

MERLINDA PLANA, PETITIONER, VS. LOURDES TAN CHUA AND HEIRS OF RAMON CHIANG, RESPONDENTS.

G.R. No. 250636. January 10, 2023

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Case

This Petition for Review on Certiorari[1] assails the following dispositions of the Court of Appeals in CA-G.R. CEB-CV No. 04831:

- Decision[2] dated June 25, 2018, granting respondent Lourdes Tan Chua's (Lourdes) petition to inscribe her real estate mortgage on Transfer Certificate of Title (TCT) No. T-57961 in the name of Nelson Plana married to petitioner Merlinda Relano; and
- Resolution[3] dated October 16, 2019, denying petitioner's motion for reconsideration.

Antecedents

On August 25, 2000, petitioner Merlinda Relano (Merlinda) filed a Complaint for Reconveyance of Lot 10031 against Ramon Chiang (Ramon) and Lourdes Tan Chua (Lourdes) before the Regional Trial Court (RTC) – Iloilo City. The case was docketed Civil Case No. 00-26387 and raffled to Branch 39.

Merlinda alleged that she and her first husband (now deceased) Nelson Plana (Nelson) owned five (5) lots covered by TCT Nos. T-57960, T-57961, T-57962, T-57963 and T-57864 located in Santa Barbara, Iloilo.[4] On December 15, 1971, Nelson died. Four (4) years later, or on March 17, 1975, she got married to Ramon. But in 1979, they got separated from bed and board.[5]

While she and Ramon were still together, the latter fraudulently made her sign a Deed of Definite Sale[6] dated December 17, 1975 purportedly selling the five (5) lots to him. Consequently, TCT Nos. T-57960, T-57961, T-57962, T-57963 and T-57864 were all cancelled and five (5) new titles were issued in the name of Ramon alone, viz.: TCT Nos. T-86912, T-86913, T-86914, T-86915, and T-86916.[7]

In 1980, she sued Ramon for recovery of the four (4) lots under TCT Nos. T-86912, T-86913, T-86914, T-86915 which Ramon sold to one Serafin Modina (Serafin). On October 29, 1999, the Court in *Modina v. Court of Appeals*[8] declared as void the Deed of Definite Sale over the four (4) lots for being simulated and without consideration. Hence, the Court also declared as void the subsequent sale of these four (4) lots to Serafin.[9]

On June 25, 1996, Ramon mortgaged the 5th lot (Lot 10031) covered by TCT No. T-86916 to Lourdes to secure the amount of P130,000.00 which he borrowed from Lourdes. On July 15, 1996, the mortgage was annotated on the back of TCT No: T-86916 under Entry No. 656728.[10]

Since the Deed of Definite Sale through which Ramon was supposedly able to secure ownership of Lot 10031 was already declared void by the Court with finality, Ramon did not have the right to mortgage Lot 10031 to Lourdes. Too, Lourdes was not a mortgagee in good faith because she knew of this defect when she executed the mortgage

contract with Ramon.[11]

In his Answer,[12] Ramon riposted that he was the lawful and registered owner of Lot 10031. In fact, the lot remained in his possession as owner, he had every right to mortgage it to Lourdes as security for his loan.[13]

On the other hand, Lourdes claimed she was an innocent mortgagee for value. She honestly believed that Ramon was the sole owner of Lot 10031 as TCT No. T-86916 bore the entry "single" pertaining to the civil status of Ramon. By law, she was not required to go beyond the face of the title.[14] In addition, the title contained Entry No. 271220 indicating that in 1976, the lot was mortgaged to the Development Bank of the Philippines (DBP) and that mortgage was cancelled on November 11, 1980. As a banking institution, DBP was expected under the law to have observed strict procedure in its property ownership investigation. Thus, she could not have suspected the title of Ramon to be improper or irregular when the same was subsequently mortgaged to her.[15] At any rate, Lot 10031 was never mentioned in the Modina Decision dated October 29, 1999. Finally, Merlinda failed to challenge the validity of TCT No. T-86916 in the name of Ramon for more than twenty-five (25) years since December 17, 1975. Merlinda's action, therefore, was already barred by laches.

Ruling of the Regional Trial Court (RTC)

After due proceedings, the RTC rendered its Decision[16] dated November 12, 2012, (1) declaring as void the sale of Lot 10031 to Ramon and the subsequent mortgage thereof to Lourdes; (2) ordering the cancellation of TCT No. T-86916 issued in the name of Ramon, as well as the annotation thereon of "Entry No. 656728 – Real Estate Mortgage in favor of Lourdes;" (3) ordering the reinstatement of TCT No. T-57961 in the name of "Nelson Plana married to Merlinda Relano;" (4) directing Ramon to pay Merlinda P100,000.00 as moral damages, P100,000.00 as exemplary damages, and P50,000.00 as attorney's fees; and (7) pronouncing no cost against Lourdes.[17]

