MARIA TORBELA, REPRESENTED BY HER HEIRS, NAMELY: EULOGIO TOSINO, HUSBAND AND CHILDREN: CLARO, MAXIMINO, CORNELIO, OLIVIA AND CALIXTA, ALL SURNAMED TOSINO, APOLONIA TOSINO VDA. D...

G.R. No. 140528. December 07, 2011

Ponente: LEONARDO-DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-140528/

LEONARDO-DE CASTRO, J.:

Presently before the Court are two consolidated Petitions for Review on Certiorari under Rule 45 of the Rules of Court, both assailing the Decision [1] dated June 29, 1999 and Resolution [2] dated October 22, 1999 of the Court of Appeals in CA-G.R. CV No. 39770.

The petitioners in G.R. No. 140528 are siblings Maria Torbela, [3] Pedro Torbela, [4] Eufrosina Torbela Rosario, [5] Leonila Torbela Tamin, Fernando Torbela, [6] Dolores Torbela Tablada, Leonora Torbela Agustin, [7] and Severina Torbela Ildefonso (Torbela siblings).

The petitioner in G.R. No. 140553 is Lena Duque-Rosario (Duque-Rosario), who was married to, but now legally separated from, Dr. Andres T. Rosario (Dr. Rosario). Dr. Rosario is the son of Eufrosina Torbela Rosario and the nephew of the other Torbela siblings.

The controversy began with a parcel of land, with an area of 374 square meters, located in Urdaneta City, Pangasinan (Lot No. 356-A). It was originally part of a larger parcel of land, known as Lot No. 356 of the Cadastral Survey of Urdaneta, measuring 749 square meters, and covered by Original Certificate of Title (OCT) No. 16676, [8] in the name of Valeriano Semilla (Valeriano), married to Potenciana Acosta. Under unexplained circumstances, Valeriano gave Lot No. 356-A to his sister Marta Semilla, married to Eugenio Torbela (spouses Torbela). Upon the deaths of the spouses Torbela, Lot No. 356-A was adjudicated in equal shares among their children, the Torbela siblings, by virtue of a Deed of Extrajudicial Partition [9] dated December 3, 1962.

On December 12, 1964, the Torbela siblings executed a Deed of Absolute Quitclaim [10] over Lot No. 356-A in favor of Dr. Rosario. According to the said Deed, the Torbela siblings “for and in consideration of the sum of NINE PESOS (P9.00) x x x transfer[red] and convey[ed] x x x unto the said Andres T. Rosario, that undivided portion of THREE HUNDRED SEVENTY-FOUR square meters of that parcel of land embraced in Original Certificate of Title No. 16676 of the land records of Pangasinan x x x.” [11] Four days later, on December 16, 1964, OCT No. 16676 in Valeriano’s name was partially cancelled as to Lot No. 356-A and TCT No. 52751 [12] was issued in Dr. Rosario’s name covering the said property.

Another Deed of Absolute Quitclaim [13] was subsequently executed on December 28, 1964, this time by Dr. Rosario, acknowledging that he only borrowed Lot No. 356-A from the Torbela siblings and was already returning the same to the latter for P1.00. The Deed stated:

> That for and in consideration of the sum of one peso (P1.00), Philippine Currency and the fact that I only

> borrowed the above described parcel of land from MARIA TORBELA, married to Eulogio Tosino, EUFROSINA TORBELA, married to Pedro Rosario, PEDRO TORBELA, married to Petra Pagador, LEONILA TORBELA, married to Fortunato Tamen, FERNANDO TORBELA, married to Victoriana Tablada, DOLORES TORBELA, widow, LEONORA TORBELA, married to Matias Agustin and SEVERINA TORBELA, married to Jorge Ildefonso, x x x by these presents do hereby cede, transfer and convey by way of this ABSOLUTE QUITCLAIM unto the said Maria, Eufrosina, Pedro, Leonila, Fernando, Dolores, Leonora and Severina, all surnamed Torbela the parcel of land described above. [14] (Emphasis ours.)

The aforequoted Deed was notarized, but was not immediately annotated on TCT No. 52751.

Following the issuance of TCT No. 52751, Dr. Rosario obtained a loan from the Development Bank of the Philippines (DBP) on February 21, 1965 in the sum of P70,200.00, secured by a mortgage constituted on Lot No. 356-A. The mortgage was annotated on TCT No. 52751 on September 21, 1965 as Entry No. 243537. [15] Dr. Rosario used the proceeds of the loan for the construction of improvements on Lot No. 356-A.

On May 16, 1967, Cornelio T. Tosino (Cornelio) executed an Affidavit of Adverse Claim, [16] on behalf of the Torbela siblings. Cornelio deposed in said Affidavit:

> 3. That ANDRES T. ROSARIO later quitclaimed his rights in favor of the former owners by virtue of a Deed of Absolute Quitclaim which he executed before Notary Public Banaga, and entered in his Notarial Registry as Dec. No. 43; Page No. 9; Book No. I; Series of 1964;
>
> 4. That it is the desire of the parties, my aforestated kins, to register ownership over the above-described property or to perfect their title over the same but their Deed could not be registered because the registered owner now, ANDRES T. ROSARIO mortgaged the property with the DEVELOPMENT BANK OF THE PHILIPPINES, on September 21, 1965, and for which reason, the Title is still impounded and held by the said bank;
>
> 5. That pending payment of the obligation with the DEVELOPMENT BANK OF THE PHILIPPINES or redemption of the Title from said bank, I, CORNELIO T. TOSINO, in behalf of my mother MARIA TORBELA-TOSINO, and my Aunts EUFROSINA TORBELA, LEONILA TORBELA-TAMEN, DOLORES TORBELA, LEONORA TORBELA-AGUSTIN, SEVERINA TORBELA-ILDEFONSO, and my Uncles PEDRO TORBELA and FERNANDO, also surnamed TORBELA, I request the Register of Deeds of Pangasinan to annotate their adverse claim at the back of Transfer Certificate of Title No. 52751, based on the annexed document, Deed of Absolute Quitclaim by ANDRES T. ROSARIO, dated December 28, 1964, marked as Annex “A” and made a part of this Affidavit, and it is also requested that the DEVELOPMENT BANK OF THE PHILIPPINES be informed accordingly. [17]

The very next day, on May 17, 1967, the Torbela siblings had Cornelio’s Affidavit of Adverse Claim dated May 16, 1967 and Dr. Rosario’s Deed of Absolute Quitclaim dated December 28, 1964 annotated on TCT No. 52751 as Entry Nos. 274471 [18] and 274472, [19] respectively.

The construction of a four-storey building on Lot No. 356-A was eventually completed. The building was initially used as a hospital, but was later converted to a commercial building. Part of the building was leased to PT&T; and the rest to Mrs. Andrea Rosario-Haduca, Dr. Rosario’s sister, who operated the Rose Inn Hotel and Restaurant.

Dr. Rosario was able to fully pay his loan from DBP. Under Entry No. 520197 on TCT No. 52751 [20] dated March 6, 1981, the mortgage appearing under Entry No. 243537 was cancelled per the Cancellation and Discharge of Mortgage executed by DBP in favor of Dr. Rosario and ratified before a notary public on July 11, 1980.

In the meantime, Dr. Rosario acquired another loan from the Philippine National Bank (PNB) sometime in

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

1979-1981. Records do not reveal though the original amount of the loan from PNB, but the loan agreement was amended on March 5, 1981 and the loan amount was increased to P450,000.00. The loan was secured by mortgages constituted on the following properties: (1) Lot No. 356-A, covered by TCT No. 52751 in Dr. Rosario's name; (2) Lot No. 4489, with an area of 1,862 square meters, located in Dagupan City, Pangasinan, covered by TCT No. 24832; and (3) Lot No. 5-F-8-C-2-B-2-A, with an area of 1,001 square meters, located in Nancayasan, Urdaneta, Pangasinan, covered by TCT No. 104189. [21] The amended loan agreement and mortgage on Lot No. 356-A was annotated on TCT No. 52751 on March 6, 1981 as Entry No. 520099. [22]

Five days later, on March 11, 1981, another annotation, Entry No. 520469, [23] was made on TCT No. 52751, canceling the adverse claim on Lot No. 356-A under Entry Nos. 274471-274472, on the basis of the Cancellation and Discharge of Mortgage executed by Dr. Rosario on March 5, 1981. Entry No. 520469 consisted of both stamped and handwritten portions, and exactly reads:

> Entry No. 520469. Cancellation of Adverse Claim executed by Andres Rosario in favor of same. The incumbrance/mortgage appearing under Entry No. 274471-72 is now cancelled as per Cancellation and Discharge of Mortgage Ratified before Notary Public Mauro G. Meris on March 5, 1981: Doc. No. 215; Page No. 44; Book No. 1; Series Of 1981.
>
> Lingayen, Pangasinan, 3-11, 19981
>
> [Signed: Pedro dela Cruz]
> Register of Deeds [24]

On December 8, 1981, Dr. Rosario and his wife, Duque-Rosario (spouses Rosario), acquired a third loan in the amount of P1,200,000.00 from Banco Filipino Savings and Mortgage Bank (Banco Filipino). To secure said loan, the spouses Rosario again constituted mortgages on Lot No. 356-A, Lot No. 4489, and Lot No. 5-F-8-C-2-B-2-A. The mortgage on Lot No. 356-A was annotated on TCT No. 52751 as Entry No. 533283 [25] on December 18, 1981. Since the construction of a two-storey commercial building on Lot No. 5-F-8-C-2-B-2-A was still incomplete, the loan value thereof as collateral was deducted from the approved loan amount. Thus, the spouses Rosario could only avail of the maximum loan amount of P830,064.00 from Banco Filipino.

Because Banco Filipino paid the balance of Dr. Rosario's loan from PNB, the mortgage on Lot No. 356-A in favor of PNB was cancelled per Entry No. 533478 [26] on TCT No. 52751 dated December 23, 1981.

