

SAMUEL M. ALVARADO, PETITIONER, V. AYALA LAND, INC., AYALA HILLSIDE ESTATES HOMEOWNERS' ASSOCIATION, INC., ALEXANDER P. AGUIRRE, HORACIO PAREDES, RICARDO F. DE LEON, REYNATO Y. ...

G.R. No. 208426. September 20, 2017

Ponente: LEONEN, J.

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LEONEN, J.:

Two (2) categories of motions to dismiss may be recognized under the 1997 Rules of Civil Procedure: first, those that must be filed ahead of an answer, and second, those that may be entertained even after an answer has been filed. Motions to dismiss under the first category may plead any of the 10 grounds under Rule 16, Section 1.[1] Those under the second category may only plead four (4) of Rule 16, Section 1 's 10 grounds: lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, and prescription. In addition to these four (4) grounds, motions to dismiss under the second category may also plead lack of cause of action and other grounds that may only be made known after the answer was filed.[2]

The prior filing of an answer, therefore, serves as a bar to the consideration of Rule 16, Section 1 's six (6) other grounds. However, the grounds stated in a belatedly filed motion to dismiss may still be considered provided that they were pleaded as affirmative defenses in an answer. There is then no waiver of the previously pleaded defenses. The complaint may be dismissed even for reasons other than lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, prescription, lack of cause of action, or delayed discovery of a ground for dismissal. The belatedly filed motion to dismiss is not a useless superfluity. It is effectively a motion for the court to hear the grounds for dismissal previously pleaded as affirmative defenses in the answer, pursuant to Rule 16, Section 6.[3] Still, the continuing availability of grounds does not guarantee a dismissal. An allegation of non-compliance with a condition precedent may be belied by antecedent facts; a claim of failure to state a cause of action may be negated by sufficient allegations in the complaint.

This resolves a Petition for Review on Certiorari[4] under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed April 17, 2013 Decision[5] and August 2, 2013 Resolution[6] of the Court of Appeals in CA-G.R. SP No. 123929 be reversed and set aside, and that the action assailing the validity of a tax sale initiated by respondents against petitioner Samuel M. Alvarado (Alvarado) before the Quezon City Regional Trial Court be dismissed.[7]

The assailed Court of Appeals April 17, 2013 Decision dismissed Alvarado's Petition for Certiorari and found no grave abuse of discretion on the part of Presiding Judge Tita Marilyn Payoyo-Villordon (Judge Payoyo-Villordon) of Branch 224, Regional Trial Court, Quezon City in issuing her September 6, 2011 and January 6, 2012 Orders.[8] The assailed Court of Appeals August 2, 2013 Resolution denied petitioner's Motion for Reconsideration.[9]

Judge Payoyo-Villordon's September 6, 2011 Order[10] denied petitioner's Motion to Dismiss the action assailing

the validity of a tax sale initiated by herein respondents, Ayala Land, Inc., Ayala Hillside Estates Homeowners' Association, Inc. (Ayala Hillside), Alexander P. Aguirre, Horacio Paredes, Ricardo F. De Leon, Reynato Y. Sawit, Agustin N. Perez, Geronimo M. Collado, Emmanuel C. Ching, Macabangkit Lanto, Manuel Dizon, Tarcisio; Calilung, Irineo Aguirre, Ernesto Ortiz Luis, Bernardo Jambalos III, Francisco Arcillana, Luis S. Tanjangco, and Pablito Villegas. Her January 6, 2012 Order[11] denied petitioner's Motion for Reconsideration.

Capitol Hills Golf and Country Club, Inc. (Capitol) owned a 15,598-square-meter parcel in Quezon City covered by Transfer Certificate of Title (TCT) No. N-253850.[12] As of the occurrence of the material incidents of this case, this parcel was alleged to have had an assessed value of P17,547,750.00 and a zonal value of P249,568,000.00.[13]

On November 16, 2007, this entire parcel was levied by the Quezon City Treasurer on account of unpaid real estate taxes amounting to P1,857,136.89 plus penalties of P668,569.28. On December 13, 2007, it was subjected to a tax delinquency sale. Alvarado was noted to have been the highest bidder for the amount of P2,600,000.00. Thereafter, a Certificate of Sale of Delinquent Property was issued in Alvarado's favor.[14]

On December 7, 2010, respondents filed with the Quezon City Regional Trial Court their Complaint [15] assailing the validity of the tax sale.[16] Alvarado, the Quezon City Treasurer, the Quezon City Register of Deeds, and several John and Jane Does who allegedly participated in the conduct of the levy and sale were impleaded as defendants.[17]

In their Complaint, individual respondents Alexander P. Aguirre, Horacio Paredes, Ricardo F. De Leon, Reynato Y. Sawit, Agustin N. Perez, Geronimo M. Collado, Emmanuel C. Ching, Macabangkit Lanto, Manuel Dizon, Tarcisio Calilung, Irineo Aguirre, Ernesto Ortiz Luis, Bernardo Jambalos III, Francisco Arcillana, Luis S. Tanjangco, and Pablito Villegas identified themselves as "members of Capitol Hills Golf [and] Country Club, Inc., who were each issued their corresponding Certificates of Shares of Stocks and/or Member's Identification (ID) Cards." [18] Ayala Hillside identified itself as "an association of lot owners residing in Ayala Hillside Estate who set up their homes in such a location primarily because of the green environment provided by the Capitol Golf Course." [19] Ayala Land, Inc. noted that it had an "Agreement [with Capitol] for a joint development of the Capitol Golf Course since [Ayala Land, Inc.]'s Ayala Hillside Estate . . . is located and situated inside the Capitol Golf Course." [20]

The Complaint alleged several anomalies in the sale. It assailed the sale of the entire parcel for P2,600,000.00, an amount that, as respondents alleged, equated to 14.41% of its assessed value, 6.48% of its market value, and 1.01% of its zonal value.[21] It asserted that the sale of the entire parcel instead of merely a usable portion of it that sufficed to cover the tax delinquency, net of penalties, of P2,528,992.48 violated Section 260 of the Local Government Code[22] and Chapter Two, Article 7, Section 14, paragraph 4 of the Quezon City Revenue Code.[23] It added that the Final Bill of Sale was issued to Alvarado "palpably way ahead before the expiration of the redemption period"[24] and that neither a notice of sale nor a notice of tax delinquency was posted in publicly accessible and conspicuous places,[25] contrary to the requirements of Section 254 of the Local Government Code.[26]

In response to respondents' Complaint, Alvarado filed his Answer with Compulsory Counterclaim[27] dated April 4, 2011. This Answer asserted that the Complaint was "procedurally and fatally defective on its face"[28] for the following reasons:

I.

