indicator of possession in the concept of owner. X X X

Since the start of Andres' documented possession in 1931, no one has come forward to contest his and his successors-in-interest's possession as owners. It was only on September 4, 2001, about a month after petitioner's filing of its application, that the Republic came forward to contest the confirmation and registration of title in his name. By then, title to every single lot surrounding Lot No. 2512 had been issued in petitioner's name. Throughout the intervening time, Andres and his successors-in-interest tilled Lot No. 2512. Andres' grandson, Eufemiano, testified for petitioner before the Municipal Circuit Trial Court. He unequivocally declared that Andres had been occupying Lot No. 2512 since World War II. He affirmed that he had witnessed his grandfather harvesting fruits. The Municipal Circuit Trial Court categorically stated that Lot No. 2512 had been used by Andres and his children "for agricultural production since 1942."

IV. X X X **The Court of Appeals' reductive resort to an aphorism about tax declarations, as though it were an incantation that conveniently resolves the myriad dimensions of this case, is not mere error in judgment; it is grave abuse of discretion.** It amounts to its evasion of its positive duty to weigh the competing claims and to meticulously consider the evidence to arrive at a judicious resolution.

In so doing, the Court of Appeals validated what amounted to a mere *pro forma* opposition by the Republic, one that was triggered, not by an independent determination of a fatal error in an application, but by the mere occasion of the filing of an application. In *Spouses Noval*, this Court decried favorable actions on such *pro forma* oppositions as amounting to undue taking of property, thus, violative of the right to due process:

When an applicant in the registration of property proves his or her open, continuous, exclusive, and notorious possession of a land for the period required by law, he or she has acquired an imperfect title that may be confirmed by the State. The State may not, in the absence of controverting

evidence and in a *pro forma* opposition, indiscriminately take a property without violating due process.

For decades, Andres and his descendants toiled on Lot No. 2512. No one bothered to assail their possession or to claim it as owners. That is, until their transferee had the prudence to submit to legal processes by finally having title over Lot No. 2512 confirmed and registered. Rather than upholding legal objectives, the Republic's perfunctory response disincentivizes submission to judicial mechanisms. It unwittingly sends the message that holders of property, albeit through imperfect titles, are better off not bothering to abide by legal requirements. It is grave error to rule for the Republic in such cases merely on account of unquestioning belief in trite adages. The adjudication of judicial matters demands more than swift invocations. The Court of Appeals was much too accepting of the Republic's position. It was remiss in its duty to be a discriminating adjudicator; it was remiss in its duty to uphold due process and to do justice.

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus- ALAMINOS ICE PLANT AND COLD STORAGE, INC., REPRESENTED BY SAMUEL C. CHUA, *Respondent*.
G.R. No. 189723, THIRD DIVISION, July 11, 2018, MARTIRES, *J.*

Clearly, the appellate court erred in relying solely on the CENRO certification in order to affirm the approval of the application for the original registration of the subject public land.

The above pronouncements in Republic v. T.A.N. Properties remain current. The pronouncements found iteration in succeeding cases, notably in the 2011 pro hac vice case of Republic v. Vega, where the general rule was nevertheless summarized and reaffirmed in this wise:

> *To establish that the land subject of the application is alienable and disposable public land, the general rule remains: all applications for original registration under the Property Registration Decree must include both (1) a CENRO or PENRO certification and (2) a certified true copy of the original classification made by the DENR Secretary.*

Respondent failed to present a certified true copy of the DENR's original classification of the land. With this failure, the presumption that subject property, is inalienable public domain has not been overturned. The land is incapable of registration in this case.

FACTS:

In 2004, respondent Alaminos Ice Plant and Cold Storage, Inc., filed an application for the original registration, under the Torrens system, of a 10,000-square meter piece of land in Alaminos City.

The RTC granted the application. The OSG, for the Republic, filed an appeal imputing error on the grant of the application on the ground that respondent failed to submit in evidence a certification that the subject land was alienable and disposable.

Respondent countered that the land was not of the public domain, and so a certification of its alienability and disposability was unnecessary; at any rate, the Republic failed to present evidence of its non-alienability.

Interestingly, respondent subsequently filed with the CA a document titled *Manifestation/Compliance with Comment to Appellants Arguments*. Apparently, the CA had ordered

respondent to submit proof that the OSG had received a copy of the appellant's brief. Appended to the document was a certification from the CENRO of Alaminos City which identifies the land as alienable and disposable.

It was on this certification that the CA solely based its finding that the subject land was alienable, disposable, hence registrable.

ISSUE

Whether the CA erred in giving evidentiary weight to the certification allegedly issued by the DENR-CENRO, as it was unoffered during the trial as well as unidentified. (Yes)

RULING:

Preliminarily, on the notion espoused by respondent that in registration proceedings the Republic has a burden of proving that a piece of land is inalienable, indisposable, hence incapable of registration, the SC held that there is no such burden of proof. The Regalian Doctrine decrees that all lands of the public domain belong to the State, the source of any asserted right to any ownership of land.

Corollary to the doctrine, lands not appearing to be clearly within private ownership are presumed to belong to the State. Hence, while a burden of proof in registration proceedings exists, it is this: that of overcoming the presumption of State ownership of lands of the public domain. Logically, such burden lies on the person applying for registration. Thus, the onus of proving that the land is alienable and disposable lies with the applicant in an original registration proceeding; the government, in opposing the purported nature of the land, need not adduce evidence to prove otherwise.

In order to overcome the presumption of State ownership of public dominion lands, the applicant must present incontrovertible evidence that the land subject of the application is alienable or disposable.

The certification in the case at bar is no such evidence. In *Republic v. T.A.N. Properties*, the SC held that it was not enough for the CENRO or PENRO to certify that a certain parcel of land is alienable and disposable in order for said land to be registrable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable.

Clearly, the appellate court erred in relying solely on the CENRO certification in order to affirm the approval of the application for the original registration of the subject public land.

The above pronouncements in *Republic v. T.A.N. Properties* remain current. The pronouncements found iteration in succeeding cases, notably in the 2011 *pro hac vice* case of *Republic v. Vega*, where the general rule was nevertheless summarized and reaffirmed in this wise:

> To establish that the land subject of the application is alienable and disposable public land, the general rule remains: all applications for original registration under the Property Registration Decree must include both (1) a CENRO or PENRO certification and (2) a certified true copy of the original classification made by the DENR Secretary.

Respondent failed to present a certified true copy of the DENR's original classification of the land. With this failure, the presumption that subject property, is inalienable public domain has not been overturned. The land is incapable of registration in this case.

At any rate, the subject CENRO certification had not been formally offered. As petitioner correctly pointed out, a formal offer of evidence is necessary as courts must base their findings of fact and judgment solely on evidence formally offered at trial. Absent formal offer, no evidentiary value can be given to the evidence.

REPUBLIC OF THE PHILIPPINES, *Petitioner,* -versus- RONALD M. COSALAN, *Respondent*.
G.R. No. 216999, THIRD DIVISION, July 04, 2018, GESMUNDO, *J.*

In Cruz v. Secretary of DENR, it institutionalized the concept of native title. Thus:

> *Every presumption is and ought to be taken against the Government in a case like the present. It might, perhaps, be proper and sufficient to say that when, as far back as testimony or memory goes, the land has been held by individuals under a claim of private ownership, it will be presumed to have been held in the same way before the Spanish conquest, and never to have been public land.*

In Heirs of Gamos v. Heirs of Frando, it was held that:

> *where all the necessary requirements for a grant by the Government are complied with through actual physical possession openly, continuously, and publicly, with a right to a certificate of title to said land under the provisions of Chapter VIII of Act No. 2874, amending Act No. 926 (carried over as Chapter VIII of Commonwealth Act No. 141), the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the court — an application therefore being sufficient.*

As a rule, forest land located within the Central Cordillera Forest Reserve cannot be a subject of private appropriation and registration. Certainly, it has been proven that respondent and his predecessors-in- interest had been in open and continuous possession of the subject land since time immemorial even before it was declared part of the Central Cordillera Forest Reserve under Proclamation No. 217. Thus, the registration of the subject land in favor of respondent is proper.

FACTS:

The controversy involves a parcel of land located in Sitio Adabong, Barrio Kapunga, Municipality of Tublay, Benguet, with an area of 98,205 square meters, more or less, under an approved Survey Plan PSU-204810, issued by the Bureau of Lands on March 12, 1964.

Ronald M. Cosalan, respondent, alleged that the Cosalan clan came from the Ibaloi Tribe of Bokod and Tublay, Benguet; that he was the eldest son of Andres Acop Cosalan (Andres), the youngest son of Fernando Cosalan (Fernando), also a member of the said tribe; that he was four generations away from his great-grandparents, Opilis and Adonis, who owned a vast tract of land in Tublay, Benguet; that this property was passed on to their daughter Peran who married Bangkilay Acop (Bangkilay) in 1858; that the couple then settled, developed and farmed the said property; that Acop enlarged the inherited landholdings, and utilized the same for agricultural purposes, principally as pasture land for their hundreds of cattle; that at that time, Benguet was a cattle country with Mateo Cariño (Mateo) of the landmark case Cariño v. Insular Government, having his ranch in what became Baguio City, while Acop established his ranch in Betdi, later known as Acop's Place in Tublay Benguet, that Mateo and Acop were contemporaries, and became "abalayans" (in-laws) as the eldest son of Mateo, named Sioco, married Guilata, the eldest daughter of Acop; and that Guilata was the sister of Aguinaya Acop Cosalan (Aguinaya), the grandmother of respondent.

Respondent also alleged that Peran and Bangkilay had been in possession of the land under claim of ownership since their marriage in 1858 until Bangkilay died in 1918; that when Bangkilay died, the ownership and possession of the land was passed on to their children, one of whom was Aguinaya who married Fernando; that Acop's children continued to utilize part of the land for agriculture, while the other parts for grazing of work animals, horses and family cattle; that when Fernando and Aguinaya died in 1945 and 1950, respectively, their children, Nieves Cosalan Ramos (Nieves), Enrique Cosalan (Enrique), and Andres inherited their share of the land; that Nieves registered her share consisting of 107,219 square meters under Free Patent No. 576952, and was issued Original Certificate of Title (OCT) No. P- 776; that Enrique, on the other hand, registered his share consisting of 212,688 square meters through judicial process, docketed as Land Registration Case (LRC) No. N-87, which was granted by then Court of First Instance (CFI) of Baguio and Benguet, Branch 3, and was affirmed by the Court in its Decision dated May 7, 1992, and that OCT No. O-238 was issued in his favor.

Similarly, Andres sought the registration of his share. He had the subject land surveyed and was subsequently issued by the Director of Lands the Surveyor's Certificate. In 1994, Andres sold the subject land to his son, respondent, for the sum of P300,000.00, evidenced by the Deed of Absolute Sale of Unregistered Land. On February 8, 2005, respondent filed an application for registration of title of the subject land. Respondent presented himself and Andres as principal witnesses and the owners of the properties adjoining the subject land namely, Priscilla Baban (Priscilla) and Bangilan Acop (Bangilan).

Respondent alleged, among others, that he acquired the subject land in open, continuous, exclusive, peaceful, notorious and adverse occupation, cultivation and actual possession, in the concept of an owner, by himself and through his predecessors-in-interest since time immemorial; that he occupied the said land which was an ancestral land; that he was a member of

the cultural minorities belonging to the Ibaloi Tribe; that he took possession of the subject land and performed acts of dominion over the area.

The Department of Environment and Natural Resources (DENR) - Cordillera Administrative Region (CAR), opposed the application filed by respondent on the ground that the subject land was part of the Central Cordillera Forest Reserve established under Proclamation No. 217.

On July 29, 2011, the RTC approved respondent's application for registration. It held that the subject land was owned and possessed by his ancestors and predecessors even before the land was declared part of the forest reserve by virtue of Proclamation No. 217. Aggrieved, petitioner appealed before the CA. In its decision dated August 27, 2014, the CA affirmed in toto the ruling of the RTC. Petitioner filed a motion for reconsideration but it was denied by the CA in its resolution dated February 4, 2015. Hence, this petition.

ISSUE:

Whether the registration of the subject land in favor of respondent is proper?

RULING:

Yes.

As a rule, forest land located within the Central Cordillera Forest Reserve cannot be a subject of private appropriation and registration. Respondent, **however, was able to prove that the subject land was an ancestral land, and had been openly and continuously occupied by him and his predecessors in-interest, who were members of the ICCs/IPs.**

Section 3 (b) of Republic Act (R.A.) No. 8371 otherwise known as The Indigenous Peoples Rights Act of 1997 (IPRA Law) defined ancestral lands as follows:

> Section 3 (b) **Ancestral Lands** - Subject to Section 56 hereof, refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots.

Ancestral lands are covered by the concept of native title that "refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before the Spanish Conquest."

To reiterate, they are considered to have never been public lands and are thus indisputably presumed to have been held that way. The CA has correctly relied on the case of Cruz v. Secretary of DENR, which institutionalized the **concept of native title**. Thus:

> Every presumption is and ought to be taken against the Government in a case like the present. It might, perhaps, be proper and sufficient to say that when, as far back as testimony or memory goes, the land has been held by individuals under a claim of private ownership, it will be presumed to have been held in the same way before the Spanish conquest, and never to have been public land.

Hence, respondent's application for registration under Section 12 of the IPRA Law in relation to Section 48 of the CA No. 141 was correct. Section 12, Chapter III of IPRA Law states that individually-owned ancestral lands, which are agricultural in character and actually used for agricultural, residential, pasture, and tree farming purposes, including those with a slope of eighteen percent (18%) or more, are hereby classified as alienable and disposable agricultural lands. As stated, respondent and his witnesses were able to prove that the subject land had been used for agricultural purposes even prior to its declaration as part of the Central Cordillera Forest Reserve. The subject land had been actually utilized for dry land agriculture where camote, corn and vegetables were planted and some parts of which were used for grazing farm animals, horses and cattle. Moreover, several improvements have been introduced like the 200-meter road and the levelling of areas for future construction, gardening, planting of more pine trees, coffee and bamboo. Verily, as the IPRA Law expressly provides that ancestral lands are considered public agricultural lands, the provisions of the Public Land Act or C.A. No. 141 govern the registration of the subject land.

In Heirs of Gamos v. Heirs of Frando, it was held that where all the necessary requirements for a grant by the Government are complied with through actual physical possession openly, continuously, and publicly, with a right to a certificate of title to said land under the provisions of Chapter VIII of Act No. 2874, amending Act No. 926 (carried over as Chapter VIII of Commonwealth Act No. 141), the possessor is deemed to have already acquired by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title be issued in order that said grant may be sanctioned by the court — an application therefore being sufficient.

Certainly, it has been proven that respondent and his predecessors-in- interest had been in open and continuous possession of the subject land since time immemorial even before it was declared part of the Central Cordillera Forest Reserve under Proclamation No. 217. Thus, the registration of the subject land in favor of respondent is proper.