On February 13, 1986, the Torbela siblings filed before the Regional Trial Court (RTC) of Urdaneta, Pangasinan, a Complaint for recovery of ownership and possession of Lot No. 356-A, plus damages, against the spouses Rosario, which was docketed as Civil Case No. U-4359. On the same day, Entry Nos. 593493 and 593494 were made on TCT No. 52751 that read as follows:

> Entry No. 593494 – Complaint – Civil Case No. U-4359 (For: Recovery of Ownership and Possession and Damages. (Sup. Paper).
> Entry No. 593493 – Notice of Lis Pendens – The parcel of land described in this title is subject to Lis Pendens executed by Liliosa B. Rosario, CLAO, Trial Attorney dated February 13, 1986. Filed to TCT No. 52751
> February 13, 1986-1986 February 13 – 3:30 p.m.
>
> (SGD.) PACIFICO M. BRAGANZA
> Register of Deeds [27]

The spouses Rosario afterwards failed to pay their loan from Banco Filipino. As of April 2, 1987, the spouses Rosario's outstanding principal obligation and penalty charges amounted to P743,296.82 and P151,524.00, respectively. [28]

Banco Filipino extrajudicially foreclosed the mortgages on Lot No. 356-A, Lot No. 4489, and Lot No. 5-F-8-C-2-B-2-A. During the public auction on April 2, 1987, Banco Filipino was the lone bidder for the three foreclosed properties for the price of P1,372,387.04. The Certificate of Sale [29] dated April 2, 1987, in favor of Banco Filipino, was annotated on TCT No. 52751 on April 14, 1987 as Entry No. 610623. [30]

On December 9, 1987, the Torbela siblings filed before the RTC their Amended Complaint, [31] impleading Banco Filipino as additional defendant in Civil Case No. U-4359 and praying that the spouses Rosario be ordered to redeem Lot No. 356-A from Banco Filipino.

The spouses Rosario instituted before the RTC on March 4, 1988 a case for annulment of extrajudicial foreclosure and damages, with prayer for a writ of preliminary injunction and temporary restraining order, against Banco Filipino, the Provincial Ex Officio Sheriff and his Deputy, and the Register of Deeds of Pangasinan. The case was docketed as Civil Case No. U-4667. Another notice of lis pendens was annotated on TCT No. 52751 on March 10, 1988 as Entry No. 627059, viz:

> Entry No. 627059 – Lis Pendens – Dr. Andres T. Rosario and Lena Duque Rosario, Plaintiff versus Banco Filipino, et. al. Civil Case No. U-4667 or Annulment of ExtraJudicial Foreclosure of Real Estate Mortgage – The parcel of land described in this title is subject to Notice of Lis Pendens subscribed and sworn to before Notary Public Mauro G. Meris, as Doc. No. 21; Page No. 5; Book 111; S-1988. March 7, 1988-1988 March 10, 1:00 p.m.
>
> (SGD.) RUFINO M. MORENO, SR.
> Register of Deeds [32]

The Torbela siblings intervened in Civil Case No. U-4667. Eventually, on October 17, 1990, the RTC issued an Order [33] dismissing without prejudice Civil Case No. U-4667 due to the spouses Rosario's failure to prosecute.

Meanwhile, the Torbela siblings tried to redeem Lot No. 356-A from Banco Filipino, but their efforts were unsuccessful. Upon the expiration of the one-year redemption period in April 1988, the Certificate of Final Sale [34] and Affidavit of Consolidation [35] covering all three foreclosed properties were executed on May 24, 1988 and May 25, 1988, respectively.

On June 7, 1988, new certificates of title were issued in the name of Banco Filipino, particularly, TCT No. 165812 for Lot No. 5-F-8-C-2-B-2-A and TCT No. 165813 for Lot No. 356-A . [36]

The Torbela siblings thereafter filed before the RTC on August 29, 1988 a Complaint [37] for annulment of the Certificate of Final Sale dated May 24, 1988, judicial cancelation of TCT No. 165813, and damages, against Banco Filipino, the Ex Officio Provincial Sheriff, and the Register of Deeds of Pangasinan, which was docketed as Civil Case No. U-4733.

On June 19, 1991, Banco Filipino filed before the RTC of Urdaneta City a Petition for the issuance of a writ of possession. In said Petition, docketed as Pet. Case No. U-822, Banco Filipino prayed that a writ of possession be issued in its favor over Lot No. 5-F-8-C-2-B-2-A and Lot No. 356-A, plus the improvements thereon, and the spouses Rosario and other persons presently in possession of said properties be directed to abide by said writ.

The RTC jointly heard Civil Case Nos. U-4359 and U-4733 and Pet. Case No. U-822. The Decision [38] on these three cases was promulgated on January 15, 1992, the dispositive portion of which reads:

> WHEREFORE, judgment is rendered:
>
> 1. Declaring the real estate mortgage over Lot 356-A covered by TCT 52751 executed by Spouses Andres Rosario in favor of Banco Filipino, legal and valid;

2. Declaring the sheriff's sale dated April 2, 1987 over Lot 356-A covered by TCT 52751 and subsequent final Deed of Sale dated May 14, 1988 over Lot 356-A covered by TCT No. 52751 legal and valid;

3. Declaring Banco Filipino the owner of Lot 356-A covered by TCT No. 52751 (now TCT 165813);

4. Banco Filipino is entitled to a Writ of Possession over Lot 356-A together with the improvements thereon (Rose Inn Building). The Branch Clerk of Court is hereby ordered to issue a writ of possession in favor of Banco Filipino;

5. [The Torbela siblings] are hereby ordered to render accounting to Banco Filipino the rental they received from tenants of Rose Inn Building from May 14, 1988;

6. [The Torbela siblings] are hereby ordered to pay Banco Filipino the sum of P20,000.00 as attorney's fees;

7. Banco Filipino is hereby ordered to give [the Torbela siblings] the right of first refusal over Lot 356-A. The Register of Deeds is hereby ordered to annotate the right of [the Torbela siblings] at the back of TCT No. 165813 after payment of the required fees;

8. Dr. Rosario and Lena Rosario are hereby ordered to reimburse [the Torbela siblings] the market value of Lot 356-A as of December, 1964 minus payments made by the former;

9. Dismissing the complaint of [the Torbela siblings] against Banco Filipino, Pedro Habon and Rufino Moreno in Civil Case No. U-4733; and against Banco Filipino in Civil Case No. U-4359. [39]

The RTC released an Amended Decision [40] dated January 29, 1992, adding the following paragraph to the dispositive:

Banco Filipino is entitled to a Writ of Possession over Lot-5-F-8-C-2-[B]-2-A of the subdivision plan (LRC) Psd-122471, covered by Transfer Certificate of Title 104189 of the Registry of Deeds of Pangasinan[.] [41]

The Torbela siblings and Dr. Rosario appealed the foregoing RTC judgment before the Court of Appeals. Their appeal was docketed as CA-G.R. CV No. 39770.

In its Decision [42] dated June 29, 1999, the Court of Appeals decreed:

WHEREFORE, foregoing considered, the appealed decision is hereby AFFIRMED with modification. Items No. 6 and 7 of the appealed decision are DELETED. Item No. 8 is modified requiring [Dr. Rosario] to pay [the Torbela siblings] actual damages, in the amount of P1,200,000.00 with 6% per annum interest from finality of this decision until fully paid. [Dr. Rosario] is further ORDERED to pay [the Torbela siblings] the amount of P300,000.00 as moral damages; P200,000.00 as exemplary damages and P100,000.00 as attorney's fees.

Costs against [Dr. Rosario]. [43]

The Court of Appeals, in a Resolution [44] dated October 22, 1999, denied the separate Motions for Reconsideration of the Torbela siblings and Dr. Rosario.

The Torbela siblings come before this Court via the Petition for Review in G.R. No. 140528, with the following assignment of errors:

First Issue and Assignment of Error:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT FINDING THAT THE REGISTRATION OF THE DEED OF ABSOLUTE QUITCLAIM EXECUTED BY [DR. ANDRES T. ROSARIO] IN FAVOR OF THE [TORBELA SIBLINGS] DATED DECEMBER 28, 1964 AND THE REGISTRATION OF THE NOTICE OF ADVERSE CLAIM EXECUTED BY THE [TORBELA SIBLINGS], SERVE AS THE OPERATIVE ACT TO CONVEY OR AFFECT THE LAND AND

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

IMPROVEMENTS THEREOF IN SO FAR AS THIRD PERSONS ARE CONCERNED.

Second Issue and Assignment of Error:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE SUBJECT PROPERTY COVERED BY T.C.T. NO. 52751 IS CLEAN AND FREE, DESPITE OF THE ANNOTATION OF ENCUMBRANCES OF THE NOTICE OF ADVERSE CLAIM AND THE DEED OF ABSOLUTE QUITCLAIM APPEARING AT THE BACK THEREOF AS ENTRY NOS. 274471 AND 274472, RESPECTIVELY.

Third Issue and Assignment of Error:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE NOTICE OF ADVERSE CLAIM OF THE [TORBELA SIBLINGS] UNDER ENTRY NO. 274471 WAS VALIDLY CANCELLED BY THE REGISTER OF DEEDS, IN THE ABSENCE OF A PETITION DULY FILED IN COURT FOR ITS CANCELLATION.

Fourth Issue and Assignment of Error:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT RESPONDENT BANCO FILIPINO SAVINGS AND MORTGAGE BANK IS A MORTGAGEE IN GOOD FAITH.

Fifth Issue and Assignment of Error:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT FINDING THAT THE FILING OF A CIVIL CASE NO. U-4359 ON DECEMBER 9, 1987, IMPLEADING RESPONDENT BANCO FILIPINO AS ADDITIONAL PARTY DEFENDANT, TOLL OR SUSPEND THE RUNNING OF THE ONE YEAR PERIOD OF REDEMPTION.

Sixth Issue and Assignment of Error:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT FINDING THAT THE OWNERSHIP OVER THE SUBJECT PROPERTY WAS PREMATURELY CONSOLIDATED IN FAVOR OF RESPONDENT BANCO FILIPINO SAVINGS AND MORTGAGE BANK.

