COL. FRANCISCO DELA MERCED, SUBSTITUTED BY HIS HEIRS, NAMELY, BLANQUITA E. DELA MERCED, LUIS CESAR DELA MERCED, BLANQUITA E. DELA MERCED (NEE MACATANGAY) AND MARIA OLIVIA M. PAR...

G.R. No. 140398. September 11, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review under Rule 45 of the Rules of Court, seeking to set aside the decision of the Court of Appeals dated May 21, 1999 in CA-G.R. CV No. 55034,[1] which reversed the decision of the Regional Trial Court of Pasig, Metro Manila, Branch 160, in Civil Cases Nos. 51410 and 51470.[2]

The antecedent facts, as culled from the records, are as follows:

Governor Jose C. Zulueta and his wife Soledad Ramos were the owners of parcels of land consisting of 100,986 square meters, known as the Antonio Village Subdivision, Orambo, Pasig City. The parcels of land were registered in their names under Transfer Certificates of Title Nos. 26105,[3] 37177[4] and 50256[5] of the Registry of Deeds of the Province of Rizal.

On September 25, 1956, the Zuluetas obtained a loan of P520,000.00 from the Government Service Insurance System, as security for which they mortgaged the lands covered by TCT No. 26105. It was expressly stipulated in the mortgage deed that certain lots within TCT No. 26105 shall be excluded from the mortgage because they have been either previously sold to third parties or donated to the government.

The Zulueta spouses obtained an additional loan from the GSIS on March 6, 1957 in the amount of P190,000.00, as security for which they mortgaged the land covered by TCT No. 50256. On April 4, 1957, the Zuluetas obtained another loan from GSIS this time in the amount of P1,000,000.00, which they secured by mortgaging parcels of land included in TCT Nos. 26105 and 37177.

On September 3, 1957, the Zulueta spouses executed a contract to sell whereby they undertook to sell to Francisco dela Merced and Evarista Mendoza lots identified as Lots 6, 7, 8 and 10, Block 2 (formerly Block 4), Antonio Subdivision covered by TCT No. 26105.[6] On October 26, 1972, after full payment by Col. dela Merced of the purchase price, a Deed of Absolute Sale was executed by the Zuluetas in his favor.

On October 15, 1957, another loan was extended by GSIS to the Zulueta spouses in the amount of P1,398,000.00, secured by a mortgage on the properties included in TCT Nos. 26105 and 50256.

The Zuluetas defaulted in the payment of their loans. Thus, GSIS extrajudicially foreclosed the mortgages and, at the foreclosure sale held on August 16, 1974, GSIS was awarded the mortgaged properties as the highest bidder. Since the Zuluetas did not redeem the properties within the reglementary period, title to the properties was consolidated to GSIS.

Later, on March 25, 1982, GSIS held a sale at public auction of its acquired assets. Elizabeth D. Manlongat and Ma. Therese D. Manlongat, the children of Victor and Milagros Manlongat, purchased Lot 6, Block 2 of Antonio Village.[7]

On August 22, 1984, a complaint for declaratory relief, injunction and damages, docketed as Civil Case No. 51410, was filed with the Regional Trial Court of Pasig, Branch 160, by Victor Lemonsito and several others,[8] against Benjamin Cabusao, in his capacity as In-Charge of the Municipal Task Force on Squatters of the Municipal Engineer's Office of Pasig, spouses Domini and Olivia Suarez and spouses Victor and Milagros Manlongat.[9] Plaintiffs therein averred that they were owners of houses in various lots in Antonio Village, having constructed the same with the permission of the late Jose C. Zulueta before the same was foreclosed by GSIS; that defendants Suarez and Manlongat claimed to be vendees of lots in Antonio Village; and that defendant Cabusao was threatening to demolish plaintiffs' houses on the alleged ground that they were squatters on the lots.

On September 7, 1984, Col. dela Merced also instituted Civil Case No. 51470 with the Regional Trial Court of Pasig, Branch 154, against GSIS and the spouses Zulueta, praying, among others, that the foreclosure sale, insofar as his lots were concerned, be declared null and void.[10]

Meanwhile, Col. dela Merced filed a complaint-in-intervention in Civil Case No. 51410,[11] wherein he prayed that plaintiffs' complaint be dismissed and defendants' titles to lots 6, 7 and 8, Block 2 be declared null and void.

