

LILIA Y. GONZALES, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND RURAL BANK OF PAVIA, INC., RESPONDENTS.*G.R. No. L-69622. January 29, 1988*

Ponente: GANCAYCO, J.

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This is a petition for review on certiorari of the Decision of the Court of Appeals dated November 15, 1983[1] affirming the decision of the trial court of July 16, 1975[2] dismissing the complaint for annulment of title and ordering plaintiff, herein petitioner, to deliver possession of the property covered by said title and to account for the produce thereof to defendant bank, private respondent herein.

The antecedent facts of this case as found by the Appellate Court are as follows:

The spouses Asuncion Sustiguer and Dioscoro Buensuceso were the original owners of Lot No. 2161 of the Cadastral Survey of Barotac Nuevo, the property subject of this controversy. For delinquency in the payment of the real estate taxes due thereon, the land was sold at public auction to the Province of Iloilo in 1955. Hortencia Buensuceso, daughter of said spouses, discovered in the Office of the Register of Deeds of Iloilo that the Certificate of Title of subject land, OCT No. 3351, was still in the name of her parents. Hortencia paid the back taxes on the land in behalf of her mother (who by that time was already separated in fact from her father) in whose favor the Provincial Treasurer executed a deed of repurchase on April 10, 1969. On April 17, 1969, the spouses Gaudioso Panzo and Hortencia Buensuceso bought the land from the latter's mother for P1,000.00. Thereafter, the spouses Panzo filed a petition in the Court of First Instance of Iloilo for the reconstitution of the original certificate of title. On February 26, 1971, a reconstituted original certificate of title was issued in the name of Asuncion Sustiguer alone. And by virtue of the sale of said property by Sustiguer to the spouses Panzo, her title was cancelled and in lieu thereof TCT No. T-64807 was issued by the Register of Deeds of Iloilo in the spouses' name on March 3, 1971. The said spouses then mortgaged the property to respondent Rural Bank of Pavia for P5,000.00. Upon their failure to pay the account, respondent bank foreclosed the mortgage on August 11, 1973 and the bank was the highest bidder. A certificate of sale was executed by the Provincial Sheriff in its favor.

On April 18, 1974, petitioner as judicial co-administratrix of the Intestate Estate of the late Matias Yusay brought an action against the spouses Panzo and the respondent Rural Bank seeking the annulment and cancellation of the title in the name of the Panzos and the issuance of a new title in favor of Yusay. In her complaint,[3] petitioner alleged among other things: that the subject property was first mortgaged to Yusay on April 30, 1929 by the spouses Sustiguer and Buensuceso; that sometime in November, 1934, said property was verbally sold to Yusay by the same spouses; that since Yusay bought the property in 1948, he and his administrator and later plaintiff administratrix, have been in possession of the property thru their tenant Elias Daguino until April 15, 1971, when defendants spouses Panzo wrested possession from their tenant; that on May 12, 1971, plaintiff administratrix filed an action for forcible entry against them before the Municipal Court of Barotac Nuevo, Iloilo docketed as Civil Case No. 577; that the trial court having ruled in favor of plaintiffs on November 4, 1972, defendants spouses appealed the said decision to the Court of First Instance of Iloilo, where the said appeal still pends; that

defendant Rural Bank was not a mortgagee in good faith for not having taken the necessary precaution before accepting the subject property as collateral for the loan granted the defendants-spouses.

In its answer of May 14, 1984,[4] defendant Rural Bank set up the defense of good faith alleging that the certificate of title in the names of the spouses Panzo was free from any lien and that the rigid requirements for loan applications had been duly observed by the bank. It further claimed that on August 11, 1973, the mortgage executed by the spouses was foreclosed and defendant bank being the highest bidder was issued a certificate of sale by the Provincial Sheriff of Iloilo.