Seventh Issue and Assignment of Error:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE SUBJECT PROPERTY IS AT LEAST WORTH P1,200,000.00. [45]

The Torbela siblings ask of this Court:

WHEREFORE, in the light of the foregoing considerations, the [Torbela siblings] most respectfully pray that the questioned DECISION promulgated on June 29, 1999 (Annex “A”, Petition) and the RESOLUTION dated October 22, 1999 (Annex “B”, Petition) be REVERSED and SET ASIDE, and/or further MODIFIED in favor of the [Torbela siblings], and another DECISION issue ordering, among other reliefs, the respondent Banco Filipino to reconvey back Lot No. 356-A, covered by T.C.T. No. 52751, in favor of the [Torbela siblings] who are the actual owners of the same.

The [Torbela siblings] likewise pray for such other reliefs and further remedies as may be deemed just and equitable under the premises. [46]

Duque-Rosario, now legally separated from Dr. Rosario, avers in her Petition for Review in G.R. No. 140553 that Lot No. 4489 and Lot No. 5-F-8-C-2-B-2-A were registered in her name, and she was unlawfully deprived of ownership of said properties because of the following errors of the Court of Appeals:

A

THE HON. COURT OF APPEALS PATENTLY ERRED IN NOT FINDING THAT THE PERIOD TO REDEEM THE PROPERTY HAS NOT COMMENCED, HENCE, THE CERTIFICATE OF SALE, THE CONSOLIDATION OF OWNERSHIP BY [BANCO FILIPINO], ARE NULL AND VOID.

B

THE COURT OF APPEALS PATENTLY ERRED IN REFUSING TO RULE THAT THE FILING OF THE COMPLAINT BEFORE THE COURT A QUO BY THE [TORBELA SIBLINGS] HAD ALREADY BEEN PRESCRIBED. [47]

Duque-Rosario prays that the appealed decision of the Court of Appeals be reversed and set aside, and that Lot No. 4489 and Lot No. 5-F-8-C-2-B-2-A be freed from all obligations and encumbrances and returned to her.

Review of findings of fact by the RTC
and the Court of Appeals warranted.

A disquisition of the issues raised and/or errors assigned in the Petitions at bar unavoidably requires a re-evaluation of the facts and evidence presented by the parties in the court a quo.

In Republic v. Heirs of Julia Ramos, [48] the Court summed up the rules governing the power of review of the Court:

> Ordinarily, this Court will not review, much less reverse, the factual findings of the Court of Appeals, especially where such findings coincide with those of the trial court. The findings of facts of the Court of Appeals are, as a general rule, conclusive and binding upon this Court, since this Court is not a trier of facts and does not routinely undertake the re-examination of the evidence presented by the contending parties during the trial of the case.
>
> The above rule, however, is subject to a number of exceptions, such as (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises, or conjectures; (4) when the judgment of the Court of Appeals is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both parties; (7) when the findings of the Court of Appeals are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record. [49]

As the succeeding discussion will bear out, the first, fourth, and ninth exceptions are extant in these case.

Barangay conciliation was not a pre-requisite
to the institution of Civil Case No. U-4359.

Dr. Rosario contends that Civil Case No. U-4359, the Complaint of the Torbela siblings for recovery of ownership and possession of Lot No. 356-A, plus damages, should have been dismissed by the RTC because of the failure of the Torbela siblings to comply with the prior requirement of submitting the dispute to barangay conciliation.

The Torbela siblings instituted Civil Case No. U-4359 on February 13, 1986, when Presidential Decree No. 1508, Establishing a System of Amicably Settling Disputes at the Barangay Level, was still in effect. [50] Pertinent provisions of said issuance read:

> Section 2. Subject matters for amicable settlement. The Lupon of each barangay shall have authority to bring together the parties actually residing in the same city or municipality for amicable settlement of all disputes except:
>
> - Where one party is the government, or any subdivision or instrumentality thereof;
>
> - Where one party is a public officer or employee, and the dispute relates to the performance of his official functions;
>
> - Offenses punishable by imprisonment exceeding 30 days, or a fine exceeding P200.00;
>
> - Offenses where there is no private offended party;
>
> - Such other classes of disputes which the Prime Minister may in the interest of justice determine upon recommendation of the Minister of Justice and the Minister of Local Government.
>
> Section 3. Venue. Disputes between or among persons actually residing in the same barangay shall be brought for amicable settlement before the Lupon of said barangay. Those involving actual residents of different barangays within the same city or municipality shall be brought in the barangay where the respondent or any of the respondents actually resides, at the election of the complainant. However, all disputes which involved real property or any interest therein shall be brought in the barangay where the real property or any part thereof is situated.
>
> The Lupon shall have no authority over disputes:
>
> - involving parties who actually reside in barangays of different cities or municipalities, except where such barangays adjoin each other; and
>
> - involving real property located in different municipalities.
>
> x x x x
>
> Section 6. Conciliation, pre-condition to filing of complaint. – No complaint, petition, action or proceeding involving any matter within the authority of the Lupon as provided in Section 2 hereof shall be filed or instituted in court or any other government office for adjudication unless there has been a confrontation of the parties before the Lupon Chairman or the Pangkat and no conciliation or settlement has been reached as certified by the Lupon Secretary or the Pangkat Secretary, attested by the Lupon or Pangkat Chairman, or unless the settlement has been repudiated. x x x. (Emphases supplied.)

The Court gave the following elucidation on the jurisdiction of the Lupong Tagapayapa in Tavora v. Hon. Veloso [51]:

> The foregoing provisions are quite clear. Section 2 specifies the conditions under which the Lupon of a barangay "shall have authority" to bring together the disputants for amicable settlement of their dispute: The parties must be "actually residing in the same city or municipality." At the same time, Section 3 — while reiterating that the disputants must be "actually residing in the same barangay" or in "different barangays" within the same city or municipality — unequivocably declares that the Lupon shall have "no authority" over disputes "involving parties who actually reside in barangays of different cities or municipalities," except where such barangays adjoin each other.
>
> Thus, by express statutory inclusion and exclusion, the Lupon shall have no jurisdiction over disputes where the parties are not actual residents of the same city or municipality, except where the barangays in which they actually reside adjoin each other.
>
> It is true that immediately after specifying the barangay whose Lupon shall take cognizance of a given dispute, Sec. 3 of PD 1508 adds:

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> "However, all disputes which involve real property or any interest therein shall be brought in the barangay where the real property or any part thereof is situated."

Actually, however, this added sentence is just an ordinary proviso and should operate as such.

The operation of a proviso, as a rule, should be limited to its normal function, which is to restrict or vary the operation of the principal clause, rather than expand its scope, in the absence of a clear indication to the contrary.

> "The natural and appropriate office of a proviso is . . . to except something from the enacting clause; to limit, restrict, or qualify the statute in whole or in part; or to exclude from the scope of the statute that which otherwise would be within its terms." (73 Am Jur 2d 467.)

Therefore, the quoted proviso should simply be deemed to restrict or vary the rule on venue prescribed in the principal clauses of the first paragraph of Section 3, thus: Although venue is generally determined by the residence of the parties, disputes involving real property shall be brought in the barangay where the real property or any part thereof is situated, notwithstanding that the parties reside elsewhere within the same city/municipality. [52] (Emphases supplied.)

The original parties in Civil Case No. U-4359 (the Torbela siblings and the spouses Rosario) do not reside in the same barangay, or in different barangays within the same city or municipality, or in different barangays of different cities or municipalities but are adjoining each other. Some of them reside outside Pangasinan and even outside of the country altogether. The Torbela siblings reside separately in Barangay Macalong, Urdaneta, Pangasinan; Barangay Consolacion, Urdaneta, Pangasinan; Pangil, Laguna; Chicago, United States of America; and Canada. The spouses Rosario are residents of Calle Garcia, Poblacion, Urdaneta, Pangasinan. Resultantly, the Lupon had no jurisdiction over the dispute and barangay conciliation was not a pre-condition for the filing of Civil Case No. U-4359.

The Court now looks into the merits of Civil Case No. U-4359.

There was an express trust between
the Torbela siblings and Dr. Rosario.

There is no dispute that the Torbela sibling inherited the title to Lot No. 356-A from their parents, the Torbela spouses, who, in turn, acquired the same from the first registered owner of Lot No. 356-A, Valeriano.

Indeed, the Torbela siblings executed a Deed of Absolute Quitclaim on December 12, 1964 in which they transferred and conveyed Lot No. 356-A to Dr. Rosario for the consideration of P9.00. However, the Torbela siblings explained that they only executed the Deed as an accommodation so that Dr. Rosario could have Lot No. 356-A registered in his name and use said property to secure a loan from DBP, the proceeds of which would be used for building a hospital on Lot No. 356-A – a claim supported by testimonial and documentary evidence, and borne out by the sequence of events immediately following the execution by the Torbela siblings of said Deed. On December 16, 1964, TCT No. 52751, covering Lot No. 356-A, was already issued in Dr. Rosario's name. On December 28, 1964, Dr. Rosario executed his own Deed of Absolute Quitclaim, in which he expressly acknowledged that he "only borrowed" Lot No. 356-A and was transferring and conveying the same back to the Torbela siblings for the consideration of P1.00. On February 21, 1965, Dr. Rosario's loan in the amount of P70,200.00, secured by a mortgage on Lot No. 356-A, was approved by DBP. Soon thereafter, construction of a hospital building started on Lot No. 356-A.

Among the notable evidence presented by the Torbela siblings is the testimony of Atty. Lorenza Alcantara (Atty. Alcantara), who had no apparent personal interest in the present case. Atty. Alcantara, when she was still a boarder at the house of Eufrosina Torbela Rosario (Dr. Rosario's mother), was consulted by the Torbela siblings

as regards the extrajudicial partition of Lot No. 356-A. She also witnessed the execution of the two Deeds of Absolute Quitclaim by the Torbela siblings and Dr. Rosario.