APPLYING SECTION 1 (J), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE CASE SINCE A CONDITION PRECEDENT FOR THE FILING OF THE CLAIM HAS NOT BEEN COMPLIED WITH I.E. THE MANDATORY JUDICIAL DEPOSIT AS PROVIDED FOR UNDER SEC. 267 OF THE LOCAL GOVERNMENT CODE.

II.

APPLYING SECTION 1 (G), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, [RESPONDENTS] FAILED TO STATE A CAUSE OF ACTION AGAINST THE [PETITIONER] — [RESPONDENTS] NOT BEING THE REGISTERED OWNER OF THE AUCTIONED PROPERTY AND NOT HAVING ANY AUTHORITY FROM THE REGISTERED OWNER OF THE PROPERTY.

III.

APPLYING SECTION 1 (B), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE CLAIM CONSIDERING THAT [RESPONDENTS] HAVE NOT SHOWN ANY REAL, ACTUAL, MATERIAL OR SUBSTANTIAL LEGAL RIGHTS OR INTEREST ON THE AUCTIONED PROPERTY. AS A MATTER OF FACT, [RESPONDENTS'] ALLEGED RIGHTS DO NOT APPEAR IN THE TITLE ITSELF. Thus, Section 267 of the Local Government Code provides that "Neither shall any court declare a sale at public auction invalid by reason of irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired." [29]

After filing his Answer, Alvarado filed his Motion to Dismiss [30] dated April 14, 2011, substantially reiterating the same procedural defects he noted in his Answer:

1. The instant complaint filed by the [respondents] should be dismissed on the following grounds, as alleged in the special and affirmative defenses in the Answer with Compulsory Counterclaim filed by herein [petitioner]:

GROUND**I.**

APPLYING SECTION I (J), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE CASE SINCE A CONDITION PRECEDENT FOR THE FILING OF THE CLAIM HAS NOT BEEN COMPLIED WITH I.E. THE MANDATORY JUDICIAL DEPOSIT AS PROVIDED FOR UNDER SEC. 267 OF THE LOCAL GOVERNMENT CODE.

II

APPLYING SECTION 1 (G), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, [RESPONDENTS] FAILED TO STATE A CAUSE OF ACTION AGAINST THE [PETITIONER] — [RESPONDENTS] NOT BEING THE REGISTERED OWNER OF THE AUCTIONED PROPERTY.

III.

APPLYING SECTION 1 (B), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE CLAIM CONSIDERING THAT [RESPONDENTS] HAVE NOT SHOWN ANY REAL, ACTUAL, MATERIAL OR

SUBSTANTIAL LEGAL RIGHTS OR INTEREST ON THE AUCTIONED PROPERTY. AS A MATTER OF FACT, [RESPONDENTS'] ALLEGED RIGHTS DO NOT APPEAR IN THE TITLE ITSELF. Thus, Section 267 of the Local Government Code provides that "Neither shall any court declare a sale at public auction invalid by 1 reason of irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired." [31]

In her Order [32] dated September 6, 2011, Judge Payoyo-Villordon denied Alvarado's Motion to Dismiss. She noted that the Motion was filed out of time as Alvarado already filed his Answer and that "Alvarado [was] considered [e]stopped from filing the subject Motion to Dismiss." [33] She conceded that the rule preventing the consideration of motions to dismiss filed after the filing of answers admitted exceptions [34] but noted that the grounds pleaded by Alvarado still did not warrant the dismissal of respondents' Complaint. [35]

In her Order [36] dated January 6, 2012, Judge Payoyo-Villordon denied Alvarado's Motion for Reconsideration.

Thereafter, Alvarado filed a Petition for Certiorari with the Court of Appeals. [37]

In its assailed April 17, 2013 Decision, [38] the Court of Appeals found no grave abuse of discretion on the part of Judge Payoyo-Villordon in issuing the September 6, 2011 and January 6, 2012 Orders.

In its assailed August 2, 2013 Resolution, [39] the Court of Appeals denied Alvarado's Motion for Reconsideration.

Hence, Alvarado filed this Petition.

For resolution is the sole issue of whether or not the Court of Appeals erred in not finding grave abuse of discretion amounting to lack or excess of jurisdiction on the part of Quezon City Regional Trial Court Presiding Judge Tita Marilyn Payoyo-Villordon in issuing her September 6, 2011 and January 6, 2012 Orders.

Judge Payoyo-Villordon correctly observed that petitioner filed his Answer ahead of his Motion to Dismiss. The filing of an answer precludes a motion to dismiss. However, the grounds invoked by petitioner in his Motion to Dismiss had been previously pleaded in his Answer. The consideration of these grounds was, therefore, not forestalled by petitioner's belated filing of a motion to dismiss. These grounds are still considered timely pleaded in his Answer and merely reiterated in his Motion to Dismiss.

Ultimately, however, Judge Payoyo-Villordon correctly found petitioner's pleaded grounds to be unavailing. Thus, this Court sustains her denial of petitioner's Motion to Dismiss.

