

JAIME MANUEL N. LEGARDA, PETITIONER, VS. CLERK OF COURT OF THE REGIONAL TRIAL COURT OF MUNTINLUPA CITY AND BENJAMIN CALAWAGAN, RESPONDENTS.

G.R. No. 216603. December 05, 2023

Ponente: KHO, JR., J.

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KHO, JR., J.:

Before the Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated September 4, 2014 and the Resolution[3] dated January 26, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 135217. The assailed Court of Appeals rulings essentially reversed and set aside the Order[4] dated January 15, 2014 of Branch 256, Regional Trial Court of Muntinlupa City (RTC) in Civil Case No. 11-021, which granted the Petition for Mandamus[5] filed by petitioner Jaime Manuel N. Legarda (Legarda) against respondents Clerk of Court of the Regional Trial Court of Muntinlupa City (COC-RTC Muntinlupa) and Benjamin Calawagan (Calawagan; collectively, respondents) and accordingly, ordered the issuance of a Final Certificate of Sale[6] in Legarda's favor.

The Facts

This case stemmed from a Petition for Mandamus filed by Legarda against respondents. In his mandamus petition, Legarda alleged that Calawagan had purchased, as highest bidder, a parcel of land covered by Transfer Certificate of Title (TCT) No. 210835[7] (subject property) at a public auction under Foreclosure No. 07-016.[8] On July 25, 2007, a Certificate of Sale[9] was issued in Calawagan's favor. The redemption period of the subject property was set to expire on October 1, 2008, which was one year from the annotation of the sale on TCT No. 210835 on October 1, 2007.[10]

During the redemption period, or on April 8, 2008, a Deed of Assignment[11] was executed between Calawagan and Legarda wherein the former assigned to the latter all his rights and interests under the Certificate of Sale for the amount of PHP 3,000,000.00. On April 10, 2008, the assignment was annotated on TCT No. 210835.[12]

According to Legarda, despite having informed the COC-RTC Muntinlupa of the said assignment and the lapse of the redemption period, no Final Certificate of Sale was issued in his favor. Upon his further request, the COC-RTC Muntinlupa replied through a letter[13] dated February 25, 2010 stating that its office is not inclined to grant said request, considering that: (a) the existing guidelines on extrajudicial foreclosure only made mention of the highest bidder, buyer, purchaser, and redemptioner to whom a Final Certificate of Sale may be issued; and (b) an assignee is not included among those who are entitled to the issuance of a certificate of sale and deed of conveyance, unlike in the old Rules of Court. The COC-RTC Muntinlupa's act of issuing the said Final Certificate of Sale will therefore no longer be ministerial as it will involve contentious matters, which is beyond the scope of its duties. This prompted Legarda to file the mandamus petition before the Regional Trial Court, claiming that since he had already been subrogated to all of Calawagan's rights and interests over the subject property by virtue of the Deed of Assignment, then the issuance of the Final Certificate of Sale in his favor is a ministerial act on the

part of the COC-RTC Muntinlupa.[14]

In defense, the Office of the Solicitor General (OSG), acting on behalf of the COC-RTC Muntinlupa, maintained that mandamus does not lie against the COC-RTC Muntinlupa as one of the requisites of mandamus is that the officer must have unlawfully neglected the performance of a ministerial act or an act specifically enjoined by law. The OSG reasoned that Legarda has no legal right to the Final Certificate of Sale as the 1997 Rules of Civil Procedure provides that the same shall only be issued to the purchaser at the auction sale. The OSG added that while the term "assignee" was included in Rule 39, Section 35 of the 1964 Rules of Court, the 1997 Rules of Civil Procedure removed such term in Rule 39, Section 33 thereof. Since the new Rules provide that the Final Certificate of Sale shall be issued only to the purchaser at the auction sale, Legarda, as a mere assignee, had no legal right to the issuance of the same in his favor.[15]

The RTC Ruling

In its Order[16] dated January 15, 2014, the RTC granted the Petition for Mandamus and accordingly, directed the COC-RTC Muntinlupa to issue the Final Certificate of Sale in Legarda's favor.[17]

In so ruling, the RTC held that although Rule 39, Section 33 of the 1997 Rules of Civil Procedure only mentioned purchaser as the one entitled to the conveyance and possession of property in case no redemption was made, there was no showing in said provision that a Final Certificate of Sale shall be issued exclusively to the purchaser. Since Calawagan, through a Deed of Assignment, transferred his rights and interest over the subject property in favor of Legarda, the latter can now exercise all of Calawagan's rights over the same as a "mere continuation" of the assignor's personality. This makes the issuance of a Final Certificate of Sale by the COC-RTC Muntinlupa in favor of Legarda a ministerial duty.[18]

Aggrieved, the COC-RTC Muntinlupa, through the OSG, appealed[19] to the Court of Appeals.

The CA Ruling

In its Decision[20] dated September 4, 2014, the CA reversed and set aside the RTC ruling and accordingly, dismissed Legarda's Petition for Mandamus for lack of merit.[21]

Contrary to the RTC's ruling position, the CA held that mandamus cannot lie as Legarda failed to show the existence of a clear, unclouded, and established right to the issuance of the said Final Certificate of Sale. According to the CA, Rule 39, Section 33 of the 1997 Rules of Civil Procedure does not, in any way, authorize an assignee of a purchaser to be issued a Final Certificate of Sale, considering that: (a) Section 33 has removed the term "assignee" from its provision when compared to its previous wording as found in Section 35 of the old Rules; and (b) the current phraseology of the provision now clearly provides that only a "purchaser" or "redemptioneer" may be entitled to such issuance. The CA ratiocinated that an assignee is not the same as purchaser or redemptioneer, as the latter acquires his status by the mere fact of purchase or redemption, respectively. On the other hand, an assignee steps into the shoes of the purchaser or redemptioneer by virtue of a contract, which the validity thereof can be contested; thus, an assignee's authority over the issuance of a Final Certificate of Sale is not free from doubt or risk of doubt. In such case, the COC-RTC Muntinlupa could be placed in a position wherein its office may be required to assess the authenticity of the assignment. The removal of the word "assignee" serves to limit the issuance of the Final Certificate of Sale only to the purchaser or redemptioneer, whom the COC-RTC Muntinlupa can identify without need to refer or evaluate documents extraneous to the foreclosure, such as in this case, the Deed of Assignment.[22]

Dissatisfied, Legarda moved for reconsideration,[23] but the same was denied in a Resolution[24] dated January 26, 2015; hence, this Petition.[25]

The Issue Before the Court

The issue for the Court's resolution is whether the CA correctly ruled that mandamus cannot lie against the COC-RTC Muntinlupa for the issuance of a Final Certificate of Sale in favor of Legarda.

Legarda contends that by virtue of the Deed of Assignment, he had succeeded to Calawagan's right to the issuance of a Final Certificate of Sale and any other remedy that the latter had. Granting that there may be a possibility that someone might contest the Deed of Assignment, the annotation thereof on TCT No. 210835 already serves as a notice to Calawagan, or any party who may have had interest, or cause to annul the same. However, no one ever came forward to contest the Deed of Assignment; thus, its validity must be upheld. Accordingly, Legarda has stepped into Calawagan's shoes, who had a clear, unclouded, and established right to the issuance of the said deed in his favor. Legarda avers that while it may be true that the term "assignee," which was found in the old Rules of Court was removed in the present wording of Rule 39, Section 33 of the 1997 Rules of Civil Procedure, it did not mean that the issuance of a deed of conveyance in favor of an assignee is disallowed. If the drafters of the new Rules meant to disallow the same, they could have easily said so and not left the matter open to interpretation. Legarda further posits that the drafters of the new Rules deemed the addition of "assignee" as superfluity in view of its subrogation in the rights of the assignor; hence, they decided to remove it.[26]

In its Comment[27] filed on July 3, 2015, the OSG maintains that even if a subrogee or assignee succeeds to the rights of the purchaser, the former is not entitled to the issuance of the Final Certificate of Sale in their name. Under the 1997 Rules of Civil Procedure, the clerk of court's duty is to issue a final certificate of sale only to the purchaser in the public auction sale and no one else. The deletion of the term "assignee" in Rule 39, Section 33 of the said Rules was not due to its superfluity but because it was in consonance with the ministerial function of the clerk of court in issuing a final certificate of sale to the purchaser or highest bidder after the payment of all the required fees. This is because the clerk of court cannot possibly assure the validity of any assignment and the consequent subrogation of rights and interests after the public auction. The procedure outlined in the rules guarantees the integrity of the judicial confirmation of title in the name of the purchaser in a public auction sale. The procedural shortcut that Legarda invokes is without basis in law and jurisprudence.[28] Moreover, mandamus will not lie as Legarda is not without adequate remedy under the law. After the confirmation of title in Calawagan's name through the issuance of a Final Certificate of Sale, Legarda has a cause of action against the former as his assignor and may demand the issuance of certificate of title in Legarda's name, upon compliance with the conditions under the law, such as Section 58(E)[29] of Republic Act No. (RA) 8424,[30] otherwise known as the "Tax Reform Act of 1997." [31]

The Court's Ruling

The Petition is without merit.