In contrast, Dr. Rosario presented TCT No. 52751, issued in his name, to prove his purported title to Lot No. 356-A. In Lee Tek Sheng v. Court of Appeals, [53] the Court made a clear distinction between title and the certificate of title:

> The certificate referred to is that document issued by the Register of Deeds known as the Transfer Certificate of Title (TCT). By title, the law refers to ownership which is represented by that document. Petitioner apparently confuses certificate with title. Placing a parcel of land under the mantle of the Torrens system does not mean that ownership thereof can no longer be disputed. Ownership is different from a certificate of title. The TCT is only the best proof of ownership of a piece of land. Besides, the certificate cannot always be considered as conclusive evidence of ownership. Mere issuance of the certificate of title in the name of any person does not foreclose the possibility that the real property may be under co-ownership with persons not named in the certificate or that the registrant may only be a trustee or that other parties may have acquired interest subsequent to the issuance of the certificate of title. To repeat, registration is not the equivalent of title, but is only the best evidence thereof. Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeably used. x x x. [54] (Emphases supplied.)

Registration does not vest title; it is merely the evidence of such title. Land registration laws do not give the holder any better title than what he actually has. [55] Consequently, Dr. Rosario must still prove herein his acquisition of title to Lot No. 356-A, apart from his submission of TCT No. 52751 in his name.

Dr. Rosario testified that he obtained Lot No. 356-A after paying the Torbela siblings P25,000.00, pursuant to a verbal agreement with the latter. The Court though observes that Dr. Rosario's testimony on the execution and existence of the verbal agreement with the Torbela siblings lacks significant details (such as the names of the parties present, dates, places, etc.) and is not corroborated by independent evidence.

In addition, Dr. Rosario acknowledged the execution of the two Deeds of Absolute Quitclaim dated December 12, 1964 and December 28, 1964, even affirming his own signature on the latter Deed. The Parol Evidence Rule provides that when the terms of the agreement have been reduced into writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement. [56] Dr. Rosario may not modify, explain, or add to the terms in the two written Deeds of Absolute Quitclaim since he did not put in issue in his pleadings (1) an intrinsic ambiguity, mistake, or imperfection in the Deeds; (2) failure of the Deeds to express the true intent and the agreement of the parties thereto; (3) the validity of the Deeds; or (4) the existence of other terms agreed to by the Torbela siblings and Dr. Rosario after the execution of the Deeds. [57]

Even if the Court considers Dr. Rosario's testimony on his alleged verbal agreement with the Torbela siblings, the Court finds the same unsatisfactory. Dr. Rosario averred that the two Deeds were executed only because he was "planning to secure loan from the Development Bank of the Philippines and Philippine National Bank and the bank needed absolute quitclaim[.]" [58] While Dr. Rosario's explanation makes sense for the first Deed of Absolute Quitclaim dated December 12, 1964 executed by the Torbela siblings (which transferred Lot No. 356-A to Dr. Rosario for P9.00.00), the same could not be said for the second Deed of Absolute Quitclaim dated December 28, 1964 executed by Dr. Rosario. In fact, Dr. Rosario's Deed of Absolute Quitclaim (in which he admitted that he only borrowed Lot No. 356-A and was transferring the same to the Torbela siblings for P1.00.00) would actually work against the approval of Dr. Rosario's loan by the banks. Since Dr. Rosario's Deed of Absolute Quitclaim dated December 28, 1964 is a declaration against his self-interest, it must be taken as favoring

the truthfulness of the contents of said Deed. [59]

It can also be said that Dr. Rosario is estopped from claiming or asserting ownership over Lot No. 356-A based on his Deed of Absolute Quitclaim dated December 28, 1964. Dr. Rosario's admission in the said Deed that he merely borrowed Lot No. 356-A is deemed conclusive upon him. Under Article 1431 of the Civil Code, "[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." [60] That admission cannot now be denied by Dr. Rosario as against the Torbela siblings, the latter having relied upon his representation.

Considering the foregoing, the Court agrees with the RTC and the Court of Appeals that Dr. Rosario only holds Lot No. 356-A in trust for the Torbela siblings.

Trust is the right to the beneficial enjoyment of property, the legal title to which is vested in another. It is a fiduciary relationship that obliges the trustee to deal with the property for the benefit of the beneficiary. Trust relations between parties may either be express or implied. An express trust is created by the intention of the trustor or of the parties, while an implied trust comes into being by operation of law. [61]

Express trusts are created by direct and positive acts of the parties, by some writing or deed, or will, or by words either expressly or impliedly evincing an intention to create a trust. Under Article 1444 of the Civil Code, "[n]o particular words are required for the creation of an express trust, it being sufficient that a trust is clearly intended." [62] It is possible to create a trust without using the word "trust" or "trustee." Conversely, the mere fact that these words are used does not necessarily indicate an intention to create a trust. The question in each case is whether the trustor manifested an intention to create the kind of relationship which to lawyers is known as trust. It is immaterial whether or not he knows that the relationship which he intends to create is called a trust, and whether or not he knows the precise characteristics of the relationship which is called a trust. [63]

In Tamayo v. Callejo, [64] the Court recognized that a trust may have a constructive or implied nature in the beginning, but the registered owner's subsequent express acknowledgement in a public document of a previous sale of the property to another party, had the effect of imparting to the aforementioned trust the nature of an express trust. The same situation exists in this case. When Dr. Rosario was able to register Lot No. 356-A in his name under TCT No. 52751 on December 16, 1964, an implied trust was initially established between him and the Torbela siblings under Article 1451 of the Civil Code, which provides:

> ART. 1451. When land passes by succession to any person and he causes the legal title to be put in the name of another, a trust is established by implication of law for the benefit of the true owner.

Dr. Rosario's execution of the Deed of Absolute Quitclaim on December 28, 1964, containing his express admission that he only borrowed Lot No. 356-A from the Torbela siblings, eventually transformed the nature of the trust to an express one. The express trust continued despite Dr. Rosario stating in his Deed of Absolute Quitclaim that he was already returning Lot No. 356-A to the Torbela siblings as Lot No. 356-A remained registered in Dr. Rosario's name under TCT No. 52751 and Dr. Rosario kept possession of said property, together with the improvements thereon.

The right of the Torbela siblings to recover Lot No. 356-A has not yet prescribed.

The Court extensively discussed the prescriptive period for express trusts in the Heirs of Maximo Labanon v. Heirs of Constancio Labanon, [65] to wit:

> On the issue of prescription, we had the opportunity to rule in Bueno v. Reyes that unrepudiated written

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

express trusts are imprescriptible:

> "While there are some decisions which hold that an action upon a trust is imprescriptible, without distinguishing between express and implied trusts, the better rule, as laid down by this Court in other decisions, is that prescription does supervene where the trust is merely an implied one. The reason has been expressed by Justice J.B.L. Reyes in J.M. Tuason and Co., Inc. vs. Magdangal, 4 SCRA 84, 88, as follows:
>
> Under Section 40 of the old Code of Civil Procedure, all actions for recovery of real property prescribed in 10 years, excepting only actions based on continuing or subsisting trusts that were considered by section 38 as imprescriptible. As held in the case of Diaz v. Gorricho, L-11229, March 29, 1958, however, the continuing or subsisting trusts contemplated in section 38 of the Code of Civil Procedure referred only to express unrepudiated trusts, and did not include constructive trusts (that are imposed by law) where no fiduciary relation exists and the trustee does not recognize the trust at all."

This principle was amplified in Escay v. Court of Appeals this way: "Express trusts prescribe 10 years from the repudiation of the trust (Manuel Diaz, et al. vs. Carmen Gorricho et al., 54 O.G. p. 8429, Sec. 40, Code of Civil Procedure)."

In the more recent case of Secuya v. De Selma, we again ruled that the prescriptive period for the enforcement of an express trust of ten (10) years starts upon the repudiation of the trust by the trustee. [66]

To apply the 10-year prescriptive period, which would bar a beneficiary's action to recover in an express trust, the repudiation of the trust must be proven by clear and convincing evidence and made known to the beneficiary. [67] The express trust disables the trustee from acquiring for his own benefit the property committed to his management or custody, at least while he does not openly repudiate the trust, and makes such repudiation known to the beneficiary or cestui que trust. For this reason, the old Code of Civil Procedure (Act 190) declared that the rules on adverse possession do not apply to "continuing and subsisting" (i.e., unrepudiated) trusts. In an express trust, the delay of the beneficiary is directly attributable to the trustee who undertakes to hold the property for the former, or who is linked to the beneficiary by confidential or fiduciary relations. The trustee's possession is, therefore, not adverse to the beneficiary, until and unless the latter is made aware that the trust has been repudiated. [68]

Dr. Rosario argues that he is deemed to have repudiated the trust on December 16, 1964, when he registered Lot No. 356-A in his name under TCT No. 52751, so when on February 13, 1986, the Torbela siblings instituted before the RTC Civil Case No. U-4359, for the recovery of ownership and possession of Lot No. 356-A from the spouses Rosario, over 21 years had passed. Civil Case No. U-4359 was already barred by prescription, as well as laches.

The Court already rejected a similar argument in Ringor v. Ringor [69] for the following reasons:

> A trustee who obtains a Torrens title over a property held in trust for him by another cannot repudiate the trust by relying on the registration. A Torrens Certificate of Title in Jose's name did not vest ownership of the land upon him. The Torrens system does not create or vest title. It only confirms and records title already existing and vested. It does not protect a usurper from the true owner. The Torrens system was not intended to foment betrayal in the performance of a trust. It does not permit one to enrich himself at the expense of another. Where one does not have a rightful claim to the property, the Torrens system of registration can confirm or record nothing. Petitioners cannot rely on the registration of the lands in Jose's name nor in the name of the Heirs of Jose M. Ringor, Inc., for the wrong result they seek. For Jose could not repudiate a trust by relying on a Torrens title he held in trust for his co-heirs. The beneficiaries are entitled to enforce the trust, notwithstanding the irrevocability of the Torrens title. The intended trust must be sustained. [70] (Emphasis supplied.)

