ADALIA B. FRANCISCO AND MERRYLAND DEVELOPMENT CORPORATION, PETITIONERS, VS. RITA C. MEJIA, AS EXECUTRIX OF TESTATE ESTATE OF ANDREA CORDOVA VDA. DE GUTIERREZ, RESPONDENT.

G.R. No. 141617. August 14, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

In this petition for review by certiorari, petitioners pray for the setting aside of the Decision of the Court of Appeals promulgated on 13 April 1999 and its 15 December 1999 Resolution in CA-G.R. CV No. 19281.

As culled from the decisions of the lower courts and the pleadings of the parties, the factual background of this case is as set out herein:

Andrea Cordova Vda. de Gutierrez (Gutierrez) was the registered owner of a parcel of land in Camarin, Caloocan City known as Lot 861 of the Tala Estate. The land had an aggregate area of twenty-five (25) hectares and was covered by Transfer Certificate of Title (TCT) No. 5779 of the Registry of Deeds of Caloocan City. The property was later subdivided into five lots with an area of five hectares each and pursuant thereto, TCT No. 5779 was cancelled and five new transfer certificates of title were issued in the name of Gutierrez, namely TCT No. 7123 covering Lot 861-A, TCT No. 7124 covering Lot 861-B, TCT No. 7125 covering Lot 861-C, TCT No. 7126 covering Lot 861-D and TCT No. 7127 covering Lot 861-E.

On 21 December 1964, Gutierrez and Cardale Financing and Realty Corporation (Cardale) executed a Deed of Sale with Mortgage relating to the lots covered by TCT Nos. 7124, 7125, 7126 and 7127, for the consideration of P800,000.00. Upon the execution of the deed, Cardale paid Gutierrez P171,000.00. It was agreed that the balance of P629,000.00 would be paid in several installments within five years from the date of the deed, at an interest of nine percent per annum "based on the successive unpaid principal balances." Thereafter, the titles of Gutierrez were cancelled and in lieu thereof TCT Nos. 7531 to 7534 were issued in favor of Cardale.

To secure payment of the balance of the purchase price, Cardale constituted a mortgage on three of the four parcels of land covered by TCT Nos. 7531, 7532 and 7533, encompassing fifteen hectares of land.[1] The encumbrance was annotated upon the certificates of title and the owner's duplicate certificates. The owner's duplicates were retained by Gutierrez.

On 26 August 1968, owing to Cardale's failure to settle its mortgage obligation, Gutierrez filed a complaint for rescission of the contract with the Quezon City Regional Trial Court (RTC), which was docketed as Civil Case No. Q-12366.[2] On 20 October 1969, during the pendency of the rescission case, Gutierrez died and was substituted by her executrix, respondent Rita C. Mejia (Mejia). In 1971, plaintiff's presentation of evidence was terminated. However, Cardale, which was represented by petitioner Adalia B. Francisco (Francisco) in her capacity as Vice-President and Treasurer of Cardale, lost interest in proceeding with the presentation of its

evidence and the case lapsed into inactive status for a period of about fourteen years.

In the meantime, the mortgaged parcels of land covered by TCT Nos. 7532 and 7533 became delinquent in the payment of real estate taxes in the amount of P102,300.00, while the other mortgaged property covered by TCT No. 7531 became delinquent in the amount of P89,231.37, which culminated in their levy and auction sale on 1 and 12 September 1983, in satisfaction of the tax arrears. The highest bidder for the three parcels of land was petitioner Merryland Development Corporation (Merryland), whose President and majority stockholder is Francisco. A memorandum based upon the certificate of sale was then made upon the original copies of TCT Nos. 7531 to 7533.