Upon receipt of the answer of defendant bank, plaintiff on July 15, 1974 moved to dismiss the case as regards defendants spouses Panzo on the ground that the subject property having already been sold to defendant Rural Bank, the said spouses ceased to have any interest in the property.[5] The lower court acting on this motion ordered the dismissal of the case on July 26, 1974 against the said defendant-spouses only.[6]

After trial and submission of the respective memoranda of the parties, the court a quo addressing itself to the only issue of whether or not defendant Rural Bank was a mortgagee and subsequent buyer for value and in good faith ruled in favor of said defendant.[7]

From the decision of the court a quo, petitioner appealed to the Intermediate Appellate Court which rendered its decision, subject of this petition, affirming in toto the decision of the court a quo. Thus:

"x x x x x

"This being so, whether or not the bank inspected the premises or whether or not the reconstituted title was void is indeed irrelevant if the land in question was confiscated for non-payment of taxes and that it was sold at public auction, for if so, then at the time of its confiscation, in effect the land in question lost its identity as private land and acquired the status of a government land to say the least. If sold at public auction and the buyer was Asuncion Sustiguer, then all prior ownership there was cancelled, including that of the original owners, (the spouses Asuncion Sustiguer and her husband Dioscoro Buensuceso). Record shows they were later separated. There is therefore, no conjugal property to speak of for the exclusive buyer of the land at the public auction was Asuncion Sustiguer and she alone. When this was not redeemed by the couple as they were then separated, Asuncion Sustiguer became the exclusive owner of the land on the basis of the Tax Sale pursuant to Sec. 40 Com. Act No. 470 and Velasquez vs. Coronel, 5 SCRA 986-990. Its subsequent sale to the Panzos and later its acquisition by the Rural Bank, the herein defendant, is now beyond question."[8]

In the petition for review before Us, herein petitioner, assigns the following errors:

"I

THE INTERMEDIATE APPELLATE COURT COMMITTED AN ERROR OF LAW IN HOLDING THAT THE LAND IN QUESTION LOST ITS IDENTITY AS A PRIVATE LAND AND ACQUIRED THE STATUS OF A GOVERNMENT LAND, WHEN IT WAS SOLD AT PUBLIC AUCTION FOR NON-PAYMENT OF TAXES TO THE PROVINCE OF ILOILO, DIVESTING THE SPOUSES BUENSUCESO AND THEIR SUCCESSOR--IN-INTEREST, MATIAS YUSAY, OF THE OWNERSHIP THEREOF, WITH ASUNCION SUSTIGUER BECOMING THE EXCLUSIVE OWNER UPON HER REPURCHASE OF THE SAID LAND FROM THE PROVINCE OF ILOILO.

"II

THE INTERMEDIATE APPELLATE COURT COMMITTED AN ERROR OF LAW IN NOT HOLDING THAT THE RECONSTITUTED TITLE IN THE NAME OF ASUNCION SUSTIGUER IS VOID FOR WANT OF JURISDICTION OF THE CADASTRAL COURT IN RECONSTITUTING THE SAME.

"III

THE INTERMEDIATE APPELLATE COURT COMMITTED AN ERROR OF LAW IN NOT HOLDING THAT SINCE ADMITTEDLY THE SPOUSES PANZOS WERE GUILTY OF FRAUD IN SECURING THE SAID RECONSTITUTED TITLE IN THE NAME OF ASUNCION SUSTIGUER FROM THE CADASTRAL COURT, THEN THEY CANNOT TRANSMIT TITLE TO DEFENDANT BANK.

"IV

THE INTERMEDIATE APPELLATE COURT COMMITTED AN ERROR OF LAW IN NOT HOLDING THAT THE PUBLIC AUCTION SALE OF THE PROPERTY IN QUESTION IN 1955 FOR NON-PAYMENT OF TAXES IN FAVOR OF THE PROVINCE OF ILOILO, IS NULL AND VOID, FOR WANT OF NOTICE TO JOSE S. YUSAY, THEN ADMINISTRATOR OF THE ESTATE OF MATIAS YUSAY, HENCE THE SALE OF THE PROVINCE OF ILOILO IN FAVOR OF ASUNCION SUSTIGUER AND FROM HER TO THE SPOUSES PANZOS, ARE NULL AND VOID.

"V

THE INTERMEDIATE APPELLATE COURT ERRED IN NOT RESOLVING THE FOLLOWING ERRORS OF FACT OF THE TRIAL COURT.

(a)

The lower court erred in finding that defendant bank has made an ocular inspection of the property prior to the granting of the loan in favor of the spouses Gaudioso Panzo and Hortencia Buensuceso;

(b) The lower court erred in holding that defendant bank is not negligent in not consulting a lawyer before granting the loan;

(c) The lower court erred in finding plaintiff as grossly negligent in not taking steps to perfect its title over the property."