Rule 65, Section 3 of the Revised Rules of Court provides:

Section 3. Petition for mandamus. — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

In order for a writ of mandamus to be issued, the following requisites must be present: (1) the petitioner has a

clear legal right to the act demanded; (2) it must be the duty of the respondent to perform the act because it is mandated by law; (3) the respondent unlawfully neglects the performance of the duty enjoined by law [or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled]; (4) the act to be performed is ministerial, not discretionary; and (5) there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.[32]

The petitioner may be considered to have a clear legal right if said right is indubitably granted by law or is inferable as a matter of law.[33] Mandamus will not be issued to enforce a right which is in substantial dispute or as to which a substantial doubt exists.[34] On the other hand, in order for mandamus to be issued against a respondent, they should have an imperative duty to perform that which is demanded of them.[35]

"The principal function of the writ of mandamus is to command and to expedite, not to inquire and to adjudicate. Thus, it is neither the office nor the aim of the writ to secure a legal right but to implement that which is already established. Unless the right to relief sought is unclouded, mandamus will not issue."[36]

Moreover, the writ of mandamus would only be issued to compel the performance of a ministerial duty, one in which an office or tribunal performs in a given state of facts, in a prescribed manner, in obedience to a mandate of legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of an act done.[37]

Lastly, an important principle for the issuance of mandamus is that there should be no plain, speedy, and adequate remedy in the ordinary course of law or that the usual modes of procedure and forms of remedy are unable to afford the relief sought.[38]

It then begs the question of whether Legarda's right over the issuance of the Final Certificate of Sale by virtue of the Deed of Assignment is indubitably granted by law or is inferable as a matter of law, such that the COC-RTC Muntinlupa has the imperative duty to issue the same. Moreover, is the issuance of the final certificate of sale ministerial on the part of COC-RTC Muntinlupa, thereby not involving an exercise of judgment on its validity. Lastly, is Legarda left without any alternative to enforce his right over the subject property, such that mandamus is the only recourse for him to secure any relief.

The Court rules all questions in the negative.

To recapitulate, on April 8, 2008, before the end of the redemption period on October 1, 2008, Calawagan and Legarda entered into a Deed of Assignment wherein Calawagan, for the amount of PHP 3,000,000.00, has agreed to "assign, transfer, convey and subrogate" to Legarda all of his rights and interests under the Certificate of Sale dated July 25, 2007 and annotated on TCT No. 210835 on October 1, 2007. The Deed of Assignment between Calawagan and Legarda was annotated on TCT No. 210835 on April 10, 2008.[39]

On the other hand, in refusing to issue the Final Certificate of Sale, the COC-RTC Muntinlupa contends that the word "assignee" has already been deleted in Rule 39, Section 33 of the 1997 Rules of Civil Procedure, as compared to Rule 39, Section 35 of the 1964 Rules of Court, which provides that "if no redemption be made within twelve (12) months after the sale, the purchaser, or his assignee, is entitled to a conveyance and possession of the property," and "[u]pon the execution and delivery of said deed, the purchaser, or redemptioner, or his assignee, shall be substituted to and acquire all the right, title, interest and claim of the judgment debtor to the property as of the time of the levy." The COC-RTC Muntinlupa further argues that in light of such deletion, the issuance of the Final Certificate of Sale cannot be issued to any person other than Calagawan as the purchaser; and that the issuance of the same to Legarda as the assignee is no longer part of the COC-RTC Muntinlupa's ministerial duty as it would already involve contentious matters.[40]

An assignment, in its most general and comprehensive sense, is "a transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein. It includes transfers of all kinds of property, and is peculiarly applicable to intangible personal property and, accordingly, it is ordinarily employed to describe the transfer of non-negotiable choses in action and of rights in or connected with property as distinguished from the particular item or property." [41] "Unquestionably, rights may be assigned as they are intangible personal properties. The term "interests," on the other hand, is broader and more comprehensive than the word "title" and its definition in a narrow sense by lexicographers as any right in the nature of property less than title, indicates that the terms are not considered synonymous. It is practically synonymous, however, with the word "estate" which is the totality of interest which a person has from absolute ownership down to naked possession." [42] Otherwise stated, the assignee "steps into the shoes" of the assignor insofar as the property or rights subject of an assignment is concerned. [43] Applying the foregoing to this case, Calawagan, through the Deed of Assignment, totally transferred or relinquished his rights and interests over the subject property to Legarda under the Certificate of Sale.

However, does the Deed of Assignment, which makes Legarda an assignee of Calawagan's rights over the subject property, indubitably entitles the former to the issuance of a Final Certificate of Sale after the expiration of the one-year redemption period, or is the same inferable as a matter of law such that it is imperative for the COC-RTC Muntinlupa to issue said Final Certificate of Sale in Legarda's favor.

A reading of the present provision of Rule 39, Section 33 of the 1997 Rules of Civil Procedure and its comparison with its former version, as provided in Rule 39, Section 35 of the 1964 Rules of Court suggests that it does not.

First, Rule 39, Section 33 of the 1997 Rules of Civil Procedure only provides for the purchaser and last redemptioner as the ones who are entitled to the conveyance and possession of the subject property if no redemption was made after the sale, or if the subject property is so redeemed, respectively, to wit:

Section 33. Deed and possession to be given at expiration of redemption period; by whom executed or given. — If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it. [Emphasis supplied]

Second, this is bolstered by the deletion of the word "assignee," which was explicitly included in Rule 39, Section 35 of the 1964 Rules of Court, from the present provision of Rule 39, Section 33 of the 1997 Rules of Civil Procedure as one of those who are entitled to the conveyance and possession of the subject property in lieu of the purchaser if no redemption was made after the sale, or in lieu of the redemptioner if the subject property is so redeemed.

For reference, Rule 39, Section 35 of the 1964 Rules of Court and Rule 39, Section 33 of the 1997 Rules of Civil Procedure (which stands as the amended version of the former) are reproduced below:

Rule 39, Section 35 of the 1964 Rules of Court

Rule 39, Section 33 of the 1997 Rules of Civil Procedure

Sec. 35. Deed and possession to be given at expiration of redemption period. By whom executed or given. — If no redemption be made within twelve (12) months after the sale, the purchaser, or his assignee, is entitled to a

conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to the conveyance and possession; but in all cases the judgment debtor shall have the entire period of twelve (12) months from the date of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it. Upon the execution and delivery of said deed the purchaser, or redemptioner, or his assignee, shall be substituted to and acquire all the right, title, interest and claim of the judgment debtor to the property as of the time of the levy, except as against the judgment debtor in possession, in which case the substitution shall be effective as of the date of the deed. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment debtor. (Emphasis supplied)

Section 33. Deed and possession to be given at expiration of redemption period; by whom executed or given. — If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment obligor. (Emphasis supplied)

In *Manila Electric Co. v. N.E. Magno Construction, Inc.*,^[44] the Court, through Associate Justice Jose P. Perez, held that "[a]s a rule, an amendment by the deletion of certain words or phrases indicates an intention to change its meaning. It is presumed that the deletion would not have been made if there had been no intention to effect a change in the meaning of the law or rule. The amended law or rule should accordingly be given a construction different from that previous to its amendment."^[45]

Based on the foregoing, it is therefore clear that the word "assignee" was deleted not because it was a mere superfluity or unnecessary in relation to a purchaser or redemptioner, rather its deletion was to give the provision a different construction, one which served to limit the issuance of the final certificate of sale only to the purchaser or last redemptioner.

Moreover, it appears that Rule 39, Section 35 of the 1964 Rules of Court had been revised to its present formulation in Section 33, Rule 39 of the 1997 Rules of Civil Procedure to make it conform with Presidential Decree No. 1529 or the Property Registration Decree. Similar to Section 33, Rule 39 of the Rules of Civil Procedure, Section 63 of the Property Registration Decree recognizes that a final deed of sale may only be issued to the purchaser of [the] real property sold at public auction in foreclosure proceedings, thus:

Section 63. Foreclosure of Mortgage. — (a) If the mortgage was foreclosed judicially, a certified copy of the final order of the court confirming the sale shall be registered with the Register of Deeds. If no right of redemption exists, the certificate of title of the mortgagor shall be cancelled, and a new certificate issued in the name of the purchaser.