On 13 August 1984, before the expiration of the one year redemption period, Mejia filed a Motion for Decision with the trial court. The hearing of said motion was deferred, however, due to a Motion for Postponement filed by Cardale through Francisco, who signed the motion in her capacity as "officer-in-charge," claiming that Cardale needed time to hire new counsel. However, Francisco did not mention the tax delinquencies and sale in favor of Merryland. Subsequently, the redemption period expired and Merryland, acting through Francisco, filed petitions for consolidation of title,[3] which culminated in the issuance of certain orders[4] decreeing the cancellation of Cardales' TCT Nos. 7531 to 7533 and the issuance of new transfer certificates of title "free from any encumbrance or third-party claim whatsoever" in favor of Merryland. Pursuant to such orders, the Register of Deeds of Caloocan City issued new transfer certificates of title in the name of Merryland which did not bear a memorandum of the mortgage liens in favor of Gutierrez.

Thereafter, sometime in June 1985, Francisco filed in Civil Case No. Q-12366 an undated Manifestation to the effect that the properties subject of the mortgage and covered by TCT Nos. 7531 to 7533 had been levied upon by the local government of Caloocan City and sold at a tax delinquency sale. Francisco further claimed that the delinquency sale had rendered the issues in Civil Case No. Q-12366 moot and academic. Agreeing with Francisco, the trial court dismissed the case, explaining that since the properties mortgaged to Cardale had been transferred to Merryland which was not a party to the case for rescission, it would be more appropriate for the parties to resolve their controversy in another action.

On 14 January 1987, Mejia, in her capacity as executrix of the Estate of Gutierrez, filed with the RTC of Quezon City a complaint for damages with prayer for preliminary attachment against Francisco, Merryland and the Register of Deeds of Caloocan City. The case was docketed as Civil Case No. Q-49766. On 15 April 1988, the trial court rendered a decision[5] in favor of the defendants, dismissing the complaint for damages filed by Mejia. It was held that plaintiff Mejia, as executrix of Gutierrez's estate, failed to establish by clear and convincing evidence her allegations that Francisco controlled Cardale and Merryland and that she had employed fraud by intentionally causing Cardale to default in its payment of real property taxes on the mortgaged properties so that Merryland could purchase the same by means of a tax delinquency sale. Moreover, according to the trial court, the failure to recover the property subject of the Deed of Sale with Mortgage was due to Mejia's failure to actively pursue the action for rescission (Civil Case No. 12366), allowing the case to drag on for eighteen years. Thus, it ruled that -

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> The act of not paying or failing to pay taxes due the government by the defendant Adalia B. Francisco, as treasurer of Cardale Financing and Realty Corporation do not, per se, constitute perpetration of fraud or an illegal act. It do [sic] not also constitute an act of evasion of an existing obligation (to plaintiff) if there is no clear showing that such an act of non-payment of taxes was deliberately made despite its (Cardale's) solvency and capability to pay. There is no evidence showing that Cardale Financing and Realty Corporation was financially capable of paying said taxes at the time.