We affirm the dismissal by the court a quo.

The principal question in this controversy is whether or not the respondent bank was an innocent mortgagee and subsequent buyer for value in good faith of the property.

When the certificate of title in the name of the Panzo spouses was submitted to private respondent bank for purposes of their loan application, it was free from any lien and encumbrance. The mortgage was duly constituted and registered with the Register of Deeds on May 28, 1971. The ejectment case which was filed by petitioner against the said spouses which petitioner claims should have put the respondent bank on its guard was annotated at the back of the subject title only on March 28, 1973. There was therefore nothing on the face of the title of the Panzos which would arouse the suspicion of the respondent bank. The certificate of title was in the name of the mortgagors when the land was mortgaged by them to respondent bank. Such being the case, said respondent bank, as mortgagee, had the right to rely on what appeared on the certificate of title and, in the absence of anything to excite suspicion, was under no obligation to look beyond the certificate and investigate the title of the mortgagor appearing on the face of said certificate.[9]

To further determine the good faith of the mortgagee Rural Bank, We must address ourselves to the fifth assigned error which focuses on the alleged negligence of the respondent bank in taking the precautionary steps in the processing of the loan application of the Panzo spouses. The findings of the trial court which were affirmed by the appellate court ruled out any negligence of the Rural Bank, thus:

"The preponderance of evidence favors defendant Rural Bank. This Court is satisfied that an ocular inspection was indeed conducted by Gorriceta pursuant to established practice among banks. Assuming, for the sake of argument, that the Panzo spouses were not in actual possession of the entire property, the fact is that they possessed a substantial part thereof and this possession coincided with the visit of Gorriceta. At that particular moment, Panzo had been working for him in the construction of the building and weeding of the land. These men had recognized Panzo as the owner of the land in response to inquiries by Gorriceta. It was not necessary for Gorriceta to go around the entire perimeter of the property because there was nothing to arouse his suspicion, what with certificate of title in the name of the Panzos having been submitted to him. A contrary requirement would negate the efficacy of a torrens title. In fact, the allegations of plaintiff in Civil Case No. 517 (the ejectment case filed against Gaudencio Panzo and Hortencia Buensuceso - Annex D of the complaint in this case), would bear out the claim of defendant Bank that the Panzos were in effective possession of the property.[10]

We have examined the records of this case and We find no cogent reason to disturb the findings of the court below in this regard. Well-settled is the rule that the findings of facts of the Court of Appeals are generally final and conclusive upon this Court.[11]

Petitioner now claims that the negligence of respondent bank consists in its failure to consult a lawyer before approving the loan of the Panzo spouses. She asserts that had a lawyer been consulted, the fact that the Panzo's title had been derived from a reconstituted title would have surfaced. This would have provoked an inquiry as to the status of the original title by the lawyer and he would have found out about the irregularity of the reconstitution proceedings consisting of the lack of publication and notices.

We agree with the trial court that the respondent Bank was not negligent in failing to consult a lawyer. The loan application of the Panzos was subjected to the rigid requirements of the bank. There was a physical inspection of the property. The loan application passed thru the scrutiny of the Credit Committee, the members of which are also the Directors of the Bank.[12] The mortgage was then duly registered with the Register of Deeds.

The credit investigation and approval were undertaken by responsible officers of the respondent Bank. For the bank to consult a lawyer would not have made much difference in its findings.

As the trial court pointed out, the most that a lawyer could have done was to consult the records in the reconstitution case which would not reveal anything irregular. It must be presumed that official duty was duly and properly exercised in the reconstitution proceedings.[13]

The well-known rule in this jurisdiction is that a person dealing with a registered land has a right to rely upon the face of the torrens certificate of title and to dispense with the need of inquiring further, except when the party concerned has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry.[14] It has also been held that a bank is not required, before accepting a mortgage, to make an investigation of the title of the property being given as security.[15]

Of course, banks are cautioned to exercise more care and prudence in dealing even with registered lands, than private individuals, "for their business is one affected with public interest, keeping in trust money belonging to their depositors, which they should guard against loss by not committing any act of negligence which amounts to lack of good faith by which they would be denied the protective mantle of the land registration statute Act 496, extended only to purchasers for value and in good faith, as well as to mortgagees of the same character and description.[16] It is for this reason that banks before approving a loan send representatives to the premises of the land offered as collateral and investigate who are the true owners thereof.[17] In this regard, We believe that respondent bank had exercised the due care demanded of it relative to the real estate loan of the Panzos for it to be considered an innocent mortgagee for value.