I

A civil action is initiated by filing a complaint in the appropriate court. [40] Within 15 days after the service of summons or as directed by the court, the defendant must file an answer. [41] A defendant who fails to timely file an answer shall be held in default: "Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence." [42]

The filing of a complaint is not in all cases followed by the filing of an answer. Upon any of the grounds recognized by Rule 16, Section 1 of the 1997 Rules of Civil Procedure a defendant may instead seek the immediate dismissal of the complaint. These grounds are:

(a)

That the court has no jurisdiction over the person of the defending party;

(b)

That the court has no jurisdiction over the subject matter of the claim;

(c)

That venue is improperly laid;

(d)

That the plaintiff has no legal capacity to sue;

(e)

That there is another action pending between the same parties for the same cause;

(f)

That the cause of action is barred by a prior judgment or by the statute of limitations;

(g)

That the pleading asserting the claim states no cause of action;

(h)

That the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned, or otherwise extinguished;

(i)

That the claim on which the action is founded is unenforceable under the provisions of the statute of frauds;

(j)

That a condition precedent for filing the claim has not been complied with.

Rule 16, Section 1 is unequivocal: a motion to dismiss is filed "[w]ithin the time for but before filing the answer."^[43] Rule 16, Section 4 states that if a motion to dismiss is denied, the defendant shall then file an answer within the remaining period of the 15 days that he or she originally had to file it but in no case less than five (5) days.^[44]

The 1997 Rules of Civil Procedure frame a procedure where only the merits of the issues of a case are to be the subject of trial. The issues, however, will be joined only after an answer is filed. In the answer, affirmative defenses, which take the form of "confession and avoidance"^[45] may also be raised. After the answer, no new defenses may be raised. As Rule 9, Section 1 stipulates "[d]efenses and objections not pleaded ... in the answer are deemed waived."^[46]

It is during trial where evidence to prove the parties' respective positions on the substantive issues, as tendered in their pleadings, is received. Judgment on the questions of fact, as well as law, on these substantive issues will then follow.

However, prior to trial, there may be defenses which may be granted without touching on the merits of the case. Thus, Rule 16 provides for the vehicle called a Motion to Dismiss. The grounds under Rule 16 partake of the nature of defenses which can be considered with the hypothetical admission of the allegations in the complaint. For instance, a claim that a complaint fails to state a cause of action asserts that even if the complaint's allegations were true, the plaintiff is still in no position to proceed against the defendant.

It is basic, then, that motions to dismiss are not to be entertained after an answer has been filed.

This rule, however, admits of exceptions. While stating the general rule that "[d]efenses and objections not pleaded . . . in the answer are deemed waived," Rule 9, Section 1 adds:

However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

Out of Rule 16, Section 1's 10 grounds, four (4) survive the anterior filing of an answer: lack of jurisdiction over the subject matter, *litis pendencia*, *res judicata*, and prescription. Thus, as *Pacaña-Contreras v. Rovila Water Supply Inc.*[47] explained:

The first paragraph of Section 1, Rule 16 of the Rules of Court provides for the period within which to file a motion to dismiss under the grounds enumerated. Specifically, the motion should be filed within the time for, but before the filing of, the answer to the complaint or pleading asserting a claim. Equally important to this provision is Section 1, Rule 9 of the Rules of Court which states that defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived, except for the following grounds: 1) the court has no jurisdiction over the subject matter; 2) *litis pendencia*; 3) *res judicata*; and 4) prescription.

Therefore, the grounds not falling under these four exceptions may be considered as waived in the event that they are not timely invoked.[48]

Common to all these four (4) grounds that survive the filing of an answer is that they persist no matter the resolution of the merits of the case by the court. A judgment issued by a court without jurisdiction is null and void. Judgments on a similar prior case will be redundant. Thus, *res judicata* and *litis pendencia* can be raised even after an answer has been filed. Prescription attaches regardless of the resolution of the case on the merits.

Apart from the exceptions recognized in Rule 9, Section 1, jurisprudence has also clarified that, despite the prior filing of an answer, an action may still be dismissed on a ground which only became known subsequent to the filing of an answer.[49]

In *Obando v. Figueras*,[50] respondent Eduardo Figueras (Eduardo) initially served as the sole administrator of the joint estates of the deceased Jose and Alegria Figueras (Alegria). Upon the filing of a petition for probate and presentation of Alegria's alleged will, petitioner Felizardo Obando (Obando) was designated co-administrator. It turned out, however, that the will was a forgery, and Obando was indicted for and convicted of *estafa* through falsification of a public document. In the meantime, Eduardo proceeded to sell two (2) estate properties to respondent Amigo Realty Corporation (Amigo). This sale was made despite the probate court's denial of Eduardo's prayer for authority to sell. The sale prompted Obando to sue Eduardo and Amigo for the nullification of the sale. In the interim, the probate court removed Obando from his office as co-administrator. His removal prompted Eduardo and Amigo to file a motion to dismiss the nullification case, with them asserting that by the cessation of Obando's engagement as co-administrator, he lost legal standing to pursue the nullification case. The Regional Trial Court granted respondents' motion and dismissed the nullification case. The Court of Appeals affirmed the Regional Trial Court Decision. In sustaining the Court of Appeals and the Regional Trial Court Decisions, this Court explained:

The Rules provide that a motion to dismiss may be submitted only before the filing of a responsive pleading. Thus, petitioners complain that it was already too late for Respondent Eduardo Figueras to file a Motion to Dismiss after Obando had finished presenting his evidence.

This is not so. The period to file a motion to dismiss depends upon the circumstances of the case. Section 1 of Rule 16 of the Rules of Court requires that, in general, a motion to dismiss should be filed within the

reglementary period for filing a responsive pleading. Thus, a motion to dismiss alleging improper venue cannot be entertained unless made within that period.

However, even after an answer has been filed, the Court has allowed a defendant to file a motion to dismiss on the following grounds: (1) lack of jurisdiction, (2) *litis pendencia*, (3) lack of cause of action, and (4) discovery during trial of evidence that would constitute a ground for dismissal. Except for lack of cause of action or lack of jurisdiction, the grounds under Section 1 of Rule 16 may be waived. If a particular ground for dismissal is not raised or if no motion to dismiss is filed at all within the reglementary period, it is generally considered waived under Section 1, Rule 9 of the Rules.