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> "There are times when the corporate fiction will be disregarded: (1) where all the members or stockholders commit illegal act; (2) where the corporation is used as dummy to commit fraud or wrong; (3) where the corporation is an agency for a parent corporation; and (4) where the stock of a corporation is owned by one person." (I, Fletcher, 58, 59, 61 and 63). None of the foregoing reasons can be applied to the incidents in this case: (1) there appears no illegal act committed by the stockholders of defendant Merryland Development Corporation and Cardale Financing and Realty Corporation; (2) the incidents proven by evidence of the plaintiff as well as that of the defendants do not show that either or both corporations were used as dummies by defendant Adalia B. Francisco to commit fraud or wrong. To be used as [a] dummy, there has to be a showing that the dummy corporation is controlled by the person using it. The evidence of plaintiff failed to prove that defendant Adalia B. Francisco has controlling interest in either or both corporations. On the other hand, the evidence of defendants clearly show that defendant Francisco has no control over either of the two corporations; (3) none of the two corporations appears to be an agency for a parent (the other) corporation; and (4) the stock of either of the two corporation [sic] is not owned by one person (defendant Adalia B. Francisco). Except for defendant Adalia B. Francisco, the incorporators and stockholders of one corporation are different from the other.
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> The said case (Civil Case No. 12366) remained pending for almost 18 years before the then Court of First Instance, now the Regional Trial Court. Even if the trial of the said case became protracted on account of the retirement and/or promotion of the presiding judge, as well as the transfer of the case from one sala to another, and as claimed by the plaintiff "that the defendant lost interest", (which allegation is unusual, so to speak), the court believe [sic] that it would not have taken that long to dispose [of] said case had plaintiff not slept on her rights, and her duty and obligation to see to it that the case is always set for hearing so that it may be adjudicated [at] the earliest possible time. This duty pertains to both parties, but plaintiff should have been more assertive, as it was her obligation, similar to the obligation of plaintiff relative to the service of summons in other cases. The fact that Cardale Financing and Realty Corporation did not perform its obligation as provided in the said "Deed of Sale with Mortgage" (Exhibit "A") is very clear. Likewise, the fact that Andrea Cordova, the contracting party, represented by the plaintiff in this case did not also perform her duties and/or obligation provided in the said contract is also clear. This could have been the reason why the plaintiff in said case (Exhibit "E") slept on her rights and allowed the same to remain pending for almost 18 years. However, and irrespective of any other reason behind the same, the court believes that plaintiff, indeed, is the one to blame for the failure of the testate estate of the late Andrea Cordova Vda. de Gutierrez to recover the money or property due it on the basis of Exhibit "A".
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> xxx Had the plaintiff not slept on her rights and had it not been for her failure to perform her commensurate duty to pursue vigorously her case against Cardale Financing and Realty Corporation in said Civil Case No. 12366, she could have easily known said non-payment of realty taxes on the said properties by said Cardale Financing and Realty Corporation, or, at least the auction sales that followed, and from which she could have redeemed said properties within the one year period provided by law, or, have availed of remedies at the time to protect the interest of the testate estate of the late Andrea Cordova Vda. de Gutierrez.
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The dispositive portion of the trial court's decision states -

> WHEREFORE, in view of all the foregoing consideration, the court hereby renders judgment in favor of the defendants Register of Deeds of Caloocan City, Merryland Development Corporation and Adalia B. Francisco, and against plaintiff Rita C. Mejia, as Executrix of the Testate Estate of Andrea Cordova Vda. De Gutierrez, and hereby orders:
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> - That this case for damages be dismissed, at the same time, plaintiff's motion for reconsideration dated

> September 23, 1987 is denied;
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> - Plaintiff pay the defendants Merryland Development Corporation and the Register of Deeds the sum of P20,000.00, and another sum of P20,000.00 to the defendant Adalia B. Francisco, as and for attorney's fees and litigation expenses, and pay the costs of the proceedings.
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> SO ORDERED.

The Court of Appeals,[6] in its decision[7] promulgated on 13 April 1999, reversed the trial court, holding that the corporate veil of Cardale and Merryland must be pierced in order to hold Francisco and Merryland solidarily liable since these two corporations were used as dummies by Francisco, who employed fraud in allowing Cardale to default on the realty taxes for the properties mortgaged to Gutierrez so that Merryland could acquire the same free from all liens and encumbrances in the tax delinquency sale and, as a consequence thereof, frustrating Gutierrez's rights as a mortgagee over the subject properties. Thus, the Court of Appeals premised its findings of fraud on the following circumstances –

