

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. HON.
EMMANUEL R. RECALDE, IN HIS OFFICIAL CAPACITY AS PRESIDING
JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 38, BOAC,
MARINDUQUE (FOU...**

Ponente: CARANDANG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3af2486e5579/>

CARANDANG, J.:

This is a special civil action for certiorari under Rule 65 of the Rules of Court seeking to nullify and set aside the Order dated June 28, 2013[1] denying Land Bank's Motion to Dismiss and the Order dated August 28, 2013[2] denying Land Bank's Motion for Reconsideration rendered by the Regional Trial Court, Branch 38, Boac, Marinduque in Civil Case No. 07-11 for Annulment of Mortgage Contract with Prayer for the Issuance of a Writ of Mandatory Injunction.

Antecedents:

To secure a loan in the amount of P767,595.00, a deed of Real Estate Mortgage (REM) was executed by and between the Land Bank as mortgagee and Bonbon Pag-Asa Multi-Purpose Cooperative (herein after Bonbon MPC) represented by Nilo Palomares and Pedro dela Cruz as mortgagor and Cresencio Conde, Virginia Pastoral, Nilo Palomares and Eugenia Recana as third party mortgagors. The mortgaged properties included a lot in the name of Cresencio Conde and Eugenia Recana covered by TCT No. 2338 with an area of 18,801 square meters situated at Brgy. Tambangan, Sta. Cruz, Marinduque.[3]

On December 18, 2007, a complaint for annulment of mortgage contract with prayer for the issuance of a writ of mandatory injunction was filed by Spouses Cresencio and Eugenia Conde against Land Bank. The complaint stated that sometime in 1996, complainants' daughter Remelyn Conde acquired a loan in the amount of P20,000.00 from Nilo Palomares which she used as overseas placement fee. To secure said loan, Remelyn borrowed from plaintiffs the latter's Transfer Certificate of Title, T-2338, which Remelyn entrusted to Palomares. In 1997, Remelyn sent P20,000.00 to plaintiffs to pay the borrowed amount and redeem the certificate of title, but Palomares refused to accept the payment and told plaintiffs that he would do so as soon as he located the certificate of title which was allegedly misplaced. In August 2005, Cresencio was informed by a relative, Trinidad Pastoral, that his property was among those properties mortgaged by Palomares, then President of Bonbon Pagasa Multi-Purpose Cooperative, Inc. as security for the loan amounting to P767,595.00 acquired from the Land Bank, Boac Branch. When confronted, Palomares told plaintiffs that there was a pending case against Land Bank which case would be decided against the Land Bank and that plaintiffs will get back their title. Being unlettered, plaintiffs sought the assistance of Anicia Ambata who confirmed from the Register of Deeds that the property covered by TCT-T2338 was indeed among those mortgaged by Palomares to the Land Bank. When plaintiffs examined the deed of Real Estate Mortgage, they found that their signatures therein were falsified. Incidentally, another case for annulment of mortgage was also filed by Vicente Palomares and Trinidad Pastoral against Land Bank docketed as Civil Case No. 98-20 before Branch 94. The mortgage of the subject property was done without the consent and knowledge of plaintiffs.[4]

In its answer, Land Bank denied any knowledge of the transaction between Palomares and Remelyn and prayed for the holding in abeyance of the decision with regard to the validity of the mortgage contract until and after its third party complaint has been filed against Nilo Palomares.[5]

In its Third Party complaint, Land Bank impleaded Nilo Palomares as third party defendant and claimed that Palomares who was the chairman of Bonbon Pagasa Multi-Purpose Cooperative Inc. facilitated the processing and approval of the loan application by providing all the requirements, especially the collaterals like TCT No. 2338 among others, including the signatories to the mortgage instrument; that when the loan fell due, several demands both written and oral were sent to Bonbon MPCCI and/or the third party defendant but despite several extensions, the coop thru the third party defendant failed to settle much less make any payments; that extrajudicial foreclosure proceedings were instituted by Land Bank to satisfy the indebtedness amounting to P1,010,302.23; that before the foreclosure sale scheduled on November 27, 1998 could take place, Vicente Palomares and Trinidad Pastoral instituted Civil Case No. 98-20 for annulment of mortgage; that based on the same mortgage transaction, Spouses Conde filed their case but third party defendant was not impleaded; that in order to have complete relief, third party defendant is necessary to avoid multiplicity of suits.[6]

During the Pre-trial on March 6, 2012, the parties stipulated, among others, that the contract of loan between Remelyn and Palomares was an oral contract perfected in 1996.[7] The trial court ordered the production of the handwriting examinations regarding the signature of Cresencio Conde contained in the Questioned Document No. 584-1209 dated January 4, 2010 conducted by the NBI and the original copy of the mortgage document.[8]

On March 16, 2012, Land Bank filed a Motion to Dismiss on the ground of prescription and laches claiming that since the mortgage contract was executed on July 23, 1996, the plaintiffs had until July 23, 2006 within which to institute an action for annulment pursuant to paragraph (1) of Article 1144 of the Civil Code.[9]

In their Comment and/or Opposition to the Motion to Dismiss,10 plaintiffs (herein respondents) argued that the complaint clearly and unmistakably alleges the commission of fraud in the execution of the mortgage contract with the falsification of Cresencio's signature, thus the applicable law should be Article 1391 of the Civil Code, to wit:

“Article 1391. The action for annulment shall be brought within four years.

This period shall begin: In cases of intimidation, violence or undue influence, from the time the defect of the consent ceases.