Applying this principle to the case at bar, the respondents did not waive their right to move for the dismissal of the civil case based on Petitioner Obando's lack of legal capacity. It must be pointed out that it was only after he had been convicted of estafa through falsification that the probate court divested him of his representation of the Figueras estates. It was only then that this ground became available to the respondents. Hence, it could not be said that they waived it by raising it in a Motion to Dismiss filed after their Answer was submitted. Verily, if the plaintiff loses his capacity to sue during the pendency of the case, as in the present controversy, the defendant should be allowed to file a motion to dismiss, even after the lapse of the reglementary period for filing a responsive pleading.[51] (Emphasis supplied, citations omitted)

As Obando's listing of exception indicates, a ground for dismissal that is equally availing, even after an answer has been filed, is a motion to dismiss on account of lack of cause of action. Lack of cause of action must be distinguished from failure to state a cause of action: while the lack of cause of action may be pleaded after an answer has been filed, failure to state a cause of action cannot. Thus,

Failure to state a cause of action and lack of cause of action are distinct grounds to dismiss a particular action. The former refers to the insufficiency of the allegations in the pleading, while the latter to the insufficiency of the factual basis for the action. Dismissal for failure to state a cause of action may be raised at the earliest stages of the proceedings through a motion to dismiss under Rule 16 of the Rules of Court, while dismissal for lack of cause of action may be raised any time after the questions of fact have been resolved on the basis of stipulations, admissions or evidence presented by the plaintiff.[52] (Emphasis supplied)

II

It is error to assume that the grounds pleaded by petitioner in his Motion to Dismiss deserved no consideration since it preceded his Answer.

Rule 9, Section 1 considers as waived only those "[d]efenses and objections not pleaded ... in the answer." [53] When defenses and objections are pleaded in an answer and thereafter are restated in a motion to dismiss, the motion to dismiss' recital of grounds may be repetitive or superfluous, but no waiver ensues. It is not so much that the motion to dismiss is valid; rather, the answer is adequate. Pleading grounds for dismissal in an answer suffice to effect a situation "as if a motion to dismiss had been filed" [54]:

Section 6. Pleading grounds as affirmative defenses. — If no motion to dismiss has been filed, any of the grounds for dismissal provided for in this Rule may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon as if a motion to dismiss had been filed.

The dismissal of the complaint under this section shall be without prejudice to the prosecution in the same or separate action of a counterclaim pleaded in the answer.

While a belatedly filed motion to dismiss is not a valid independent plea for terminating the action, it still serves practical purposes. It emphasizes and aims attention at the need for immediately dismissing the complaint. It works as a reiterative manifestation with an accompanying prayer for a court to consider the wisdom of

immediately dismissing the case. To this end, it should specifically be treated as a plea for a court to hear the grounds for dismissal, just as it would have had a proper motion to dismiss been filed.

In this case, with the exception of the Motion to Dismiss' deletion of the phrase "and not having any authority from the registered owner of the property" in the second ground for dismissal,[55] petitioner's pleaded grounds in his Motion to Dismiss are a restatement of previously pleaded grounds in his Answer:

Grounds in petitioner's Answer

Grounds in petitioner's Motion to Dismiss

I.

APPLYING SECTION 1 (J), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE CASE SINCE A CONDITION PRECEDENT FOR THE FILING OF THE CLAIM HAS NOT BEEN COMPLIED WITH I.E. THE MANDATORY JUDICIAL DEPOSIT AS PROVIDED FOR UNDER SEC. 267 OF THE LOCAL GOVERNMENT CODE.

I.

APPLYING SECTION 1 (J), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE CASE SINCE A CONDITION PRECEDENT FOR THE FILING OF THE CLAIM HAS NOT BEEN COMPLIED WITH I.E. THE MANDATORY JUDICIAL DEPOSIT AS PROVIDED FOR UNDER SEC. 267 OF THE LOCAL GOVERNMENT CODE.

II.

APPLYING SECTION 1 (G), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, [RESPONDENTS] FAILED TO STATE A CAUSE OF ACTION AGAINST THE [PETITIONER] - [RESPONDENTS] NOT BEING THE REGISTERED OWNER OF THE AUCTIONED PROPERTY AND NOT HAVING ANY AUTHORITY FROM THE REGISTERED OWNER OF THE PROPERTY.

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III.

APPLYING SECTION 1 (B), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE CLAIM CONSIDERING THAT [RESPONDENTS] HAVE NOT SHOWN ANY REAL, ACTUAL, MATERIAL OR SUBSTANTIAL LEGAL RIGHTS OR INTEREST ON THE AUCTIONED PROPERTY. AS A MATTER OF FACT, [RESPONDENTS'] ALLEGED RIGHTS DO NOT APPEAR IN THE TITLE ITSELF. Thus, Section 267 of the Local Government Code provides that "Neither shall any court declare a sale at public auction invalid by reason of irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired." [56]

III.

APPLYING SECTION 1 (B), RULE 16 OF THE 1997 RULES OF CIVIL PROCEDURE, THE HONORABLE COURT HAS NO JURISDICTION OVER THE SUBJECT MATTER OF THE CLAIM CONSIDERING THAT [RESPONDENTS] HAVE NOT SHOWN ANY REAL, ACTUAL, MATERIAL OR SUBSTANTIAL LEGAL RIGHTS OR INTEREST ON THE AUCTIONED PROPERTY. AS A MATTER OF FACT, [RESPONDENTS'] ALLEGED RIGHTS DO NOT APPEAR IN THE TITLE ITSELF. Thus, Section 267 of the Local Government Code provides that "Neither shall any court declare a sale at public auction invalid by reason of irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired." [57]

Petitioner's pleaded grounds for dismissal in his Answer sufficed for the Regional Trial Court to consider the propriety of dismissing the Complaint of the respondents. Their reiteration in petitioner's Motion to Dismiss did not amount to the negation of their prior expression. While nominally it was an independent motion to dismiss, it was more appropriately a reiterative manifestation and a prayer to hear grounds for dismissal which had previously been properly pleaded. The consideration of the propriety of dismissing respondents' Complaint was, thus, not limited to lack of jurisdiction over the subject matter, *litis pendentia*, *res judicata*, prescription, lack of cause of action, or subsequent discovery of a ground for dismissal.