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> xxx Appellee Francisco knew that Cardale of which she was vice-president and treasurer had an outstanding obligation to Gutierrez for the unpaid balance of the real properties covered by TCT Nos. 7531 to 7533, which Cardale purchased from Gutierrez which account, as of December 1988, already amounted to P4,414,271.43 (Exh. K, pp. 39-44, record); she also knew that Gutierrez had a mortgage lien on the said properties to secure payment of the aforesaid obligation; she likewise knew that the said mortgaged properties were under litigation in Civil Case No. Q-12366 which was an action filed by Gutierrez against Cardale for rescission of the sale and/or recovery of said properties (Exh. E). Despite such knowledge, appellee Francisco did not inform Gutierrez's Estate or the Executrix (herein appellant) as well as the trial court that the mortgaged properties had incurred tax delinquencies, and that Final Notices dated July 9, 1982 had been sent by the City Treasurer of Caloocan demanding payment of such tax arrears within ten (10) days from receipt thereof (Exhs. J & J-1, pp. 37-38, record). Both notices which were addressed to –
> Cardale Financing & Realty Corporation c/o Merryland Development Corporation

and sent to appellee Francisco's address at 83 Katipunan Road, White Plains, Quezon City, gave warning that if the taxes were not paid within the aforesaid period, the properties would be sold at public auction to satisfy the tax delinquencies.

To reiterate, notwithstanding receipt of the aforesaid notices, appellee Francisco did not inform the Estate of Gutierrez or her executrix about the tax delinquencies and of the impending auction sale of the said properties. Even a modicum of good faith and fair play should have encouraged appellee Francisco to at least advise Gutierrez's Estate through her executrix (herein appellant) and the trial court which was hearing the complaint for rescission and recovery of said properties of such fact, so that the Estate of Gutierrez, which had a real interest on the properties as mortgagee and as plaintiff in the rescission and recovery suit, could at least take steps to forestall the auction sale and thereby preserve the properties and protect its interests thereon. And not only did appellee Francisco allow the auction sale to take place, but she used her other corporation (Merryland) in participating in the auction sale and in acquiring the very properties which her first corporation (Cardale) had mortgaged to Gutierrez. Again, appellee Francisco did not thereafter inform the Estate of Gutierrez or its executrix (herein appellant) about the auction sale, thus precluding the Estate from exercising its right of redemption. And it was only after the expiration of the redemption period that appellee Francisco filed a Manifestation in Civil Case No. Q-12366 (Exh. I, p. 36, record), in which she disclosed for the first time to the trial court and appellant that the properties subject of the case and on which Gutierrez or her Estate had a mortgage lien, had been sold in a tax delinquency sale. And in order to further conceal her deceptive maneuver, appellee Francisco did not divulge in

her aforesaid Manifestation that it was her other corporation (Merryland) that acquired the properties in the auction sale.

We are not impressed by appellee's submission that no evidence was adduced to prove that Cardale had the capacity to pay the tax arrears and therefore she or Cardale may not be faulted for the tax delinquency sale of the properties in question. Appellee Francisco's bad faith or deception did not necessarily lie in Cardale's or her failure to settle the tax deliquencies in question, but in not disclosing to Gutierrez's estate or its executrix (herein appellant) which had a mortgage lien on said properties the tax delinquencies and the impending auction sale of the encumbered properties.

Appellee Francisco's deception is further shown by her concealment of the tax delinquency sale of the properties from the estate or its executrix, thus preventing the latter from availing of the right of redemption of said properties. That appellee Francisco divulged the auction sale of the properties only after such redemption period had lapsed clearly betrays her intention to keep Gutierrez's Estate or its Executrix from availing of such right. And as the evidence would further show, appellee Francisco had a hand in securing for Merryland consolidation of its ownership of the properties and in seeing to it that Merryland's torrens certificates for the properties were free from liens and encumbrances. All these appellee Francisco did even as she was fully aware that Gutierrez or her estate had a valid and subsisting mortgage lien on the said properties.