Where the right of redemption exists, the certificate of title of the mortgagor shall not be cancelled, but the

certificate of sale and the order confirming the sale shall be registered by a brief memorandum thereof made by the Register of Deeds upon the certificate of title. In the event the property is redeemed, the certificate or deed of redemption shall be filed with the Register of Deeds, and a brief memorandum thereof shall be made by the Register of Deeds on the certificate of title of the mortgagor.

If the property is not redeemed, the final deed of sale executed by the sheriff in favor of the purchaser at a foreclosure sale shall be registered with the Register of Deeds; whereupon the title of the mortgagor shall be cancelled, and a new certificate issued in the name of the purchaser.

(b) If the mortgage was foreclosed extrajudicially, a certificate of sale executed by the officer who conducted the sale shall be filed with the Register of Deeds who shall make a brief memorandum thereof on the certificate of title.

In the event of redemption by the mortgagor, the same rule provided for in the second paragraph of this section shall apply.

In case of non-redemption, the purchaser at foreclosure sale shall file with the Register of Deeds, either a final deed of sale executed by the person authorized by virtue of the power of attorney embodied in the deed of mortgage, or his sworn statement attesting to the fact of non-redemption; whereupon, the Register of Deeds shall issue a new certificate in favor of the purchaser after the owner's duplicate of the certificate has been previously delivered and cancelled.

Since the subject property was sold at public auction under Foreclosure No. 07-016, the Property Registration Decree may therefore be applied in determining whether a final certificate of sale may be issued to Legarda.

Neither may it be inferred as a matter of law that an assignee is one of those who are entitled to the conveyance and possession of the subject property. An assignee is different from a purchaser and a redemptioner. A purchaser is the buyer of the property subject of the foreclosure sale who becomes the absolute owner thereof if it is not redeemed during the period of one year after the registration of sale.[46] On the other hand, a "redemptioner" is a creditor with a lien on the property subject of the foreclosure sale subsequent to the judgment, which was the basis of the execution sale, who is given the prerogative to redeem property sold in a foreclosure sale after its registration.[47] An assignee is neither a privy to the foreclosure sale nor does he/she has a lien on the property subject of the foreclosure sale with a prerogative to redeem the same. Legarda merely steps into Calawagan's rights and interest as a purchaser by virtue of the Deed of Assignment.

The expiration of the one-year redemption period foreclosed any right to redeem the subject property and the sale to the purchaser thereby became absolute.[48] The issuance of the final certificate of sale to a purchaser is therefore merely ministerial as the same is only a formality and a confirmation of the title that is already vested upon the purchaser.[49] As aptly underscored by Chief Justice Alexander G. Gesmundo during the deliberations of this case, the ministerial character of the issuance of a final certificate of sale in favor of a purchaser if no redemption was made within the one-year period had been recognized by the Court in as early as the 1957 case of *Manuel v. PNB*[50] and was subsequently reiterated in *Calacala v. Republic*,[51] *Delos Reyes v. Ramnani*,[52] and *Akiapat v. Summit Bank (Rural Bank of Tublay [Benguet], Inc.)*,[53] among others.[54]

Chief Justice Alexander G. Gesmundo expounds that the ministerial character of the issuance of the Final Certificate of Sale is grounded on the fact that the trial court is privy to the transactions preceding it—the auction sale in which the purchaser acquires the subject property,[55] as well as the redemption by the redemptioner, and the failure of redemption within the one year period;[56] thus, the trial court may easily verify whether the sale is valid and whether the subject property has not been redeemed within the one year period.[57] There is therefore no need for the trial court to receive evidence to inquire into these matters.[58] Chief Justice Alexander G. Gesmundo further explains that in contrast, the assignment by the purchaser to another person occurs outside the

confines of the proceedings of the trial court; thus, there is a need to receive evidence to determine the rights and obligations of each party under such assignment.[59] Said reception and determination cannot be considered as merely ministerial as it would involve discretion which cannot be exercised by the clerk of court or the sheriff. Chief Justice Alexander G. Gesmundo resolves that only the courts properly vested with the jurisdiction over the subject matter of the controversy would be able to render a binding pronouncement on the validity of such assignment.[60]

According to Chief Justice Alexander G. Gesmundo, the above perspective finds support in the amendment introduced to Rule 15 by the 2019 Revised Rules of Civil Procedure concerning litigious and non-litigious motions. Rule 15,[61] Section 4 of the 2019 Revised Rules of Civil Procedure particularly provides that a motion for the issuance of an order directing the sheriff to execute a final certificate of sale is non-litigious. Chief Justice Alexander G. Gesmundo elucidates that:

The Minutes of the Fifth Meeting of the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure held on May 28, 2019 reveals the following discussion concerning litigious and non-litigious motions:

. . . Only litigious motions, as enumerated below, will be heard, subject to the discretion of the judge who shall issue a notice of hearing. Such motions shall be resolved within 15 calendar days from receipt of the opposition thereto. Likewise enumerated below are non-litigious motions and prohibited motions, which shall not be heard.

. . .

The proposed new provision enumerates the non-litigious motions which, according to Justice Peralta, shall not be heard, but must be resolved within 7 calendar days.

There is no dispute that a motion for the issuance of an alias summons, a motion for the issuance of a writ or an alias writ of execution, a motion for extension to file answer and a motion to issue a writ of possession are non-litigious.

Further, the records of the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure demonstrate that the following footnote accompanied Rule 15, Sec. 4 during the discussions:

This new provision defines non-litigious motions and gives some examples. These motions shall not be set for hearing but must be resolved by the court within 5 calendar days. The adverse party is also not required to file an opposition or comment thereto because his or her rights are not prejudiced by the non-litigious nature of said motions. There is no dispute that a motion for the issuance of an alias summons, a motion for the issuance of a writ or an alias writ of execution, a motion for extension to file answer, and a motion to issue a writ of possession are non-litigious. Anent the phrase "other similar motions," it is a catch-all provision.

The footnote to Rule 15, Sec. 5, of the 2019 Amendments to the 1997 Rules of Civil Procedure in the records of the discussion of the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure is also illuminating as it provides the rationale behind the classification of motions as litigious:

This new provision that deals with litigious motions, which shall be resolved only after receipt of the opposition or the expiration of the period to file opposition. . . A "motion to amend after a responsive pleading has been filed" is also a litigious motion because amendment at this juncture is a matter of discretion on the part of the court.

By inference, the converse is true for a motion for issuance of an order directing the sheriff to execute the final certificate of sale. As discussed, it is well-established that its issuance to a purchaser or redemptioner is ministerial. Accordingly, it is a non-litigious motion and no opposition is necessary for the court to resolve the

same.

The same cannot be said for the issuance of an order directing the sheriff to execute the final certificate of sale in favor of an assignee. It cannot be considered as non-litigious in nature, [as there should be] an opportunity to file an opposition necessary to afford due process to the relevant parties. This is because the trial court is not privy to the assignment; reception of evidence is necessary to determine the assignment's validity and applicability.[62]

Accordingly, the issuance of the Final Certificate of Sale other than to the purchaser, and in this case to Legarda, is beyond ministerial as it would involve more than confirming the title already vested to Calawagan as the purchaser. It entails going past the proceedings of the foreclosure sale and looking into the propriety of the assignment to Legarda, which the COC-RTC Muntinlupa was not privy to.

Lastly, Legarda is not left without any remedy to claim his rights and interests over the subject property. After the confirmation of the title in Calawagan's name through the issuance of a Final Certificate of Sale in his favor, Legarda may then seek to enforce his rights over the subject property through an appropriate deed of conveyance other than insisting to substitute Calawagan in the issuance of the Final Certificate of Sale. If Calawagan refuses to honor said assignment, Legarda may then resort to the courts by filing a complaint for specific performance.[63]

In sum, Legarda failed to sufficiently demonstrate that he has a clear legal right to the issuance of the Final Certificate of Sale nor was it the duty under the law or ministerial for the COC-RTC Muntinlupa to issue the same. Likewise, Legarda failed to establish that he had no other plain, speedy, and adequate remedy to be entitled to the extraordinary remedy of mandamus, much more substantiate his entitlement thereto. Mandamus, therefore, may not lie against the COC-RTC Muntinlupa.