Lourdes alone appealed. She insisted that the mortgage was valid because she was a mortgagee in good faith. Merlinda, on the other hand, countered anew that Lourdes had prior knowledge that Ramon was not the real owner of Lot 10031.[18]

Ruling of the Court of Appeals

Under Decision[19] dated June 25, 2018, the Court of Appeals affirmed with modification. It found that there was no preponderant evidence to show that Lourdes had prior knowledge of the defect in the title of Ramon. Merlinda's claim that Lourdes used to be an acquaintance of both herself and her late first husband Nelson; and that Lourdes and the son of Ramon were both Chinese members of the Lion's Club -- hardly demonstrated that Lourdes acted in bad faith.[20]

These circumstances did not necessarily require Lourdes to look beyond what appeared on the certificate of title, particularly since Ramon was able to present to her a copy of the TCT No. T-86916 which bore his name as the owner. According to the Court of Appeals, "it would be pushing the rule too far to burden the mortgagee with the expectation of doing a background check of his mortgagor, simply because the former has a remote social connection with the latter." [21] Thus, Lourdes cannot be faulted for merely relying on what appeared on TCT No. T-86916 indicating that Ramon, the mortgagor, was indeed the owner of the mortgaged property.[22]

The Court of Appeals though ruled that since Lourdes was a mortgagee in good faith, the real estate mortgage should be deemed valid. In a contract of mortgage, the mortgagor, as a rule, should be the absolute owner of the property, otherwise the mortgage is void. The exception is the doctrine of a mortgagee in good faith, where even if the mortgagor is not the owner of the mortgaged property, the mortgage contract and any foreclosure sale arising therefrom are given effect by reason of public policy.[23]

Consequently, the Court of Appeals ordered the annotation of the Real Estate Mortgage dated June 25, 1996 on

TCT No. T-57961 under the name of "Nelson Plana married to petitioner Merlinda Relano." [24]

Merlinda's Motion for Reconsideration was denied under Resolution [25] dated October 16, 2019.

The Present Petition

Merlinda now faults the Court of Appeals for declaring Lourdes as a mortgagee in good faith, and the real estate mortgage between her (Lourdes) and Ramon, as valid. She reiterates that (1) Lourdes was a mortgagee in bad faith; and (2) considering the invalid sale, the mortgage was also invalid. [26]

Notably, Merlinda, for the first time, mentions in her petition before the Court that on July 13, 1998, Ramon filed a Complaint for Accounting and Damages against Lourdes docketed Civil Case No. 25285. It was also raffled to the same RTC Branch 39, Iloilo City which heard and resolved Civil Case No. 25285. [27]

In his Complaint, [28] Ramon allegedly asserted that out of his P130,000.00 loan, he already paid Lourdes P46,500.00. Hence, his remaining debt was now only P83,500.00. By way of consignment and as payment therefor, he deposited the amount of P83,500.00 with Branch 39, with due notice to Lourdes. [29]

Lourdes filed her Answer with Counterclaim for Judicial Foreclosure of Real Estate Mortgage and Damages in Civil Case No. 25285. [30] She claimed that Ramon's deposit with Branch 39 was not enough to fully satisfy the loan in view of the 3% monthly interest attached to it. Ramon never paid interest since December of 1997. Thus, reckoned from December 1997, Ramon's debt already accumulated to P300,000.00 as of the filing of the complaint in 1998. Lourdes prayed that Lot 10031 be foreclosed to satisfy Ramon's indebtedness. Too, Ramon should pay her P500,000.00 as moral damages, P200,000.00 as exemplary damages, attorney's fees equivalent to 25% of the amount collectible in the counterclaim plus P50,000.00, and P15,000.00 as litigation expense. [31]

Merlinda also attached to the present petition a certified true copy of the following Partial Compromise Agreement [32] which according to Merlinda was jointly executed and signed by Ramon and Lourdes in Civil Case No. 25285, viz.:

PARTIAL COMPROMISE AGREEMENT FOR THE RELEASE OF COURT DEPOSIT

xxx xxx

- THE DEFENDANTS will accept the amount of [P]83,500.00 deposited by the plaintiff in court under Official Receipt No. 9043772 (photocopy of the receipt was attached as Annex "C" to the complaint)", subject and without prejudice to, all other defenses and allegations in their answer.
- PLAINTIFF ON the other hand (agrees) to the conditional acceptance of the defendants as stated in paragraph 1 above.
- CONSEQUENTLY, PARTIES jointly request the Honorable Court for an order releasing the same [P]83,500.00 deposit to the defendants, through defendant Lourdes Tan Chua.

WHEREFORE, the parties most respectfully and jointly pray that the foregoing partial compromise agreement be APPROVED. That, consequently, the Honorable Court issues an order ordering the Clerk of Court, Regional Trial Court, 6th Judicial Region, Iloilo City to RELEASE the amount of [P]83,500.00 court deposit, covered by Official Receipt No. 9043772 dated July 8, 1998 to defendants, through defendant Lourdes Tan Chua, upon the surrender of the original of the said official receipt and compliance with the usual procedure for the said release.