It is likewise worthy of note that early on appellee Francisco had testified in the action for rescission of sale and recovery of possession and ownership of the properties which Gutierrez filed against Cardale (Civil Case No. Q-12366) in her capacity as defendant Cardale's vice-president and treasurer. But then, for no plausible reason whatsoever, she lost interest in continuing with the presentation of evidence for defendant Cardale. And then, when appellant Mejia as executrix of Gutierrez's Estate filed on August 13, 1984 a Motion for Decision in the aforesaid case, appellee Francisco moved to defer consideration of appellant's Motion on the pretext that defendant Cardale needed time to employ another counsel. Significantly, in her aforesaid Motion for Postponement dated August 16, 1984 which appellee Francisco personally signed as Officer-in-Charge of Cardale, she also did not disclose the fact that the properties subject matter of the case had long been sold at a tax delinquency sale and acquired by her other corporation Merryland.

And as if what she had already accomplished were not enough fraudulence, appellee Francisco, acting in behalf of Merryland, caused the issuance of new transfer certificates of title in the name of Merryland, which did not anymore bear the mortgage lien in favor of Gutierrez. In the meantime, to further avoid payment of the mortgage indebtedness owing to Gutierrez's estate, Cardale corporation was dissolved. Finally, to put the properties beyond the reach of the mortgagee, Gutierrez's estate, Merryland caused the subdivision of such properties, which were subsequently sold on installment basis.

In its petition for certiorari, petitioners argue that there is no law requiring the mortgagor to inform the mortgagee of the tax delinquencies, if any, of the mortgaged properties. Moreover, petitioners claim that Cardale's failure to pay the realty taxes, per se, does not constitute fraud since it was not proven that Cardale was capable of paying the taxes. Petitioners also contend that if Mejia, as executrix of Gutierrez's estate, was not remiss in her duty to pursue Civil Case No. 12366, she could have easily learned of the non-payment of realty taxes on the subject properties and of the auction sale that followed and thus, have redeemed the properties or availed of some other remedy to conserve the estate of Gutierrez. In addition, Mejia could have annotated a notice of lis pendens on the titles of the mortgaged properties, but she failed to do so. It is the stand of petitioners that respondent has not adduced any proof that Francisco controlled both Cardale and Merryland and that she used these two corporations to perpetuate a fraud upon Gutierrez or her estate. Petitioners maintain that the "evidence shows that, apart form the meager share of petitioner Francisco, the stockholdings of both corporations comprise other shareholders, and

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the stockholders of either of them, aside from petitioner Francisco, are composed of different persons." As to Civil Case No. 12366, petitioners insist that the decision of the trial court in that case constitutes res judicata to the instant case.[8]

It is dicta in corporation law that a corporation is a juridical person with a separate and distinct personality from that of the stockholders or members who compose it.[9] However, when the legal fiction of the separate corporate personality is abused, such as when the same is used for fraudulent or wrongful ends, the courts have not hesitated to pierce the corporate veil. One of the earliest formulations of this doctrine of piercing the corporate veil was made in the American case of United States v. Milwaukee Refrigerator Transit Co.[10] -

> If any general rule can be laid down, in the present state of authority, it is that a corporation will be looked upon as a legal entity as a general rule, and until sufficient reason to the contrary appears; but, when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime, the law will regard the corporation as an association of persons.

Since then a good number of cases have firmly implanted this doctrine in Philippine jurisprudence.[11] One such case is Umali v. Court of Appeals[12] wherein the Court declared that –

> Under the doctrine of piercing the veil of corporate entity, when valid grounds therefore exist, the legal fiction that a corporation is an entity with a juridical personality separate and distinct from its members or stockholders may be disregarded. In such cases, the corporation will be considered as a mere association of persons. The members or stockholders of the corporation will be considered as the corporation, that is, liability will attach directly to the officers and stockholders. The doctrine applies when the corporate fiction is used to defeat public convenience, justify wrong, protect fraud, or defend crime, or when it is made as a shield to confuse the legitimate issues, or where a corporation is the mere alter ego or business conduit of a person, or where the corporation is so organized and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of another corporation.