REPUBLIC OF THE PHILIPPINES, *Petitioner,* -versus – MARIA THERESA MANAHAN-JAZMINES, *Respondent.*
G.R. No. 227388, THIRD DIVISION, July 23, 2018, GESMUNDO, J.

Section 14 (1) of P.D. No. 1529 refers to the original registration of imperfect titles and must be discussed in reference to Section 11 (4) 15 and Section 48 (b) 16 of C.A. No. 141, where the Court set forth the requirements as follows:

> *1. That the subject land forms part of the alienable and disposable lands of the public domain;*
>
> *2. That the applicants, by themselves or through their predecessors-in-interest, have been in* ***open, continuous, exclusive and notorious possession and occupation*** *of the subject land under a bona fide claim of ownership; and*
>
> *3. That such possession and occupation must be* ***since June 12, 1945 or earlier.***

The Court finds that respondent failed to comply with the requisites under Section 14 (1) of P.D. No. 1529, particularly, the second and third requisites.

Respondent did not religiously pay the taxes on the subject lots annually. ***There are merely 6 or 7 instances that she declared the subject lots for tax purposes*** *on an alleged possession of more than 40 years. This type of intermittent and sporadic assertion of alleged ownership does not prove open, continuous, exclusive and notorious possession and occupation.*

Respondent should have presented other credible pieces of evidence to establish her and her family's possession and occupation of the property since June 12, 1945. ***She should not have relied on mere tax declarations as these are incomplete and only date back to 1965****. She could have presented other testimonies or documentary evidence to substantiate the alleged possession and occupation of her family over the subject lot. However, respondent failed to do so, thus, she did not discharge the onus under the land registration application.*

FACTS:

Respondent filed an application for the registration of four (4) parcels of land under Presidential Decree (P.D.) No. 1529 or the Property Registration Decree. She asserted that she acquired ownership over the same by inheritance from her parents Mariano Manahan, Jr. and Rosita Manahan.

The Office of the Solicitor General (OSG) filed its notice of appearance for the oppositor, Republic of the Philippines. After compliance by respondent with the jurisdictional requirements, the RTC issued an order of general default against the whole world, except the Republic. Thereafter, trial ensued.

Respondent testified that her paternal grandparents owned the subject lots prior to June 12, 1945; that when she was born in 1949, they were already in possession of the subject lots; that she acquired ownership over the subject lots when her father passed away in 1976 and her mother passed away in 2003; that she later on executed an affidavit of self-adjudication; and that she has been paying the taxes due on the subject lots, and has obtained an approved survey plan thereof. Respondent also presented a Certification issued by the CENRO classifying the lands as alienable and disposable.

The Republic, through the Office of the Provincial Prosecutor of San Mateo, Rizal, did not present any evidence.

The RTC granted respondent's application. It held that respondent duly established the ownership of her predecessors-in-interest over the subject lots and her continued possession over the same by virtue of the tax declarations acquired over the years. The RTC also observed that the subject lots were within the alienable and disposable portion of the public domain.

The Republic appealed to the CA, which denied the appeal and affirmed the RTC ruling.

The Republic argues that the evidence on record is not enough to support the findings and judgments made by the lower courts and that the complete records of the case must be reviewed.

ISSUE:

Whether or not respondent, in applying for an original registration of an imperfect title, met the requirements set forth by law and jurisprudence. (NO)

RULING:

In this case, the evidence on record do not support the findings made by the courts below that respondent had a bona fide claim of possession and ownership of the subject lands since June 12, 1945 or earlier.

Section 14 (1) of P.D. No. 1529 refers to the original registration of imperfect titles and must be discussed in reference to Section 11 (4) 15 and Section 48 (b) 16 of C.A. No. 141, where the Court set forth the requirements as follows:

1. That the subject land forms part of the alienable and disposable lands of the public domain;

2. That the applicants, by themselves or through their predecessors-in-interest, have been in **open, continuous, exclusive and notorious possession and occupation** of the subject land under a bona fide claim of ownership; and

3. That such possession and occupation must be **since June 12, 1945 or earlier.**

The Court finds that respondent failed to comply with the requisites under Section 14 (1) of P.D. No. 1529, particularly, the second and third requisites.

The testimonies of respondent and Gregorio Manahan, where they allege possession and occupation of the subject lots from June 12, 1945 or earlier up to the present, fail to convince. Both did not sufficiently demonstrate what specific acts of ownership were exercised by respondent and her predecessors-in-interest on the subject lots. Respondent has not resided at any of the subject lots since 1954 because she moved to Sampaloc, Manila. She would rarely visit the subject lots. At one point, respondent admitted that she only went there once a year. There was a lack of continuity in the possession of the said properties.

Likewise, as properly opined by the Republic, there was no evidence presented, whether testimonial or documentary, would show that the subject lands actually contained permanent structures or were fenced. Thus, the said lands remain uncultivated, unoccupied and unfenced.

Further, the tax declarations presented in support of respondent's application dates back to 1965 only. Although a tax declaration by itself is not adequate to prove ownership, it may serve as

sufficient basis for inferring possession. However, the Court cannot abide by respondent's assertion that she had been in open, continuous, exclusive and notorious possession of the properties for more than forty (40) years, when the same tax declarations presented depict declarations for tax purposes for only 6 (six) to 7 (seven) years per lot.

Respondent did not religiously pay the taxes on the subject lots annually. There are merely 6 or 7 instances that she declared the subject lots for tax purposes on an alleged possession of more than 40 years. This type of intermittent and sporadic assertion of alleged ownership does not prove open, continuous, exclusive and notorious possession and occupation.

Respondent should have presented other credible pieces of evidence to establish her and her family's possession and occupation of the property since June 12, 1945. **She should not have relied on mere tax declarations as these are incomplete and only date back to 1965**. She could have presented other testimonies or documentary evidence to substantiate the alleged possession and occupation of her family over the subject lot. However, respondent failed to do so, thus, she did not discharge the onus under the land registration application.

In fine, respondent failed to prove that she and her predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation thereof under a bona fide claim of ownership since June 12, 1945 or earlier. Evidently, she failed to comply with the second and third requisites under Section 14 (1) of P.D. 1529, thus, the subject lots could not be registered. Respondent's application for registration of title of the subject lots under P.D. No. 1529 should be denied.

b. Decree of registration

REPUBLIC OF THE PHILIPPINES, *Petitioner*, -versus- CLARO YAP, *Respondent*.
G.R. No. 231116, THIRD DIVISION, February 07, 2018, VELASCO JR., *J.*

In Republic v. Heirs of Sanchez, the Court enunciated the necessity of the petition for cancellation of the old decree and its re-issuance, if no OCT had been issued pursuant to the old decree:

> *Why should a decree be cancelled and re-issued when the same is valid and intact? Within the context of this discussion, there is no dispute that a decree has been validly issued. And in fact, in some instances, a copy of such decree is intact. What is not known is whether or not an OCT is issued pursuant to that decree. If such decree is valid, why is there a need to have it cancelled and re-issued?*
>
> *Again, we invite you back to the highlighted provision of Section 39 of PD 1529 which states that: "The original certificate of title shall be a true copy of the decree of registration." This provision is significant because it contemplates an OCT which is an exact replica of the decree. If the old decree will not be cancelled and no new decree issued, the corresponding OCT issued today will bear the signature of the present Administrator while the decree upon which it was based shall bear the signature of the past Administrator. This is not consistent with the clear intention of the law which states that the OCT shall be true copy of the decree of registration. Ostensibly, therefore, the cancellation of the old decree and the issuance of a new one is necessary.*

FACTS:

In 2010, respondent Claro Yap filed a petition for cancellation and re-issuance of Decree No. 99500 which was issued in 1920 and which covers Lot No. 922 of the Carcar Cadastre, and for the issuance of the corresponding Original Certificate of Title pursuant to the re-issued decree.

The RTC, finding that Yap had sufficiently established his claims and was able to prove his ownership and possession over said lot, granted the petition and ordered the Register of Deeds of the Province of Cebu to cancel Decree No. 99500, re-issue a new copy thereof, and on the basis of such new copy, issue an OCT in the name of Andres Abellana, as administrator of the Estate of Juan Rodriguez.

Since the order of the RTC was for the re-issuance of the decree under the name of its original adjudicate, Yap filed a Partial Motion for Reconsideration stating that the new decree and OCT should be issued under his name instead of Andres Abellana. On the other hand, the Republic, through the Office of the Solicitor General, filed its Comment arguing that Yap's petition and motion should be denied since the Republic was not furnished with copies thereof.

The RTC denied Yap's motion ruling that the law provides that the decree, which would be the basis for the issuance of the OCT, should be issued under the name of the original adjudicate. The RTC also denied the OSG's motion finding that the records of the case show that it was furnished with copies of the Petition as well as the Partial Motion for Reconsideration.

The OSG then interposed an appeal before the CA arguing that Yap's petition should have been denied due to insufficiency of evidence and failure to implead indispensable parties such as the heirs of Juan Rodriguez and/or Andres Abellana.

The CA upheld the RTC's ruling finding that the pieces of evidence submitted by Yap were sufficient to support the petition. As regards the OSG's argument on non-joinder of indispensable parties, the CA highlighted that it is not a ground for dismissal of an action. Nevertheless, it ruled that the heirs of either Andres Abellana or Juan Rodriguez were not deprived of the opportunity to be heard as the proceeding before the RTC was an in rem proceeding. Thus, when the petition was published, all persons including the said heirs were deemed notified.

ISSUE:

Whether the RTC correctly ordered the cancellation of Decree No. 99500, the re-issuance thereof, and the issuance of the corresponding Original Certificate of Title covering Lot No. 922. (YES)

RULING:

Settled is the rule that prescription cannot be raised for the first time on appeal; the general rule being that the appellate court is not authorized to consider and resolve any question not properly raised in the courts below. In any event, prescription does not lie in the instant case.

There is nothing in the law that limits the period within which the court may order or issue a decree

The OSG postulates that the petition should be denied due to Yap and his predecessors' failure to file the proper motion to execute Decree No. 99500 as prescribed under Section 6, Rule 39 of the Rules of Court. It also subscribes that the petition is now barred by the statute of limitations since nine decades had already passed after the issuance of the said decree in 1920 without any action brought upon by Yap or his predecessors-in-interest.

The foregoing arguments are specious. Decree No. 99500 covering Lot No. 922 had been issued in 1920 pursuant to a court decision in a Cadastral Case. The fact that the ownership over Lot No. 922 had been confirmed by judicial declaration several decades ago does not, however, give room for the application of the statute of limitations or laches, nor bars an application for the re-issuance of the corresponding decree.

In the landmark case of Sta. Ana v. Menla, the Court elucidated the raison d'etre why the statue of limitations and Section 6, Rule 39 of the Rules of Court do not apply in land registration proceedings, viz:

> We fail to understand the arguments of the appellant in support of the above assignment, except in so far as it supports his theory that after a decision in a land registration case has become final, it may not be enforced after the lapse of a period of 10 years, except by another proceeding to enforce the judgment, which may be enforced within 5 years by motion, and after five years but within 10 years, by an action (Sec. 6, Rule 39.) This provision of the Rules refers to civil actions and is not applicable to special proceedings, such as a land registration case. This is so because a party in a civil action must immediately enforce a judgment that is secured as against the adverse party, and his failure to act to enforce the same within a reasonable time as provided in the Rules makes the decision unenforceable against the losing party. In special proceedings the purpose is to establish a status, condition or fact; in land registration proceedings, the ownership by a person of a parcel of land is sought to be established. After the ownership has been proved and confirmed by judicial declaration, no further proceeding to enforce said ownership is necessary, except when the adverse or losing party had been in possession of the land and the winning party desires to oust him therefrom.
>
> Furthermore, there is no provision in the Land Registration Act similar to Sec. 6, Rule 39, regarding the execution of a judgment in a civil action, except the proceedings to place the winner in possession by virtue of a writ of possession. The decision in a land registration case, unless the adverse or losing party is in possession, becomes final without any further action, upon the expiration of the period for perfecting an appeal.
>
> XXXX
>
> There is nothing in the law that limits the period within which the court may order or issue a decree. The reason is what is stated in the consideration of the second assignment error, that the judgment is merely declaratory in character and does not need to be asserted or enforced against the adverse party. Furthermore, the issuance of a decree is a ministerial duty both of the judge and of the Land Registration Commission; failure of the court or of the clerk to issue the decree for the reason that no motion therefore has been filed cannot prejudice the owner, or the person in whom the land is ordered to be registered.

For the past decades, the Sta. Ana doctrine on the inapplicability of the rules on prescription and laches to land registration cases has been repeatedly affirmed. Clearly, the peculiar procedure provided in the Property Registration Law from the time decisions in land registration cases become final is complete in itself and does not need to be filled in. From another perspective, the judgment does not have to be executed by motion or enforced by action within the purview of Rule 39 of the 1997 Rules of Civil Procedure.

The propriety of cancellation and reissuance of Decree No. 99500, to serve as basis for the issuance of an OCT covering Lot No. 922, had been sufficiently proven in the instant case

Records show that Yap sufficiently established that Decree No. 99500 was issued in 1920 in the name of Andres Abellana, as Administrator of the Estate of Juan Rodriguez. Further, it was also proven during the proceedings before the court that no OCT was ever issued covering the said lot. In this regard, Section 39 of Presidential Decree No. 1529 or the "Property Registration Decree" provides that the original certificate of title shall be a true copy of the decree of registration. There is, therefore, a need to cancel the old decree and a new one issued in order for the decree and the OCT to be exact replicas of each other.

In Republic v. Heirs of Sanchez, the Court enunciated the necessity of the petition for cancellation of the old decree and its re-issuance, if no OCT had been issued pursuant to the old decree:

> Why should a decree be canceled and re-issued when the same is valid and intact? Within the context of this discussion, there is no dispute that a decree has been validly issued. And in fact, in some instances, a copy of such decree is intact. What is not known is whether or not an OCT is issued pursuant to that decree. If such decree is valid, why is there a need to have it cancelled and re-issued?
>
> Again, we invite you back to the highlighted provision of Section 39 of PD 1529 which states that: "The original certificate of title shall be a true copy of the decree of registration." This provision is significant because it contemplates an OCT which is an exact replica of the decree. If the old decree will not be cancelled and no new decree issued, the corresponding OCT issued today will bear the signature of the present Administrator while the decree upon which it was based shall bear the signature of the past Administrator. This is not consistent with the clear intention of the law which states that the OCT shall be true copy of the decree of registration. Ostensibly, therefore, the cancellation of the old decree and the issuance of a new one is necessary.
>
> XXXX
>
> As the term connotes, a mere re-issuance of the decree means that the new decree shall be issued which shall, in all respects, be the same as that of the original decree. Nothing in the said decree shall be amended nor modified; hence, it must be under the name of the original adjudicate.