The complaint in Civil Case No. 51410 was dismissed for failure of plaintiffs to prosecute, but the complaint-in-intervention of Col. dela Merced was allowed to proceed against defendants Suarez and Manlongat.[12]

On September 5, 1986, upon motion of plaintiff Col. dela Merced, the trial court ordered the consolidation of Civil Case No. 51470 with Civil Case No. 51410.[13]

On October 23, 1987, the Regional Trial Court of Pasig, Branch 160, rendered its decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered in Civil Case No. 51410:
>
> 1. Declaring Lots 6, 7, 8 and 10 of Block 2, and Lot 8 of Block 8 which are the subject of the action, as the exclusive property of the intervenor. Consequently, the certificates of Title of the defendants covering said property lots are declared null and void;
>
> and in Civil Case No. 51470:
>
> 1. Declaring the foreclosure proceedings conducted by defendant GSIS, insofar as they affected the lots in question, as null and void, including the consolidation of ownership thereof by the GSIS, and the sale of the lots to defendant Manlongat spouses;
>
> 2. Declaring the certificates of title issued to GSIS covering the aforesaid lots, as well as those issued to defendant Manlongat spouses by virtue of the sale executed by the former in favor of the latter, as null and void; and directing the Office of the Register of Deeds of Pasig, Metro Manila, to issue a new one in the name of the plaintiff Francisco Mendoza dela Merced;
>
> 3. Ordering the defendants, jointly and severally, to pay the plaintiff the sums of P100,000.00 as moral damages; P50,000.00 as exemplary damages; and P50,000.00 by way of attorney's fees; plus costs.
>
> SO ORDERED.[14]

The GSIS and Manlongat spouses filed separate appeals. The Court of Appeals held that the trial court erred in

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declaring defendants as having waived their right to present evidence. Thus, on April 19, 1994, the Court of Appeals set aside the decision of the trial court and remanded the case to the lower court for the reception of evidence of defendants Manlongat and GSIS.[15]

In the meantime, on March 19, 1988, Col. dela Merced passed away and was substituted by his heirs.

On December 27, 1996, the Regional Trial Court of Pasig, Branch 160, rendered a decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered:
>
> 1. Declaring the foreclosure sale of Lot Nos. 6, 7, 8 and 10 of Block 2, and Lot 8 of Block 8 and certificate of Titles issued to GSIS covering the aforesaid lots as well as those issued to defendant Manlongat spouses as null and void;
>
> 2. Declaring plaintiff-intervenor as the true and lawful owner of the aforesaid lots;
>
> 3. Ordering the Register of Deeds of Pasig, Metro Manila to issue new titles in the name of plaintiff-intervenor or his substituted heirs namely Blanquita dela Merced-Macatangay, Blanquita Errea dela Merced, Luis dela Merced and Maria Olivia dela Merced Paredes;
>
> 4. Ordering defendants GSIS and spouses Manlongat jointly and severally to pay attorney's fees of P20,000.00 and to pay the costs.
>
> SO ORDERED.[16]

The trial court made the following findings:

> The mortgage contract signed by the Zulueta spouses of the property covered by TCT No. 26105 in favor of GSIS (Exh. "C-C-1" Merced) contained the following provisions:
>
> "Note:
>
> The following lots which form part of TCT No. 26105 are not covered by this mortgage contract due to sale to third parties and donation to government.
>
> 1. Lots No. 1 to 13, Block No. 1 6,138 sq.m.
>
> 2. Lots Nos. 1 to 11, Block No. 2 4,660 sq.m.
>
> 3. Lot No. 15, Block No. 3 487 sq.m.
>
> 4. Lot No. 17, Block No. 4 263 sq.m.
>
> 5. Lot No. 1, Block No. 7 402 sq.m.
>
> 6. Road Lots Nos. 1, 2, 3 & 4 22,747 sq.m.