With specific regard to corporate officers, the general rule is that the officer cannot be held personally liable with the corporation, whether civilly or otherwise, for the consequences of his acts, if he acted for and in behalf of the corporation, within the scope of his authority and in good faith. In such cases, the officer's acts are properly attributed to the corporation.[13] However, if it is proven that the officer has used the corporate fiction to defraud a third party,[14] or that he has acted negligently, maliciously or in bad faith,[15] then the corporate veil shall be lifted and he shall be held personally liable for the particular corporate obligation involved.

The Court, after an assiduous study of this case, is convinced that the totality of the circumstances appertaining conduce to the inevitable conclusion that petitioner Francisco acted in bad faith. The events leading up to the loss by the Gutierrez estate of its mortgage security attest to this. It has been established that Cardale failed to comply with its obligation to pay the balance of the purchase price for the four parcels of land it bought from Gutierrez covered by TCT Nos. 7531 to 7534, which obligation was secured by a mortgage upon the lands covered by TCT Nos. 7531, 7532 and 7533. This prompted Gutierrez to file an action for rescission of the Deed of Sale with Mortgage (Civil Case No. Q-12366), but the case dragged on for about fourteen years when Cardale, as represented by Francisco, who was Vice-President and Treasurer of the same,[16] lost interest in completing its presentation of evidence.

Even before 1984 when Mejia, in her capacity as executrix of Gutierrez's estate, filed a Motion for Decision with the trial court, there is no question that Francisco knew that the properties subject of the mortgage had become tax delinquent. In fact, as treasurer of Cardale, Francisco herself was the officer charged with the responsibility of paying the realty taxes on the corporation's properties. This was admitted by the trial court in its decision.[17] In addition, notices dated 9 July 1982 from the City Treasurer of Caloocan demanding payment of the tax arrears on

the subject properties and giving warning that if the realty taxes were not paid within the given period then such properties would be sold at public auction to satisfy the tax delinquencies were sent directly to Francisco's address in White Plains, Quezon City.[18] Thus, as early as 1982, Francisco could have informed the Gutierrez estate or the trial court in Civil Case No. Q-12366 of the tax arrears and of the notice from the City Treasurer so that the estate could have taken the necessary steps to prevent the auction sale and to protect its interests in the mortgaged properties, but she did no such thing. Finally, in 1983, the properties were levied upon and sold at public auction wherein Merryland - a corporation where Francisco is a stockholder[19] and concurrently acts as President and director[20] - was the highest bidder.

When Mejia filed the Motion for Decision in Civil Case No. Q-12366,[21] the period for redeeming the properties subject of the tax sale had not yet expired.[22] Under the Realty Property Tax Code,[23] pursuant to which the tax levy and sale were prosecuted,[24] both the delinquent taxpayer and in his absence, any person holding a lien or claim over the property shall have the right to redeem the property within one year from the date of registration of the sale.[25] However, if these persons fail to redeem the property within the time provided, then the purchaser acquires the property "free from any encumbrance or third party claim whatsoever."[26] Cardale made no attempts to redeem the mortgaged property during this time. Moreover, instead of informing Mejia or the trial court in Q-12366 about the tax sale, the records show that Francisco filed a Motion for Postponement[27] in behalf of Cardale - even signing the motion in her capacity as "officer-in-charge" - which worked to defer the hearing of Mejia's Motion for Decision. No mention was made by Francisco of the tax sale in the motion for postponement. Only after the redemption period had expired did Francisco decide to reveal what had transpired by filing a Manifestation stating that the properties subject of the mortgage in favor of Gutierrez had been sold at a tax delinquency sale; however, Francisco failed to mention that it was Merryland that acquired the properties since she was probably afraid that if she did so the court would see behind her fraudulent scheme. In this regard, it is also significant to note that it was Francisco herself who filed the petitions for consolidation of title and who helped secure for Merryland titles over the subject properties "free from any encumbrance or third-party claim whatsoever."