Based from the foregoing, the RTC correctly ordered the cancellation of Decree No. 99500, the re-issuance thereof, and the issuance of the corresponding OCT in the name of its original adjudicate, Andres Abellana, as Administrator of the Estate of Juan Rodriguez.

c. Review of decree of registration; innocent purchaser for value

C. Certificate of title

ARACELI MAYUGA, SUBSTITUTED BY MARILYN MAYUGA SANTILLAN FOR and ON BEHALF OF ALL THE HEIRS, *Petitioner*, -versus- ANTONIO ATIENZA, REPRESENTING THE HEIRS OF ARMANDO* ATIENZA; BENJAMIN ATIENZA, JR., REPRESENTING THE HEIRS OF BENJAMIN A. ATIENZA, SR., *Respondents*.
G.R. No. 208197, SECOND DIVISION, January 10, 2018, CAGUIOA, J.

Fraud and misrepresentation, as grounds for cancellation of patent and annulment of title, should never be presumed, but must be proved by clear and convincing evidence, with mere preponderance of evidence not being adequate. In this case, the allegations of fraud were never proven. There was no evidence at all specifically showing actual fraud or misrepresentation.

Upon the expiration of said period of one year from and after the date of entry of the decree of registration, the decree of registration and the certificate of title issued shall become incontrovertible.

FACTS:

On May 4, 2000, Araceli Mayuga instituted a petition for Cancellation and Recall of Free Patent and Reconveyance against Antonio Atienza, representing the heirs of Armando Atienza, Benjamin Atienza, Jr., representing the heirs of Benjamin Atienza, Sr., Community Environment and Natural Resource Officer and Register of Deeds of Romblon, as defendants.

In her Petition, Araceli, alleged, that she, Benjamin A. Atienza, Sr. and Armando A. Atienza are the surviving legitimate, legal and forced heirs of the late Perfecto Atienza who died intestate and that he left estates, LOT 61-A, and LOT 61-B or a total area of 574 square meters, both lots are located at Budiong, Odiongan, Romblon to which the three (3) compulsory/forced heirs are entitled to an equal share of 1/3 each; and that through manipulation and misrepresentation with intent to defraud a co-heir, respondent Antonio L. Atienza, son of the deceased Armando Atienza, was able to secure Free [P]atent (NRDN-21) 11636 while respondent Benjamin A. Atienza was able to secure Free Patent (NRDN- 21) 11637. Petitioner alleged that he was not notified of the application filed with public respondent Community Environment & Natural Resource Officer nor any notice of hearings of proceedings as required by law, being a co-heir and party- in-interest.

She prayed for the cancellation of their FPAs and the division of the 2 lots into 3 equal parts.

Defendants denied the material allegations of the complaint, and by way of affirmative defenses, averred that, the petition is moot and academic; the Free Patent Titles have become indefeasible after the lapse of one year from its issuance in 1992; fraud as a ground for review of title under Section 38 of Act 496 is not applicable to a case where a certificate of title was issued in pursuance of a patent application; that they and their predecessors-in-interest have been in open, public, continuous possession of the subject property for over 30 years; the basis for their Application for Free Patent with the CENRO is a Confirmation Affidavit of Distribution of Real Estate executed by their father, Perfecto Atienza, confirming partition in 1960.

The RTC ruled in favor of Plaintiff Araceli. It ruled that the application by the defendants for a Free Patent with the CENRO is tainted with fraud because said application was processed without the plaintiff's knowledge nor a notice of hearing of any proceeding was sent to her. In fact, the defendants took advantage while the latter was in the United States. Moreover, the titling of the fraudulently registered real property will not bar the action for reconveyance.

Defendants filed a motion for reconsideration but the same was denied in the Order dated July 29, 2010. Aggrieved, defendants interposed an appeal.

The CA granted the appeal. It dismissed the Amended Complaint for Recall and Cancellation of Free Patent Application (FPA) No. 11636 and FPA No. 11637 and Action for Reconveyance.

It held that the free patents issued in favor of the respondents can no longer be assailed under the rule of indefeasibility and incontrovertibility of the certificate of title upon the expiration of one year from and after the date of the entry of the decree of registration pursuant to Section 32 of Presidential Decree No. 1529. It ruled that the claims of fraud were unsubstantiated. It held that the RTC erred in ordering the reconveyance of 1/3 of the subject properties to the petitioner since she failed to establish her title and ownership over such portion.

ISSUE:

Whether the CA erred in dismissing the amended complaint of the petitioner for cancellation of free patent and reconveyance. (NO)

RULING:

The action for declaration of nullity of the free patents issued in favor of the respondents must fail, as the CA correctly ruled.

As noted by the CA, the respondents satisfactorily complied with the requirements for the issuance of a free patent. **The grant of free patents to defendants-appellants, having been performed in the course of the official functions of the DENR officers, enjoys the presumption of regularity**. This presumption of regularity was not successfully rebutted by plaintiff-appellee. All told, there is **no clear and convincing evidence of fraud and plaintiff-appellee's failure to prove it is fatal to her own cause.**

The averment that she was not notified of the applications for the free patent as well as of the proceedings which transpired leading to the granting and registration of the land in the respondent's name is bare and self-serving. The records negate this claim because a Notice of Application for Free Patent was 'posted in a conspicuous place on the land applied for, on the bulletin board of the barrio where the land is located, and at the door of the municipal building on the 2nd day of January, 1987 and remained posted until the 18th of December. The CA was likewise not convinced with the petitioner's allegation of fraud and misrepresentation in the execution of the Confirmation Affidavit of Distribution of Real Estate by the petitioner's father, the late Perfecto Atienza (Perfecto). Being a notarized document, the CA imbued it with the legal presumption of validity, its due execution and authenticity not having been impugned by the mere self-serving allegations of the petitioner.

Fraud and misrepresentation, as grounds for cancellation of patent and annulment of title, should never be presumed, but must be proved by clear and convincing evidence, with mere preponderance of evidence not being adequate. **In this case, the allegations of fraud were never proven. There was no evidence at all specifically showing actual fraud or misrepresentation.**

Petitioner likewise failed to prove that she is entitled to an action for reconveyance. In such, two facts must be alleged in the complaint and proved during the trial, namely: (1) the plaintiff was the owner of the land or possessed it in the concept of owner, and (2) the defendant illegally divested him of ownership and dispossessed him of the land.

Such facts, as the CA observed, were not only not alleged in the amended complaint, the petitioner Araceli Mayuga also failed to prove that she was entitled to 1/3 of the two lots in dispute by succession.

Assuming that Perfecto owned the disputed lots and the Confirmation Affidavit was a deed of partition, Perfecto could have legally partitioned his estate during his lifetime. Under Article 1080 of the Civil Code, should a person make a partition of his estate by an act inter vivos, or by will, such partition shall be respected, insofar as it does not prejudice the legitime of the compulsory heirs.

Since the Civil Code allows partition inter vivos, it is incumbent upon the compulsory heir questioning its validity to show that his legitime is impaired. Unfortunately, Araceli has not shown to what extent the Confirmation Affidavit prejudiced her legitime.

Araceli could not also claim preterition by virtue of the Confirmation Affidavit on the assumption that the disputed two lots pertained to Perfecto's inheritance, he had only three legal heirs and he left Araceli with no share in the two lots. Article 854 of the Civil Code partly provides: the preterition or omission of one, some, or all of the compulsory heirs in the direct line, whether living at the time of the execution of the will or born after the death of the testator, shall annul the institution of heir; but the devises and legacies shall be valid insofar as they are not inofficious.

Preterition consists in the omission in the testator's will of a compulsory heir in the direct line or anyone of them either because they are not mentioned therein or although mentioned they are neither instituted as heir nor expressly disinherited. The act of totally depriving a compulsory heir of his legitime can take place either expressly or tacitly. The express deprivation of the legitime constitutes disinheritance.

Although Araceli was a compulsory heir in the direct descending line, she could not have been preterited. Firstly, Perfecto left no will. As contemplated in Article 854, the presence of a will is necessary. Secondly, before his death, Perfecto had properties in Limon, Rizal which was almost 50 hectares, part of which was developed for residential and agricultural purposes, and in Odiongan. Araceli could not have been totally excluded in the inheritance of Perfecto even if she was not allegedly given any share in the disputed two lots.

If Araceli's share in the inheritance of Perfecto as claimed by her was indeed impaired, she could have instituted an action for partition or a settlement of estate proceedings instead of her complaint for cancellation of free patent and reconveyance.

The free patents having been issued by the Department of Environment and Natural Resources on February 28, 1992 and recorded in the Book of Entries at the Office of the Registry of Deeds in June 1992, the respondents' certificates of title have already become indefeasible pursuant to Section 32 of Presidential Decree No. 1529 (the Property Registration Decree), which pertinently provides that **upon the expiration of said period of one year from and after the date of entry of the decree of registration, the decree of registration and the certificate of title issued shall become incontrovertible.**

JOSE V. GAMBITO, *PETITIONER,* -versus- ADRIAN OSCAR Z. BACENA, RESPONDENT.
G.R. No. 225929, SECOND DIVISION, January 24, 2018, REYES, JR., J.

Under Section 53 of Presidential Decree No. 1529, known as the Property Registration Decree, in all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title. After the entry of the decree of registration on the original petition or application, any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void.

In this case, Gambito is not an innocent holder for value for the reason that he is a donee acquiring the property gratuitously by a Deed of Donation and not by purchase. Hence, the concept of an innocent purchaser for value cannot apply to him.

FACTS:

The records show that before the Municipal Trial Court (MTC) of Bayombong, Nueva Vizcaya, Jose V. Gambito (Gambito) filed a complaint for quieting of title, declaration of nullity of title, specific performance and damages over a parcel of land located in La Torre South, Bayombong, Nueva Vizcaya, against Adrian Oscar Z. Bacena (Bacena), one of the defendants therein.

Gambito alleged before the MTC that he is the true and registered owner of a certain parcel of land located in La Torre South, Bayombong, Nueva Vizcaya containing an area of 8,601 square meters, more or less, under Transfer Certificate of Title (TCT) No. T-149954. The said parcel of land was acquired by him through a Deed of Donation executed on July 9, 2008 by his mother, Luz V. Gambito (Luz), who held said property under TCT No. 92232. Her mother, Luz, acquired the same property from Dominga Pascual (Pascual) and her co-owner, Rosalina Covita (Covita), through a Deed of Sale dated December 16, 1994 which finds its origin from Original Certificate of Title (OCT) No. R-578 issued on March 30, 1916.[4]

Gambito claimed that through his efforts, he discovered that Bacena surreptitiously secured before the Community Environment and Natural Resources Office (CENRO), a patent title, *Katibayan ng Orihinal na Titulo Bilang* P-21362 covering 4,259 sq m, more or less, which was a part and portion of the same lot registered in Gambito's name under TCT No. T-149954. Gambito further alleged that he is aware his parents filed a protest before the CENRO, Bayombong, Nueva Vizcaya on August 31, 2007 against Bacena but the same was later withdrawn by his parents upon realization that said

office is not the proper forum and that the order of dismissal was issued on April 8, 2009 and thus there is a need to clear up the cloud cast by the title of Bacena over his ancient title.

Bacena, in his defense, alleged that the folder of Petronila Castriciones (Castriciones), survey claimant of Lot No. 1331, Cad 45, La Torre, Bayombong, Nueva Vizcaya, is supported by the records of the CENRO, Bayombong, Nueva Vizcaya. The title OCT No. P-21362 was regularly issued and was based on authentic documents.[5] On the other hand, the title of Gambito's predecessor-in-interest is evidently null and void *ab initio* because it was derived from a Deed of Sale, dated December 16, 1994 which supposedly signed by vendor Pascual although she was already dead, having died on August 25, 1988 or after a period of seven years. Moreover, the signatory-vendor, Covita denied that she ever signed the Deed of Sale which is supposedly that of her husband, Mariano G. Mateo, supposedly signifying his conformity to the sale, is likewise a fake signature of her husband because he was already dead at the time of the execution of the document having died on June 14, 1980.[6]

By way of counterclaim, Bacena prayed, among others, that Gambito's Title (TCT No. T-149954) and that of his predecessor-in-interest, Luz, TCT No. T-92232 and the Deed of Sale, basis of TCT No. T-92232 as null and void; and to declare that title of Bacena, OCT No. P-21262, valid and effective and be cleared/quieted of any cloud thereto.[7]

The MTC rendered a Decision dated March 11, 2014 in favor of Gambito. The MTC ruled that in successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest, and here, the origin of Gambito's title was issued in 1916 and while Bacena's title was only issued on February 25, 1999.

On appeal, the RTC reversed the decision of the MTC and ruled in favor of Bacena. In its ruling, the RTC laid that in an action for quieting of title, it is an indispensable requisite that the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action, which is however wanting at the time Gambito filed his verified Complaint.

The RTC also noted that Gambito's title was derived through a certificate of title which was based on a falsified Deed of Sale which was made to appear to have been signed by the parties who were long dead at the time of its execution.[13]

Moreover, the RTC found that Bacena's title has become indefeasible and incontrovertible as it has been possessed by Bacena and his predecessors-in-interest and never been occupied by Gambito and his mother.

The RTC likewise found that the title in the name of Bacena was regularly issued as he and his predecessors have been in undisturbed possession, occupation and utilization of Lot No. 1331 as early as October 1, 1913 when it was cadastrally surveyed and even before it; has always been declared for taxation purposes with taxes thereof duly paid yearly; and that as private property, it is not within the jurisdiction of the Bureau of Lands to grant it to public land application.

The CA, in its Decision dated April 8, 2016, affirmed the RTC's Decision dated November 21, 2014.

ISSUE:

1. Whether the CA erred in addressing the issue on laches. (NO)

2. Whether the CA misapplied the concept of transferee in good faith. (NO)

RULING:

1. The decision of the CA properly addressed the important issue thereon and the CA correctly held that it should be Bacena and not the Gambito who should invoke laches.

   Laches is defined as the failure or neglect for an unreasonable and unexplained length of time to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.

   It should be noted that the CA found that Bacena has no reason to doubt his own ownership and possession of Lot No. 1331, as established in this case obtained through the right of Castriciones. Moreover, it was Gambito who disturbed that open, continuous, peaceful, adverse and notorious possession of Bacena and his predecessors-in-interest. Thus, Bacena is not expected to assert his right for having possession and title to the land in dispute and the CA is correct when it found that Bacena has no reason to doubt his own ownership and possession of Lot No. 1331. Hence, the Court is in accord with the CA when it held that laches cannot apply and it should be Bacena and not Gambito who should invoke laches.
   Private ownership of land—as when there is *prima facie* proof of ownership like a duly registered possessory information or a clear showing of open continuous, exclusive, and notorious possession, by present or previous occupants—is not affected by the issuance of a free patent over the same land.

   While Gambito assails both the RTC and CA on the principle of laches on the uninterrupted existence of OCT No. R-578 of 98 years, it should be noted that the CA found, it was certain that when the cadastral survey was conducted in 1913 to 1914, there were already two survey claimants, one of which is Castriciones. Thus, OCT No. R-578 should not have included Lot No. 1331, as there was already a supervening event that transpired from the time it was applied for until the title was issued. Moreover, here it established that Castriciones is the previous occupant with open continuous, exclusive, and notorious possession as above contemplated. Hence, OCT No. R-578 issued as a free patent, by application, cannot affect Castriciones' previous occupation with open continuous, exclusive, and notorious possession.