ACCORDINGLY, the Petition is DENIED. The Decision dated September 4, 2014 and the Resolution dated January 26, 2015 of the Court of Appeals in CA-G.R. SP No. 135217 are hereby AFFIRMED. Consequently, the Petition for Mandamus filed by petitioner Jaime Manuel N. Legarda against respondents Clerk of Court of the Regional Trial Court of Muntinlupa City and Benjamin Calawagan is DENIED.

SO ORDERED.

Hernando, Lazaro-Javier, Inting, M. Lopez, Gaerlan, Rosario, J. Lopez, and Singh, JJ., concur.

Gesmundo, C.J., see separate concurring opinion.

Leonen, SAJ., joined Justice Caguioa's concurring.

Caguioa, J., see concurring opinion.

Zalameda[*] and Dimaampao,[*] JJ., on official leave.

Marquez,[*][*] J., on official business.

[*] On official leave.

[*][*] On official business.

[1] Rollo, pp. 28-13.

[2] Id. at 19-29. Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices Rosmari D. Carandang (now a retired Member of the Court) and Edwin D. Sorongon of the Fourth Division Court of Appeals, Manila.

[3] Id. at 16-17. Penned by Associate Justice Marlene Gonzales-Sison and concurred in by Associate Justices

Rosmari D. Carandang (now a retired Member of the Court) and Edwin D. Sorongon of the Former Fourth Division, Court of Appeals, Manila.

[4] Id. at 54-56. Penned by Presiding Judge Leandro C. Catalo of Branch 256, Regional Trial Court, Muntinlupa City.

[5] Id. at 49-53.

[6] The terms "Final Deed of Sale" and "Final Certificate of Sale" were used interchangeably in the records of this case. For purposes of uniformity, the term "Final Certificate of Sale" will be used in this Decision; see id. at 20-21.

[7] Not attached to the rollo.

[8] Rollo, p. 43.

[9] Id. at 43-44.

[10] Id. at 20.

[11] Id. at 83-84.

[12] Id. at 20.

[13] Id. at 46-48.

[14] Id. at 20-21 & 51-52.

[15] Id. at 21-22.

[16] Id. at 54-56.

[17] Id. at 56.

[18] Id. at 55.

[19] Id. at 5.

[20] Id. at 19-29.

[21] Id. at 28.

[22] Id. at 24-28.

[23] Id. at 30-41.

[24] Id. at 16-17.

[25] Id. at 28-13.

[26] Id. at 7-11.

[27] Id. at 94-107.

[28] Id. at 99-104.

[29] Section 58(E) of RA 8424 provides:

Registration with Register of Deeds. - No registration of any document transferring real property shall be

effected by the Register of Deeds unless the Commissioner or his duly authorized representative has certified that such transfer has been reported, and the capital gains or creditable withholding tax, if any, has been paid: Provided, however, That the information as may be required by rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, shall be annotated by the Register of Deeds in the Transfer Certificate of Title or Condominium Certificate of Title: Provided, further, That in cases of transfer of property to a corporation, pursuant to a merger, consolidation or reorganization, and where the law allows deferred recognition of income in accordance with Section 40, the information as may be required by rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, shall be annotated by the Register of Deeds at the back of the Transfer Certificate of Title or Condominium Certificate of Title of the real property involved: Provided, finally, That any violation of this provision by the Register of Deeds shall be subject to the penalties imposed under Section 269 of this Code.

[30] Entitled "AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, As AMENDED, AND FOR OTHER PURPOSES," approved on December 11, 1997.

[31] Rollo, pp. 104-105.

[32] See Independent Electricity Market Operator of the Philippines, Inc. v. Energy Regulatory Commission, G.R. No. 254440, March 23, 2022 [Per J. Zalameda, Second Division]. This citation refers to the copy of the Decision uploaded to the Supreme Court website.

[33] Manila International Airport Authority v. Rivera Village Lessee Homeowners Association, Inc., 508 Phil. 354, 371 (2005) [Per J. Tinga, Second Division].

[34] Uy Kiao Eng v. Lee, 624 Phil. 200, 207 (2010) [Per J. Nachura, Third Division].

[35] Manila International Airport Authority v. Rivera Village Lessee Homeowners Association, Inc., 508 Phil. 354, 371 (2005) [Per J. Tinga, Second Division].

[36] Id. at 371.

[37] Franco v. Energy Regulatory Commission, 783 Phil. 740, 749 (2016) [Per J. Reyes, En Banc].

[38] Uy Kiao Eng v. Lee, 624 Phil. 200, 207 (2010) [Per J. Nachura, Third Division].

[39] Rollo, p. 20.

[40] Id. at 48.

[41] Philippine National Bank v. CA, 338 Phil. 795, 817-818 (1997) [Per J. Romero, Second Division], citing Moreno's Philippine Law Dictionary, 3[rd] ed., p. 75.

[42] Philippine National Bank v. CA, id., at 818-819.

[43] Grandholdings Investments (SPV-AMC), Inc. v. CA, 854 Phil. 297, 309 (2019) [Per J. J. Reyes, Jr., Second Division].

[44] 794 Phil. 228 (2016) [Per J. Perez, Third Division].

[45] Id. at 238, citing Laguna Metts Corp. v. CA, 611 Phil. 530, 536 (2009) [Per J. Corona, First Division].

[46] Chailease Finance Corp. v. Spouses Ma, 456 Phil. 498, 504 (2003) [Per J. Ynares-Santiago, First Division].

[47] Cayton v. Zeonnix Trading Corp., 618 Phil. 136, 148 (2009) [Per J. Nachura, Third Division].

[48] Delos Reyes v. Ramnani, 635 Phil. 242, 247 (2010) [Per J. Del Castillo, First Division].

[49] Id.

[50] 101 Phil. 968 (1957) [Per J. Reyes, En Banc].

[51] 502 Phil. 681 (2005) [Per J. Garcia, Third Division].

[52] 635 Phil. 242 (2010) [Per J. Del Castillo, First Division].

[53] G.R. Nos. 222505 & 222776, June 28, 2021 [Per J. Inting, Third Division].

[54] C.J. Gesmundo, Concurring Opinion, p. 5.

[55] Rule 39, Sec. 19. How property sold on execution; who may direct manner and order of sale. - All sales of property under execution must be made at public auction, to the highest bidder, to start at the exact time fixed in the notice. After sufficient property has been sold to satisfy the execution, no more shall be sold and any excess property or proceeds of the sale shall be promptly delivered to the judgment obligor or his authorized representative, unless otherwise directed by the judgment or order of the court. When the sale is of real property, consisting of several known lots, they must be sold separately; or, when a portion of such real property is claimed by a third person, he may require it to be sold separately. When the sale is of personal property capable of manual delivery, it must be sold within view of those attending the same and in such parcels as are likely to bring the highest price. The judgment obligor, if present at the sale, may direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels which can be sold to advantage separately. Neither the officer conducting the execution sale, nor his deputies, can become a purchaser, nor be interested directly or indirectly in any purchase at such sale. [Emphasis supplied]

[56] Rule 39, Sec. 28. Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed. - The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, by paying the purchaser the amount of his purchase, with one per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.

Property so redeemed may again be redeemed within sixty (60) days after the last redemption upon payment of the sum paid on the last redemption, with two per centum thereon in addition, and the amount of any assessments or taxes which the last redemptioner may have paid thereon after redemption by him, with interest on such last-named amount, and in addition, the amount of any liens held by said last redemptioner prior to his own, with interest. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with two per centum thereon in addition, and the amounts of any assessments or taxes which the last previous redemptioner paid after the redemption thereon, with interest thereon, and the amount of any liens held by the last redemptioner prior to his own with interest.

Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registry of deeds of the place, and if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the officer and tiled with the registry of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes, or liens. [Emphasis supplied]

[57] C.J. Gesmundo, Concurring Opinion, p. 7.

[58] Id.

[59] Id.

[60] Id.

[61] Section 4. Non-litigious motions. — Motions which the court may act upon without prejudicing the rights of adverse parties are non-litigious motions. These motions include:

- a) Motion for the issuance of an alias summons;
- b) Motion for extension to file answer;
- c) Motion for postponement;
- d) Motion for the issuance of a writ of execution;
- e) Motion for the issuance of an alias writ of execution;
- f) Motion for the issuance of a writ of possession;
- g) Motion for the issuance of an order directing the sheriff to execute the final certificate of sale; and
- h) Other similar motions.