It is exceedingly apparent to the Court that the totality of Franciso's actions clearly betray an intention to conceal the tax delinquencies, levy and public auction of the subject properties from the estate of Gutierrez and the trial court in Civil Case No. Q-12366 until after the expiration of the redemption period when the remotest possibility for the recovery of the properties would be extinguished.[28] Consequently, Francisco had effectively deprived the estate of Gutierrez of its rights as mortgagee over the three parcels of land which were sold to Cardale. If Francisco was acting in good faith, then she should have disclosed the status of the mortgaged properties to the trial court in Civil Case No. Q-12366 - especially after Mejia had filed a Motion for Decision, in response to which she filed a motion for postponement wherein she could easily have mentioned the tax sale - since this action directly affected such properties which were the subject of both the sale and mortgage.

That Merryland acquired the property at the public auction only serves to shed more light upon Francisco's fraudulent purposes. Based on the findings of the Court of Appeals, Francisco is the controlling stockholder and President of Merryland.[29] Thus, aside from the instrumental role she played as an officer of Cardale, in evading that corporation's legitimate obligations to Gutierrez, it appears that Francisco's actions were also oriented towards securing advantages for another corporation in which she had a substantial interest. We cannot agree, however, with the Court of Appeals' decision to hold Merryland solidarily liable with Francisco. The only act imputable to Merryland in relation to the mortgaged properties is that it purchased the same and this by itself is not a fraudulent or wrongful act. No evidence has been adduced to establish that Merryland was a mere alter ego or business conduit of Francisco. Time and again it has been reiterated that mere ownership by a single stockholder or by another corporation of all or nearly all of the capital stock of a corporation is not of itself

sufficient ground for disregarding the separate corporate personality.[30] Neither has it been alleged or proven that Merryland is so organized and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of Cardale.[31] Even assuming that the businesses of Cardale and Merryland are interrelated, this alone is not justification for disregarding their separate personalities, absent any showing that Merryland was purposely used as a shield to defraud creditors and third persons of their rights.[32] Thus, Merryland's separate juridical personality must be upheld.

Based on a statement of account submitted by Mejia, the Court of Appeals awarded P4,314,271.43 in favor of the estate of Gutierrez which represents the unpaid balance of the purchase price in the amount of P629,000.00 with an interest rate of nine percent (9%) per annum, in accordance with the agreement of the parties under the Deed of Sale with Mortgage,[33] as of December 1988.[34] Therefore, in addition to the amount awarded by the appellate court, Francisco should pay the estate of Gutierrez interest on the unpaid balance of the purchase price (in the amount of P629,000.00) at the rate of nine percent (9%) per annum computed from January, 1989 until fully satisfied.

Finally, contrary to petitioner's assertions, we agree with the Court of Appeals that the decision of the trial court in Civil Case No. Q-12366 does not constitute res judicata insofar as the present case is concerned because the decision in the first case was not a judgment on the merits. Rather, it was merely based upon the premise that since Cardale had been dissolved and the property acquired by another corporation, the action for rescission would not prosper. As a matter of fact, it was even expressly stated by the trial court that the parties should ventilate their issues in another action.

WHEREFORE, the 13 April 1999 Decision of the Court of Appeals is hereby accordingly MODIFIED so as to hold ADALIA FRANCISCO solely liable to the estate of Gutierrez for the amount of P4,314,271.43 and for interest on the unpaid balance of the purchase price (in the amount of P629,000.00) at the rate of nine percent (9%) per annum computed from January, 1989 until fully satisfied. MERRYLAND is hereby absolved from all liability.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

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[1] Referred to as TCT Nos. 7125, 7126 and 7127 in the Deed of Sale with Mortgage.

[2] Entitled "Andrea Cordova Vda. de Gutierrez v. Cardale Financing and Realty Corporation."

[3] LCR Reg. Case No. 8563 and LRC Reg. Case No. C-2640.

[4] The Orders were issued on 7 November 1983, 14 November 1983, 28 November 1983 and the Decision was promulgated on 12 November 1984.