Evidently, lot numbers 1 to 11, Block 2 to include plaintiff-intervenor's lots were excluded from the mortgage. In fact, in a letter dated October 1, 1956, defendant GSIS confirmed that portions of the subdivision such as lots Nos. 1 to 11, Block 2 x x x have already been sold x x x." (Exh. "B-1" Merced) The intent of the parties was clear to exclude from the mortgage the properties claimed by plaintiff-intervenor, among others, where he introduced improvements since 1955. On October 26, 1972, the spouses Zulueta executed the corresponding deed of sale in favor of plaintiff-intervenor (Exh. "C")."

The contention of defendant GSIS and defendants Victor and Milagros Manlongat that Lot Nos. 6, 7, 8 & 10 are not the lots excluded from the mortgage by the spouses Zulueta to the GSIS cannot be given credence. Evidence

reveal that lots 6, 7, 8 and 10, Block 2, with a total area of 1,405 square meters of the Antonio Village Subdivision were excluded from the September 25, 1956 mortgage contract executed by defendants in favor of GSIS. (Exh. "C", "C-1" Merced, 9-1-95) Defendant GSIS in fact had admitted in its answer, the letter to plaintiff acknowledging that there has been no problem with respect to Lot 8, Block 8 of the said property. Obviously, defendant recognized the ownership of intervenor of the mentioned lots. It is further to be noted that plan Pcs-5889 was not yet in existence when the mortgage was executed in 1956. Besides defendant GSIS had knowledge of the possession of intervenor. While the deed of sale between the Zuluetas and plaintiff-intervenor was never registered nor annotated in the title and executed only after one (1) year, defendant GSIS had knowledge of the possession of intervenor of the lots; that defendant GSIS was not acting in good faith when it accepted the mortgage of the questioned lots. Plaintiff-intervenor in 1957 built a house and introduced improvement and built a house of strong structure on lots 6 & 7 and with the other lots serving as backyard and for 28 years had paid dues on the lots.[17]

Respondents appealed the decision to the Court of Appeals, where the same was docketed as CA-G.R. CV No. 55034. On May 21, 1999, the Court of Appeals reversed the decision of the trial court. Petitioners filed a Motion for Reconsideration which was denied on October 4, 1999.

Hence, the instant petition for review, raising the following assignments of error:

> FIRST ASSIGNMENT OF ERROR
>
> THE COURT A QUO ACTED CONTRARY TO LAW AND JURISPRUDENCE IN TOTALLY DISREGARDING THE ADMISSION OF DEFENDANT GSIS THAT THE LOTS IN QUESTION WERE EXCLUDED FROM THE MORTGAGE
>
> SECOND ASSIGNMENT OF ERROR
>
> THE COURT A QUO ACTED CONTRARY TO LAW AND JURISPRUDENCE IN NOT RULING THAT (A) PLAINTIFF HAS BEEN IN POSSESSION OF THE SUBJECT LOTS SINCE 1955 CONTINUOUSLY UNTIL THE PRESENT AND (B) GSIS HAD KNOWLEDGE OF PLAINTIFF'S POSSESSION
>
> THIRD ASSIGNMENT OF ERROR
>
> THE COURT A QUO ACTED CONTRARY TO LAW AND JURISPRUDENCE IN ITS FAILURE TO APPRECIATE THE SIGNIFICANCE OF PLAINTIFF'S CONTINUOUS OPEN AND ADVERSE POSSESSION IN THE CONCEPT OF OWNER FOR 28 YEARS AND THE ACTUAL KNOWLEDGE OF GSIS OF SUCH POSSESSION
>
> FOURTH ASSIGNMENT OF ERROR
>
> THE COURT A QUO ACTED CONTRARY TO LAW AND JURISPRUDENCE IN RULING THAT NO JUDGMENT CAN BE RENDERED AGAINST THE SPOUSES MANLONGAT WITHOUT VIOLATING THEIR RIGHT TO DUE PROCESS OF LAW[18]

In essence, petitioners allege that the foreclosure sale was null and void because the mortgage executed by the parties, insofar as the properties previously sold to petitioners were concerned, was also void from the beginning. Petitioners had been in continuous and open possession thereof before and during the time of the mortgage, more specifically, since 1955 continuously up to the present, and GSIS had knowledge thereof. Furthermore, respondent GSIS admitted that the lots in questions were excluded from the mortgage. Finally, under Presidential Decree No. 957, also known as "The Subdivision and Condominium Buyers' Protective Decree," petitioners are entitled to the issuance of their corresponding title over the lots after having completed their payments to the subdivision owner.[19]