In the more recent case of Heirs of Tranquilino Labiste v. Heirs of Jose Labiste, [71] the Court refused to apply

prescription and laches and reiterated that:

> [P]rescription and laches will run only from the time the express trust is repudiated. The Court has held that for acquisitive prescription to bar the action of the beneficiary against the trustee in an express trust for the recovery of the property held in trust it must be shown that: (a) the trustee has performed unequivocal acts of repudiation amounting to an ouster of the cestui que trust; (b) such positive acts of repudiation have been made known to the cestui que trust, and (c) the evidence thereon is clear and conclusive. Respondents cannot rely on the fact that the Torrens title was issued in the name of Epifanio and the other heirs of Jose. It has been held that a trustee who obtains a Torrens title over property held in trust by him for another cannot repudiate the trust by relying on the registration. The rule requires a clear repudiation of the trust duly communicated to the beneficiary. The only act that can be construed as repudiation was when respondents filed the petition for reconstitution in October 1993. And since petitioners filed their complaint in January 1995, their cause of action has not yet prescribed, laches cannot be attributed to them. [72] (Emphasis supplied.)

It is clear that under the foregoing jurisprudence, the registration of Lot No. 356-A by Dr. Rosario in his name under TCT No. 52751 on December 16, 1964 is not the repudiation that would have caused the 10-year prescriptive period for the enforcement of an express trust to run.

The Court of Appeals held that Dr. Rosario repudiated the express trust when he acquired another loan from PNB and constituted a second mortgage on Lot No. 356-A sometime in 1979, which, unlike the first mortgage to DBP in 1965, was without the knowledge and/or consent of the Torbela siblings.

The Court only concurs in part with the Court of Appeals on this matter.

For repudiation of an express trust to be effective, the unequivocal act of repudiation had to be made known to the Torbela siblings as the cestuis que trust and must be proven by clear and conclusive evidence. A scrutiny of TCT No. 52751 reveals the following inscription:

> Entry No. 520099
>
> Amendment of the mortgage in favor of PNB inscribed under Entry No. 490658 in the sense that the consideration thereof has been increased to PHILIPPINE PESOS Four Hundred Fifty Thousand Pesos only (P450,000.00) and to secure any and all negotiations with PNB, whether contracted before, during or after the date of this instrument, acknowledged before Notary Public of Pangasinan Alejo M. Dato as Doc. No. 198, Page No. 41, Book No. 11, Series of 1985.
>
> Date of Instrument March 5, 1981
> Date of Inscription March 6, 1981 [73]

Although according to Entry No. 520099, the original loan and mortgage agreement of Lot No. 356-A between Dr. Rosario and PNB was previously inscribed as Entry No. 490658, Entry No. 490658 does not actually appear on TCT No. 52751 and, thus, it cannot be used as the reckoning date for the start of the prescriptive period.

The Torbela siblings can only be charged with knowledge of the mortgage of Lot No. 356-A to PNB on March 6, 1981 when the amended loan and mortgage agreement was registered on TCT No. 52751 as Entry No. 520099. Entry No. 520099 is constructive notice to the whole world [74] that Lot No. 356-A was mortgaged by Dr. Rosario to PNB as security for a loan, the amount of which was increased to P450,000.00. Hence, Dr. Rosario is deemed to have effectively repudiated the express trust between him and the Torbela siblings on March 6, 1981, on which day, the prescriptive period for the enforcement of the express trust by the Torbela siblings began to run.

From March 6, 1981, when the amended loan and mortgage agreement was registered on TCT No. 52751, to February 13, 1986, when the Torbela siblings instituted before the RTC Civil Case No. U-4359 against the

spouses Rosario, only about five years had passed. The Torbela siblings were able to institute Civil Case No. U-4359 well before the lapse of the 10-year prescriptive period for the enforcement of their express trust with Dr. Rosario.

Civil Case No. U-4359 is likewise not barred by laches. Laches means 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. As the Court explained in the preceding paragraphs, the Torbela siblings instituted Civil Case No. U-4359 five years after Dr. Rosario's repudiation of the express trust, still within the 10-year prescriptive period for enforcement of such trusts. This does not constitute an unreasonable delay in asserting one's right. A delay within the prescriptive period is sanctioned by law and is not considered to be a delay that would bar relief. Laches apply only in the absence of a statutory prescriptive period. [75]

Banco Filipino is not a mortgagee
and buyer in good faith.

Having determined that the Torbela siblings are the true owners and Dr. Rosario merely the trustee of Lot No. 356-A, the Court is next faced with the issue of whether or not the Torbela siblings may still recover Lot No. 356-A considering that Dr. Rosario had already mortgaged Lot No. 356-A to Banco Filipino, and upon Dr. Rosario's default on his loan obligations, Banco Filipino foreclosed the mortgage, acquired Lot No. 356-A as the highest bidder at the foreclosure sale, and consolidated title in its name under TCT No. 165813. The resolution of this issue depends on the answer to the question of whether or not Banco Filipino was a mortgagee in good faith.

Under Article 2085 of the Civil Code, one of the essential requisites of the contract of mortgage is that the mortgagor should be the absolute owner of the property to be mortgaged; otherwise, the mortgage is considered null and void. However, an exception to this rule is the doctrine of "mortgagee in good faith." Under this doctrine, even if the mortgagor is not the owner of the mortgaged property, the mortgage contract and any foreclosure sale arising therefrom are given effect by reason of public policy. This principle is based on the rule that all persons dealing with property covered by a Torrens Certificate of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title. This is the same rule that underlies the principle of "innocent purchasers for value." The prevailing jurisprudence is that a mortgagee has a right to rely in good faith on the certificate of title of the mortgagor to the property given as security and in the absence of any sign that might arouse suspicion, has no obligation to undertake further investigation. Hence, even if the mortgagor is not the rightful owner of, or does not have a valid title to, the mortgaged property, the mortgagee in good faith is, nonetheless, entitled to protection. [76]

On one hand, the Torbela siblings aver that Banco Filipino is not a mortgagee in good faith because as early as May 17, 1967, they had already annotated Cornelio's Adverse Claim dated May 16, 1967 and Dr. Rosario's Deed of Absolute Quitclaim dated December 28, 1964 on TCT No. 52751 as Entry Nos. 274471-274472, respectively.

On the other hand, Banco Filipino asseverates that it is a mortgagee in good faith because per Section 70 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, the notice of adverse claim, registered on May 17, 1967 by the Torbela siblings under Entry Nos. 274471-274472 on TCT No. 52751, already lapsed after 30 days or on June 16, 1967. Additionally, there was an express cancellation of Entry Nos. 274471-274472 by Entry No. 520469 dated March 11, 1981. So when Banco Filipino approved Dr. Rosario's loan for P1,200,000.00 and constituted a mortgage on Lot No. 356-A (together with two other properties) on

December 8, 1981, the only other encumbrance on TCT No. 52751 was Entry No. 520099 dated March 6, 1981, i.e., the amended loan and mortgage agreement between Dr. Rosario and PNB (which was eventually cancelled after it was paid off with part of the proceeds from Dr. Rosario's loan from Banco Filipino). Hence, Banco Filipino was not aware that the Torbela siblings' adverse claim on Lot No. 356-A still subsisted.

The Court finds that Banco Filipino is not a mortgagee in good faith. Entry Nos. 274471-274472 were not validly cancelled, and the improper cancellation should have been apparent to Banco Filipino and aroused suspicion in said bank of some defect in Dr. Rosario's title.

The purpose of annotating the adverse claim on the title of the disputed land is to apprise third persons that there is a controversy over the ownership of the land and to preserve and protect the right of the adverse claimant during the pendency of the controversy. It is a notice to third persons that any transaction regarding the disputed land is subject to the outcome of the dispute. [77]

Adverse claims were previously governed by Section 110 of Act No. 496, otherwise known as the Land Registration Act, quoted in full below:

> ADVERSE CLAIM
>
> SEC. 110. Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed.
>
> The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion.

Construing the aforequoted provision, the Court stressed in Ty Sin Tei v. Lee Dy Piao [78] that "[t]he validity or efficaciousness of the [adverse] claim x x x may only be determined by the Court upon petition by an interested party, in which event, the Court shall order the immediate hearing thereof and make the proper adjudication as justice and equity may warrant. And it is ONLY when such claim is found unmeritorious that the registration thereof may be cancelled." The Court likewise pointed out in the same case that while a notice of lis pendens may be cancelled in a number of ways, "the same is not true in a registered adverse claim, for it may be cancelled only in one instance, i.e., after the claim is adjudged invalid or unmeritorious by the Court x x x;" and "if any of the registrations should be considered unnecessary or superfluous, it would be the notice of lis pendens and not the annotation of the adverse claim which is more permanent and cannot be cancelled without adequate hearing and proper disposition of the claim."

With the enactment of the Property Registration Decree on June 11, 1978, Section 70 thereof now applies to adverse claims:

> SEC. 70. Adverse claim. – Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registrations, may, if no other provision is made in this Decree for registering the same, make a statement in writing setting forth fully his alleged right, or interest, and how or under whom acquired, a reference to the number of the certificate of title of the registered owner, the

> name of the registered owner, and a description of the land in which the right or interest is claimed.
>
> The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim on the certificate of title. The adverse claim shall be effective for a period of thirty days from the date of registration. After the lapse of said period, the annotation of adverse claim may be cancelled upon filing of a verified petition therefor by the party in interest: Provided, however, that after cancellation, no second adverse claim based on the same ground shall be registered by the same claimant.
>
> Before the lapse of thirty days aforesaid, any party in interest may file a petition in the Court of First Instance where the land is situated for the cancellation of the adverse claim, and the court shall grant a speedy hearing upon the question of the validity of such adverse claim, and shall render judgment as may be just and equitable. If the adverse claim is adjudged to be invalid, the registration thereof shall be ordered cancelled. If, in any case, the court, after notice and hearing, shall find that the adverse claim thus registered was frivolous, it may fine the claimant in an amount not less than one thousand pesos nor more than five thousand pesos, in its discretion. Before the lapse of thirty days, the claimant may withdraw his adverse claim by filing with the Register of Deeds a sworn petition to that effect. (Emphases supplied.)