2. The decision of the CA did not misapply the concept of transferee in good faith. Under Section 53 of Presidential Decree No. 1529, known as the Property Registration Decree, in all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title. After the entry of the decree of registration on the original petition or application, any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void.

In this case, Gambito is not an innocent holder for value for the reason that he is a donee acquiring the property gratuitously by a Deed of Donation and not by purchase. Hence, the concept of an innocent purchaser for value cannot apply to him.

It is an established fact that the fraud referred to by the CA is the fraud on the transfer of the property from Pascual and Covita to Luz on the basis of fake signatures considering that the vendor signatories therein are all dead. As such, by applicability of the foregoing jurisprudence, the deed is considered a forged deed and hence null and void. Thus, Luz's title is null and void which transferred nothing by Deed of Donation to her son Gambito, the petitioner herein. Hence, the CA did not misapply the concept of transferee in good faith by considering the fraud in the transfer of the property to Luz consequently ending up with Gambito.

FACILITIES, INCORPORATED, *Petitioner*, -versus- RALPH LITO W. LOPEZ, *Respondent*.
G.R. No. 208642, FIRST DIVISION, February 7, 2018, TIJAM, J.

Contrary to Lopez's stance, a suit for the violation of PD 957 is independent from whatever remedy granted under the MOA, i.e., rescission of the Contract to Sell, or under existing laws, which obviously includes the provisions of the RPC.

A perusal of PD 957 reveals that a violation of its provisions may be the subject of a criminal action, and not merely limited to a civil remedy. The decree expressly recognizes that the aggrieved party may avail of the remedies provided not only in PD 957, but also under existing laws. The decree, states, thus:

> *Section 41. Other remedies. The rights and remedies provided in this Decree shall be in addition to any and all other rights and remedies that may be available under existing laws.*

Notably, nowhere in the aforecited provision nor in the full text of PD. 957, does it say that the aggrieved party is barred from filing a criminal complaint under PD 957 and under the RPC. Also, it is clear that the MOA did not limit the remedy to rescission in case of breach by PPDC. This Court cannot merely supply material stipulations to a contract, so as to favor one party against the other pertaining to the remedies available to each of them. Indeed, "[w]hen the terms of a contract are clear and leave no doubt as to the intention of the contracting parties, the literal meaning of its stipulations governs."

FACTS:

In 1999, a Memorandum of Agreement (MOA) was entered into between Facilities, Inc. (Facilities), represented by its President, Vicente Araneta III (Araneta III) and Primelink Properties and Development Corporation (PPDC), represented by its developer, President and CEO, Ralph Lito Lopez (Lopez). As stated in the MOA, PPDC is the owner of three lots (subject lots) which it is developing into a residential subdivision (the Project) in Tagaytay City; while Facilities is the registered owner of Units 1601 and 1602 (condominium units) of Summit One Office Tower in Mandaluyong City. On even date, the parties executed a Contract to Sell over the subject lots and Contract of Lease over the condominium units. These contracts, which Facilities referred to as a "swap arrangement," are embodied in the essential provisions of the MOA.

Under the MOA, Facilities agreed to lease the condominium units for a period of four years to PPDC. As a consideration for the first twenty months of the four-year lease, PPDC through Lopez, agreed to execute a deed of absolute sale covering the subject lots in favor of Facilities. PPDC also committed to deliver the TCT covering the subject lots in Facilities' name within a period of 360 days reckoned from July 23, 1999. PPDC further bound itself to issue a certificate of ownership over the subject lots during the pendency of the processing and issuance of the individual titles.

As a remedial measure, sub-paragraph 3.4.5 of the MOA and paragraph 3 of the Contract to Sell stipulates that Facilities shall have the right to demand the cancellation of the contract to sell and the payment of P2,384,985 from PPDC, in case of PPDC's failure to comply with its undertaking.

Pursuant to these agreements, PPDC moved into the condominium units in August 1999 and occupied the same for over a period of 21 months from September 1999 until December 2001. But despite repeated demands, PPDC failed to comply with its contractual obligation and instead vacated the leased premises without leaving any forwarding address. Later on, Facilities discovered that contrary to PPDC's representation, the title over the subject lots was still registered in the name of a certain Primo Erni.

Consequently, Facilities filed a Complaint-Affidavit before the Office of the City Prosecutor (OCP) of Mandaluyong City, alleging that: (1) Lopez's failure to deliver the titles to the subject lots is in clear contravention of Sections 25 and 39 of PD 957, otherwise known as The Subdivision and Condominium Buyers' Protective Decree; and (2) Lopez's false representations and act of selling the subject lots to the corporation makes him liable for the crime of *estafa* under paragraph 1, Article 316 of RPC.

The OCP of Mandaluyong City dismissed the complaint and ruled that the remedy is civil in nature. Dissatisfied, Facilities filed a Petition for Review under Department Circular No. 70 otherwise known as the 2000 National Prosecution Service Rule on Appeal, of the Department of Justice (DOJ).

The DOJ, granting Facilities' petition, directed the OCP of Mandaluyong City to file the appropriate information against Lopez for violation of Sec. 25 of PD 957, and another information for *estafa* under paragraph 1 of Art 316 of the RPC.

Lopez filed a Petition for *Certiorari* under Rule 65 with the CA, alleging grave abuse of discretion on the part of the SOJ. The CA ruled that there is no probable cause to warrant the prosecution of Lopez for the crime of *estafa*, since it is indubitable that his company is the owner of the subject lots. The CA, however, agreed with the DOJ's finding of probable cause to warrant the prosecution of Lopez for violation of Section 25 of PD 957.

ISSUE

Whether there is probable cause to indict Lopez for violation of Section 25, P.D. No. 957 and for the crime of *estafa* under paragraph 1, Article 316 of the RPC. (YES)

RULING:

In this case, there is evidence showing that more likely than not Lopez violated Section 25 of PD 957 and committed acts constitutive of the crime of *estafa* under paragraph 1, Art 316 of the RPC.

Section 25 of PD 957, requires a developer, such as PPDC, to deliver the title of the lot or unit to the buyer, upon full payment of the said lot or unit. The provision partly reads, thus:

> Sec. 25. Issuance of Title. The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit, xxx.

Indeed, the failure to comply with this explicit obligation makes the developer or the person who was charge of the administration of the business, criminally liable. Section 39 of P.D. No. 957 provides, thus:

> Sec. 39. Penalties. Any person who shall violate any of the provisions of this Decree and/or any rule or regulation that may be issued pursuant to this Decree shall, upon conviction, be punished by a fine of not more than twenty thousand (P20,000.00) pesos and/or imprisonment of not more than ten years: Provided, That in the case of corporations, partnership, cooperatives, or associations, the President, Manager or Administrator or the person who has charge of the administration of the business shall be criminally responsible for any violation of this Decree and/or the rules and regulations promulgated pursuant thereto.

It is indisputable that Facilities performed its end of the bargain from the moment it allowed PPDC to utilize the condominium units for a period of twenty-eight months. Despite this, PPDC through Lopez, refused to complete the titling process and issue the titles over the subject lots in the name of Facilities. Lopez ignored several demands made by Facilities for the delivery of the titles which was part of their agreement.

Contrary to Lopez's stance, a suit for the violation of PD 957 is independent from whatever remedy granted under the MOA, *i.e.*, rescission of the Contract to Sell, or under existing laws, which obviously includes the provisions of the RPC.

A perusal of PD 957 reveals that a violation of its provisions may be the subject of a criminal action, and not merely limited to a civil remedy. The decree expressly recognizes that the aggrieved party may avail of the remedies provided not only in PD 957, but also under existing laws. The decree, states, thus:

> Section 41. *Other remedies*. The *rights and remedies* provided in *this* Decree shall be *in addition* to any and all other rights and remedies that may be *available under existing laws*.

Notably, nowhere in the aforecited provision nor in the full text of PD. 957, does it say that the aggrieved party is barred from filing a criminal complaint under PD 957 and under the RPC. Also, it is clear that the MOA did not limit the remedy to rescission in case of breach by PPDC. This Court cannot merely supply material stipulations to a contract, so as to favor one party against the other pertaining to the remedies available to each of them. Indeed, "[w]hen the terms of a contract are clear and leave no doubt as to the intention of the contracting parties, the literal meaning of its stipulations governs."

Corollarily, Lopez may likewise be held criminally liable under the RPC. Paragraph 1, Art 316 of the RPC penalizes a person who pretends to be the owner of a real property and sells the same. Here,

the records show that Lopez, on behalf of PPDC, misrepresented to Facilities that PPDC is the owner of the subject lots and that it has good and indefeasible title over them. These categorical statements led Facilities to enter into a MOA with PPDC and subsequently into a Contract to Sell and Contract of Lease.

Hence, there is probable cause sufficient to institute a criminal complaint against Lopez for violation of Section 25, P.D. No. 957 and for the crime of *estafa* under paragraph 1, Art 316 of the RPC.

HEIRS OF PAZ MACALALAD, namely: MARIETA MACALALAD, ARLENE MACALALAD-ADAY, JIMMY MACALALAD, MA. CRISTINA MACALALAD, NENITA MACALALAD-PAPA, and DANNY MACALALAD, *Petitioners*, -versus- RURAL BANK OF POLA, INC. and REGISTER OF DEEDS OF ORIENTAL MINDORO, *Respondents*.
G.R. No.200899, SECOND DIVISION, June 20, 2018, PERALTA, J.

It is settled that every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go beyond the certificate to determine the condition of the property. Where there is nothing in the certificate of title to indicate any cloud or vice in the ownership of the property, or any encumbrance thereon, the purchaser is not required to explore further than what the Torrens Title upon its face indicates in quest for any hidden defects or inchoate right that may subsequently defeat his right thereto.

FACTS:

On September 26, 2003, herein petitioners' predecessor-in-interest, Paz Macalalad filed, with the RTC of Calapan City, a Complaint for "Declaration of Nullity of TCT No. T-117484" alleging that: she is the sole surviving legal heir of one Leopoldo Constantino, Jr. who died intestate on November 13, 1995 and without any issue; during his lifetime, Leopoldo owned a parcel of land with an area of 42,383 square meters, which is located at Pinagsabangan II, Naujan, Oriental Mindoro and registered under TCT No. RT-124 (T-45233); on July 14, 1998, after the death of Leopoldo, it was made to appear that the latter sold the subject lot to the Spouses Remigio and Josephine Pimentel in whose names a new TCT (No. T-96953) was issued; thereafter, the Spouses Pimentel obtained a loan from herein respondent Rural Bank of Pola, Inc. and gave the subject parcel of land as collateral for the said loan, as evidenced by a contract of mortgage executed by the Spouses Pimentel in favor of respondent bank; respondent bank, acting in bad faith, in utter disregard of its duty to investigate the validity of the title of the Spouses Pimentel and without verifying the location of the lot, accepted the same as collateral for the Spouses Pimentel's loan; subsequently, the Spouses Pimentel failed to pay their loan leading respondent bank to foreclose the mortgage over the subject property where it emerged as the highest bidder; consequently, respondent bank obtained ownership of the disputed lot; and the TCT in the name of the Spouses Pimentel was cancelled and a new one (TCT No. T-117484) was issued in respondent bank's name. Paz contended that respondent bank be made to suffer the ill effects of its negligent acts by praying that TCT No. T-117484 be cancelled and a new one be issued in the name of Leopoldo, the original owner.

In its Answer, respondent bank denied the material averments in Paz's complaint and claimed, in its affirmative defense, that: it is a mortgagee and purchaser in good faith; and it gave full faith and

credit to the duly registered TCT given by the Spouses Pimentel as evidence of their ownership of the mortgaged property.

After the issues were, joined, trial on the merits ensued. However, pending resolution of the case, Paz died on December 7, 2006. Hence, herein petitioners were substituted as party-plaintiffs.

The RTC dismissed petitioner's complaint for lack of merit. Aggrieved, petitioners filed an appeal with the CA which, however, affirmed the decision of the RTC. Petitioners filed a Motion for Reconsideration, but it was likewise denied by the CA. Hence, the present petition.

ISSUE:

Whether respondent bank acted in good faith, when it accepted the subject property as collateral in the mortgage contract it entered into with the Spouses Pimentel. (YES)

RULING:

The settled rule is that the burden of proving the status of a purchaser in good faith lies upon one who asserts that status, and this *onus probandi* cannot be discharged by mere invocation of the legal presumption of good faith. A purchaser in good faith is one who buys property without notice that some other person has a right to or interest in such property and pays its fair price before he or she has notice of the adverse claims and interest of another person in the same property. The honesty of intention which constitutes good faith implies a freedom from knowledge of circumstances which ought to put a person on inquiry.

It is, likewise, settled that every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go beyond the certificate to determine the condition of the property. Where there is nothing in the certificate of title to indicate any cloud or vice in the ownership of the property, or any encumbrance thereon, the purchaser is not required to explore further than what the Torrens Title upon its face indicates in quest for any hidden defects or inchoate right that may subsequently defeat his right thereto.

However, this rule shall not apply when the party has actual knowledge of facts and circumstances that would impel a reasonably cautious person to make such inquiry or when the purchaser has knowledge of a defect or the lack of title in his vendor or of sufficient facts to induce a reasonably prudent person to inquire into the status of the title of the property in litigation.

In the present case, respondent is not an ordinary mortgagee; it is a mortgagee-bank. As such, unlike private individuals, it is expected to exercise greater care and prudence in its dealings, including those involving registered lands. A banking institution is expected to exercise due diligence before entering into a mortgage contract. The ascertainment of the status or condition of a property offered to it as security for a loan must be a standard and indispensable part of its operations. Thus, the Court finds no cogent reason to depart from the findings of both the RTC and the CA that respondent was able to successfully discharge its burden of proving its status as a mortgagor and subsequent purchaser in good faith and for value. The respondent bank is justified in believing that the title of the Spouses Pimentel is neither invalid nor defective.

JOSE A. BERNAS and THE WHARTON RESOURCES GROUP (PHILIPPINES), INC., ***Petitioners*, *-versus-*** **THE ESTATE OF FELIPE YU HAN YAT, represented by HERO T. YU, *Respondent*.**

G.R. No. 195908, SECOND DIVISION, August 15, 2018, CAGUIOA, *J*.

It is well established in jurisprudence that where there are two certificates of title covering the same land, the earlier in date must prevail as between the parties claiming ownership over it.

Verily, it is undoubtedly clear that between the parties in this case, it is Yu Han Yat who has shown that he has better title over the subject property for having presented the earlier title.[55] The contention that Bernas (on behalf of Wharton) and Mejia were "innocent purchasers" is thus immaterial, for even if it is assumed that they are indeed such, they still could not acquire a better right than their transferor — Nava — whose title was issued much later than Yu Han Yat's transferor.