Petitioners aver that when the Zuluetas mortgaged their properties to GSIS on October 15, 1957, they were no longer the owners of the lots subject of this litigation, the same having been sold to Francisco dela Merced by virtue of the contract to sell executed on September 3, 1957. Hence, the mortgage was void from its inception and GSIS, as mortgagee, acquired no better right notwithstanding the registration of the mortgage. Petitioners also argued that GSIS was a mortgagee in bad faith as it had been negligent in ascertaining and investigating the condition of the subject lots mortgaged to it as well as the rights of petitioners who were already in possession thereof at the time of mortgage. Furthermore, petitioners cite the judicial admission of respondent GSIS in its answer before the trial court, wherein it recognized the rights of ownership of Francisco dela Merced over Lot 8, Block 8 and of Eva Mendoza dela Merced over Lot 10, Block 2 of TCT 26105.

Respondent GSIS countered that it cannot be legally presumed to have acknowledged petitioners' rights over Lot 8, Block 8 of TCT 26105. With regard to the possession of petitioners, respondent GSIS invoked the ruling of the Court of Appeals that the mere possession of petitioner cannot stand against the registered titles of GSIS and its buyers, Elizabeth and Ma. Therese Manlongat. Moreover, Lot 6, Block 2 (formerly Block 4) of the Antonio Village Subdivision was acquired by Elizabeth Manlongat in a public bidding, as a consequence of which TCT No. PT-94007 was issued to her. Respondent GSIS also maintained that the lots being claimed by petitioners were included in the real estate mortgage executed by the Zuluetas in favor of GSIS; and that the inclusion of the subject lots in the mortgage was confirmed by Manuel Ibabao, an employee of the Acquired Assets Department of GSIS.

For their part, respondent spouses Manlongat alleged that since Francisco dela Merced never registered the contract to sell and deed of absolute sale with the Register of Deeds, the same cannot affect the rights of third persons such as their daughter, Elizabeth Manlongat, who dealt in good faith with GSIS as the prior registered owner.

The petition is impressed with merit.

Petitioners' rights of ownership over the properties in dispute, albeit unregistered, are superior to the registered mortgage rights of GSIS over the same. The execution and validity of the contract to sell dated September 3, 1957 executed by the Zulueta spouses, as the former subdivision owner, in favor of Francisco dela Merced, are beyond cavil. There is also no dispute that the contract to sell was entered into by the parties before the third mortgage was constituted on October 15, 1957 by the Zuluetas in favor of GSIS on the property covered by TCT No. 26105, which included the subject lots. Francisco dela Merced was able to fully pay the purchase price to the vendor, who later executed a deed of absolute sale in his favor. However, the Zuluetas defaulted on their loans; hence, the mortgage was foreclosed and the properties were sold at public auction to GSIS as the highest bidder.

In the case of State Investment House, Inc. v. Court of Appeals,[20] it was held that:

> STATE's registered mortgage right over the property is inferior to that of respondents-spouses' unregistered right. The unrecorded sale between respondents-spouses and SOLID is preferred for the reason that if the original owner (SOLID, in this case) had parted with his ownership of the thing sold then he no longer had ownership and free disposal of that thing so as to be able to mortgage it again. Registration of the mortgage is of no moment since it is understood to be without prejudice to the better right of third parties.

In the same vein, therefore, the registered right of GSIS as mortgagee of the property is inferior to the unregistered right of Francisco dela Merced. The unrecorded sale between Francisco dela Merced as the vendee of the property and the Zuluetas, the original owners, is preferred for the same reason stated above.