In Sajonas v. Court of Appeals, [79]the Court squarely interpreted Section 70 of the Property Registration Decree, particularly, the new 30-day period not previously found in Section 110 of the Land Registration Act, thus:

> In construing the law aforesaid, care should be taken that every part thereof be given effect and a construction that could render a provision inoperative should be avoided, and inconsistent provisions should be reconciled whenever possible as parts of a harmonious whole. For taken in solitude, a word or phrase might easily convey a meaning quite different from the one actually intended and evident when a word or phrase is considered with those with which it is associated. In ascertaining the period of effectivity of an inscription of adverse claim, we must read the law in its entirety. Sentence three, paragraph two of Section 70 of P.D. 1529 provides:
> "The adverse claim shall be effective for a period of thirty days from the date of registration."

At first blush, the provision in question would seem to restrict the effectivity of the adverse claim to thirty days. But the above provision cannot and should not be treated separately, but should be read in relation to the sentence following, which reads:

> "After the lapse of said period, the annotation of adverse claim may be cancelled upon filing of a verified petition therefor by the party in interest."

If the rationale of the law was for the adverse claim to ipso facto lose force and effect after the lapse of thirty days, then it would not have been necessary to include the foregoing caveat to clarify and complete the rule. For then, no adverse claim need be cancelled. If it has been automatically terminated by mere lapse of time, the law would not have required the party in interest to do a useless act.

A statute's clauses and phrases must not be taken separately, but in its relation to the statute's totality. Each statute must, in fact, be construed as to harmonize it with the pre-existing body of laws. Unless clearly repugnant, provisions of statutes must be reconciled. The printed pages of the published Act, its history, origin, and its purposes may be examined by the courts in their construction. x x x.

x x x x

Construing the provision as a whole would reconcile the apparent inconsistency between the portions of the law such that the provision on cancellation of adverse claim by verified petition would serve to qualify the provision on the effectivity period. The law, taken together, simply means that the cancellation of the adverse claim is still necessary to render it ineffective, otherwise, the inscription will remain annotated and shall continue as a lien

upon the property. For if the adverse claim has already ceased to be effective upon the lapse of said period, its cancellation is no longer necessary and the process of cancellation would be a useless ceremony.

It should be noted that the law employs the phrase "may be cancelled," which obviously indicates, as inherent in its decision making power, that the court may or may not order the cancellation of an adverse claim, notwithstanding such provision limiting the effectivity of an adverse claim for thirty days from the date of registration. The court cannot be bound by such period as it would be inconsistent with the very authority vested in it. A fortiori, the limitation on the period of effectivity is immaterial in determining the validity or invalidity of an adverse claim which is the principal issue to be decided in the court hearing. It will therefore depend upon the evidence at a proper hearing for the court to determine whether it will order the cancellation of the adverse claim or not.

To interpret the effectivity period of the adverse claim as absolute and without qualification limited to thirty days defeats the very purpose for which the statute provides for the remedy of an inscription of adverse claim, as the annotation of an adverse claim is a measure designed to protect the interest of a person over a piece of real property where the registration of such interest or right is not otherwise provided for by the Land Registration Act or Act 496 (now P.D. 1529 or the Property Registration Decree), and serves as a warning to third parties dealing with said property that someone is claiming an interest or the same or a better right than the registered owner thereof.

The reason why the law provides for a hearing where the validity of the adverse claim is to be threshed out is to afford the adverse claimant an opportunity to be heard, providing a venue where the propriety of his claimed interest can be established or revoked, all for the purpose of determining at last the existence of any encumbrance on the title arising from such adverse claim. This is in line with the provision immediately following:

> “Provided, however, that after cancellation, no second adverse claim shall be registered by the same claimant.”

Should the adverse claimant fail to sustain his interest in the property, the adverse claimant will be precluded from registering a second adverse claim based on the same ground.

It was held that “validity or efficaciousness of the claim may only be determined by the Court upon petition by an interested party, in which event, the Court shall order the immediate hearing thereof and make the proper adjudication as justice and equity may warrant. And it is only when such claim is found unmeritorious that the registration of the adverse claim may be cancelled, thereby protecting the interest of the adverse claimant and giving notice and warning to third parties.” [80] (Emphases supplied.)

Whether under Section 110 of the Land Registration Act or Section 70 of the Property Registration Decree, notice of adverse claim can only be cancelled after a party in interest files a petition for cancellation before the RTC wherein the property is located, and the RTC conducts a hearing and determines the said claim to be invalid or unmeritorious.

No petition for cancellation has been filed and no hearing has been conducted herein to determine the validity or merit of the adverse claim of the Torbela siblings. Entry No. 520469 cancelled the adverse claim of the Torbela siblings, annotated as Entry Nos. 274471-774472, upon the presentation by Dr. Rosario of a mere Cancellation and Discharge of Mortgage.

Regardless of whether or not the Register of Deeds should have inscribed Entry No. 520469 on TCT No. 52751, Banco Filipino could not invoke said inscription in support of its claim of good faith. There were several things amiss in Entry No. 520469 which should have already aroused suspicions in Banco Filipino, and compelled the bank to look beyond TCT No. 52751 and inquire into Dr. Rosario’s title. First, Entry No. 520469 does not

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

mention any court order as basis for the cancellation of the adverse claim. Second, the adverse claim was not a mortgage which could be cancelled with Dr. Rosario's Cancellation and Discharge of Mortgage. And third, the adverse claim was against Dr. Rosario, yet it was cancelled based on a document also executed by Dr. Rosario.

It is a well-settled rule that a purchaser or mortgagee cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor or mortgagor. His mere refusal to believe that such defect exists, or his willful closing of his eyes to the possibility of the existence of a defect in the vendor's or mortgagor's title, will not make him an innocent purchaser or mortgagee for value, if it afterwards develops that the title was in fact defective, and it appears that he had such notice of the defects as would have led to its discovery had he acted with the measure of precaution which may be required of a prudent man in a like situation. [81]

While the defective cancellation of Entry Nos. 274471-274472 by Entry No. 520469 might not be evident to a private individual, the same should have been apparent to Banco Filipino. Banco Filipino is not an ordinary mortgagee, but is a mortgagee-bank, whose business is impressed with public interest. In fact, in one case, [82] the Court explicitly declared that the rule that persons dealing with registered lands can rely solely on the certificate of title does not apply to banks. In another case, [83] the Court adjudged that unlike private individuals, a bank 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.

Banco Filipino cannot be deemed a mortgagee in good faith, much less a purchaser in good faith at the foreclosure sale of Lot No. 356-A. Hence, the right of the Torbela siblings over Lot No. 356-A is superior over that of Banco Filipino; and as the true owners of Lot No. 356-A, the Torbela siblings are entitled to a reconveyance of said property even from Banco Filipino.

Nonetheless, the failure of Banco Filipino to comply with the due diligence requirement was not the result of a dishonest purpose, some moral obliquity, or breach of a known duty for some interest or ill will that partakes of fraud that would justify damages. [84]

Given the reconveyance of Lot No. 356-A to the Torbela siblings, there is no more need to address issues concerning redemption, annulment of the foreclosure sale and certificate of sale (subject matter of Civil Case No. U-4733), or issuance of a writ of possession in favor of Banco Filipino (subject matter of Pet. Case No. U-822) insofar as Lot No. 356-A is concerned. Such would only be superfluous. Banco Filipino, however, is not left without any recourse should the foreclosure and sale of the two other mortgaged properties be insufficient to cover Dr. Rosario's loan, for the bank may still bring a proper suit against Dr. Rosario to collect the unpaid balance.

The rules on accession shall govern
the improvements on Lot No. 356-A
and the rents thereof.

The accessory follows the principal. The right of accession is recognized under Article 440 of the Civil Code which states that "[t]he ownership of property gives the right by accession to everything which is produced thereby, or which is incorporated or attached thereto, either naturally or artificially."

There is no question that Dr. Rosario is the builder of the improvements on Lot No. 356-A. The Torbela siblings themselves alleged that they allowed Dr. Rosario to register Lot No. 356-A in his name so he could obtain a loan

from DBP, using said parcel of land as security; and with the proceeds of the loan, Dr. Rosario had a building constructed on Lot No. 356-A, initially used as a hospital, and then later for other commercial purposes. Dr. Rosario supervised the construction of the building, which began in 1965; fully liquidated the loan from DBP; and maintained and administered the building, as well as collected the rental income therefrom, until the Torbela siblings instituted Civil Case No. U-4359 before the RTC on February 13, 1986.

When it comes to the improvements on Lot No. 356-A, both the Torbela siblings (as landowners) and Dr. Rosario (as builder) are deemed in bad faith. The Torbela siblings were aware of the construction of a building by Dr. Rosario on Lot No. 356-A, while Dr. Rosario proceeded with the said construction despite his knowledge that Lot No. 356-A belonged to the Torbela siblings. This is the case contemplated under Article 453 of the Civil Code, which reads:

> ART. 453. If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith.
>
> It is understood that there is bad faith on the part of the landowner whenever the act was done with his knowledge and without opposition on his part. (Emphasis supplied.)

When both the landowner and the builder are in good faith, the following rules govern:

> ART. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees 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.
>
> ART. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.
>
> Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.
>
> ART. 548. Expenses for pure luxury or mere pleasure shall not be refunded to the possessor in good faith; but he may remove the ornaments with which he has embellished the principal thing if it suffers no injury thereby, and if his successor in the possession does not prefer to refund the amount expended.

Whatever is built, planted, or sown on the land of another, and the improvements or repairs made thereon, belong to the owner of the land. Where, however, the planter, builder, 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 what Manresa calls a state of "forced co-ownership," the law has provided a just and equitable 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 to pay the proper rent. It is the owner of the land who is allowed 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. [85]

The landowner has to make a choice between appropriating the building by paying the proper indemnity or obliging the builder to pay the price of the land. But even as the option lies with the landowner, the grant to him,

nevertheless, is preclusive. He must choose one. He cannot, for instance, compel the owner of the building to remove the building from the land without first exercising either option. It is only if the owner chooses to sell his land, and the builder or planter fails to purchase it where its value is not more than the value of the improvements, that the owner may remove the improvements from the land. The owner is entitled to such remotion only when, after having chosen to sell his land, the other party fails to pay for the same. [86]

This case then must be remanded to the RTC for the determination of matters necessary for the proper application of Article 448, in relation to Article 546, of the Civil Code. Such matters include the option that the Torbela siblings will choose; the amount of indemnity that they will pay if they decide to appropriate the improvements on Lot No. 356-A; the value of Lot No. 356-A if they prefer to sell it to Dr. Rosario; or the reasonable rent if they opt to sell Lot No. 356-A to Dr. Rosario but the value of the land is considerably more than the improvements. The determination made by the Court of Appeals in its Decision dated June 29, 1999 that the current value of Lot No. 356-A is P1,200,000.00 is not supported by any evidence on record.