It anyone can be faulted for being negligent, it is the petitioner herself and her predecessors-in-interest. In the complaint, petitioner alleged that the subject property was sold verbally to Matias Yusay by the original owners, the spouses Buensuceso, in November, 1934 (under paragraph 5 of the same complaint, it was alleged to have been bought by Yusay in 1948). From that time to the filing of the ejectment case in May 1971, or a period of almost 37 years, petitioner and her predecessors did not take any step to perfect their title over the property. There was not even a tax declaration over the subject property of Matias Yusay or his successors-in-interest.

When the land was sold at public auction to the Province of Iloilo in 1955 for non-payment of taxes, petitioner's brother Jose Yusay, the administrator of the Yusay estate did not do anything to redeem the property. Petitioner alleged that the reason why she and her predecessors had not been paying the taxes was their mistaken belief that Lot 2161, the subject property, was Lot 2159, an adjacent lot,[18] the taxes of which were being paid by her. She further claims that they were not given any notice of the public auction sale. So it was only in 1971, at the time of the filing of their ejectment case against the Panzos that petitioner came to know of said public auction.

Noteworthy is the case of *Paguio vs. Ruiz*,[19] where this Court upheld the city treasurer's 1947 tax sale of the delinquent property despite non-delivery of the treasurer's notices of sale to the registered owner who was already deceased. We ruled –

"Yet it was her gross negligence which brought about the appellee's predicament. Knowing her property to be subject to tax, she neglected to pay her obligation. Vigorous in her protest that she was not given opportunity to protect her rights, she at least neglected to put the Government in a position to allow her that opportunity. And this, notwithstanding the categorical mandate of Section 2482 of the Revised Administrative Code, which she was presumed to know, and which makes it the duty of each person acquiring real estate in the city to make a new declaration thereof, with the advertence that failure to do so shall make the assessment in the name of the previous owner valid and binding on all persons interested and for all purposes, as though the same had been assessed in the name of the actual owner."

Apart from this, the subject property was not even included in the project of partition and even the re-amended project of partition over the estate of Matias Yusay after he died in 1948. What is revealing is that it took them almost 37 years to discover that there was such a discrepancy.

The law helps the vigilant but not those who sleep on their rights. For time is a means of destroying obligations and actions, because time runs against the slothful and contemners of their own rights.[20] By their inexplicable inaction for such a long period of time, they are now barred by laches to lay claim over the property.[21]

Moreover, there are several inconsistencies in the evidence of petitioner ranging from the date of the alleged verbal sale in favor of Matias Yusay as stated in the complaint[22] to the testimonies of her witnesses, particularly her tenant Elias Daguino as to his possession of subject property.[23] Indeed, the validity of petitioner's claim appears to be questionable.

Respondent bank is no doubt an innocent mortgagee for value but is it a subsequent purchaser in good faith and for value?

It will be remembered that at the time of the purchase of the subject property at the foreclosure sale on August 11, 1973, the notice of *lis pendens* had already been inscribed in the title of the Panzos, subject of the mortgage.

It is true that the notice of *lis pendens* is an announcement to the whole world that a particular real property is in litigation, and serves as a warning that one who acquires an interest over said property does so at his own risk, so that he gambles on the results of the litigation over said property.[24]

However, it has also been held that any subsequent lien or encumbrance annotated at the back of the certificate of

title cannot in any way prejudice the mortgage previously registered, and the lots subject thereto pass to the purchaser at the public auction sale free from any lien or encumbrance. Otherwise, the value of the mortgage could be easily destroyed by a subsequent record of an adverse claim, for no one would purchase at a foreclosure sale if bound by the posterior claim.[25]

In the case of *Somes vs. Government of the Philippine Islands*,[26] this Court ruled:

“The appealed judgment was finally based on the fact that both the plaintiff and the intervenor had succeeded in having notices of *lis pendens* noted in transfer certificate of title No. 25909. It seems that it is desired to attribute to these notations a legal effect similar to a lien. This is not, however, the effect of a notice of *lis pendens* under sections 79 of Act No. 496, and 401 of the Code of Civil Procedure. The notation of the plaintiff's notice produced no effect whatsoever against the Government's mortgage not only because the latter was prior to the former but also because once the mortgage is declared valid and effective by final judgment, the plaintiff can no longer enforce any preferential right. x x x x x We hold, therefore, that the notices of *lis pendens* and the attachment did not constitute justifiable or lawful cause to prevent the execution of the judgment of foreclosure of mortgage obtained by the Government.”

A person who takes a mortgage in good faith and for a valuable consideration, the record showing a clear title in the mortgagor will be protected against any equitable titles to the premises or equitable claims on the title, in favor of third persons, of which he had no notice, actual or constructive and that protection extends to a purchaser at a Sheriff's sale under proceedings on the mortgage although such purchaser had notice of the alleged equity.[27]

In the case at bar, it is the respondent bank, the mortgagee itself, which purchased the subject property in the foreclosure sale. Being an innocent mortgagee with a superior lien over that of petitioner, its right to a foreclosure of the property is reserved.[28] The notice of *lis pendens* which antedated the foreclosure and sale at public auction of subject property could not affect the rights of the respondent bank because the foreclosure sale retroacts to the date of registration of the mortgage.[29] Its character of being an innocent mortgagee continues up to the date of actual foreclosure and sale at public auction.

At any rate, even if the pending litigation between petitioner and the Panzos be finally decided in favor of the former, it will have no effect on the ownership rights of the respondent bank over the subject property since a forcible entry suit is not conclusive as to ownership but only as to possession.[30]

Petitioner, in the rest of the assigned errors, persists in questioning the validity of the titles of the respondent bank's predecessors-in-interest, not only the title of its immediate transferor, the Panzo spouses but even that of Asuncion Sustiguer, seeking a declaration of their nullity.

Furthermore, petitioner contends that notwithstanding the good faith of the respondent bank, its title over the subject property is fatally defective since the title of its predecessors are null and void.

Respondent bank, however, maintains that the arguments of petitioner constitute a collateral attack on said titles. We find merit in this contention.

Asuncion Sustiguer from whom the Panzo spouses obtained their title, was never made a party to the proceedings. Her title was acquired from the Province of Iloilo which in turn acquired the property way back in 1955 at a sale at public auction. As to the Panzo spouses, they were originally defendants in this case but on petitioner's motion, they were dropped from the complaint even before they had the opportunity to file their answer. Thus, the case proceeded against the respondent bank alone.

It is well-settled that a Torrens Title cannot be collaterally attacked. The issue on the validity of the title can only be raised in an action expressly instituted for that purpose.[31]

A Torrens Title can be attacked only for fraud within one year after the date of the issuance of the decree of registration. Such attack must be direct and not by collateral proceeding. The title represented by the certificate cannot be changed, altered, modified, enlarged or diminished in a collateral proceeding.[32]

After one year from the date of the decree, the sole remedy of the landowner whose property has been wrongfully or erroneously registered in another's name is not to set aside the decree, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages.[33]

The title of Asuncion Sustiguer was obtained on February 26, 1971 while that of the Panzos on March 3, 1971. The complaint in this action was filed only on April 18, 1974, clearly more than one year from the date of the decree of registration. The disputed titles by then had become indefeasible. Since the property had already been acquired by respondent bank at the foreclosure sale, as an innocent purchaser for value, an action for reconveyance cannot prosper. The only remedy of petitioner is an action for damages against the person whom she claims procured the wrongful registration in his name.[34]

Nevertheless, even assuming that the validity of the titles of Asuncion Sustiguer and the Panzo spouses may be questioned in these proceedings and such titles may be declared null and void, it will still be of no moment in this case. Where the torrens title of the land was in the name of the mortgagor and later given as security for a bank loan, the subsequent declaration of said title as null and void is not a ground for nullifying the mortgage right of the bank, which had acted in good faith.[35] Being thus an innocent mortgagee for value, its right or lien upon the land mortgaged must be respected and protected, even if the mortgagors obtained their title thereto thru fraud.[36]

WHEREFORE, the decision of respondent Intermediate Appellate Court of November 15, 1983 affirming in toto with costs the decision of the Court of First Instance of Iloilo dated July 16, 1975 is hereby **AFFIRMED** without pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Paras, JJ., concur.