FACTS:

The present case involves a parcel of land known as Lot 824-A-4 (subject property), covered by Transfer Certificate of Title (TCT) No. RT-28758 (30627) PR-9639 (TCT No. 30627), located at Brgy. Matandang Balara, Quezon City which is part of Lot 824 of the Piedad Estate registered in the name of respondent Felipe Yu Han Yat (Yu Han Yat).

Yu Han Yat subdivided the subject property into 60 lots under Subdivision Plan, duly approved by the Bureau of Lands on August 13, 1991, as part of his plan to develop and convert the subject property. As a consequence, TCT No. 30627 was cancelled and derivative titles, namely TCT Nos. 47294 to 47353 (Yu Han Yat TCTs), were issued in his name.

To finance his plan of developing the subject property, Yu Han Yat applied for loans with several banks using some of the Yu Han Yat TCTs as security. However, when the mortgage instruments were presented for registration, the Register of Deeds of Quezon City refused to record the same on the ground that the Yu Han Yat TCTs overlapped with the boundaries covered by another title: TCT No. 336663 registered in the name of Esperanza Nava (Nava). However, in *Consulta*, the Land Registration Authority (LRA) reversed the action taken by the Register of Deeds, and ordered the registration of the mortgage instruments on Yu Han Yat's TCTs.

Meanwhile, petitioners claimed ownership over the subject property. They claim that Nava was the registered owner of a parcel of land covered by TCT No. 336663 until she sold parts of the said lot to Mejia and Gregorio Galarosa (Galarosa). On September 15, 1986, Mejia executed with Nava a Deed of Sale with Right of Redemption by virtue of which Mejia acquired the real property covered by TCT No. 336663, subject to Nava's right to redeem the same. When Nava failed to redeem the property, Mejia then filed a petition for consolidation of title under her name. The petition was granted by the Regional Trial Court (RTC) of Quezon City.

Since TCT No. 336663 bore the annotation "subject to verification," the Register of Deeds of Quezon City referred the matter to the LRA for consultation. In a Resolution, the LRA upheld the registrability of TCT No. 336663 in the name of Mejia. The LRA reasoned that a court decision is needed to categorically determine that the titles from which TCT No. 336663 were derived were spurious before it could order that the encumbrance was not registrable. Hence, by virtue of the

said Resolution, the Deed of Sale with Right of Redemption was annotated on the title of the subject property.

Bernas, for and on behalf of Wharton Resources Group (Philippines), Inc. (Wharton), entered into a Memorandum of Agreement with Mejia whereby the latter agreed to sell to Wharton the parcel of land covered by TCT No. 336663. Subsequently, a Deed of Sale was entered into between Mejia and Wharton conveying to the latter the subject property.

Bernas discovered that there was another title covering about three hectares which overlapped a portion of the property registered under TCT No. 336663. This other title, TCT No. 30627, indicated Yu Han Yat as the registered owner pursuant to subdivision plan Psd-2498 of a parcel of land located in Bayanbayanan, Marikina. Bernas filed an Affidavit of Adverse Claim on Yu Han Yat's TCTs, claiming that a Deed of Sale was executed between himself, for and on behalf of Wharton, and Mejia over the realty covered by TCT No. 336663 which overlaps portions covered by Yu Han Yat's TCTs.

On the basis of this adverse claim filed by Bernas, the Register of Deeds of Quezon City refused to record the subject mortgages affecting the Yu Han Yat TCTs. This prompted Yu Han Yat to file another *consulta* with the LRA which, ordered the registration of the mortgage to the properties. Afterwards, Yu Han Yat filed a Petition for Quieting of Title before the RTC of Quezon City 9 against the Estate of Nava (represented by Antonio N. Crismundo), Galarosa, Mejia, Bernas, and the Register of Deeds of Quezon City (Estate of Nava, et al.).

The RTC ruled in favor of the Estate of Nava, et al. Aggrieved, Yu Han Yat appealed the above Decision of the RTC to the CA. The CA granted Yu Han Yat's appeal.

ISSUE:

Whether petitioners have better title over the property. (NO)

RULING:

It is well established in jurisprudence that where there are two certificates of title covering the same land, the earlier in date must prevail as between the parties claiming ownership over it. As early as the 1915 case of *Legarda vs. Saleeby*, the Court already said that:

> The question, who is the owner of land registered in the name of two different persons, has been presented to the courts in other jurisdictions. In some jurisdictions, where the "torrens" system has been adopted, the difficulty has been settled by express statutory provision. In others it has been settled by the courts. Hogg, in his excellent discussion of the "Australian Torrens System," at page 823, says: "**The general rule is that in the case of two certificates of title, purporting to include the same land, the earlier in date prevails, whether the land comprised in the latter certificate be wholly, or only in part, comprised in the earlier certificate.** (Oelkers *vs.* Merry, 2 Q. S. C. R., 193; Miller *vs.* Davy, 7 N. Z. R., 155; Lloyd *vs.* May-field, 7 A. L. T. (V.) 48; Stevens *vs.*Williams, 12 V. L. R., 152; Register of Titles *vs.* Esperance Land Co., 1 W. A. R., 118.)" Hogg adds however that, "if it can be clearly ascertained by the ordinary rules of construction relating to written documents, that the inclusion of the land in the certificate of title of prior date is a

> mistake, the mistake may be rectified by holding the latter of the two certificates of title to be conclusive." (See Hogg on the "Australian Torrens System," *supra*, and cases cited. See also the excellent work of Niblack in his "Analysis of the Torrens System," page 99.) Niblack, in discussing the general question, said: "**Where two certificates purport to include the same land the earlier in date prevails [x x x] In successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest; and that person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof.** While the acts in this country do not expressly cover the case of the issue of two certificates for the same land, they provide that a registered owner shall hold the title, and the effect of this undoubtedly is that **where two certificates purport to include the same registered land, the holder of the earlier one continues to hold the title**" (p. 237).
>
> x x x x
>
> We have decided, in case of double registration under the Land Registration Act that the owner of the earliest certificate is the owner of the land. That is the rule between original parties. May this rule be applied to successive vendees of the owners of such certificates? Suppose that one or the other of the parties, before the error is discovered, transfers his original certificate to an "innocent purchaser." **The general rule is that the vendee of land has no greater right, title, or interest than his vendor; that he acquires the right which his vendor had, only. Under that rule the vendee of the earlier certificate would be the owner as against the vendee of the owner of the later certificate**.[54] (Emphasis and underscoring supplied)

Verily, it is undoubtedly clear that between the parties in this case, it is Yu Han Yat who has shown that he has better title over the subject property for having presented the earlier title.[55] The contention that Bernas (on behalf of Wharton) and Mejia were "innocent purchasers" is thus immaterial, for even if it is assumed that they are indeed such, they still could not acquire a better right than their transferor — Nava — whose title was issued much later than Yu Han Yat's transferor.

D. Subsequent registration

1. Voluntary dealings; general provisions

CARMEN ALEDRO-RUÑA, *Petitioner,* -versus – LEAD EXPORT AND AGRO-DEVELOPMENT CORPORATION, *Respondent.*
G.R. No. 225896, THIRD DIVISION, July 23, 2018, GESMUNDO, J.

While this Court protects the right of the innocent purchaser for value and does not require him to look beyond the certificate of title, ***this protection is not extended to a purchaser who is not dealing with the registered owner of the land****. In case the buyer does not deal with the registered owner of the real property, the law requires that a higher degree of prudence be exercised by the purchaser.*

Clearly, Ringor, Gonzales and Cabuñas cannot be considered buyers in good faith because of their failure to exercise due diligence as regards their respective sale transactions.

Respondent's possession as a lessee was based on a contract of lease executed in its favor by the alleged subsequent buyers of the subject properties, namely Ringor and later, by Gonzales and Cabuñas. These buyers only had unregistered deeds of sale in their favor.

Thus, when Ringor purchased the lands from Advento, and was later purchased by Gonzales and Cabuñas from Ringor, ***they did not directly deal with the registered owner of the land. The fact that the lands were not in the name of their sellers should have put them on guard and should have prompted them to inquire on the status of the properties being sold to them.***

FACTS:

This case originated from three (3) different civil cases involving two (2) parcels of land registered under the name of Segundo Aledro. Segundo allegedly executed two (2) contracts covering the subject parcels of land on separate dates: 1) Contract of Lease between him and Rivera; and 2) Deed of Absolute Sale involving the same lands executed by Segundo and Advento.

Advento sold the subject properties to Ringor. On April 25, 1988, Farmingtown Agro-Developers, Inc. (FADI) leased the two parcels of land from Ringor for a period of 25 years.

First Case: Civil Case No. 95-13

A complaint was filed by the heirs of Segundo represented by Sofia Aledro (Sofia) against Advento and FADI before the Regional Trial Court for Real Action over an Immovable, Declaration of Nullity of Deed, and Damages. The RTC dismissed the complaint.

Meanwhile, in December 2000, FADI merged with respondent, the latter as the surviving corporation. Consequently, respondent absorbed FADI's occupational and possessory rights over the subject lots.

The CA reversed and set aside the decision of the RTC and remanded the case thereto for further reception of evidence. The heirs of Segundo , filed a motion to dismiss with prejudice on the ground of lack of interest to prosecute the case. The RTC dismissed the case with prejudice. No appeal was filed, thus, the order became final and executory.

Second Case: Civil Case No. 41-2005

Another complaint was filed by Sofia before the RTC against Advento for Declaration of Nullity of Deed of Sale and Quieting of Title, alleging that through fraud, she and Segundo were made to believe that they were signing a contract of lease and not a deed of absolute sale. Advent was declared in default. On May 30, 2007, the RTC Br. 4 rendered a decision in favor of Sofia. The deed of absolute sale executed by Segundo in favor of Advento on March 24, 1981 was declared as null and void.

Present Case: Civil Case No. 218-10

Petitioner filed a case for unlawful detainer, damages and attorney's fees against respondent before the MCTC. Respondent argued that its possessory rights were based on the deeds of absolute sale between Segundo and Advento, and later between Advento and Ringor. Respondent also argued that the case should be dismissed based on res judicata because a previous complaint had already been filed by petitioner which was dismissed with prejudice.

The MCTC rendered judgment in favor of petitioner and ordered respondent, among others, to vacate the two (2) parcels of land.

Meanwhile, Ringor sold the subject properties to Gonzales and Cabunas. They entered into a contract of lease with Lapanday Foods Corporation (Lapanday), an affiliate of respondent, which provided for a lease contract period commencing on January 1, 2013, after the expiration of the lease between respondent and Ringor.

The RTC Br. 4 reversed and set aside the MCTC decision for lack of jurisdiction. It rendered a decision dismissing the case for lack of merit. It ruled that the case was barred by res judicata and thus, upheld the validity of the deeds of sale covering the series of transaction involving the subject properties and the contract of lease between Ringor and respondent.

The CA affirmed in toto the decision of the RTC.

ISSUES:

(I) Whether or not the case is already barred by res judicata. (NO)
(II) Whether or not petitioner has the better right of possession. (YES)

RULING:

(I)

There is res judicata where the following four (4) essential conditions concur, viz.: (1) there must be a final judgment or order; (2) the court rendering it must have jurisdiction over the subject matter and the parties; (3) it must be a judgment or order on the merits; and (4) there must be, between the two cases, identity of parties, subject matter and causes of action.

The Court, however, agrees with the petitioner that res judicata should be disregarded. The order of dismissal by the trial court shows that there was no judgment on the merits. There was no legal declaration of the parties' rights and liabilities. The CA remanded the case for further reception of evidence precisely because there were substantive issues needed to be resolved. The RTC, however, dismissed the case allegedly upon motion of the plaintiffs, through one of the heirs, Nilo, who prayed that the dismissal be with prejudice. The court granted the dismissal without any sufficient legal basis other than because it was what the plaintiffs prayed for.

The broader interest of justice as well as the circumstances of the case justifies the relaxation of the rule on res judicata. The Court is not precluded from re-examining its own ruling and rectifying errors of judgment if blind and stubborn adherence to res judicata would involve the sacrifice of justice to technicality.

(II)

While this Court protects the right of the innocent purchaser for value and does not require him to look beyond the certificate of title, this protection is not extended to a purchaser who is not dealing

with the registered owner of the land. In case the buyer does not deal with the registered owner of the real property, the law requires that a higher degree of prudence be exercised by the purchaser.

Clearly, Ringor, Gonzales and Cabuñas cannot be considered buyers in good faith because of their failure to exercise due diligence as regards their respective sale transactions.

Respondent's possession as a lessee was based on a contract of lease executed in its favor by the alleged subsequent buyers of the subject properties, namely Ringor and later, by Gonzales and Cabuñas. These buyers only had unregistered deeds of sale in their favor. Respondent kept on insisting that res judicata has already set in, but respondent, nor any of its predecessors-in-interest, did not cause the cancellation of the certificate of title registered in the name of Segundo.

Thus, when Ringor purchased the lands from Advento, and was later purchased by Gonzales and Cabuñas from Ringor, they did not directly deal with the registered owner of the land. The fact that the lands were not in the name of their sellers should have put them on guard and should have prompted them to inquire on the status of the properties being sold to them.

Since Advento did not register the deed of sale and no transfer certificate was issued in his name, it did not bind the land insofar as Ringor, Gonzales and Cabuñas, as subsequent buyers, are concerned. As against the registered owner and the holder of an unregistered deed of sale, it is the former who has a better right to possess. In this case, it is the petitioner who, being an heir of the registered owner Segundo, acquires a better right of possession over the parcels of land.

An action to recover possession of a registered land never prescribes in view of the provision of Sec. 44 of Act No. 496 to the effect that no title to registered land in derogation of that of a registered owner shall be acquired by prescription or adverse possession. It follows that an action by the registered owner to recover a real property registered under the Torrens System does not prescribe. The rule on imprescriptibility of registered lands not only applies to the registered owner but extends to the heirs of the registered owner as well. Therefore, petitioner's right to recover possession did not prescribe. Likewise, laches did not bar petitioner's right of recovery. An action to recover registered land covered by the Torrens System may not generally be barred by laches. Neither can laches be set up to resist the enforcement of an imprescriptible legal right.

2. Involuntary dealings

a. Adverse claim

b. Notice of lis pendens

LOURDES VALDERAMA, *Petitioner,* -versus- SONIA ARGUELLES AND LORNA ARGUELLES, *Respondents*.
G.R. No. 223660, FIRST DIVISION, April 2, 2018, TIJAM, J.

A notice of lis pendens is a mere incident of an action which does not create any right nor lien. It may be cancelled without a court hearing. In contrast, an adverse claim constitutes a lien on a property. As such, the cancellation of an adverse claim is still necessary to render it ineffective, otherwise, the inscription will remain annotated and shall continue as a lien upon the property. Given the different

attributes and characteristics of an adverse claim vis-a-vis a notice of lis pendens, this Court is led to no other conclusion but that the said two remedies may be availed of at the same time.