Should the Torbela siblings choose to appropriate the improvements on Lot No. 356-A, the following ruling of the Court in Pecson v. Court of Appeals [87] is relevant in the determination of the amount of indemnity under Article 546 of the Civil Code:

> Article 546 does not specifically state how the value of the useful improvements should be determined. The respondent court and the private respondents espouse the belief that the cost of construction of the apartment building in 1965, and not its current market value, is sufficient reimbursement for necessary and useful improvements made by the petitioner. This position is, however, not in consonance with previous rulings of this Court in similar cases. In Javier vs. Concepcion, Jr., this Court pegged the value of the useful improvements consisting of various fruits, bamboos, a house and camarin made of strong material based on the market value of the said improvements. In Sarmiento vs. Agana, despite the finding that the useful improvement, a residential house, was built in 1967 at a cost of between eight thousand pesos (P8,000.00) to ten thousand pesos (P10,000.00), the landowner was ordered to reimburse the builder in the amount of forty thousand pesos (P40,000.00), the value of the house at the time of the trial. In the same way, the landowner was required to pay the "present value" of the house, a useful improvement, in the case of De Guzman vs. De la Fuente, cited by the petitioner.
>
> The objective of Article 546 of the Civil Code is to administer justice between the parties involved. In this regard, this Court had long ago stated in Rivera vs. Roman Catholic Archbishop of Manila that the said provision was formulated in trying to adjust the rights of the owner and possessor in good faith of a piece of land, to administer complete justice to both of them in such a way as neither one nor the other may enrich himself of that which does not belong to him. Guided by this precept, it is therefore the current market value of the improvements which should be made the basis of reimbursement. A contrary ruling would unjustly enrich the private respondents who would otherwise be allowed to acquire a highly valued income-yielding four-unit apartment building for a measly amount. Consequently, the parties should therefore be allowed to adduce evidence on the present market value of the apartment building upon which the trial court should base its finding as to the amount of reimbursement to be paid by the landowner. [88] (Emphases supplied.)

Still following the rules of accession, civil fruits, such as rents, belong to the owner of the building. [89] Thus, Dr. Rosario has a right to the rents of the improvements on Lot No. 356-A and is under no obligation to render an accounting of the same to anyone. In fact, it is the Torbela siblings who are required to account for the rents they had collected from the lessees of the commercial building and turn over any balance to Dr. Rosario. Dr. Rosario’s right to the rents of the improvements on Lot No. 356-A shall continue until the Torbela siblings have chosen their option under Article 448 of the Civil Code. And in case the Torbela siblings decide to appropriate the improvements, Dr. Rosario shall have the right to retain said improvements, as well as the rents thereof, until the indemnity for the same has been paid. [90]

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

Dr. Rosario is liable for damages
to the Torbela siblings.

The Court of Appeals ordered Dr. Rosario to pay the Torbela siblings P300,000.00 as moral damages; P200,000.00 as exemplary damages; and P100,000.00 as attorney's fees.

Indeed, Dr. Rosario's deceit and bad faith is evident when, being fully aware that he only held Lot No. 356-A in trust for the Torbela siblings, he mortgaged said property to PNB and Banco Filipino absent the consent of the Torbela siblings, and caused the irregular cancellation of the Torbela siblings' adverse claim on TCT No. 52751. Irrefragably, Dr. Rosario's betrayal had caused the Torbela siblings (which included Dr. Rosario's own mother, Eufrosina Torbela Rosario) mental anguish, serious anxiety, and wounded feelings. Resultantly, the award of moral damages is justified, but the amount thereof is reduced to P200,000.00.

In addition to the moral damages, exemplary damages may also be imposed given that Dr. Rosario's wrongful acts were accompanied by bad faith. However, judicial discretion granted to the courts in the assessment of damages must always be exercised with balanced restraint and measured objectivity. The circumstances of the case call for a reduction of the award of exemplary damages to P100,000.00.

As regards attorney's fees, they may be awarded when the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest. Because of Dr. Rosario's acts, the Torbela siblings were constrained to institute several cases against Dr. Rosario and his spouse, Duque-Rosario, as well as Banco Filipino, which had lasted for more than 25 years. Consequently, the Torbela siblings are entitled to an award of attorney's fees and the amount of P100,000.00 may be considered rational, fair, and reasonable.

Banco Filipino is entitled to a writ of
possession for Lot No. 5-F-8-C-2-B-2-A.

The Court emphasizes that Pet. Case No. U-822, instituted by Banco Filipino for the issuance of a writ of possession before the RTC of Urdaneta, included only Lot No. 5-F-8-C-2-B-2-A and Lot No. 356-A (Lot No. 4489, the third property mortgaged to secure Dr. Rosario's loan from Banco Filipino, is located in Dagupan City, Pangasinan, and the petition for issuance of a writ of possession for the same should be separately filed with the RTC of Dagupan City). Since the Court has already granted herein the reconveyance of Lot No. 356-A from Banco Filipino to the Torbela siblings, the writ of possession now pertains only to Lot No. 5-F-8-C-2-B-2-A.

To recall, the Court of Appeals affirmed the issuance by the RTC of a writ of possession in favor of Banco Filipino. Dr. Rosario no longer appealed from said judgment of the appellate court. Already legally separated from Dr. Rosario, Duque-Rosario alone challenges the writ of possession before this Court through her Petition in G.R. No. 140553.

Duque-Rosario alleges in her Petition that Lot No. 5-F-8-C-2-B-2-A had been registered in her name under TCT No. 104189. Yet, without a copy of TCT No. 104189 on record, the Court cannot give much credence to Duque-Rosario's claim of sole ownership of Lot No. 5-F-8-C-2-B-2-A. Also, the question of whether Lot No. 5-F-8-C-2-B-2-A was the paraphernal property of Duque-Rosario or the conjugal property of the spouses Rosario would not alter the outcome of Duque-Rosario's Petition.

The following facts are undisputed: Banco Filipino extrajudicially foreclosed the mortgage constituted on Lot No. 5-F-8-C-2-B-2-A and the two other properties after Dr. Rosario defaulted on the payment of his loan; Banco Filipino was the highest bidder for all three properties at the foreclosure sale on April 2, 1987; the Certificate of Sale dated April 2, 1987 was registered in April 1987; and based on the Certificate of Final Sale dated May 24, 1988 and Affidavit of Consolidation dated May 25, 1988, the Register of Deeds cancelled TCT No. 104189 and

issued TCT No. 165812 in the name of Banco Filipino for Lot No. 5-F-8-C-2-B-2-A on June 7, 1988.

The Court has consistently ruled that the one-year redemption period should be counted not from the date of foreclosure sale, but from the time the certificate of sale is registered with the Registry of Deeds. [91] No copy of TCT No. 104189 can be found in the records of this case, but the fact of annotation of the Certificate of Sale thereon was admitted by the parties, only differing on the date it was made: April 14, 1987 according to Banco Filipino and April 15, 1987 as maintained by Duque-Rosario. Even if the Court concedes that the Certificate of Sale was annotated on TCT No. 104189 on the later date, April 15, 1987, the one-year redemption period already expired on April 14, 1988. [92] The Certificate of Final Sale and Affidavit of Consolidation were executed more than a month thereafter, on May 24, 1988 and May 25, 1988, respectively, and were clearly not premature.

It is true that the rule on redemption is liberally construed in favor of the original owner of the property. The policy of the law is to aid rather than to defeat him in the exercise of his right of redemption. [93] However, the liberal interpretation of the rule on redemption is inapplicable herein as neither Duque-Rosario nor Dr. Rosario had made any attempt to redeem Lot No. 5-F-8-C-2-B-2-A. Duque-Rosario could only rely on the efforts of the Torbela siblings at redemption, which were unsuccessful. While the Torbela siblings made several offers to redeem Lot No. 356-A, as well as the two other properties mortgaged by Dr. Rosario, they did not make any valid tender of the redemption price to effect a valid redemption. The general rule in redemption is that it is not sufficient that a person offering to redeem manifests his desire to do so. The statement of intention must be accompanied by an actual and simultaneous tender of payment. The redemption price should either be fully offered in legal tender or else validly consigned in court. Only by such means can the auction winner be assured that the offer to redeem is being made in good faith. [94] In case of disagreement over the redemption price, the redemptioner may preserve his right of redemption through judicial action, which in every case, must be filed within the one-year period of redemption. The filing of the court action to enforce redemption, being equivalent to a formal offer to redeem, would have the effect of preserving his redemptive rights and “freezing” the expiration of the one-year period. [95] But no such action was instituted by the Torbela siblings or either of the spouses Rosario.

Duque-Rosario also cannot bar the issuance of the writ of possession over Lot No. 5-F-8-C-2-B-2-A in favor of Banco Filipino by invoking the pendency of Civil Case No. U-4359, the Torbela siblings’ action for recovery of ownership and possession and damages, which supposedly tolled the period for redemption of the foreclosed properties. Without belaboring the issue of Civil Case No. U-4359 suspending the redemption period, the Court simply points out to Duque-Rosario that Civil Case No. U-4359 involved Lot No. 356-A only, and the legal consequences of the institution, pendency, and resolution of Civil Case No. U-4359 apply to Lot No. 356-A alone.

Equally unpersuasive is Duque-Rosario’s argument that the writ of possession over Lot No. 5-F-8-C-2-B-2-A should not be issued given the defects in the conduct of the foreclosure sale (i.e., lack of personal notice to Duque-Rosario) and consolidation of title (i.e., failure to provide Duque-Rosario with copies of the Certificate of Final Sale).