[1] Penned by Associate Justice Ramon G. Gaviola, Jr. concurred in by Associate Justices Eduardo P. Caguioa and Ma. Rosario Quetulio-Losa.

[2] Penned by Judge Carlos Y. Gonzales of the Court of First Instance of Iloilo, Branch VI.

[3] Pages 1-2, Record on Appeal.

[4] Pages 13-16, Record on Appeal.

[5] Pages 16-17, Record on Appeal.

[6] Pages 17-18, Record on Appeal.

[7] Pages 40-46, Record on Appeal.

[8] Pages 29-32, Rollo.

[9] De Lara, et al. vs. Ayroso, 95 Phil. 185; 50 Off. Gaz. (10) 4838; Joaquin vs. Madrid, et al., 106 Phil. 1060 cited in Blanco, et al. vs. Esquiedo, et al., 110 Phil. 2195; Penullar vs. PNB, 120 SCRA 171; Phil. National Cooperative Bank vs. Carandang-Villalon, 139 SCRA 570.

- [10] Decision of the Court of First Instance of Iloilo, p. 41, Record on Appeal
- [11] Leonardo vs. CA, 120 SCRA 890; Republic vs. CA, 132 SCRA 514, 518.
- [12] TSN of December 20, 1974, pp. 33-34.
- [13] See Rule 131, Sec. 5(m); De la Cruz vs. De la Cruz, 130 SCRA 666.
- [14] Capital Subdivision vs. Province of Negros Occidental, 7 SCRA 60; Fule vs. Legare, 7 SCRA 351; PNB vs. Court of Appeals, et al., G.R. No. 57757, August 31, 1987, cited in Seno vs. Mangubat, G.R. No. L-44339, December 2, 1987.
- [15] Philippine National Cooperative Bank vs. Carandang-Villalon, 139 SCRA 570.
- [16] Tomas vs. Tomas, 98 SCRA 280.
- [17] Ibid.
- [18] TSN, January 25, 1975, pp. 42-43.
- [19] 93 Phil. 306, Heirs of Mariano V. Tajonera vs. CA, 103 SCRA 467.
- [20] Republic vs. Fangonil, 133 SCRA 513.
- [21] Tijam vs. Sibonghanoy, 32 SCRA 29; Philippine National Bank vs. Court of Appeals, supra.
- [22] Pages 1-2, Record on Appeal.
- [23] TSN, October 14, 1974, pp. 16-19.
- [24] Constantino vs. Espiritu, 45 SCRA 557.
- [25] Bank of the Philippine Islands vs. Noblejas, 105 Phil. 418.
- [26] 62 Phil. 432.
- [27] 59 C.J.S., Sec. 233, pp. 303-304 cited in BPI vs. Noblejas, Supra.
- [28] Lopez vs. Vijandre, 72 Phil. 56.
- [29] See Cruz vs. Sandoval, 39 Phil. 736; Lopez vs. Vijandre, 72 Phil. 56; BPI vs. Noblejas, Supra.
- [30] Sec. 33(2) B.P. Blg. 129.
- [31] Legarda & Prieto vs. Salseby, 31 Phil. 590; Director of Lands vs. Gan Tan, 89 Phil. 184; Henderson vs. Garrido, 90 Phil. 684; Samone, et al. vs. Sambilan, et al., 107 Phil. 198; Magay vs. Estadian, 69 SCRA 456.
- [32] Legarda & Prieto vs. Salseby, Supra; Magay vs. Estadia, Supra.
- [33] Quiniano vs. Court of Appeals, 39 SCRA 221. See also Benin vs. Tuason, 57 SCRA 531.
- [34] Sec. 55, Act 496; Benin vs. Tuason, 57 SCRA 531.
- [35] Philippine National Cooperative Bank vs. Carandang-Villalon, Supra.
- [36] Ibid.

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