FACTS:

Respondents alleged that on November 18, 2004, Conchita Amongo Francia, who was the registered owner of a parcel of land consisting of one thousand (1000) square meters located in Sampaloc, Manila (subject property), freely and voluntarily executed an absolute deed of sale of the subject property in favor of respondents. The subject property was subsequently registered in the names of respondents.

On November 14, 2007, Conchita filed an affidavit of adverse claim. On January 24, 2008, Conchita died. As registered owners of the subject property, respondents prayed for the **cancellation of the adverse claim** in the petition subject of this controversy.

On February 10, 2010, petitioner and Tarcila Lopez, as full-blooded sisters of Conchita, filed an opposition to the petition. They claimed that upon Conchita's death, the latter's claims and rights against the subject property were transmitted to her heirs by operation of law. They also argued that the sale of the subject property to the respondents was simulated.

Meanwhile, while the petition to cancel adverse claim was pending before the RTC, respondents filed a complaint for recovery of ownership and physical possession of a piece of realty and its improvements with damages and with prayer for the issuance of temporary restraining order and/or writ of preliminary injunction against petitioner and Tarcila, among others.

In light of the respondent's filing of the complaint, petitioner and Tarcila **filed a notice of *lis pendens*** with respect to the TCT No. 266311

Respondents filed a manifestation and motion praying for the outright cancellation of the adverse claim annotated on the TCT No. 266311 on the ground that petitioner's subsequent filing of notice of *lis pendens* rendered the issue moot and academic.

The RTC issued a Resolution ordering the cancellation of the adverse claim. In arriving at the said ruling, the RTC reasoned, that it cannot disregard the pronouncement of the court in ***Villaflor vs. Juerzan*****,** G.R. No. 35205 which states that a Notice of *Lis Pendens* between the parties concerning Notice of Adverse Claim calls for the cancellation thereof.

The CA rendered a decision dismissing petitioner's appeal for lack of merit. The CA held that the issue on cancellation of adverse claim is a question of law since its resolution would not involve an examination of the evidence but only an application of the law on a particular set of facts. Having raised a sole question of law, the petition was dismissed by the CA pursuant to Section 2, Rule 50 of the Rules of Court.

ISSUE:

Whether the subsequent annotation of a notice of *lis pendens* on a certificate of title renders the case for cancellation of adverse claim on the same title moot and academic. (NO)

RULING:

At the crux of the present controversy is this Court's ruling in the case of *Villaflor*. Admittedly, the present case involves the same issue resolved by this Court in *Villaflor*. However, the *Villaflor* ruling **stemmed from a different factual milieu**. As pointed out by the petitioner, in the case at bar, the respondents are the ones who filed the case subject of the notice of *lis pendens*. Further, the ruling in *Villaflor* specifically highlighted the fact that the related civil case was already terminated and attained finality. Here, the civil case filed by the respondents is still pending before the RTC.

An adverse claim and a notice of lis pendens under P.D. 1529 are not of the same nature and do not serve the same purpose.

As distinguished from an adverse claim, the notice of *lis pendens* is ordinarily recorded without the intervention of the court where the action is pending. Moreover, a notice of *lis pendens* neither affects the merits of a case nor creates a right or a lien. The notice is but an extrajudicial incident in an action. It is intended merely to constructively advise, or warn, all people who deal with the property that they so deal with it at their own risk, and whatever rights they may acquire in the property in any voluntary transaction are subject to the results of the action. Corollarily, unlike the rule in adverse claims, the cancellation of a notice *lis pendens* is also a mere incident in the action, and may be ordered by the Court having jurisdiction of it at any given time. Its continuance or removal is not contingent on the existence of a final judgment in the action, and ordinarily has no effect on the merits thereof.

The law and jurisprudence provide clear distinctions between an annotation of an adverse claim, on one hand, and an annotation of a notice of *lis pendens* on the other. In sum, the main differences between the two are as follows: (1) an adverse claim protects the right of a claimant during the pendency of a **controversy** while a notice of *lis pendens* protects the right of the claimant during the pendency of the **action or litigation**; and (2) an adverse claim may only be cancelled upon filing of a petition before the court which **shall conduct a hearing on its validity** while a notice of *lis pendens* may be cancelled **without a court hearing**.

The ruling of this Court in the case of Ty Sin Tei v. Dy Piao is applicable in this case. The aforecited rationale of this Court in *Ty Sin Tei* is more in accordance with the basic tenets of fair play and justice. As previously discussed, a notice of *lis pendens* is a mere incident of an action which does not create any right nor lien. It may be cancelled without a court hearing. In contrast, an adverse claim constitutes a lien on a property. As such, the cancellation of an adverse claim is still necessary to render it ineffective, otherwise, the inscription will remain annotated and shall continue as a lien upon the property. Given the different attributes and characteristics of an adverse claim *vis-a-vis* a notice of *lis pendens*, this Court is led to no other conclusion but that the said two remedies may be availed of at the same time.

E. Assurance Fund

1. Action of compensation from funds

2. Limitation of action

SPOUSES JOSE MANUEL AND MARIA ESPERANZA RIDRUEJO STILIANOPOULOS, *Petitioners*, *v.***THE REGISTER OF DEEDS FOR LEGAZPI CITY AND THE NATIONAL TREASURER**, *Respondents*.
G.R. No. 224678, EN BANC, July 03, 2018, PERLAS-BERNABE, ***J.***

The constructive notice rule on registration should not be made to apply to title holders who have been unjustly deprived of their land without their negligence. The actual title holder cannot be deprived of his or her rights twice – first, by fraudulent registration of the title in the name of the usurper and second, by operation of the constructive notice rule upon registration of the title in the name of the innocent purchaser for value. ***As such, prescription, for purposes of determining the right to bring an action against the Assurance Fund, should be reckoned from the moment the innocent purchaser for value registers his or her title*** **and** ***upon actual knowledge thereof of the original title holder/claimant****. As above-discussed, the registration of the innocent purchaser for value's title is a prerequisite for a claim against the Assurance Fund on the ground of fraud to proceed, while actual knowledge of the registration is tantamount to the discovery of the fraud*.

In this regard, the RTC held that the Assurance Fund would be subsidiarily liable to petitioners, should the judgment debt be left unsatisfied from the land or personal property of Anduiza. If the constructive notice rule were to be applied, then petitioners' claim against the Assurance Fund filed on March 18, 2009 would be barred, considering the lapse of more than six (6) years from the registration of Spouses Amurao's title over the subject lot on July 19, 2001. However, as earlier explained, the constructive notice rule holds no application insofar as reckoning the prescriptive period for Assurance Fund cases. Instead, the six (6)-year prescriptive period under Section 102 of PD 1529 should be counted from ***January 28, 2008****, or the date when petitioners discovered the anomalous transactions over their property, which included the registration of Rowena's title over the same. Thus, when they filed their complaint on* ***March 18, 2009****, petitioners' claim against the Assurance Fund has not yet prescribed. Accordingly, the CA erred in ruling otherwise.*

FACTS

This case stemmed from a Complaint[6] for Declaration of Nullity of Transfer Certificate of Title (TCT) No. 42486, Annulment of TCT No. 52392 and TCT No. 59654, and Recovery of Possession of Lot No. 1320 with Damages (subject complaint) filed by petitioners against respondents The Register of Deeds for Legazpi City (RD-Legazpi) and The National Treasurer (National Treasurer), as well as Jose Fernando Anduiza (Anduiza), Spouses Rowena Hua-Amurao (Rowena) and Edwin Amurao (collectively; Spouses Amurao), and Joseph Funtanares Co, *et al*. (the Co Group) before the RTC.

Petitioners alleged that they own a 6,425-square meter property known as Lot No. 1320, as evidenced by TCT No. 13450[7] in the name of Jose Manuel, who is a resident of Spain and without any administrator of said property in the Philippines.[8] On October 9, 1995, Anduiza caused the cancellation of TCT No. 13450 and issuance of TCT No. 42486[9] in his name.[10]

Thereafter, Anduiza mortgaged Lot No. 1320 to Rowena.[11] As a result of Anduiza's default, Rowena foreclosed the mortgage, and consequently, caused the cancellation of TCT No. 42486 and issuance of TCT No. 52392[12] in her name on July 19, 2001.[13] On April 15, 2008, Rowena then sold Lot No. 1320 to the Co Group, resulting in the cancellation of TCT No. 52392 and issuance of TCT No. 59654[14] in the latter's name.[15]

According to petitioners, their discovery of the aforesaid transactions only on January 28, 2008 prompted them to file a complaint for recovery of title on May 2, 2008.[16]

The RTC: (a) dismissed the case against Spouses Amurao and the Co Group as they were shown to be purchasers in good faith and for value; and (*b*) found Anduiza guilty of fraud in causing the cancellation of petitioners' TCT. CA reversed and set aside the RTC's ruling insofar as the National Treasurer's subsidiary liability was concerned. It held that petitioners only had six (6) years from the time Anduiza caused the cancellation of TCT No. 13450 on October 9, 1995, or until October 9, 2001, within which to claim compensation from the Assurance Fund. Since petitioners only filed their claim on March 18, 2009, their claim against the Assurance Fund is already barred by prescription.

ISSUE
Whether or not the CA correctly held that petitioners' claim against the Assurance Fund has already been barred by prescription. (NO)

RULING

An action for compensation against the Assurance Fund is a separate and distinct remedy, apart from review of decree of registration or reconveyance of title, which can be availed of when there is an unjust deprivation of property. To recover against the Assurance Fund, however, it must appear that the execution against "such defendants other than the National Treasurer and the Register of Deeds" is "returned unsatisfied in whole and in part." "[O]nly then shall the court, upon proper showing, order the amount of the execution and costs, or so much thereof as remains unpaid, to be paid by the National Treasurer out of the Assurance Fund", pursuant to Section 97 of PD 1529.

Another important provision in Chapter VII of PD 1529 is Section 102, which incidentally stands at the center of the present controversy. This provision sets a six (6)-year prescriptive period "from the time the right to bring such action first occurred" within which ore may proceed to file an action for compensation against the Assurance Fund.

Jurisprudence has yet to interpret the meaning of the phrase "*from the time the right to bring such action first occurred*"; hence, the need to clarify the same.

The general rule is that "a right of action accrues only from the moment the right to commence the action comes into existence, and prescription begins to run from that time x x x."[66] However, in cases involving fraud, the common acceptation is that the period of prescription runs from the discovery of the fraud. Under the old Code of Civil Procedure, an action for relief on the ground of fraud prescribes in four years, "but the right of action in such case shall not be deemed to have accrued *until the discovery of the fraud*."[67] Meanwhile, under prevailing case law, "[w]hen an action for reconveyance is based on fraud, it must be filed within four (4) years *from discovery of the fraud*, and such discovery is deemed to have taken place from the issuance of the original certificate of title. x x x The rule is that the registration of an instrument in the Office of the RD constitutes constructive notice to the whole world and therefore the discovery of the fraud is deemed to have taken place at the time of registration."

However, in actions for compensation against the Assurance Fund grounded on fraud, registration of the innocent purchaser for value's title should only be considered as a condition *sine qua non* to file such an action and not as a form of constructive notice for the purpose of reckoning

prescription. This is because the concept of registration *as a form of constructive notice* is essentially premised on the policy of protecting the innocent purchaser for value's title, which consideration does not, however, obtain in Assurance Fund cases. As earlier intimated, an action against the Assurance Fund operates as form of relief in favor of the original property owner who had been deprived of his land by virtue of the operation of the Torrens registration system. It does not, in any way, affect the rights of the innocent purchaser for value who had apparently obtained the property from a usurper but nonetheless, stands secure because of the indefeasibility of his Torrens certificate of title. The underlying rationale for the constructive notice rule – given that it is meant to protect the interest of the innocent purchaser for value and not the original title holder/claimant – is therefore absent in Assurance Fund cases. Accordingly, it should not be applied, especially since its application with respect to reckoning prescription would actually defeat the Assurance Fund's laudable purpose.

Thus, as aptly pointed out by Associate Justice Marvic M.V.F. Leonen during the deliberations on this case, the constructive notice rule on registration should not be made to apply to title holders who have been unjustly deprived of their land without their negligence. The actual title holder cannot be deprived of his or her rights twice – first, by fraudulent registration of the title in the name of the usurper and second, by operation of the constructive notice rule upon registration of the title in the name of the innocent purchaser for value. **As such, prescription, for purposes of determining the right to bring an action against the Assurance Fund, should be reckoned from the moment the innocent purchaser for value registers his or her title *and* upon actual knowledge thereof of the original title holder/claimant**. *As above-discussed, the registration of the innocent purchaser for value's title is a prerequisite for a claim against the Assurance Fund on the ground of fraud to proceed, while actual knowledge of the registration is tantamount to the discovery of the fraud*.

In this case, it has been established that petitioners are residents of Spain and designated no administrator over their property, *i.e.*, Lot No. 1320, in the Philippines. They remain in possession of the owner's duplicate copy of TCT No. 13450 in their names,[71] the surrender of which was necessary in order to effect a valid transfer of title to another person through a voluntary instrument.[72] As the records show, not only did Anduiza, the usurper, forge a deed of sale purportedly transferring petitioners' property in his favor,[73] they were also not required by the RD-Legazpi or through a court order to surrender possession of their owner's duplicate certificate of title for the proper entry of a new certificate of title[74] in Anduiza's favor. Neither was the issuance of TCT No. 42486 in the name of Anduiza recorded/registered in the Primary Entry Book, nor was a copy of the deed of sale in his favor kept on file with the RD-Legazpi.[75]Consequently, petitioners were not in any way negligent as they, in fact, had the right to rely on their owner's duplicate certificate of title and the concomitant protection afforded thereto by the Torrens system, unless a better right, *i.e.*, in favor of an innocent purchaser for value, intervenes.[76] As it turned out, Anduiza mortgaged Lot No. 1320 to Spouses Amurao, particularly Rowena. As a result of Anduiza's default, Rowena foreclosed the mortgage, and consequently, caused the cancellation of TCT No. 42486 and issuance of TCT No. 52392 in her name on July 19, 2001.[77] Spouses Amurao and later, the Co group, in whose favor the subject lot was sold – by virtue of the final judgment of the RTC – were conclusively deemed as innocent purchasers for value. Their status as such had therefore been settled and hence, cannot be revisited.

In this regard, the RTC held that the Assurance Fund would be subsidiarily liable to petitioners, should the judgment debt be left unsatisfied from the land or personal property of Anduiza. If the

constructive notice rule were to be applied, then petitioners' claim against the Assurance Fund filed on March 18, 2009 would be barred, considering the lapse of more than six (6) years from the registration of Spouses Amurao's title over the subject lot on July 19, 2001. However, as earlier explained, the constructive notice rule holds no application insofar as reckoning the prescriptive period for Assurance Fund cases. Instead, the six (6)-year prescriptive period under Section 102 of PD 1529 should be counted from **January 28, 2008**, or the date when petitioners discovered the anomalous transactions over their property, which included the registration of Rowena's title over the same. Thus, when they filed their complaint on **March 18, 2009**, petitioners' claim against the Assurance Fund has not yet prescribed. Accordingly, the CA erred in ruling otherwise.