III

Even as the resolution of petitioner's prayer to dismiss respondents' Complaint could have still delved into the full range of grounds permitted by Rule 16, Section 1, this Court still finds no merit in the grounds actually pleaded by petitioner. Thus, this Court sustains Judge Payoyo-Villordon's denial of petitioner's plea to dismiss respondents' Complaint.

III. A

Petitioner first asserts that respondents failed to comply with the condition precedent stipulated by Section 267 of the Local Government Code. [58] Section 267 requires a plaintiff to deposit "the amount for which the real property was sold, together with interest of 2% per month from the date of sale to the time of the institution of the action," before instituting an action assailing the validity of a tax sale.

Petitioner's assertion must crumble in light of the Regional Trial Court's definitive statement that respondents made the requisite deposit:

The [respondents] have complied with the requirement of the Local Government Code pertaining to the deposit of the bid amount including interest thereof. In fact, the Court assessed the said amount and included the same in the payment of docket fee[s]. The [respondents'] compliance to (sic) the requirement of judicial deposit is further proven by the (sic) Official Receipts (sic) Nos. 0825495 and 0825496 duly attached in the records of the case. [59]

III. B

Petitioner's second and third grounds nominally plead different bases but are anchored on the same premise that respondents' suit was not brought in the name of the real party in interest. The second ground observes that respondents are not the owner of the auctioned property and claims that they have consequently failed to state a cause of action. The third ground claims that "[respondents] have not shown any real, actual, material or substantial legal rights or interest on the auctioned property" [60] and proceeds to assert that this bars the Regional Trial Court from exercising jurisdiction over the subject matter.

The logic of the third ground is seriously flawed. It is elementary that jurisdiction is matter of substantive law. It is not contingent on the personal circumstances of the parties:

[J]urisdiction is "the power to hear and determine cases of the general class to which the proceedings in question belong." Jurisdiction is a matter of substantive law. Thus, an action may be filed only with the court or tribunal where the Constitution or a statute says it can be brought.[61]

Thus, it is inconsequential to subject matter jurisdiction that respondents are allegedly bereft of "any real, actual, material or substantial legal rights or interest on the auctioned property." [62]

Petitioner's third ground wrongly invokes lack of subject matter jurisdiction. It is a mere reiteration of the second ground. It proceeds from and relies on the same premises as the second ground: first, the factual anchor that respondents are not the owners of the disputed property; and second, the assumption that only the owner of a property subjected to a tax delinquency sale may bring an action assailing the validity of its sale. Like the second ground, the third ground assumes that only the owner of the property is entitled to the avails of a suit to annul the validity of a tax sale. As with the second ground, it assumes that respondents are not real parties in interest.[63]

Their common claim that none of the respondents is a real party in interest makes them similar pleas for dismissal on account of failure to state a cause of action. As *Balagtas v. Court Appeals* [64] explained, "If the suit is not brought in the name of or against the real party in interest, a motion to dismiss may be filed on the ground that the complaint states no cause of action." [65] Also, in *Aguila, Jr. v. Court of Appeals*: [66]

A real party in interest is one who would be benefited or injured by the judgment, or who is entitled to the avails of the suit. This ruling is now embodied in Rule 3, Section 2 of the 1997 Revised Rules of Civil Procedure. Any decision rendered against a person who is not a real party in interest in the case cannot be executed. Hence, a complaint filed against such a person should be dismissed for failure to state a cause of action.[67]

Contrary to petitioner's assertions, however, respondents are real parties in interest, who properly pleaded causes of action.

Petitioner's basic premise that only the owners of properties subjected to tax delinquency sales may file actions assailing the validity of tax sales is misguided. Section 267 of the Local Government Code constrains the invalidation of tax delinquency sales in two (2) respects:

Section 267. Action Assailing Validity of Tax Sale. - No court shall entertain any action assailing the validity of any sale at public auction of real property or rights therein under this Title until the taxpayer shall have deposited with the court the amount for which the real property was sold, together with interest of two percent (2%) per month from the date of sale to the time of the institution of the action. The amount so deposited shall be paid to the purchaser at the auction sale if the deed is declared invalid but it shall be returned to the depositor if the action fails.

Neither shall any court declare a sale at public auction invalid by reason of irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired.

The first paragraph pertains to the condition precedent of a deposit. The second paragraph limits the invalidation of tax delinquency sales on the basis of "irregularities or informalities in the proceedings." Section 267 permits such invalidations only when "substantive rights . . . have been impaired." These substantive rights may pertain to "the delinquent owner of the real property or the person having legal interest therein." Stated otherwise, a person having legal interest over such property, even a non-owner, may bring an action under Section 267, for as long as his or her substantive rights have been impaired. The right to file an action under Section 267 is not barred merely

on account of a plaintiff's not being the owner of the property sold.

Respondents have alleged substantive rights impaired by the sale of the subject property to petitioner. They have each averred the requisite legal interest for bringing an action under Section 267 of the Local Government Code.

Respondents represent different categories of plaintiffs, each with unique rights in relation to the lot put up for a tax delinquency sale. Their respective rights equally deserve protection and it is their Complaint's allegation that these rights were violated by the actions of the persons they impleaded as defendants: the Quezon City Treasurer; the Quezon City Register of Deeds; petitioner, the buyer; and other individuals who effected the assailed sale.