Respondents cannot even assert that as mortgagee of land registered under the Torrens system, GSIS was not required to do more than rely upon the certificate of title. As a general rule, where there is nothing on the

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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 defect or inchoate right that may subsequently defeat his right thereto. This rule, however, admits of an exception as where the purchaser or mortgagee has knowledge of a defect or lack of title in the vendor, or that he was aware of sufficient facts to induce a reasonably prudent man to inquire into the status of the property in litigation.[21]

In the case at bar, GSIS is admittedly a financing institution. In its answer to the complaint filed with the trial court, GSIS admitted knowledge that the spouses Jose C. Zulueta and Soledad B. Ramos owned the Antonio Subdivision when they mortgaged the same with GSIS. In Sunshine Finance and Investment Corp. v. Intermediate Appellate Court,[22] we held that when the purchaser or mortgagee is a financing institution, the general rule that a purchaser or mortgagee of land is not required to look further than what appears on the face of the title does not apply. Further:

> Nevertheless, we have to deviate from the general rule because of the failure of petitioner in this case to take the necessary precautions to ascertain if there was any flaw in the title of the Nolascos and to examine the condition of the property they sought to mortgage. The petitioner is an investment and financing corporation. We presume it is experienced in its business. Ascertainment of the status and condition of properties offered to it as security for the loans it extends must be a standard and indispensable part of its operations. Surely it cannot simply rely on an examination of a Torrens certificate to determine what the subject property looks like as its condition is not apparent in the document. The land might be in a depressed area. There might be squatters on it. It might be easily inundated. It might be an interior lot without convenient access. These and other similar factors determine the value of the property and so should be of practical concern to the petitioner.[23]

There is nothing in the records of this case to indicate that an ocular inspection report was conducted by GSIS, or whether it investigated, examined and assessed the subdivision lots when they were offered as security for the loans by the original owners. The only inventory made by GSIS based on its documentary evidence was prepared by its officers employed with the Acquired Assets Department, but that was after the foreclosure sale was already conducted and not before the mortgage was constituted over the property. The constructive knowledge of GSIS of the defect in the title of the subject property, or lack of such knowledge due to its negligence, takes the place of registration of the rights of petitioners.

Likewise, in Philippine National Bank v. Office of the President,[24][24] we held that ---

> As between these small lot buyers and the gigantic financial institutions which the developers deal with, it is obvious that the law --- as an instrument of social justice --- must favor the weak. Indeed, the petitioner Bank had at its disposal vast resources with which it could adequately protect its loan activities, and therefore is presumed to have conducted the usual "due diligence" checking and ascertained (whether thru ocular inspection or other modes of investigation) the actual status, condition, utilization and occupancy of the property offered as collateral. It could not have been unaware that the property had been built on by small lot buyers. On the other hand, private respondents obviously were powerless to discover the attempt of the land developer to hypothecate the property being sold to them. It was precisely in order to deal with this kind of situation that P.D. 957 was enacted, its very essence and intendment being to provide a protective mantle over helpless citizens who may fall prey to the razzmatazz of what P.D. 957 termed "unscrupulous subdivision and condominium sellers."[25]

In the case at bar, GSIS admitted in its answer that it received a letter from Francisco dela Merced on August 27, 1981, stating that he had acquired the subject lots by virtue of a deed of absolute sale executed in his favor by the Zulueta spouses.[26] GSIS also admitted the fact that on October 17, 1980, its Deputy General Counsel wrote

Francisco dela Merced stating that his claim of ownership over Block 8, Lot 8, of TCT No. 26105 had "no problem;" but his claim to Lots 6, 7, 10 and 11 of Block 2, of the same title, was "not very clear".[27] Clearly, therefore, GSIS had full knowledge of the claim of ownership of dela Merced over the aforementioned lots even before their sale at public auction to Elizabeth Manlongat.

Coming now to the last issue --- whether Elizabeth Manlongat, as purchaser of Lot 6, Block 2 at an auction sale conducted by GSIS, had a better right than petitioners --- we must rule in the negative. It should be borne in mind that the title of Manlongat was derived through sale or transfer from GSIS, whose acquisition over the property proceeded from a foreclosure sale that was null and void. Nemo potest plus juris ad alium transferre quam ipse habet. No one can transfer a greater right to another than he himself has.[28] In other words, the subsequent certificates of title of GSIS and of Manlongat over the property are both void, because of the legal truism that the spring cannot rise higher than the source.