In case of mistake or fraud, from the time of the discovery of the same.

xxx”[11]

Plaintiffs (herein respondents) further argued that the fraud in the instant case was discovered in September 2005 when Anicia Ambata confirmed from the Register of Deeds that the subject property was indeed one of the properties mortgaged by Palomares, thus the filing of the instant complaint in December 2007 was well within the period allowed under Article 1391.[12]

In its Reply to the Comment, Land Bank pointed out that plaintiffs' position that the mortgage contract is a voidable contract which falls under the ambit of Chapter 7 of the New Civil Code governing the annulment of “Voidable Contracts”; that inevitably, plaintiffs admitted that indeed Cresencio Conde after all executed the mortgage contract, albeit his consent was vitiated by fraud for which reason plaintiffs invoke the application of Article 1391 of the New Civil Code.[13] Citing the case of *People vs. Reyes*[14] where the Supreme Court ruled that where a notarial document which is recorded in the Registry of Deeds was sought to be annulled, the phrase “from the time of the discovery” found in Article 1391 of the Civil Code should be reckoned from the time the document was registered in the Register of Deeds based on the familiar rule that registration is a notice to the

whole world.[15] Hence, Land Bank concludes, with more reason that the instant complaint should be dismissed as the same was filed more than seven (7) years after plaintiffs' cause of action had prescribed way back on July 23, 2000.[16]

On June 28, 2013, the trial court issued an order denying Land Bank's Motion to Dismiss, to wit:

“After a careful review of the Pre-Trial order dated March 6, 2012, it indubitably shows that the Court did not find any ground to dismiss the action, hence, the filing of the motion becomes moot and academic.

On the contrary, the Court finds the Motion to Dismiss after the Pre-Trial conference as an afterthought and as a way to circumvent the lost period of time to file the motion to dismiss as provided for under Rule 16 of the 1997 Rules of Civil Procedure which only caused delay in the early disposition of this case.”[17]

Land Bank's Motion for Reconsideration was likewise denied in the order dated August 28, 2013.[18] The trial court raciocinated that under Article 1410 of the Civil Code, “the action or defense for the declaration of the inexistence of a contract is permanent and incurable which cannot be cured either by ratification or by prescription.”[19] Moreover, the trial court pointed out that the allegations in the complaint were already available to be pointed out and argued by Land Bank before they filed an Answer, but the defendant (herein petitioner) made an impression that it only comes out during the pre-trial.[20]

Hence, the present petition.

Issue/s:

The only issue in the present petition is whether or not the public respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in not dismissing the complaint.

Petitioner Land Bank asseverates that private respondents are guilty of laches and thus barred from seeking relief against petitioner; that actions upon an oral contract such that of Remelyn's oral contract of loan from Nilo Palomares must be commenced within six (6) years from 1996 until 2002; Article 1410 of the Civil Code is not applicable in the case at bar; that the action is barred by prescription under Article 1144 of the New Civil Code.

Is the petitioner correct?

Our Ruling:

We answer in the negative.

A perusal of the complaint shows that complainants (herein private respondents) alleged in par. 10 thereof that: “Upon examination of the Real Estate Mortgage (REM) contract obtained from the Register of Deeds, plaintiffs were aghast to learn that the signatures purported to be theirs appearing in the said instrument were falsified.” It is also extant in the complaint that private respondents learned that the property was mortgaged by Palomares in September 2005[21] while the complaint was filed in December 2007.[22]

The trial court's reliance on Article 1410 of the Civil Code with regard to the imprescriptibility of actions against void contracts is correct. The Real Estate Mortgage subject of the case comes within the purview of a void or inexistent contract described in Article 1409, to wit:

Article 1409. The following contracts are inexistent and void from the beginning:

- Those whose cause, object or purpose is contrary to law, morals, good customs, public order, or public policy;
- Those which are absolutely simulated or fictitious;

- Those whose cause or object did not exist at the time of the transaction;
- Those whose object is outside the commerce of man;
- Those which contemplate an impossible service;
- Those where the intention of the parties relative to the principal object of the contract cannot be ascertained;
- Those expressly prohibited or declared void by law;

In the case of *Rosana Erena vs. Vida Dana Querrer-Kauffman*,^[23] a case where the signature of the registered owner in a mortgage contract was forged, the Supreme Court ruled:

“The ruling of the CA, that the Real Estate Mortgage executed in petitioner's favor is null and void, is correct. The registration thereof with the Register of Deeds and its annotation at the dorsal portion of TCT No. 48521 is also null and void, as provided in the last paragraph of Section 53, P.D 1529 which reads:

Sec. 53. Presentation of owner's duplicate upon entry of new certificate.-

xxx

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against parties to such fraud without prejudice, however, to the rights of any innocent holder 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 the present case, there is in the complaint an allegation of forgery which if proved true would render the mortgage contract in favor of Land Bank void or inexistent. Under Article 1410 of the Civil Code, “the action or defense for the declaration of the inexistence of a contract does not prescribe.”

Hence the trial court correctly denied the Motion to Dismiss filed by petitioner.

WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED.

SO ORDERED.

Barza, and Reyes-Carpio, JJ., concur.

[1] Rollo, at 24

[2] Ibid, at 25-26

[3] Ibid, at 33-34

[4] Ibid, at 47-52

[5] Ibid, at 74-75

[6] Ibid, at 77-81

[7] Ibid, at 106-107

[8] Ibid

[9] Ibid, at 83-88

[10] Ibid, at 90-92

[11] Ibid

[12] Ibid

[13] Ibid, at 93-96

[14] G.R. No. 74226-27, July 27, 1989

[15] Rollo, at 93-96

[16] Ibid

[17] Ibid, at 24-25

[18] Ibid, at 26-27

[19] ibid

[20] ibid

[21] Ibid, at 43

[22] Ibid, at 47

[23] G.R. No. 165853, June 22, 2006

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.