Capitol is a juridical entity with its own, distinct personality. Consistent with Article 46 of the Civil Code,[68] it may "acquire and possess property" such as the lot put up for a tax delinquency sale. As owner, it exclusively enjoyed the entire bundle of rights associated with dominion over this parcel.[69]

Though having its own personality, as a golf and country club, Capitol primarily exists for the utility and benefit of its members. While legal title in its properties is vested in Capitol, beneficial use redounds to its membership. Apart from this, proprietary interest in Capitol is secured through club shares.

As members and shareholders, individual respondents Alexander P. Aguirre, Horacio Paredes, Ricardo F. De Leon, Reynato Y. Sawit, Agustin N. Perez, Geronimo M. Collado, Emmanuel C. Ching, Macabangkit Lanto, Manuel Dizon, Tarcisio Calilung, Irineo Aguirre, Ernesto Ortiz Luis, Bernardo Jambalos III, Francisco Arcillana, Luis S. Tanjangco, and Pablito Villegas held the right to use and enjoy, as well as the limited right to possess Capitol's premises and facilities. Any right of dominion that Capitol held over the parcel was ultimately for their and other members' benefit.

It was in this capacity as members that they initiated the Complaint assailing the validity of the tax delinquency sale. They did this because, by the transfer of ownership to petitioner, they stood to be deprived of the capacity to use and enjoy the entire 15,598-square-meter parcel which "covers the entire Hole No.5 of the 18-Hole Capitol Golf Course and part of the road way called Mactan Road." [70] Capitol's loss of legal title was tantamount to the loss of the quintessence of their membership and holdings in Capitol. As they explained in their Complaint:

21] The removal of Hole No. 5 from the golf course of Capitol Golf Club will be a dismemberment of the golf course and would render the latter as a d[y]sfunctional if not a worthless golf course: it would be incomplete, no natural access to Hole No. 6, and the right of way towards the other holes of the "front 9" would also be lost.[71]

Also in accordance with Article 46 of the Civil Code, Capitol is capacitated to incur obligations. This includes obligations voluntarily incurred through contracts, as well as encumbrances assumed or imposed as easements. It is in keeping with a contract entered into by Capitol and with easements in which Capitol was the subservient estate that respondents Ayala Land, Inc. and Ayala Hillside initiated the Complaint assailing the tax sale.

Respondents, Complaint made extensive allegations concerning the rights and concomitant injuries averred by respondents Ayala Land, Inc. and Ayala Hillside. With respect to Ayala Land, Inc., the allegations were not limited to its being a dominant estate to an easement of right of way but even included a claim of ownership to a smaller parcel that was alleged to have been previously consolidated with the 15,598-square-meter parcel purchased by petitioner:

26] The residents of Ayala Hillside Estate will lose their right of way over portion of Mactan Road that is part of TCT No. N-253850. Mactan Road is their principal or direct access to the main road Tandang Sora/Katipunan Avenue. Worst, some residents of Ayala Hillside Estate located in the Pinnacle area of the subdivision and the "fairway lot" owners therein will have no access at all to the main road and are practically

landlocked inside since the access road is covered in and part of TCT No. N-253850.

....

28] As adverted to above, [Ayala Land, Inc.] and CAPITOL were co developers of [Ayala Hillside Estates] and the Capitol Hills Executive Course (an 18-hole golf course of which, the subject auctioned lot is part of as Hole No. 5) and explicitly agreed in a Memorandum of Agreement dated 18 September 2002 that in projecting the [Ayala Hillside Estates] as high-end community, CAPITOL is bound to maintain and operate the Executive Course as a complementary development to [Ayala Hillside Estates], both [Ayala Hillside Estates] and the Executive Course being part of an integrated whole, viz -

....

29] To provide a road right of way of access to and from Ayala Hillside Estates to the main roads, [Ayala Land, Inc.] acquired from CAPITOL several parcels of land through a Deed of Conveyance dated 21 November 1986, thus:

- TCT No. 338521 consisting of 1,855 square meters;
- TCT No. 338518 consisting of 6,930 square meters;
- TCT No. 338517 consisting of 556 square meters;
- TCT No. 338522 consisting of 8,834 square meters;
- TCT No. 338526 consisting of 2,888 square meters; and
- Four Thousand One Hundred Eight (4,108) square meters portion of TCT No. 338515 "which will serve as two (2) access roads to and from the properties therein sold to AYALA.["]

....

30] Thereafter, portions of TCT No. 338515 and portions of TCT No. 338516-in the name of CAPITOL were later consolidated and became TCT No. N-253850 (Hole No. 5) still in the name of CAPITOL, consisting of 15,598 square meters.

31] Unknown to [respondent Ayala Hillside Estates Homeowners' Association, Inc.], the consolidated TCT No. [N]-253850 still includes the 4,108 square meters portion of TCT No. 338515 subject of the Deed of Conveyance as an access road and which from the date of the Deed of Conveyance to this date is actually part of Mactan Road that serves as an access road to [[Ayala Hillside Estates] subdivision from Tandang Sora/Katipunan Avenue.

32] The said access road portion of TCT No. N-253850 was already acquired by [Ayala Land, Inc.] and was already being used by [Ayala Land, Inc.], all the members of the Homeowners' Association and the public as part of the road system long before the auction sale of TCT No. N-253850 was held on December 13, 2007.

The Four Thousand One Hundred Eight (4,108) square meters of TCT No. 338515 was already acquired by [Ayala Land, Inc.] for two (2) access roads to and from [Ayala Hillside Estates] subdivision long before the subject auction sale. Hence, defendant City Treasurer has no authority to auction this property and that defendant Alvarado has not and cannot acquire this portion of the auctioned lot.[72]

Alongside Capitol's rights of dominion to the parcel were the rights alleged by respondents in their respective capacities as members and shareholders, as co-developers and dominant estates to easements, or the real owner of a portion. Their rights made it so that they had an interest in seeing to the preservation of the integrity of this parcel, in maintaining it in the condition it was in prior to the levy and sale. They, however, stood to lose their rights as a consequence of Capitol's loss of ownership.