These motions shall not be set for hearing and shall be resolved by the court within five (5) calendar days from receipt thereof. [Emphasis supplied]

[62] C.J. Gesmundo, Concurring Opinion, p. 8-10.

[63] Id. at 10.

CONCURRING OPINION

GESMUNDO, C.J.:

I fully concur with the ponencia circulated by the esteemed Associate Justice Antonio T. Kho, Jr. I write this Concurring Opinion to share my perspective on the matter of the deletion of "assignee" from Rule 39, Section 33 of the 1997 Rules of Civil Procedure.

This Appeal by Certiorari under Rule 45 of the 1997 Rules of Civil Procedure traces its roots from a Petition for Mandamus filed by Jaime Manuel N. Legarda (Legarda) against the Clerk of Court of the Regional Trial Court of Muntinlupa City (COC-RTC Muntinlupa) and Benjamin Calawagan (Calawagan). Legarda alleged that Calawagan had purchased, as the highest bidder, a parcel of land covered by Transfer Certificate of Title (TCT) No. 210835 (subject property) at a foreclosure sale. A Certificate of Sale was consequently issued in Calawagan's favor. During the redemption period, Calawagan and Legarda executed a Deed of Assignment over the subject property whereby Calawagan assigned to Legarda all his rights and interests under the Certificate of Sale in exchange for the amount of PHP 3,000,000.00. This assignment was annotated on TCT No. 210835.[1]

Legarda informed the COC-RTC Muntinlupa of said assignment and the lapse of the redemption period. Despite this, it did not issue a Final Certificate of Sale in his favor. Eventually, the COC-RTC Muntinlupa responded to his request through a letter where it categorically refused to issue the same, reasoning that the issuance in favor of an assignee of a Final Certificate of Sale is not provided for under the Rules of Court. According to the COC-RTC Muntinlupa, the act of issuing said deed of sale in favor of Legarda could not be characterized as merely ministerial as it involves contentious matters beyond the scope of its duties. This prompted Legarda to file a Petition for Mandamus before Branch 256, Regional Trial Court of Muntinlupa City (RTC).[2]

The RTC granted the Petition for Mandamus and directed the COC-RTC Muntinlupa to issue the Final Certificate of Sale in Legarda's favor. On appeal, the Court of Appeals (CA) reversed and set aside the RTC ruling and, thus, dismissed Legarda's Petition for Mandamus for lack of merit. The CA also denied Legarda's Motion for Reconsideration. Hence, Legarda filed the instant Appeal before this Court.[3]

The ponencia denied the Appeal anchored on the ground that mandamus cannot lie because Legarda's right over the issuance of the Final Certificate of Sale, by virtue of the deed of assignment, is not indubitably granted by law or inferable as a matter of law. Thus, the COC-RTC Muntinlupa had no imperative duty to issue the same. Further, such issuance is not ministerial on the part of the COC-RTC Muntinlupa because it involves the exercise of judgment on the validity of the assignment.[4]

The ponencia observed that Rule 39, Section 33 of the 1997 Rules of Civil Procedure entitles only the purchaser and last redemptioner to the conveyance and possession of the subject property if no redemption was made after the sale, or if the subject property is so redeemed. This is supported by the deletion of the word "assignee" in Rule 39, Section 33 from the provision's precursor – Rule 39, Section 35 of the 1964 Rules of Court.[5] Citing *Manila Electric Company v. N.E. Magno Construction, Inc.*,[6] the ponencia declared that the deletion of the word "assignee" was done not because it was a mere superfluity or unnecessary in relation to a purchaser or redemptioner. Rather, it was deleted in order to give the provision a different construction – to limit the issuance of the Final Certificate of Sale only to the purchaser or last redemptioner.[7] Also, for the ponencia, it may not be inferred as a matter of law that an assignee is one of those who are entitled to conveyance and possession of the subject property since an assignee is neither privy to the foreclosure nor does an assignee has a lien on the property subject of the foreclosure sale with right to redeem the same.[8]

The ponencia also ruled that the issuance of the Final Certificate of Sale to someone other than the purchaser is not ministerial because it would involve more than confirming the title already vested in the purchaser, in this case, Calawagan. It entails going past the proceedings of the foreclosure sale and looking into the propriety of the assignment to Legarda, which is beyond the purview of the COC-RTC Muntinlupa.[9] Finally, the ponencia held that Legarda is not without any remedy to claim his rights and interests over the subject property. The ponencia explained that once a Final Certificate of Sale is issued in the name of Calawagan, Legarda may seek to enforce his rights through the appropriate deed of conveyance.[10]

I concur with the denial of the Appeal by Certiorari and write to delve into the rationale behind the deletion of the word "assignee" in Rule 39, Section 33 of the 1997 Rules of Civil Procedure, which was expressly included in Rule 39, Section 35 of the 1964 Rules of Court.

Rule 39, Section 33 provides that a purchaser or redemptioner shall be entitled to conveyance and possession of the subject property if no redemption is made within one year from the date of registration of the certificate of sale, viz.:

Section 33. Deed and Possession to be Given at Expiration of Redemption Period; by Whom Executed or Given. — If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and

acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment obligor. (35a)

Section 33 originates from Rule 39, Section 31[11] of the 1940 Rules of Court, which in turn, was subsequently amended by Rule 39, Section 35[12] of the 1964 Rules of Court.

A comparison of Section 33 in the present Rules vis-à-vis Section 35 in the 1964 Rules of Court reveals that the following revisions were introduced:

Section 353. Deed and possession to be given at expiration of redemption period; by whom executed or given. — If no redemption be made within twelve (12) months after one (1) year from the date of the registration of the certificate of sale, the purchaser, or his assignee, is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of twelve (12) months one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the execution and delivery expiration of said deed the right of redemption, the purchaser or redemptioner, or his assignee, shall be substituted to and acquire all the rights, title, interest and claim of the judgment debtor obligor to the property as of the time of the levy, except as against the judgment debtor in possession, in which case the substitution shall be effective as of the date of the deed. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment debtor obligor. (35a)

Notably, Section 33 deleted the word "assignee" from the following statements:

- "If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property[.]"
- "Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy."

The ministerial character of the issuance of a Final Certificate of Sale in favor of a purchaser or redemptioner after the lapse of the one-year period without any redemption being made is well-established.

As early as 1957, in the case of *Manuel v. Philippine National Bank*,^[13] the Court held that "under the Rules of Court[,] the expiration of that one-year period forecloses the owner's right to redeem, thus making the sheriff's sale absolute. The issuance thereafter of a final deed of sale becomes a mere formality, an act merely confirmatory of the title that is already in the purchaser and constituting official evidence of that fact."^[14] This was subsequently reiterated in, among others, *Calacala v. Republic*,^[15] *Delos Reyes v. Ramnani*,^[16] and *Akiapat v. Summit Bank (Rural Bank of Tublay [Benguet], Inc.)*.^[17]

This ministerial quality of the duty to issue a Final Certificate of Sale is grounded on the transactions that precedes such issuance. First, the auction sale itself wherein which the purchaser acquires the subject property, as well as the redemption by a redemptioner, transpires before the trial court. Second, the failure to redeem within the one-year period also occurs before the trial court.

This is demonstrated by the following provisions in Rule 39. The public sale is governed by Section 19 thereof, which provides that an officer of the court, or their deputies, conducts the execution sale:

Section 19. How Property Sold on Execution; Who May Direct Manner and Order of Sale. — All sales of property under execution must be made at public auction, to the highest bidder, to start at the exact time fixed in the notice. After sufficient property has been sold to satisfy the execution, no more shall be sold and any excess property or proceeds of the sale shall be promptly delivered to the judgment obligor or his authorized representative, unless otherwise directed by the judgment or order of the court. When the sale is of real property, consisting of several known lots, they must be sold separately; or, when a portion of such real property is claimed by a third person, he may require it to be sold separately. When the sale is of personal property capable of manual delivery, it must be sold within view of those attending the same and in such parcels as are likely to bring the highest price. The judgment obligor, if present at the sale, may direct the order in which property, real or personal, shall be sold, when such property consists of several known lots or parcels which can be sold to advantage separately. Neither the officer conducting the execution sale, nor his deputies, can become a purchaser, nor be interested directly or indirectly in any purchase at such sale. (21a) (Emphasis supplied)

Meanwhile, Rule 39, Section 28 provides that written notice of any redemption must be given to the officer who made the sale:

Section 28. Time and Manner of, and Amounts Payable on, Successive Redemptions; Notice to be Given and Filed. — The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, by paying the purchaser the amount of his purchase, with one per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.