XII. TORTS AND DAMAGES

A. Torts

1. Elements

2. Culpa aquiliana vs. culpa contractual vs. culpa criminal

3. Vicarious liability

4. Res ipsa loquitur

5. Last clear chance

6. Damnum absque injuria

B. Proximate cause

C. Negligence

1. Standard of care

MANILA ELECTRIC COMPANY, VICENTE MONTERO, MR. BONDOC, AND MR. BAYONA, *Petitioners*, -versus- NORDEC PHILIPPINES AND/OR MARVEX INDUSTRIAL CORP. REPRESENTED BY ITS PRESIDENT, DR. POTENCIANO R. MALVAR, *Respondents*.
G.R. No. 196020, THIRD DIVISION, April 18, 2018, LEONEN, J.

Here, Meralco itself claimed that the irregularities in the electricity consumption recorded in Nordec's metering devices started on January 18, 1985, as evidenced by their demand letter, covering January 18, 1985 to May 29, 1985. However, the alleged tampering was only discovered during the May 29, 1985 inspection. Considering that Nordec's meters were read monthly, Meralco's belated discovery of the cause of the alleged irregularities, or four (4) months after they purportedly started, can only lead to a conclusion of negligence. Notice of a defect may be constructive when it has conspicuously existed for a considerable length of time. It is also worth noting that during a third inspection on November 23, 1987, further irregularities in Nordec's metering devices were observed, showing electricity consumption even when Nordec's entire power supply equipment was switched off. Clearly, Meralco had been remiss in its duty as required by law and jurisprudence of a public utility.

FACTS:

Meralco was contracted to supply electricity to Marvex Industrial Corporation (Marvex) under an Agreement for Sale of Electric Energy. Marvex was billed according to the monthly electric consumption recorded in its meter. Later, Meralco service inspectors found that the main meter terminal and cover seals of Marvex's electric metering facilities had been tampered with. Meralco assessed Marvex a differential billing, and sent demand letters therefor. With its demands unheeded, Meralco disconnected Marvex's electric service.

Nordec, the new owner of Marvex, sued Meralco for damages. It alleged that Meralco's service inspectors conducted the inspections without its consent or approval. Following the inspections, Meralco's inspectors gave an unnamed Nordec employee a Power Field Order that did not mention the alleged defects in the metering devices.

The Regional Trial Court dismissed Nordec's complaint. It found sufficient evidence to prove that the electric meter and metering installation at Marvex premises had been tampered with.

The Court of Appeals issued its Decision, setting aside the Regional Trial Court Decision. It found that Meralco was negligent in discovering the alleged tampering only four (4) months after it first found irregularities in the metering devices, despite the monthly meter readings.

Meralco claims that it exercised due diligence in maintaining its electric meters, which was the standard set by law. By applying *Ridjo Tape v. Court of Appeals*, the Court of Appeals imposed a degree of diligence beyond what Commonwealth Act No. 349 provided. Meralco asserts that the imposition of a degree of diligence beyond what the law provides its judicial legislation.

ISSUE:

Whether Meralco was inexcusably negligent when it disconnected Nordec Philippines' electric supply (YES)

RULING:

In *Ridjo Tape & Chemical Corporation v. Court of Appeals*:

It must be underscored that MERALCO has the imperative duty to make a reasonable and proper inspection of its apparatus and equipment to ensure that they do not malfunction, and the due diligence to discover and repair defects therein. Failure to perform such duties constitutes negligence.

It has been held that notice of a defect need not be direct and express; it is enough that the same had existed for such a length of time that it is reasonable to presume that it had been detected, and the presence of a conspicuous defect which has existed for a considerable length of time will create a presumption of constructive notice thereof. Hence, MERALCO's failure to discover the defect, if any, considering the length of time, amounts to inexcusable negligence. Furthermore, we need not belabor the point that as a public utility, MERALCO has the obligation to discharge its functions with utmost care and diligence.

Moreover, the duty of inspecting for defects is not limited to inherent mechanical defects of the distribution utilities' devices, but extends to intentional and unintentional ones, such as those,

which are due to tampering and mistakes in computation. In *Manila Electric Co. v. Wilcon Builders Supply, Inc.*:

The *Ridjo* doctrine simply states that the public utility has the imperative duty to make a reasonable and proper inspection of its apparatus and equipment to ensure that they do not malfunction. Its failure to discover the defect, if any, considering the length of time, amounts to inexcusable negligence; its failure to make the necessary repairs and replace the defective electric meter installed within the consumer's premises limits the latter's liability. The use of the words "defect" and "defective" in the above-cited case does not restrict the application of the doctrine to cases of "mechanical defects" in the installed electric meters. A more plausible interpretation is to apply the rule on negligence whether the defect is inherent, intentional or unintentional, which therefore covers tampering, mechanical defects and mistakes in the computation of the consumers' billing.

Meralco argues that the degree of diligence imposed upon it was beyond the prevailing law at the time, namely, Commonwealth Act No. 349. It claims that under this law, it is only required to test metering devices once every two (2) years. Thus, for it to be penalized for taking four (4) months to rectify and repair the defective meter, was tantamount to judicial legislation.

However, the two (2)-year period prescribed under Commonwealth Act No. 349 is for the testing required of meters and appliances for measurements used by all public services by a standardized meter laboratory under the control of the then Public Service Commission. It does not pertain to distribution utilities inspections of the metering devices installed in their consumers' premises.

Further, contrary to Meralco's claim, the duty imposed upon it pursuant to *Ridjo* is not beyond the standard of care imposed by law. Distribution utilities are public utilities vested with public interest, and thus, are held to a higher degree of diligence. In *Ridjo*:

The rationale behind this ruling is that public utilities should be put on notice, as a deterrent, that if they completely disregard their duty of keeping their electric meters in serviceable condition, they run the risk of forfeiting, by reason of their negligence, amounts originally due from their customers. Certainly, we cannot sanction a situation wherein the defects in the electric meter are allowed to continue indefinitely until suddenly the public utilities concerned demand payment for the unrecorded electricity utilized when, in the first place, they should have remedied the situation immediately. If we turn a blind eye on MERALCO's omission, it may encourage negligence on the part of public utilities, to the detriment of the consuming public ....

Should a distribution utility not exercise the standard of care required of it due to its negligence in the inspection and repair of its apparatus, then it can no longer recover the amounts of allegedly used but uncharged electricity.

Here, Meralco itself claimed that the irregularities in the electricity consumption recorded in Nordec's metering devices started on January 18, 1985, as evidenced by their demand letter, covering January 18, 1985 to May 29, 1985. However, the alleged tampering was only discovered during the May 29, 1985 inspection. Considering that Nordec's meters were read monthly, Meralco's belated discovery of the cause of the alleged irregularities, or four (4) months after they purportedly started, can only lead to a conclusion of negligence. Notice of a defect may be constructive when it has conspicuously existed for a considerable length of time. It is also worth

noting that during a third inspection on November 23, 1987, further irregularities in Nordec's metering devices were observed, showing electricity consumption even when Nordec's entire power supply equipment was switched off. Clearly, Meralco had been remiss in its duty as required by law and jurisprudence of a public utility.

2. Presumptions

LINDA CACHO, MINORS SARAH JANE, JACQUELINE, FIRE RINA and MARK LOUISE all surnamed CACHO, all represented by their mother and guardian *ad litem* LINDA CACHO, *Petitioners*, -versus- GERARDO MANAHAN, DAGUPAN BUS CO., INC., and RENATO DE VERA doing business under the name R. M. DE VERA CONSTRUCTION, *Respondents*.
G.R. No. 203081, THIRD DIVISION, January 17, 2018, MARTIRES, J.

Conduct is said to be negligent when a prudent man in the position of the tortfeasor would have foreseen that an effect harmful to another was sufficiently probable to warrant his foregoing conduct or guarding against its consequences. Here, Manahan was driving relatively fast on a narrow highway, approaching a similarly narrow bridge, on or about sunrise, when visibility on the road was compromised. Hence, Manahan was negligent.

In any case, a person driving a motor vehicle is presumed to be negligent if at the time of the mishap, he was in violation of any traffic regulation. Here, Manahan was violating a traffic rule based on the place and time of the accident. Hence, he is legally presumed negligent.

To escape solidary liability for a quasi-delict committed by its employees, an employer must present convincing proof that it exercised the care and diligence of a good father of a family in the selection and supervision of its employees. Here, Dagupan Bus promptly allowed Manahan to drive one of its buses despite his lack of prior experience driving one and his apprenticeship record indicating that he is not fit to drive aircon buses nor to drive at night. Hence, Dagupan Bus was also negligent.

The responsibility of common carriers to exercise extraordinary diligence should similarly benefit pedestrians and the owners and passengers of other vehicles. Hence, Cacho should also benefit from the responsibility of Manahan and Dagupan Bus to exercise extraordinary diligence.

FACTS:

Gerardo Manahan (Manahan) applied with Dagupan Bus Co., Inc. (Dagupan Bus) sometime in April 1999. In his application form, he stated that prior to his employment with Dagupan Bus, he was a truck driver. Finding his requirements to be complete, Dagupan Bus cleared Manahan for actual driving and a written examination. On 10 May 1999, Manahan passed his driving examination, but the examiner noted his slow reaction in stopping. Manahan's written examination also points out that he cannot recognize traffic signs indicating a narrow road. After undergoing shop training, Manahan underwent a seven-day apprentice training, which he completed on 7 June 1999. A few days after, or on 21 June 1999, Dagupan Bus gave Manahan clearance to report for duty as a bus driver.

On 30 June 1999 at around 5:00 a.m., a vehicular accident occurred along the national highway at Pogo, Alaminos, Pangasinan, near the Embarcadero Bridge. Bismark Cacho (Cacho) was driving a Nissan Sentra when it collided with a Dagupan Bus traversing on the opposite lane. The collision caused Cacho's instant death. A passenger of the bus during the accident testified that the bus was travelling at a high speed even if it was nearing the Embarcadero Bridge.

ISSUE:

Whether Manahan and Dagupan Bus are solidarily liable to pay the petitioners. (YES)

RULING:

As to the liability of Manahan

Conduct is said to be negligent when a prudent man in the position of the tortfeasor would have foreseen that an effect harmful to another was sufficiently probable to warrant his foregoing conduct or guarding against its consequences. Using this test, Manahan was clearly negligent when he was driving relatively fast on a narrow highway and approaching a similarly narrow bridge. A bus is a significantly large vehicle which would be difficult to maneuver and stop if it were travelling at a high speed. On top of this, the time of the accident was on or about sunrise when visibility on the road was compromised.

Moreover, Article 2185 of the Civil Code provides that "[u]nless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was [in violation of] any traffic regulation." Based on the place and time of the accident, Manahan was violating a traffic rule found in R.A. No. 4136, otherwise known as the Land Transportation and Traffic Code. Considering that the bus was already approaching the Embarcadero Bridge, he should have already slowed down a few meters away from the bridge. Since he failed to do so, he is legally presumed negligent.

As to the liability of Dagupan Bus

When an injury is caused by the negligence of an employee, there instantly arises a presumption of the law that there was negligence on the part of the employer either in the selection of his employee or in the supervision over him after such selection. To escape solidary liability for a quasi-delict committed by its employees, an employer must overcome the presumption by presenting convincing proof that it exercised the care and diligence of a good father of a family in the selection and supervision of its employees.

Here, Dagupan Bus promptly allowed Manahan to drive one of its buses considering he had no prior experience driving one. The only time he was actually able to drive a bus was during his driving examination and a few more times while undergoing apprenticeship. In addition, Manahan's apprenticeship record indicate that he is not fit to drive aircon buses nor to drive at night. The accident happened early in the morning, when the visibility conditions are the same as driving at night. Given said conditions, Manahan should not have been driving in the first place. Hence, the negligence by Dagupan Bus is clear.

As to the common carrier's responsibility to exercise extraordinary diligence

Given the nature of the business and for reasons of public policy, the common carrier is bound "to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case." Such diligence should similarly benefit pedestrians and the owners and passengers of other vehicles who are equally entitled to the safe and convenient use of our roads and highways. Hence, Cacho should also benefit from the responsibility of Manahan and Dagupan Bus to exercise extraordinary diligence.

VISITACION R. REBULTAN, CECILOU R. BAYONA, CECILIO REBULTAN, JR., AND VILNA R. LABRADOR, *PETITIONERS,* -versus- SPOUSES EDMUNDO DAGANTA AND MARVELYN P. DAGANTA, AND WILLIE VILORIA, *RESPONDENTS.*
G.R. No. 197908, FIRST DIVISION, July 04, 2018, JARDELEZA, *J.*

In interpreting Section 42(a) and (b) of R.A. No. 4136, the Court said in Caminos, Jr. that the vehicle making a turn to the left is under the duty to yield to the vehicle approaching from the opposite lane on the right. Further, the driver who has a favored status is not relieved from the duty of driving with due regard for the safety of other vehicles and from refraining from an "arbitrary exercise of such right of way." Applying Caminos, Jr., it is apparent that it is the Kia Ceres which had the right of way. The jeepney driver making a turn on the left had the duty of yielding to the vehicle on his right, the approaching Kia Ceres driven by Lomotos. Thus, the CA erred in holding that it was Viloria, as the jeepney's driver, who had the right of way.

Further, the accident would have been avoided had Viloria, the jeepney driver, carefully approached and made a left turn in the intersection, with due regard to the right of way accorded in favor of Lomotos or anyone coming from the latter's direction. Regardless of whether Lomotos was overspeeding, Viloria ought to have exercised the prudence of a diligent driver in making a turn at a danger zone. This omission on his part constituted negligence.

FACTS:
On February 15, 2000, the heirs of Rebultan, Sr. (petitioners) filed a complaint[10] for damages against Viloria, and Spouses Edmundo and Marvelyn P. Daganta (spouses Daganta) as the owners of the jeepney (collectively, respondents). Petitioners prayed for compensation for the loss of life and earning capacity of Rebultan, Sr., actual and moral damages, attorney's and appearance fees, as well as other just and equitable reliefs.[11]

In their answer with counterclaims,[12] respondents alleged that it was the driver of the Kia Ceres who was negligent, and who should be held responsible for the death of Rebultan, Sr. and the damages to the motor vehicles. As counterclaim, respondents sought the payment of: (1) P123,550.00 for the repair of the jeepney; (2) P700.00 per day beginning May 3, 1999 as lost income of Viloria; (3) P20,000.00 and P1,000.00 per hearing, as attorney's and appearance fees, respectively; and (4) P5,000.00 as miscellaneous expenses.