More particularly, respondents stood to lose their rights as a consequence of how the sale was allegedly tainted with anomalies: effected in violation of the requirements in the Local Government Code and the Quezon City Revenue Code, bypassed the requisite redemption period, avoided the posting of requisite notices, and made for a grossly inadequate price.

It was precisely respondents' contention that the sale's failure to adhere to legal requisites deprived them of the opportunity to protect their rights. Posting and service of requisite notices and observance of the proper duration for redemption could have given them a fair opportunity to maintain the integrity of the lot, even as the sale proceeded and Capitol's tax liability covered by its proceeds. So also, restricting the portion for sale to what was only enough to cover the tax liability could have minimized the consequences that respondents would have had to bear, enabling a resolution that was less prejudicial to their rights.

Although petitioner is the only defendant appealing before this Court, it should not be forgotten that respondents' action was brought not only against petitioner but also against officers of the Quezon City local government. These officers were duty-bound to ensure that the requisites for tax levies and delinquency sales were satisfied and diligently heeded. Their failure to do so, whether deliberately or negligently, indicates an actionable act or omission impelling respondents' action. Thus, respondents came before the Regional Trial Court as real parties in interest, who satisfactorily alleged causes of action.

WHEREFORE, the Petition for Review on Certiorari is DENIED. The assailed April 17, 2013 Decision and August 2, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 123929 are AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Bersamin, Martires, and Gesmundo, JJ., concur.

December 19, 2017

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 20, 2017 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 19, 2017 at 11:05 a.m.

Very truly yours,

(SGD.) WILFREDO V. LAPITAN
Division Clerk of Court

[1] RULES OF COURT, Rule 16, sec. 1 provides:

Section 1. Grounds. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

(a)

That the court has no jurisdiction over the person of the defending party;

(b)

That the court has no jurisdiction over the subject matter of the claim;

(c)

That venue is improperly laid;

(d)

That the plaintiff has no legal capacity to sue;

(e)

That there is another action pending between the same parties for the same cause;

(f)

That the cause of action is barred by a prior judgment or by the statute of limitations;

(g)

That the pleading asserting the claim states no cause of action;

(h)

That the claim or demand set forth in the plaintiffs pleading has been paid, waived, abandoned, or otherwise extinguished;

(i)

That the claim on which the action is founded is unenforceable under the provisions of the statute of frauds;

(j)

That a condition precedent for filing the claim has not been complied with.

[2] Cf. Failure to state a cause of action.

[3] RULES OF COURT, Rule 16, sec. 6 provides:

Section 6. Pleading grounds as affirmative defenses. — If no motion to dismiss has been filed, any of the grounds for dismissal provided for in this Rule may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon as if a motion to dismiss had been filed.

The dismissal of the complaint under this section shall be without prejudice to the prosecution in the same or separate action of a counterclaim pleaded in the answer.

[4] Rollo, pp. 22-43.

[5] Id. at 44-54. The Decision was penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Priscilla J. Baltazar-Padilla of the Eighth Division, Court of Appeals, Manila.

[6] Id. at 55-56. The Decision was penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Rosalinda Asuncion-Vicente and Priscilla J. Baltazar-Padilla of the Eighth Division, Court of Appeals, Manila.

[7] Id. at 38.

[8] Id. at 44-45.

[9] Id. at 56.

[10] Id. at 157-159.

[11] Id. at 182-183.

[12] Id. at 45.

[13] Id. at 70, Complaint.

[14] Id. at 62, Complaint.

[15] Id. at 60-82.

[16] Id. at 45.

[17] Id. at 61.

[18] Id. at 63.

[19] Id. at 64.

[20] Id.

[21] Id. at 70.

[22] LOCAL GOVT. CODE, sec. 260 provides:

Section 260. Advertisement and Sale. - Within thirty (30) days after service of the warrant of levy, the local treasurer shall proceed to publicly advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the tax delinquency and expenses of sale. The advertisement shall be effected by posting a notice at the main entrance of the provincial, city or municipal building, and in a publicly accessible and conspicuous place in the barangay where the real property is located, and by publication once a week for two (2) weeks in a newspaper of general circulation in the province, city or municipality where the property is located. The advertisement shall specify the amount of the delinquent tax, the interest due thereon and expenses of sale, the date and place of sale, the name of the owner of the real property or person having legal interest therein, and a description of the property to be sold. At any time before the date fixed for the sale, the owner of the real property or person having legal interest therein may stay the proceedings by paying the delinquent tax, the interest due thereon and the expenses of sale. The sale shall be held either at the main entrance of the provincial, city or municipal building, or on the property to be sold, or at any other place as specified in the notice of the sale.

Within thirty (30) days after the sale, the local treasurer or his deputy shall make a report of the sale to the sanggunian concerned, and which shall form part of his records. The local treasurer shall likewise prepare and deliver to the purchaser a certificate of sale which shall contain the name of the purchaser, a description of the property sold, the amount of the delinquent tax, the interest due thereon, the expenses of sale and a brief description of the proceedings: Provided, however, That proceeds of the sale in excess of the delinquent tax, the interest due thereon, and the expenses of sale shall be remitted to the owner of the real property or person having legal interest therein.

The local treasurer may, by ordinance duly approved, advance an amount sufficient to defray the costs of collection through the remedies provided for in this Title, including the expenses of advertisement and sale. (Emphasis supplied)

[23] Rollo, p. 68.

Within thirty (30) days after the service of warrant of levy, the City Treasurer shall advertise for sale or auction the property or a usable portion thereof as may be necessary to satisfy the tax delinquency and expenses of sales[.]

[24] Id. at 70.

[25] Id. at 71-72.

[26] LOCAL GOVT. CODE, sec. 254 provides:

Section 254. Notice of Delinquency in the Payment of the Real Property Tax. (a) When the real property tax or any other tax imposed under this Title becomes delinquent, the provincial, city or municipal treasurer shall immediately cause a notice of the delinquency to be posted at the main entrance of the provincial capitol, or city or municipal hall and in a publicly accessible and conspicuous place in each barangay of the local government unit concerned. The notice of delinquency shall also be published once a week for two (2) consecutive weeks, in a newspaper of general circulation in the province, city, or municipality.