Property so redeemed may again be redeemed within sixty (60) days after the last redemption upon payment of the sum paid on the last redemption, with two per centum thereon in addition, and the amount of any assessments or taxes which the last redemptioner may have paid thereon after redemption by him, with interest on such last-named amount, and in addition, the amount of any liens held by said last redemptioner prior to his own, with interest. The property may be again, and as often as a redemptioner is so disposed, redeemed from any previous redemptioner within sixty (60) days after the last redemption, on paying the sum paid on the last previous redemption, with two per centum thereon in addition, and the amounts of any assessments or taxes which the last previous redemptioner paid after the redemption thereon, with interest thereon, and the amount of any liens held by the last redemptioner prior to his own, with interest.

Written notice of any redemption must be given to the officer who made the sale and a duplicate filed with the registry of deeds of the place, and if any assessments or taxes are paid by the redemptioner or if he has or acquires any lien other than that upon which the redemption was made, notice thereof must in like manner be given to the officer and filed with the registry of deeds; if such notice be not filed, the property may be redeemed without paying such assessments, taxes, or liens. (30a) (Emphasis supplied)

In short, these underlying transactions, which precipitate the issuance or non-issuance of a Final Certificate of Sale, are within the purview of the trial court as it is privy to them.

Considering this, the trial court may easily verify (1) whether or not the sale of the real property, or its redemption, is valid, and (2) whether or not the original owner redeemed the same within the one-year period. There is no need for the trial court to receive evidence to inquire into these matters as it is privy to these transactions.

In contrast, an assignment by the purchaser or redemptioner to another person occurs outside the confines of the proceedings before the trial court. It is a transaction entered into by the purchaser or redemptioner with a person

not party to the proceedings before the trial court and not within the jurisdiction of the trial court. The trial court is not privy to the assignment.

Hence, in order to verify the validity of such transaction – whether or not an assignment was validly made, as well as the terms thereof – the trial court would have to receive evidence and determine the rights and obligations of each party under such assignment. Without a doubt, such an undertaking cannot be characterized as merely ministerial in nature – it would involve the exercise of discretion. This exercise of discretion cannot be made by the clerk of court or the sheriff. Only a court properly vested with jurisdiction over the subject matter of the controversy would be able to render a binding pronouncement on the validity of such assignment.

This perspective is supported and reflected by the amendment introduced to Rule 15 by the 2019 Revised Rules of Civil Procedure concerning litigious and non-litigious motions. In particular, Rule 15, Section 4 of the 2019 Revised Rules of Civil Procedure provides that a motion for the issuance of an order directing the sheriff to execute the final certificate of sale is non-litigious:

Section 4. Non-litigious Motions. — Motions which the court may act upon without prejudicing the rights of adverse parties are non-litigious motions. These motions include:

a)

Motion for the issuance of an alias summons;

b)

Motion for extension to file answer;

c)

Motion for postponement;

d)

Motion for the issuance of a writ of execution;

e)

Motion for the issuance of an alias writ of execution;

f)

Motion for the issuance of a writ of possession;

g)

Motion for the issuance of an order directing the sheriff to execute the final certificate of sale; and

h)

Other similar motions.

These motions shall not be set for hearing and shall be resolved by the court within five (5) calendar days from receipt thereof. (n) (Emphasis supplied)

The Minutes of the Fifth Meeting of the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure held on May 28, 2019 reveals the following discussion concerning litigious and non-litigious motions:

. . . Only litigious motions, as enumerated below, will be heard, subject to the discretion of the judge who shall issue a notice of hearing. Such motions shall be resolved within 15 calendar days from receipt of the opposition thereto. Likewise enumerated below are non-litigious motions and prohibited motions, which shall not be heard.

. . . .

The proposed new provision enumerates the non-litigious motions which, according to Justice Peralta, shall not be heard, but must be resolved within 7 calendar days.

There is no dispute that a motion for the issuance of an alias summons, a motion for the issuance of a writ or an alias writ of execution, a motion for extension to file answer and a motion to issue a writ of possession are non-litigious.

Further, the records of the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure demonstrate that the following footnote accompanied Rule 15, Section 4 during the discussions:

This new provision defines non-litigious motions and gives some examples. These motions shall not be set for hearing but must be resolved by the court within 5 calendar days. The adverse party is also not required to file an opposition or comment thereto because his or her rights are not prejudiced by the non-litigious nature of said motions. There is no dispute that a motion for the issuance of an alias summons, a motion for the issuance of a writ or an alias writ of execution, a motion for extension to file answer, and a motion to issue a writ of possession are non-litigious. Anent the phrase "other similar motions," it is a catch-all provision.

The footnote to Rule 15, Section 5[18] of the 2019 Amendments to the 1997 Rules of Civil Procedure in the records of the discussion of the Sub-Committee for the Revision of the 1997 Rules of Civil Procedure is also illuminating as it provides the rationale behind the classification of motions as litigious:

This is a new provision that deals with litigious motions, which shall be resolved only after receipt of the opposition or the expiration of the period to file the opposition. . . . A "motion to amend after a responsive pleading has been filed" is also a litigious motion because amendment at this juncture is a matter of discretion on the part of the court. (Emphasis supplied)

By inference, the converse is true for a motion for issuance of an order directing the sheriff to execute the final certificate of sale. As discussed, it is well-established that its issuance to a purchaser or redemptioner is ministerial. Accordingly, it is a non-litigious motion and no opposition is necessary for the court to resolve the same.

The same cannot be said for the issuance of an order directing the sheriff to execute the final certificate of sale in favor of an assignee. It cannot be considered as non-litigious in nature, an opportunity to file an opposition is necessary to afford due process to the relevant parties. This is because the trial court is not privy to the assignment; reception of evidence is necessary to determine the assignment's validity and applicability.

As correctly stated by the ponente, the proper remedy available to an assignee to enforce their rights under the

assignment is through the appropriate deed of conveyance. If the purchaser or redemptioner refuses to honor the assignment, the assignee may resort to the courts by way of a complaint for specific performance.

Applying the foregoing to the instant case, I concur with the denial of the Appeal since the issuance of a Final Certificate of Sale in favor of an assignee cannot be, in any manner, characterized as ministerial in nature.

ACCORDINGLY, I CONCUR with the ponencia and vote to DENY the Petition.

[1] Ponencia, p. 2.

[2] Id. at 2-3.

[3] Id. at 3-4.

[4] Id. at 7.

[5] Id. at 9.

[6] 794 Phil. 228, 238 (2016) [Per J. Perez, Third Division].

[7] Ponencia, p. 10.

[8] Id. at 12.

[9] Id. at 15.

[10] Id.

[11] Sec. 31. Deed and Possession to Be Given at Expiration of Redemption Period By Whom Executed or Given. — If no redemption be made within twelve months after the sale, the purchaser, or his assignee, is entitled to a conveyance and possession of the property; or, if so redeemed, whenever sixty days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to the conveyance and possession; but in all cases the judgment debtor shall have the entire period of twelve months from the date of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it. The possession shall be given by the same officer if no third parties are actually holding the property adversely to the judgment debtor.

[12] Sec. 35. Deed and possession to be given at expiration of redemption period. By whom executed or given. — If no redemption be made within twelve (12) months after the sale, the purchaser, or his assignee, is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to the conveyance and possession; but in all cases the judgment debtor shall have the entire period of twelve (12) months from the date of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it. Upon the execution and delivery of said deed the purchaser, or redemptioner, or his assignee, shall be substituted to and acquire all the right, title, interest and claim of the judgment debtor to the property as of the time of the levy, except as against the judgment debtor in possession, in which case the substitution shall be effective as of the date of the deed. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment debtor.

[13] 101 Phil. 968 (1957) [Per .J. Reyes, A., En Banc].

[14] Id. at 971.

[15] 502 Phil. 681, 691 (2005) [Per J. Garcia, Third Division].

[16] 635 Phil. 242, 247 (2010) [Per J. Del Castillo, First Division].

[17] G.R. Nos. 222505 and 222776, June 28, 2021 [Per J. Inting, Third Division] at 9-10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[18] Sec. 5. Litigious Motions. — (a) Litigious motions include:

1)

Motion for bill of particulars;

2)

Motion to dismiss;

3)

Motion for new trial;

4)

Motion for reconsideration;

5)

Motion for execution pending appeal;

6)

Motion to amend after a responsive pleading has been filed;

7)

Motion to cancel statutory lien;

8)

Motion for an order to break in or for a writ of demolition;

9)

Motion for intervention;

10)

Motion for judgment on the pleadings;

11)

Motion for summary judgment;

12)

Demurrer to evidence;

13)

Motion to declare defendant in default; and

14)

Other similar motions.