Subsequently, respondents spouses Daganta filed a third-party complaint[14]against Lomotos. Lomotos denied liability and prayed for the dismissal of the third-party complaint. As counterclaim, he sought the payment for moral damages, appearance fees, and attorney's fees.[15]

After trial, the RTC issued its Decision[16] dated July 24, 2008 finding Viloria negligent in driving the jeepney which led to the death of Rebultan, Sr. Spouses Daganta were found vicariously liable as the employers of Viloria. Together, they were held solidarily liable to pay the heirs of Rebultan, Sr. the

following sums: (a) P71,857.15 as actual damages; (b) P50,000.00 as moral damages; (c) P1,552.731.72 as loss of earning capacity; and (d) P50,000.00 as attorney's fees. The RTC concluded that Viloria's continuous driving even when turning left going to a street is the proximate cause of the accident. It dismissed the third-party complaint against Lomotos.[17]

Respondents appealed the Decision before the CA but only as to the finding of negligence on the part of Viloria. They no longer appealed the dismissal of the third-party complaint.

In its Assailed Decision, the CA reversed the RTC ruling and dismissed the complaint.[19] It ruled that it was Lomotos (not Viloria) who was negligent. Under Section 42(a) and (b), Article III, Chapter IV of Republic Act No. 4136[20] (R.A. No. 4136), Viloria had the right of way, being the driver of the vehicle on the right, and because he had already turned towards the left of the intersection.[21] This, according to the CA, is the import of the ruling in *Caminos, Jr. v. People*[22] which it found squarely applicable to this case. It held that Lomotos, being in violation of a traffic regulation, is presumed to be negligent under Article 2185 of the Civil Code.[23] There being no negligence on the part of Viloria, the spouses Daganta's vicarious liability cannot be imposed.[24] The CA noted that while respondents filed a third-party complaint against Lomotos, it cannot reverse its dismissal because respondents did not appeal the same.[25]

The CA likewise denied the petitioners' motion for reconsideration. Hence, this petition.

ISSUE:

Whether Viloria was negligent in driving the jeepney at the time of the collision. (YES)

RULING:

Section 42(a) and (b) of R.A. No. 4136 states:

> ARTICLE III
> Right of Way and Signals
>
> Sec. 42. Right of Way. - (a) When two vehicles approach or enter an intersection at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right, except as otherwise hereinafter provided. The driver of any vehicle traveling at an unlawful speed shall forfeit any right of way which he might otherwise have hereunder.
>
> (b) The driver of a vehicle approaching but not having entered an intersection, shall yield the right of way to a vehicle within such intersection or turning therein to the left across the line of travel of such first-mentioned vehicle, provided the driver of the vehicle turning left has given a plainly visible signal of intention to turn as required in this Act.

In interpreting Section 42(a) and (b) of R.A. No. 4136, the Court said in *Caminos, Jr.* that the vehicle making a turn to the left is under the duty to yield to the vehicle approaching from the opposite lane on the right. Further, the driver who has a favored status is not relieved from the duty of driving with due regard for the safety of other vehicles and from refraining from an "arbitrary exercise of such right of way."

Applying *Caminos, Jr.*, it is apparent that it is the Kia Ceres which had the right of way. The jeepney driver making a turn on the left had the duty of yielding to the vehicle on his right, the approaching Kia Ceres driven by Lomotos. Similarly with Vehicle A in *Caminos, Jr*., the jeepney does not have the right of way. Additionally, the Court does not find the CA's conclusion that the jeepney was already at the intersection, making him the favored driver, to be supported by the records. Thus, the CA erred in holding that it was Viloria, as the jeepney's driver, who had the right of way.

Nevertheless, Lomotos was negligent. Similar to *Caminos, Jr*., records show that Lomotos drove the Kia Ceres at an unlawful speed. Traffic Accident Report No. 99002 supports that Lomotos was guilty of "overspeeding," and his error is listed as driving "too fast."[43] This was corroborated by respondents' witness, Ronald Vivero, who relayed that the Kia Ceres was approaching fast and that it made a loud screech due to its break[44] which indicated the high speed at which it approached the intersection. Thus, the CA's conclusion that Lomotos was negligent at the time of the collision was affirmed.

Records support the claim that Viloria, while driving the jeepney, was also committing a traffic violation. As found by the RTC, Viloria's admission that he did not look to his right and continuously drove, despite being required by law to give way, confirms that he is negligent in making a turn.[45] He further admitted that he did not bother to look at the south to see if there were other vehicles.[46] In fact, his penchant for disregarding traffic rules is shown by how he approached the intersection. Just a short distance from approaching the intersection, he was reported to have overtaken a mini-bus as evidenced by the Traffic Accident Report No. 99002.

It is apparent to this Court that the accident would have been avoided had Viloria, the jeepney driver, carefully approached and made a left turn in the intersection, with due regard to the right of way accorded in favor of Lomotos or anyone coming from the latter's direction. Regardless of whether Lomotos was overspeeding, Viloria ought to have exercised the prudence of a diligent driver in making a turn at a danger zone. This omission on his part constituted negligence.

The concurring negligence of Lomotos, as the driver of the Kia Ceres wherein Rebultan, Sr. was the passenger, does not foreclose the latter's heirs from recovering damages from Viloria. As early as 1933, in *Junio v. Manila Railroad Co.*,[47] we already clarified that the contributory negligence of drivers does not bar the passengers or their heirs from recovering damages from those who were at fault.

As long as it is shown that no control is exercised by the passenger in the concept of a master or principal, the negligence of the driver cannot be imputed to the passenger and bar the latter from claiming damages. Lomotos acted as the designated driver of Rebultan, Sr. in his service vehicle provided by the DENR. Thus, the real employer of Lomotos is the DENR, and Rebultan, Sr. is merely an intermediate and superior employee or agent.[49]While it may be inferred that Rebultan, Sr. had authority to give instructions to Lomotos, "no negligence may be imputed against a fellow employee although the person may have the right to control the manner of the vehicle's operation."[50]

In sum, both drivers were negligent when they failed to observe basic traffic rules designed for the safety of their fellow motorists and passengers. This makes them joint tortfeasors who are solidarity liable to the heirs of the deceased.[51] However, since the dismissal of the third-party complaint against Lomotos was not appealed by respondents, and Lomotos is not party to the case, the Court has no authority to render judgment against him.

D. Damages

1. General provisions

2. Kinds of damages

TERESA GUTIERREZ YAMAUCHI, *Petitioner*, -versus- ROMEO F. SUÑIGA, *Respondent*.
G.R. No. 199513, THIRD DIVISION, April 18, 2018, MARTIRES, *J.*:

In the absence of competent proof on the amount of actual damages suffered, a party is entitled to temperate damages. The amount of loss of Yamauchi cannot be proved with certainty, but the fact that there has been loss on her part was established. Thus, the Court finds it proper to award temperate damages in lieu of actual or compensatory damages.

With regard to moral damages, the Court finds it proper to reinstate the award as Suñiga had dealt with Yamauchi in bad faith. Moral damages are recoverable only if the party from whom it is claimed has acted fraudulently or in bad faith or in wanton disregard of his contractual obligations.

To set an example to contractors who deal with the general public, the Court also reinstates the award for exemplary or corrective damages. The law allows the grant of exemplary damages in cases such as this to serve as a warning to the public and as a deterrent against the repetition of this kind of underhanded actions. The RTC's award of P50,000.00 seems just and reasonable under the circumstances.

In view of reinstating the award of exemplary damages, the Court also finds it also proper to award Yamauchi attorney's fees, in consonance with Article 2208(1) of the Civil Code. The award of attorney's fees, equivalent to 10% of the total amount adjudged Yamauchi, is just and reasonable under the circumstances.

Lastly, the Court imposes legal interest of six percent (6%) from the time this judgment becomes final and executory until it is wholly satisfied.

FACTS:

Sometime in September 2000, Yamauchi consulted Suñiga, the husband of her cousin, regarding the renovation of Yamauchi's house in Sta. Rosa, Laguna. After Yamauchi gave Suñiga a sketch of her intended renovations, the latter apprised her of the estimated cost that it would entail - P869,658.00 - P849,658.00 for the renovation and P20,000.00 for permits and licenses.

Subsequently, Suñiga gave Yamauchi a Billing Summary stating that he had accomplished 47.02% of the intended renovations and that after deducting the amount of P400,000.00 previously given by Yamauchi, the latter was liable for the billing amount of P8,992.50. Likewise, Suñiga gave Yamauchi an Accomplishment Billing stating that he had accomplished 25.13% of the additional works and that Yamauchi was liable for the billing amount of P49,512.50.

The renovation was thereafter suspended and Suñiga told Yamauchi that he will resume the renovation after the construction of his house, and Yamauchi should give the additional funds then. In the interim, Yamauchi consulted her neighbor, a certain Engr. Froilan Thomas, who told her that the amount stated on the Bill of Materials could actually build a new house. Feeling shortchanged

and deceived, Yamauchi asked Suñiga to explain why she should pay the additional amount he was demanding. The confrontation eventually led to a heated argument and Suñiga decided to stop the work and pulled out the workers and recalled the materials.

Yamauchi, through counsel, sent a letter to Suñiga stating that due to the bloated amount of the cost of renovation and Suñiga's stubborn refusal to complete the project, she was constrained to terminate their contract. Suñiga sent a reply stating that the demand for payment was without basis since the stoppage of the renovation was due to Yamauchi's non-payment of the billing.

In 2002, Yamauchi filed a complaint against Suñiga for rescission with prayer for damages. Suñiga filed his answer with counterclaims denying Yamuchi's allegations. RTC rendered its decision warranting rescission and payment of damages in favor of Yamauchi. Accordingly, RTC ordered Suñiga to pay Yamauchi the following: P400,000.00 as actual damages; P50,000.00 as moral damages; P50,000.00 as exemplary damages; attorney's fees in the amount of P30,000.00; costs of suit.

Dissatisfied, Suñiga appealed to the CA, which affirmed the RTC's ruling to rescind the contract between Yamauchi and Suñiga under Article 1191 of the Civil Code. The CA held however, that the RTC erred in its award for damages since actual damages must be proved with reasonable degree of certainty.

Yamauchi filed a partial motion for reconsideration questioning the reduction and deletion of the award for damages. Unmoved, the CA denied Yamauchi's motion. Hence, the present petition before this Court.

ISSUES:
(1) Whether CA erred in reducing the amount of actual damages awarded to Yamauchi. (NO)
(2) Whether CA erred in deleting the award for moral and exemplary damages, attorney's fees and costs of litigation. (YES)

RULING:

The Supreme Court modifies the CA's Decision. Romeo F. Suñiga is ordered to pay Teresa Gutierrez Yamauchi the following: (1) P500,000.00, as temperate damages; (2) P50,000.00, as moral damages; (3) P50,000.00, as exemplary damages; and (4) Ten percent (10%) of the total amount awarded, as attorney's fees. In addition, the total amount adjudged shall earn an interest rate of six percent (6%) per annum on the balance and interest due from the finality of this decision until fully paid.

Actual or compensatory damages are awarded provided the pecuniary loss has been duly proven.

Actual or compensatory damages are those damages which the injured party is entitled to recover for the wrong done and injuries received when none were intended. These are compensation for an injury and will *supposedly* put the injured party in the position in which he was before he was injured. Since actual damages are awarded to compensate for a pecuniary loss, the injured party is required to prove two things: (1) the fact of the injury or loss and (2) the actual amount of loss with reasonable degree of certainty premised upon competent proof and on the best evidence available.

In the instant case, the CA reduced the award for damages because Suñiga had already completed 47.02% of the renovations on the subject house. However, the CA failed to consider the fact that the house became uninhabitable because the renovation was left unfinished. Contrary to findings of the CA, that Suñiga would receive unjust enrichment if she were given full reimbursement. Yamauchi gained practically nothing from the partial renovation made by Suñiga.

Henceforth, having established that Yamauchi had suffered actual losses, the Court now has to consider if the amount of losses were accurately proven, bearing in mind that the ultimate effect of rescission is to restore the parties to their original status before they entered into the contract. Rescission has the effect of "unmaking a contract, or its undoing from the beginning, and not merely its termination."

Temperate or moderate damages in lieu of actual damages are awarded when the amount of loss cannot be proved with certainty.

The problem, however, is that the amount of loss suffered by Yamauchi cannot be ascertained. *First*, there were indeed some renovation done that may have benefited Yamauchi and which the Court has to consider and deduct the "added" value from the monetary award given her. *Second*, the Court does not have the exact amount of loss on the Laguna Bel-Air house because Yamauchi did not present any evidence on the values of the house before and after the incomplete renovation. Under Article 2199 of the Civil Code, one is entitled to adequate compensation only for such pecuniary loss suffered as one has duly proved.

Nonetheless, in the absence of competent proof on the amount of actual damages suffered, a party is entitled to temperate damages. The amount of loss of Yamauchi cannot be proved with certainty, but the fact that there has been loss on her part was established. Thus, the Court finds it proper to award temperate damages in lieu of actual or compensatory damages.

Such amount is usually left to the discretion of the courts but the same should be reasonable, bearing in mind that temperate damages should be more than nominal but less than compensatory. In view of the circumstances obtaining in this case, an award of temperate damages equivalent to P500,000.00 is just and reasonable. This amount is in consideration of the following: (1) Yamauchi has can no longer use the subject house unless she starts a new renovation; (2) the amount she gave Suñiga, to some extent, was lost because she was never able to use the house; and (3) the depreciation cost of the house due to being left exposed and unused.

Moral damages may be awarded when the defendant acted fraudulently or in bad faith.

With regard to moral damages, the Court finds it proper to reinstate the award as Suñiga had dealt with Yamauchi in bad faith. Moral damages are recoverable only if the party from whom it is claimed has acted fraudulently or in bad faith or in wanton disregard of his contractual obligations. In *Adriano v. Lasala*, the Court said: Bad faith does not simply connote bad judgment or negligence. It is, therefore, a question of intention, which can be inferred from one's conduct and/or contemporaneous statements.

In the case at bar, Suñiga acted in bad faith when he misrepresented himself to be a licensed architect and bloated the figures of the renovation expenses. Gathered from the records is Suñiga's admission that he never took the licensure exam for architects, yet he signed documents pertaining

to the renovation as if he was an architect. The billing summary prepared by Suñiga likewise reveals acts of fraud. All these circumstances point to the fact that Suñiga was trying to take advantage of Yamauchi's inexperience. To the Court's mind, these are signs of bad faith warranting the award for moral damages.

Exemplary damages, attorney's fees, and interest due.

To set an example to contractors who deal with the general public, the Court also reinstates the award for exemplary or corrective damages. The law allows the grant of exemplary damages in cases such as this to serve as a warning to the public and as a deterrent against the repetition of this kind of underhanded actions. The RTC's award of P50,000.00 seems just and reasonable under the circumstances.

In view of reinstating the award of exemplary damages, the Court also finds it also proper to award Yamauchi attorney's fees, in consonance with Article 2208(1) of the Civil Code. The award of attorney's fees, equivalent to 10% of the total amount adjudged Yamauchi, is just and reasonable under the circumstances.

Lastly, the Court imposes legal interest of six percent (6%) from the time this judgment becomes final and executory until it is wholly satisfied.

3. In case of death