(b)

Such notice shall specify the date upon which the tax became delinquent and shall state that personal property may be distrained to effect payment. It shall likewise state that at any time before the distraint of personal property, payment of the tax with surcharges, interests and penalties may be made in accordance with the next following section, and unless the tax, surcharges and penalties are paid before the expiration of the year for which the tax is due, except when the notice of assessment or special levy is contested administratively or judicially pursuant to the provisions of Chapter 3, Title II, Book II of this Code, the delinquent real property will be sold at public auction, and the title to the property will be vested in the purchaser, subject, however, to the right of the delinquent owner of the property or any person having legal interest therein to redeem the property within one (1) year from the date of sale.

[27] Rollo, pp. 83-96.

[28] Id. at 87.

[29] Id. at 87-88.

[30] Id. at 117-125.

[31] Id. at 117-118.

[32] Id. at 157-159.

[33] Id. at 158.

[34] Id. citing *Ruiz v. Court of Appeals*, 292A Phil. 622 (1993) [Per J. Griño-Aquino, First Division], Presiding Judge Payoyo-Villordon noted these exceptions to be:

- Where the ground raised is lack of jurisdiction of the Court over the subject matter;
- Where the complaint does not state a cause of action;
- Prescription; and,
- Where the evidence would constitute a ground for dismissal of the complaint was discovered only during the trial.

- [35] Id. at 158-159.
- [36] Id. at 182-183. Through Presiding Judge Tita Marilyn Payoyo-Villordon.
- [37] Id. at 44.
- [38] Id. at 44-54.
- [39] Id. at 55-56.
- [40] RULES OF COURT, Rule 1, sec. 5.
- [41] RULES OF COURT, Rule 11, sec. 1.
- [42] RULES OF COURT, Rule 9, sec. 3.
- [43] RULES OF COURT, Rule 16, sec. 1.
- [44] RULES OF COURT, Rule 16, sec. 4.
- [45] RULES OF COURT, Rule 6, sec. 5(b).
- [46] RULES OF COURT, Rule 9, sec. 1.
- [47] 722 Phil. 460 (2013) [Per J. Brion, Second Division].
- [48] Id. at 473-474.
- [49] See *Obando v. Figueras*, 379 Phil. 150 (2000) [Per J. Panganiban, Third Division].
- [50] 379 Phil. 150 (2000) [Per J. Panganiban, Third Division].
- [51] Id. at 160-162.
- [52] *Zuniga-Santos v. Santos-Gran*, 745 Phil. 171, 177-178 (2014) [Per J. Bernabe, First Division].
- [53] RULES OF COURT, Rule 9, sec. 1.
- [54] RULES OF COURT, Rule 16, sec. 6.
- [55] *Rollo*, pp. 87-88.
- [56] Id. at 87 88.
- [57] Id. at 117-118.
- [58] LOCAL GOVT. CODE, sec. 267 provides;

Section 267. Action Assailing Validity of Tax Sale. — No court shall entertain any action assailing the validity of any sale at public auction of real property or rights therein under this Title until the taxpayer shall have deposited with the court the amount for which the real property was sold, together with interest of two percent (2%) per month from the date of sale to the time of the institution of the action. The amount so deposited shall be paid to the purchaser at the auction sale if the deed is declared invalid but it shall be returned to the depositor if the action fails.

Neither shall any court declare a sale at public auction invalid by reason of irregularities or informalities in the proceedings unless the substantive rights of the delinquent owner of the real property or the person having legal interest therein have been impaired.

[59] Rollo, p. 158.

[60] Id. at 117-118.

[61] *City of Lapu Lapu v. Phil. Economic Zone Authority*, 748 Phil. 473, 522 (2014) [Per J Leonen, Second Division] citing *Villagrancia v. Fifth (5th) Shari'a District Court*, 734 Phil. 239 (2014) [Per J. Leonen, Third Division]; and *Nocum v. Tan*, 507 Phil. 620, 626 (2005) [Per J. Chico.Nazario, Second Division].

[62] Rollo, pp. 117-118.

[63] As explained in *Lee v. Romillo*, 244 Phil. 606 (1988) [Per J. Gutierrez, Jr., Third Division]:

By "real party in interest" is meant such party who would be benefited or injured by the judgment or entitled to the avails of the suit (*Subido v. City of Manila, et al.*, 108 Phil. 462 and *Subido v. Sarmiento, et al.*, 108 Phil. 150, citing *Salonga v. Warner, Barnes & Co., Ltd.*, 88 Phil. 125). A real party in interest-plaintiff is one who has a legal right while a real party in interest-defendant is one who has a correlative legal obligation whose act or omission violates the legal right of the former.

[64] 375 Phil. 480 (1999) [Per J. Purisima, En Banc].

[65] Id. at 489.

[66] 377 Phil. 257 (1999), [Per J. Mendoza, Second Division].

[67] Id. at 266.

[68] CIVIL CODE, art. 4 provides:

Article 46. Juridical persons may acquire and possess property of all kinds, as well as incur obligations and bring civil or criminal actions, in conformity with the laws and regulations of their organization.

[69] The attributes of ownership (the so called seven "juses") have been identified as: the right to possess (*jus possidendi*), the right to use and enjoy (*jus utendi*), the right to the fruits (*jus fruendi*), the right to abuse or consume (*jus abutendi*), the right to dispose or alienate (*jus disponendi*), and the right to recover or vindicate (*jus vindicandi*). See *Samartino v. Raon*, 433 Phil. 173, 189 (2002) [Per J. Ynares-Santiago, First Division]; and *E. Rommel Realty and Development Corporation v. Sta. Lucia Development Corporation*, 537 Phil. 822 (2006) [Per J. Corona, Second Division].

[70] Rollo, p. 62.

[71] Id. at 64.

[72] Id. at 65-67.

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