(b) All motions shall be served by personal service, accredited private courier or registered mail, or electronic means so as to ensure their receipt by the other party.

(c) The opposing party shall file his or her opposition to a litigious motion within five (5) calendar days from receipt thereof. No other submissions shall be considered by the court in the resolution of the motion.

The motion shall be resolved by the court within fifteen (15) calendar days from its receipt of the opposition thereto, or upon expiration of the period to file such opposition. (n)

CONCURRING OPINION

CAGUIOA, J.:

Confronted with a scenario where the highest bidder in a foreclosure sale assigned all his rights and interest in the sale before the end of the redemption period, the Court here is asked to resolve whether mandamus lies against the ex-officio sheriff, herein respondent Clerk of Court of the Regional Trial Court (RTC) of Muntinlupa, for the issuance of a final certificate of sale in favor of the assignee, petitioner Jaime Manuel N. Legarda (Legarda).

The ponencia rules that Legarda is not entitled to the extraordinary remedy of mandamus primarily because his right over the issuance of the final certificate of sale is neither indubitably granted by law nor inferable as a matter of law.^[1] Particularly, the ponencia makes a distinction in the formulation of the provision on final conveyance of properties sold on execution under the 1964 Rules of Court, on the one hand, and in the 1997 Rules of Civil Procedure, on the other. The ponencia then concludes that the prevailing rule does not contemplate the issuance of a final certificate of sale in favor of an assignee.

Under Section 35, Rule 39 of the 1964 Rules of Court,^[2] an "assignee" was expressly entitled to the conveyance of property sold on execution in lieu of the purchaser or the last redemptioner, as the case may be. However, Section 33,^[3] Rule 39 of the 1997 Rules of Civil Procedure expressly deleted all reference to an assignee, and now provides that only the purchaser or the last redemptioner has a clear legal right to the issuance of the final certificate of sale in their name.^[4] Following the general rule on amendment by deletion,^[5] the omission of the word "assignee" in the present rule reveals the intention to effect a change in its meaning, i.e., a final deed of sale may no longer issue in favor of a purchaser's or last redemptioner's assignee.

On the same basis, the ponencia finds that the Clerk of Court of the RTC of Muntinlupa did not have a ministerial duty—compellable by mandamus—to issue a final certificate of sale in the name of the assignee, Legarda.

I fully concur with the ponencia.

I submit this Concurring Opinion to expound on the ministerial quality of the duty to issue a final certificate of sale solely with respect to the purchaser or the last redemptioner, and to further examine the evolution of our Rules of Court to corroborate this conclusion.

First, as astutely observed by Chief Justice Alexander G. Gesmundo (Chief Justice Gesmundo) during the deliberations of this case, the ministerial character of the issuance of the final certificate of sale is grounded on the

transactions which precede the same, i.e., the auction sale of the property, and any redemption made or the failure to redeem within the one year period.[6] As all of these transactions occur under the jurisdiction of, and within the confines of the proceedings before, the trial court,[7] there is no need for the trial court to further inquire into these matters. Accordingly, the court officer's issuance of the final certificate of sale in favor of the purchaser or redemptioner becomes merely ministerial. This is in stark contrast with an assignment by a purchaser or redemptioner to another person, which requires the trial court to receive evidence to determine the rights of each party under such assignment.[8]

To demonstrate the processes in which the person of the purchaser and a redemptioner comes within the knowledge of the court, Chief Justice Gesmundo incisively referenced Section 19, Rule 39 of the 1997 Rules of Civil Procedure which mandates that the execution sale be conducted by an officer of the court, or his or her deputies; and Section 28, Rule 39 of the 1997 Rules of Civil Procedure which requires redemptioners to provide a written notice of redemption to the officer who made the execution sale.

Notably, a redemptioner is not necessarily privy to the proceedings leading to the auction sale, and is, on the first instance, a stranger to the public officer who conducted the sale. This is precisely because a redemptioner is "a creditor having a lien by virtue of an attachment, judgment or mortgage on the property sold, subsequent to the lien under which the property was sold." [9]

Thus, unlike a judgment obligor, Section 30, Rule 39 of the 1997 Rules of Civil Procedure mandates a redemptioner to prove his right to redeem by producing documents establishing such right,[10] and an affidavit showing the amount then actually due on the lien, thus:

Section 30. Proof required of redemptioner.— A redemptioner must produce to the officer, or person from whom he seeks to redeem, and serve with his notice to the officer a copy of the judgment or final order under which he claims the right to redeem, certified by the clerk of the court wherein the judgment or final order is entered, or, if he redeems upon a mortgage or other lien, a memorandum of the record thereof, certified by the registrar of deeds, or an original or certified copy of any assignment necessary to establish his claim; and an affidavit executed by him or his agent, showing the amount then actually due on the lien. (Emphasis supplied)

Accordingly, by express language of the Rules of Court, a redemptioner is bound to introduce himself into the proceedings relating to the auction sale by making it known, to the officer who made the sale or to a prior redemptioner, the existence and extent of his or her rights over the subject property.

This, to my mind, further strengthens the rationale for the deletion of the word "assignee" from Section 33, then Section 35, of Rule 39 of the 1997 Rules of Civil Procedure. Taking into account the procedures outlined in the Rules of Court through which the purchaser and the redemptioner/s, if any, must necessarily come within the purview of the trial court, the trial court may easily verify the validity of the execution sale of the real property, as well as any redemption made by the judgment debtor or a redemptioner.

Accordingly, the final act of issuing a certificate of sale in favor of the purchaser or last redemptioner becomes purely ministerial – it occurs simply as a legal and logical consequence of the transactions to which the trial court is privy. The officer who issues the certificate exercises no discretion in the determination of a purchaser or last redemptioner's entitlement to a final certificate of sale.

Second, notably, Section 30, Rule 39 of the 1997 Rules of Civil Procedure includes as a requirement the submission of "an original or certified copy of an assignment, necessary to establish [the redemptioner's] claim." This language is derived from then Section 32, Rule 39 of the 1964 Rules of Court:

Sec. 32. Proof required of redemptioner.— A redemptioner must produce to the officer, or person from whom he seeks to redeem, and serve with his notice to the officer: (a) A copy of the judgment or order under which

he claims the right to redeem, certified by the clerk or judge of the court wherein the judgment is docketed; or, if he redeems upon a mortgage or other lien, a memorandum of the record thereof, certified by the registrar of deeds; (b) A copy of any assignment necessary to establish his claim, verified by the affidavit of himself, or of a subscribing witness thereto; (c) An affidavit by himself or his agent, showing the amount then actually due on the lien. (Emphasis supplied)

The exact provision is also embodied in then Section 28, Rule 39 of the 1940 Rules of Court, thus:

SECTION 28. Proof Required of Redemptioner. — A redemptioner must produce to the officer, or person from whom he seeks to redeem, and serve with his notice to the officer:

(a) A copy of the judgment or order under which he claims the right to redeem, certified by the clerk or judge of the court wherein the judgment is docketed; or, if he redeems upon a mortgage or other lien, a memorandum of the record thereof, certified by the registrar of deeds;

(b) A copy of any assignment necessary to establish his claim, verified by the affidavit of himself, or of a subscribing witness thereto;

(c) An affidavit by himself or his agent, showing the amount then actually due on the lien. (Emphasis supplied)

Several United States statutes on the same subject likewise contain a derivative of this provision (e.g., Arizona,[11] Idaho,[12] South Dakota,[13] Virgin Islands[14]).

A review of American jurisprudence reveals that the "assignment" referred to in this provision relates to a creditor's assignment of judgment[15] or assignment of mortgage,[16] i.e., an assignment made by a redemptioner.

As such, it would seem that the present Rules of Court still contemplate the issuance of a final certificate of sale in favor of a redemptioner's assignee. However, it must be considered that the 1964 Rules of Court,[17] the 1940 Rules of Court,[18] and the relevant United States statutes[19] regarding sale on execution all make express mention of an "assignee." Indubitably, our former rules and the United States statutes envision the issuance of a certificate of sale in favor of a purchaser's or redemptioner's assignee.