The right of the purchaser to the possession of the foreclosed property becomes absolute upon the expiration of the redemption period. The basis of this right to possession is the purchaser's ownership of the property. After the consolidation of title in the buyer's name for failure of the mortgagor to redeem, the writ of possession becomes a matter of right and its issuance to a purchaser in an extrajudicial foreclosure is merely a ministerial function. [96]

The judge with whom an application for a writ of possession is filed need not look into the validity of the mortgage or the manner of its foreclosure. Any question regarding the validity of the mortgage or its foreclosure cannot be a legal ground for the refusal to issue a writ of possession. Regardless of whether or not there is a

pending suit for the annulment of the mortgage or the foreclosure itself, the purchaser is entitled to a writ of possession, without prejudice, of course, to the eventual outcome of the pending annulment case. The issuance of a writ of possession in favor of the purchaser in a foreclosure sale is a ministerial act and does not entail the exercise of discretion. [97]

WHEREFORE, in view of the foregoing, the Petition of the Torbela siblings in G.R. No. 140528 is GRANTED, while the Petition of Lena Duque-Rosario in G.R. No. 140553 is DENIED for lack of merit. The Decision dated June 29, 1999 of the Court of Appeals in CA-G.R. CV No. 39770, which affirmed with modification the Amended Decision dated January 29, 1992 of the RTC in Civil Case Nos. U-4359 and U-4733 and Pet. Case No. U-822, is AFFIRMED WITH MODIFICATIONS, to now read as follows:

(1) Banco Filipino is ORDERED to reconvey Lot No. 356-A to the Torbela siblings;

(2) The Register of Deeds of Pangasinan is ORDERED to cancel TCT No. 165813 in the name of Banco Filipino and to issue a new certificate of title in the name of the Torbela siblings for Lot No. 356-A;

(3) The case is REMANDED to the RTC for further proceedings to determine the facts essential to the proper application of Articles 448 and 546 of the Civil Code, particularly: (a) the present fair market value of Lot No. 356-A; (b) the present fair market value of the improvements thereon; (c) the option of the Torbela siblings to appropriate the improvements on Lot No. 356-A or require Dr. Rosario to purchase Lot No. 356-A; and (d) in the event that the Torbela siblings choose to require Dr. Rosario to purchase Lot No. 356-A but the value thereof is considerably more than the improvements, then the reasonable rent of Lot No. 356-A to be paid by Dr. Rosario to the Torbela siblings;

(4) The Torbela siblings are DIRECTED to submit an accounting of the rents of the improvements on Lot No. 356-A which they had received and to turn over any balance thereof to Dr. Rosario;

(5) Dr. Rosario is ORDERED to pay the Torbela siblings P200,000.00 as moral damages, P100,000.00 as exemplary damages, and P100,000.00 as attorney’s fees; and

(6) Banco Filipino is entitled to a writ of possession over Lot-5-F-8-C-2-B-2-A, covered by TCT No. 165812. The RTC Branch Clerk of Court is ORDERED to issue a writ of possession for the said property in favor of Banco Filipino.

SO ORDERED.

Corona, (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

---

[1] Rollo (G.R. No. 140528), pp. 39-57; rollo (G.R. No. 140553), pp. 16-34; penned by Associate Justice Eugenio S. Labitoria with Associate Justices Mariano M. Umali and Edgardo P. Cruz, concurring.

[2] Id. at 58-59; id. at 35-36.

[3] Represented by her heirs: Eulogio Tosino, Claro Tosino, Maximino Tosino, Cornelio Tosino, Olivia Tosino, Calixta Tosino, Apolonia Tosino vda. de Ramirez, and Julita Tosino Dean.

[4] Represented by his heirs: Jose Torbela and Dionisio Torbela.

[5] Represented by her heirs: Esteban Rosario, Manuel Rosario, and Andrea Rosario-Haduca.

[6] Represented by Sergio Torbela, Eutropia Velasco, Pilar Zulueta, Candido Torbela, Florentina Torbela, and Pantaleon Torbela.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[7] Represented by her heirs: Patricio Agustin, Segundo Agustin, Consuelo Agustin, and Felix Agustin.

[8] Records, Folder of Exhibits, pp. 1047-1050.

[9] Id. at 1051-1054.

[10] Id. at 1055-1056.

[11] Id. at 1055.

[12] Id. at 1057-1060.

[13] Id. at 1061.

[14] Id.

[15] Id. at 1058.

[16] Id. at 1062-1063.

[17] Id.

[18] Id. at 1058, 1059-A.

[19] Id.

[20] Id. at 1059-A.

[21] No copies of TCT Nos. 24832 and 104189 can be found in the case records.

[22] Records, Folder of Exhibits, p. 1059-A.

[23] Id. at 1060.

[24] Id.

[25] Id.

[26] Id.

[27] Id.

[28] Records, pp. 489-492.

[29] Id. at 476-477.

[30] Records, Folder of Exhibits, p. 1060.

[31] Records, pp. 180-188. The Torbela siblings would eventually file a Second Amended Complaint in Civil Case No. U-4359 on July 29, 1991 (id. at 391-403).

[32] Records, Folder of Exhibits, p. 1060A.

[33] CA rollo, p. 169.

[34] Records, pp. 478-479.

[35] Id. at 480.

[36] Records, Folder of Exhibits, p. 1064.

[37] Records, pp. 536-547. The Torbela siblings would subsequently file an Amended Complaint in Civil Case No. U-4733 on July 29, 1991.

[38] CA rollo, pp. 138-148; penned by Judge Modesto C. Juanson.

[39] Id. at 148.

[40] Id. at 149-150.

[41] Id. at 149.

[42] Id. at 195-213; penned by Associate Justice Eugenio S. Labitoria with Associate Justices Mariano M. Umali and Edgardo P. Cruz, concurring.

[43] Id. at 212.

[44] Id. at 253-254.

[45] Rollo (G.R. No. 140528), pp. 21-22, 31, and 33.

[46] Id. at 35.

[47] Rollo (G.R. No. 140553), p. 10.

[48] G.R. No. 169481, February 22, 2010, 613 SCRA 314.

[49] Id. at 324-325.

[50] This was repealed by Republic Act No. 7160, otherwise known as the Local Government Code of 1991, which took effect on January 1, 1992.

[51] 202 Phil. 943 (1982).

[52] Id. at 947-948.

[53] 354 Phil. 556 (1998).

[54] Id. at 561-562.

[55] Heirs of Rosa Dumaliang v. Serban, G.R. No. 155133, February 21, 2007, 516 SCRA 343, 357-358.

[56] Rules of Court, Rule 130, Section 9.

[57] Id.

[58] TSN, September 25, 1991, p. 21.

[59] Declaro v. Court of Appeals, 399 Phil. 616, 623 (2000).

[60] Spouses Gomez v. Duyan, 493 Phil. 819, 828 (2005).

[61] Heirs of Tranquilino Labiste v. Heirs of Jose Labiste, G.R. No. 162033, May 8, 2009, 587 SCRA 417, 425.

[62] Id.

[63] Heirs of Maximo Labanon v. Heirs of Constancio Labanon, G.R. No. 160711, August 14, 2007, 530 SCRA 97, 107.

[64] 150-B Phil. 31, 37-38 (1972).

[65] Supra note 63.

[66] Id. at 108-109.

[67] Secuya v. De Selma, 383 Phil. 126, 137 (2000).

[68] Diaz v. Gorricho and Aguado, 103 Phil. 261, 266 (1958).

[69] G.R. No. 147863, August 13, 2004, 436 SCRA 484.

[70] Id. at 500-501.

[71] Supra note 61.

[72] Id. at 426.

[73] CA rollo, p. 105.

[74] Section 52 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, reads:

> SEC. 52. Constructive notice upon registration. – Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing, or entering.

[75] De Castro v. Court of Appeals, 434 Phil. 53, 68 (2002).

[76] Llanto v. Alzona, 490 Phil. 696, 703 (2005).

[77] Arrazola v. Bernas, 175 Phil. 452, 456-457 (1978).

[78] 103 Phil. 858, 867 (1958).

[79] 327 Phil. 689 (1996).

[80] Id. at 708-712.

[81] Crisostomo v. Court of Appeals, 274 Phil. 1134, 1142-1143 (1991).

[82] Philippine Trust Company v. Court of Appeals, G.R. No. 150318, November 22, 2010, 635 SCRA 518, 530.

[83] Cruz v. Bancom Finance Corporation, 429 Phil. 225, 239 (2002).

[84] Metropolitan Bank and Trust Co. v. Pascual, G.R. No. 163744, February 29, 2008, 547 SCRA 246, 261.

[85] Bernardo v. Bataclan, 66 Phil. 598, 602 (1938).

[86] Briones v. Spouses Macabagdal, G.R. No. 150666, August 3, 2010, 626 SCRA 300, 307-308.

[87] 314 Phil. 313 (1995).

[88] Id. at 323-325.

[89] Article 441(3) of the Civil Code provides that “To the owner belongs x x x (t)he civil fruits.” Article 442 of the same Code describes “civil fruits” as “the rents of buildings, the price of leases of lands and other property and the amount of perpetual or life annuities or other similar income.”

[90] Id.

[91] Metropolitan Bank and Trust Company v. Tan, G.R. No. 178449, October 17, 2008, 569 SCRA 814, 831.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[92] The year 1988 was a leap-year.

[93] Ysmael v. Court of Appeals, 376 Phil. 323, 334 (1999).

[94] BPI Family Savings Bank Inc. v. Sps. Veloso, 479 Phil. 627, 634 (2004).

[95] Banco Filipino Savings & Mortgage Bank v. Court of Appeals, 501 Phil. 372, 384 (2005).

[96] Sarrosa v. Dizon, G.R. No. 183027, July 26, 2010, 625 SCRA 556, 564-565.

[97] Fernandez v. Espinoza, G.R. No. 156421, April 14, 2008, 551 SCRA 136, 150.

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.