[5] Records, 592-605.

[6] Seventeenth Division, composed of Justices Godardo A. Jacinto, ponente, Roberto A. Barrios, and Renato C. Dacudao.

[7] Rollo, 32-48.

[8] Ibid., 306-321.

[9] Traders Royal Bank v. Court of Appeals, 177 SCRA 789 (1989); Cruz v. Dalisay, 152 SCRA 487 (1987).

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[10] 142 Fed. 247 (1905).

[11] Commissioner of Internal Revenue v. Norton and Harrison, 11 SCRA 714 (1954); Namarco v. Associated Finance Co., 19 SCRA 962 (1967); Diatagon Labor Federation Local 110 of the ULGWP v. Ople, 101 SCRA 534 (1980); Umali v. Court of Appeals, 189 SCRA 529 (1990); Indophil Textile Mill Workers Union v. Calica, 205 SCRA 697 (1992); Uichico v. NLRC, 273 SCRA 35 (1997); San Juan Structural and Steel Fabricators, Inc. v. Court of Appeals, 296 SCRA 631 (1998); Luxuria Homes, Inc. v. Court of Appeals, 302 SCRA 315 (1999); Francisco Motors Corporation v. Court of Appeals, 309 SCRA 72 (1999); Vlason Enterprises Corporation v. Court of Appeals, 310 SCRA 26 (1999); Complex Electronics Employees Association v. NLRC, 310 SCRA 403 (1999); Compania Maritima, Inc. v. Court of Appeals, 318 SCRA 169 (1999).

[12] 189 SCRA 529 (1990).

[13] Benguet Electric Cooperative, Inc. v. NLRC, 209 SCRA 55 (1992); Pabalan v. NLRC, 184 SCRA 495 (1990); Mindanao Motor Line, Inc. v. Court of Industrial Relations, 6 SCRA 710 (1962).

[14] Palay, Inc. v. Clave, 124 SCRA 638 (1983).

[15] ARB Construction Co., Inc. v. Court of Appeals, 332 SCRA 427 (2000); Santos v. NLRC, 254 SCRA 673 (1996); Mindanao Motor Line, Inc. v. Court of Industrial Relations, 6 SCRA 710 (1962).

[16] CA Decision, 11.

[17] Trial Court Decision in Civil Case No. Q-49766, promulgated on 15 April 1988, 7.

[18] CA Decision, 12-13.

[19] Petitioners' Memorandum, 11.

[20] CA Decision, 11.

[21] Motion for Decision was filed on 13 August 1984.

[22] Public auction of the subject properties took place on 1 and 12 September 1983.

[23] Presidential Decree No. 464 (PD 464).

[24] Trial Court Decision in Civil Case No. Q-49766, promulgated on 15 April 1988, 9.

[25] PD 464, Sec. 78.

[26] Id., Sec. 80.

[27] Dated 16 August 1984.

[28] As earlier explained, under Section 80 of the Real Property Tax Code, if the delinquent taxpayer or any person holding a lien or claim over the property fails to redeem the same, then the purchaser acquires the property "free from any encumbrance or third party claim whatsoever."

[29] CA Decision, 11.

[30] Pabalan v. NLRC, 184 SCRA 495 (1990); Palay, Inc. v. Clave, 124 SCRA 638 (1983), citing Liddel & Co. v. Collector of Internal Revenue, 2 SCRA 632 (1961).

[31] Umali v. Court of Appeals, 189 SCRA 529 (1990).

[32] Diatagon Labor Federation Local 110 of the ULGWP v. Ople, 101 SCRA 534 (1980). See also Complex Electronics Employees Association v. NLRC, 310 SCRA 403 (1999); San Juan Structural and Steel Fabricators, Inc. v. Court of Appeals, 296 SCRA 631 (1998).

[33] Rollo, 47-48.

[34] Ibid., 338.

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