In contrast, and as the ponencia aptly observes, the 1997 Rules of Civil Procedure diverged from the consistent language of the earlier rules by removing all mention of the term "assignee" in the present Section 35, Rule 39.[20] This deletion is actually not constrained to Section 35, but is likewise effected in Section 32 on rents and income pending redemption. References to an assignee, which were present in Rule 39 of the 1967 and 1940 Rules of Court, were removed in the present rules, thus:

1967 Rules of Court,
Rule 39, Section 34
1940 Rules of Court,
Rule 39, Section 30

1997 Rules of Civil Procedure
Rule 39, Section 32

SEC. 34. Rents and profits pending redemption. Statement thereof and credit therefor on redemption.— The purchaser, from the time of the sale until a redemption, and a redemptioner, from the time of his redemption until another redemption, is entitled to receive the rents of the property sold or the value of the use and occupation thereof when such property is in the possession of a tenant. But when any such rents and profits have been received by the judgment creditor or purchaser, or by a redemptioner, or by the assignee of either of them, from property thus sold preceding such redemption, the amounts of such rents and profits shall be a

credit upon the redemption money to be paid; and, if a later redemptioner or the judgment debtor, before the expiration of the time allowed for such redemption demands in writing of such creditor, purchaser, or prior redemptioner, or his assigns, a written and verified statement of the amounts of the rents and profits thus received, the period of redemption is extended five (5) days after such demand is complied with and such sworn statement given to such later redemptioner or debtor. If such statement is not so given within one (1) month from and after such demand, such redemptioner or debtor may bring an action to compel an accounting and disclosure of such rents and profits, and until fifteen (15) days from and after the final determination of such action, the right of redemption is extended to such redemptioner or debtor. (Emphasis supplied)

SEC. 32. Rents, earnings, and income of property pending redemption.— The purchaser or a redemptioner shall not be entitled to receive the rents, earnings and income of the property sold on execution, or the value of the use and occupation thereof when such property is in the possession of a tenant. All rents, earnings and income derived from the property pending redemption shall belong to the judgment obligor until the expiration of his period of redemption. (Emphasis supplied)

In fact, there is presently no longer any reference whatsoever to an "assignee" under the entire Rule 39 of the 1997 Rules of Civil Procedure. This consistent omission embodies a deliberate intent to remove an assignee from the rules governing a sale on execution, including the issuance of a final certificate of sale. In this light, the retention of the subject phrase requiring a redemptioner to produce the original/certified true copy of an assignment, if any, appears to be unintended.

Remarkably, and in connection to the present petition involving an assignee of the highest bidder, no version of our Rules of Court outlines a procedure on how a purchaser's assignee may establish his or her right to redeem.

Lastly, applying the general rules of contract, Legarda's broad reliance on the deed of assignment to establish his entitlement to a final certificate in his name is without merit. To recall, Legarda argues that by virtue of a deed of assignment, he had succeeded to the purchaser's right to the ministerial issuance of a final certificate of sale^[21] and, thus, asserts that the Clerk of Court of the RTC of Muntinlupa unlawfully refused to issue a deed in his favor, it being that he has already stepped into the shoes of the purchaser, who had a clear, unclouded, and established right to the same.^[22] Legarda's contention, however, fails to take into account the necessity to determine the validity of, and the extent of the rights and obligations conveyed in, the deed of assignment.

It is an elementary rule of contracts that the contracting parties are free to stipulate on the terms of their contract as they see fit, for as long as the terms are not contrary to law, morals, good customs, public order, and public policy.^[23] Bearing this in mind, a deed of assignment—the terms of which may vary depending on the will of the parties—is not at all times an absolute conveyance of all the rights and obligations which are embodied therein.^[24] Verily, the parties to a deed of assignment may, for instance, set limits to the exercise of the rights conveyed therein, contain conditions before the right conveyed may be exercised, or indicate a period of effectivity of such assignment.

As such, while the notarized deed of assignment executed between Legarda and the highest bidder enjoys the prima facie presumption of authenticity,^[25] and carries evidentiary weight with respect to its due execution,^[26] the following remains to be determined: (1) the validity of the deed of assignment, including the terms thereof; and (2) the scope of, as well as any limitations to, the rights conveyed therein.

In this connection, I likewise fully concur with the observations made by Chief Justice Gesmundo—said determination cannot be considered as merely ministerial as it would involve discretion which cannot be exercised by a clerk of court or a sheriff.^[27] The power and the discretionary duty to render a binding pronouncement on these matters can be reposed only on a court properly vested with the jurisdiction over the subject matter.^[28]

Indeed, to allow the deed of assignment to be the basis of the issuance of a final certificate of sale in the name of a person other than the purchaser or last redemptioner effectively imposes upon the officer who made the sale the duty to ascertain the validity and scope of the assignment. Clearly, the public officer cannot be compelled to perform this duty through a writ of mandamus, as this function is not only discretionary in nature, but is utterly beyond the officer's powers to perform.

All told, I agree that mandamus does not lie against respondent Clerk of Court of the RTC of Muntinlupa, Legarda cannot, through this petition for mandamus, seek the enforcement of the subject deed of assignment.

ACCORDINGLY, I concur with the ponencia and vote to DENY the petition.

[1] Ponencia, p. 7.

[2] The pertinent portions of Section 35, Rule 39 of the 1964 Rules of Court reads:

Section 35. Deed and possession to be given at expiration of redemption period. By whom executed or given. — If no redemption be made within twelve (12) months after the sale, the purchaser, or his assignee, is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to the conveyance and possession; but in all cases the judgment debtor shall have the entire period of twelve (12) months from the date of the sale to redeem the property. ... Upon the execution and delivery of said deed the purchaser, or redemptioner, or his assignee, shall be substituted to and acquire all the right, title, interest and claim of the judgment debtor to the property as of the time of the levy[.] (Emphasis supplied)

[3] Section 33. Deed and possession to be given at expiration of redemption period; by whom executed or given. — If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it. (Emphasis supplied)

[4] Ponencia, p. 9.

[5] See *Laguna Metts Corp. v. Court of Appeals*, 611 Phil. 530 (2009) [Per J. Corona, First Division].

[6] Chief Justice Gesmundo, Concurring Opinion, p. 5.

[7] *Id.*

[8] *Id.* at 7.

[9] See RULES OF COURT, Rule 39, sec. 27(b). (Emphasis supplied)

[10] *Cayton, et al. v. Zeonnix Trading Corp., et al.*, 618 Phil. 136 (2009) [Per J. Nachura, Third Division].

[11] *Ariz. Rev. Stat. § 12-1287* (LexisNexis, Lexis Advance through all 2023 legislation, including the 56th Legislature's 1st Regular session).

[12] *Idaho Code § 11-405* (Lexis Advance through all legislation from the 2023 Regular Session).

[13] S.D. Codified Laws § 21-52-16 (LexisNexis, Lexis Advance through the 2023 Regular Session of the 98th South Dakota Legislative Assembly, with Acts effective through July 1, 2023).

[14] 5 V.I.C. § 498.

[15] See *Hunter v. Mauseau*, 91 Minn. 124, 97 N.W. 651 (1903).

[16] See *Williams v. Lash*, 8 Minn. 496 (1863).

[17] See RULES OF COURT (1967), Rule 39, sec. 30 and 31.

[18] See RULES OF COURT (1940), Rule 39, sec. 30 and 31.

[19] See Idaho Code § 11-403 (Lexis Advance through all legislation from the 2023 Regular Session); S.D. Codified Laws § 15-19-23 (LexisNexis, Lexis Advance through the 2023 Regular Session of the 98th South Dakota Legislative Assembly, with Acts effective through July 1, 2023); Wyo. Stat. Ann. § 1-18-104 (Lexis Advance through 2023 General Session. Subject to revisions by LSO).

[20] Ponencia, pp. 9-10.

[21] Ponencia, p. 5.

[22] *Id.*

[23] CIVIL CODE OF THE PHILIPPINES, art. 1306.

[24] See also *Bangko Sentral ng Pilipinas v. Libo-on*, 773 Phil. 229 (2015) [Per J. Peralta, Third Division]; *Cebu Contractors Consortium Co. v. Court of Appeals*, 454 Phil. 650 (2003) [Per J. Azcuna, First Division]; and *Citizens Surety and Insurance Co., Inc. v. Court of Appeals*, 245 Phil. 701 (1988) [Per J. Gutierrez, Jr., Third Division].

[25] See *Cabilao v. Tampon*, G.R. No. 209702, March 23, 2022 [Per J. Hernando, Second Division].

[26] See *Rodriguez v. Your Own Home Development Corporation (YOHDC)*, 838 Phil. 749 (2018) [Per J. Leonen, Third Division].

[27] Chief Justice Gesmundo, Concurring Opinion, p. 7.

[28] *Id.*

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