Further, Manlongat cannot claim that she was a purchaser in good faith. The records categorically reflect that neither Manlongat nor her predecessor-in-interest, GSIS, possessed the property prior to or after the former bought the same at an auction sale. In fact, at the time the lots were sold to Manlongat, petitioners were not only in actual possession thereof, but their father, Francisco dela Merced, had already built a house thereon. Again, a cautious and prudent purchaser would usually make an ocular inspection of the premises, this being standard practice in the real estate industry. Should such prospective buyer find out that the land she intends to buy is being occupied by anybody other than the seller, who, in this case, was not in actual possession, it would then be incumbent upon her to verify the extent of the occupant's possessory rights. The failure of a prospective buyer to take such precautionary steps would mean negligence on her part and would thereby preclude her from claiming or invoking the rights of a purchaser in good faith.

WHEREFORE, in view of the foregoing, the petition is GRANTED. The decision of the Court of Appeals is REVERSED AND SET ASIDE. The decision of the Regional Trial Court of Pasig City, Branch 160, in Civil Cases Nos. 51410 and 51470, is REINSTATED. The foreclosure sale of Lot Nos. 6, 7, 8 and 10 of Block 2 and Lot 8 of Block 8 of the property originally covered by TCT 26105, and the subsequent certificates of titles issued to GSIS as well as TCT No. PT-94007 in the name of Elizabeth Manlongat, are declared NULL AND VOID. The Register of Deeds of Pasig City is ordered to CANCEL all present certificates of title in the name of GSIS and Elizabeth Manlongat covering the above-mentioned properties, and to ISSUE new certificates of title over the same in the name of petitioners as co-owners thereof. Respondents GSIS and spouses Victor and Milagros Manlongat are ORDERED to pay, jointly and severally, attorney's fees in the increased amount of P50,000.00, and to pay the costs.

SO ORDERED.

Kapunan and Pardo, JJ., concur.
Davide, Jr., C.J., (Chairman), except as to attorney's fees. There should be no increase.
Puno, J., on official leave.

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[1] Rollo, pp. 36-45; penned by Associate Justices Hector L. Hofileña, concurred in by Associate Justices Omar U. Amin and Presbitero J. Velasco, Jr.

[2] Record, Civil Case No. 51410, pp. 646-660; penned by Judge Mariano M. Umali.

[3] Exh. "1".

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[4] Exh. "2".

[5] Exh. "3".

[6] Exh. "F".

[7] Record, Civil Case No. 51410, p. 24-25

[8] Juanito Pomperada, Avelino Villasanta, Neptale Cababahay, Lamberto Demos, Eduardo Infante, Gloria Lemonsito, Alfonso Billones, Jean Marie Gatungay, Alfredo Garcia, Anacleto Barcenas, Antonio Ayuben, Romeo Sesmundo, Marivic Ceniza, Oscar Calumpeta, Osmundo Ramos, Samuel Maiwat, Primo Calderon, Joselito Braga, Raymundo Menor, Mario Fernandez, Alicia Enaje, Aida Leque, Cristina Milo, Salvador Florencio, Ordel Tobola, Edna Gallo, Natividad Sebastian, Alejandro Laudencio and Alberto Bellera.

[9] Record, Civil Case No. 51410, pp. 1-5.

[10] Record, Civil Case No. 51470, pp. 1-6.

[11] Record, Civil Case No. 51410, pp. 99-102.

[12] Ibid., p. 130.

[13] Record, Civil Case No. 51470, p. 145.

[14] Record, Civil Case No. 51410, p. 361.

[15] Ibid., pp. 472-76; penned by Associate Justice Bernardo P. Pardo (now member of this Court), concurred in by Presiding Justice Vicente V. Mendoza (now member of this Court) and Associate Justice Justo P. Torres, Jr. (retired Justice of this Court).

[16] Ibid., p. 660.

[17] Ibid., pp. 657-658.

[18] Rollo, pp. 24-30.

[19] Ibid., pp. 178-79.

[20] 254 SCRA 368, 373 (1996).

[21] Ibid., at 373-74.

[22] 203 SCRA 210 [1991].

[23] Ibid., at 216.

[24] 252 SCRA 5 [1996].

[25] Ibid., at 10-11.

[26] Record, Civil Case No. 51470, p. 50.

[27] Ibid., pp. 2, 50.

[28] Mathay v. Court of Appeals, 295 SCRA 556, 577 [1998].

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