Iloilo City, March 15, 2001.

(signed) (signed)

RAMON CHIANG LOURDES TAN

CHUA and

Plaintiff EMILIO TAN CHUA

Defendants

xxx xxx[33]

In her Comment,[34] Lourdes and her counsel did not refute the existence, due execution, and contents of the Partial Compromise Agreement in Civil Case No. 25285. They simply reiterated that she had no knowledge of the defect in the title of Ramon over Lot 10031.

Meantime, Ramon had passed on, thus, he was substituted by his surviving heirs, his children. Despite the Court's directive, they did not file their comment on the petition. Consequently, they are deemed to have waived the right to do so.

Issues

(1)

Was Lourdes a mortgagee in good faith?

(2)

What are the respective rights of Merlinda as owner of the property and Lourdes as mortgagee thereof?

(3)

What is the effect of the failure of Lourdes and her counsel to promptly and candidly inform the Court about Civil Case No. 25285 and the material facts attendant thereto?

Our Ruling

Lourdes was a mortgagee in good faith

The Court has time and again ruled that the issue of whether a person is a mortgagee in good faith is factual, thus, outside the scope of Petition for Review on Certiorari.[35] Notably, both the RTC and the Court of Appeals found that Lourdes was a mortgagee in good faith, and for that matter, petitioner failed to adduce any special compelling reason to depart from this concurrent finding.

In *Cavite Development Bank v. Lim*,[36] the Court explained the doctrine of a mortgagee in good faith, viz.:

There is, however, a situation where, despite the fact that the mortgagor is not the owner of the mortgaged property, his title being fraudulent, the mortgage contract and any foreclosure sale arising therefrom are given effect by reason of public policy. This is the doctrine of "the mortgagee in good faith" based on the rule that all persons dealing with property covered by a Torrens Certificate of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title. The public interest in upholding the indefeasibility of a certificate of title, as evidence of the lawful ownership of the land or of any encumbrance thereon, protects a buyer or mortgagee who, in good faith, relied upon what appears on the face of the certificate of title.[37]

(Emphasis supplied.)

The recent case of *Jimenez v. Jimenez*[38] reiterated that the doctrine only applies when the following requisites concur, viz.: (a) the mortgagor is not the rightful owner of, or does not have valid title to, the property; (b) the mortgagor succeeded in obtaining a Torrens title over the property; (c) the mortgagor succeeded in mortgaging the property to another person; (d) the mortgagee relied on what appears on the title and there exists no facts and circumstances that would compel a reasonably cautious man to inquire into the status of the property; and (e) the mortgage contract was registered.

These requisites are all present here, thus, (a) in 1999, the Court decreed as void the Deed of Definite Sale dated December 17, 1975 where Ramon derived his title to Lot 10031;[39] (b) prior to this ruling, however, TCT No. T-86916 covering Lot 10031 had already been issued in the name of Ramon; (c) on June 25, 1996, Ramon mortgaged to Lourdes Lot 10031 covered by TCT No. T-86916 bearing his name as the registered owner as well as his civil status as "Single;" (d) Lourdes relied on Ramon's title and no circumstance was adduced which would have caused her to doubt its validity; and (e) she immediately caused the registration of the mortgage under Entry No. 656728 on the back of TCT No. T-86916.[40]

In *Claudio v. Spouses Saraza*,[41] the Court pronounced that one who enters into a mortgage contract with a mortgagor holding a certificate of title under his name over the property, is a mortgagee in good faith. For a mortgagee has the right to rely in good faith on the certificate of title of the mortgagor of the property given as security and has no obligation to undertake further investigation in the absence of any sign that might arouse suspicion.[42]

More, prior to the mortgage of Lot 10031 to Lourdes, Ramon had already mortgaged the same lot to DBP using the same TCT No. T-86916 under his name. As a banking institution, DBP is presumed to have conducted its due diligence prior to entering into any transaction involving real property with the general public. In *Prudential Bank v. Rapanot*,[43] the Court stressed that banks are expected to have exercised a higher degree of diligence than private individuals in dealing with registered lands, viz.:

It bears stressing that banks are required to exercise the highest degree of diligence in the conduct of their affairs. The Court explained this exacting requirement in the recent case of *Philippine National Bank v. Vila*, thus:

In *Land Bank of the Philippines v. Belle Corporation*, the Court exhorted banks to exercise the highest degree of diligence in its dealing with properties offered as securities for the loan obligation:

When the purchaser or the mortgagee is a bank, the rule on innocent purchasers or mortgagees for value is applied more strictly. Being in the business of extending loans secured by real estate mortgage, banks are presumed to be familiar with the rules on land registration. Since the banking business is impressed with public interest, they are expected to be more cautious, to exercise a higher degree of diligence, care and prudence, than private individuals in their dealings, even those involving registered lands. Banks may not simply rely on the face of the certificate of title. Hence, they cannot assume that, x x x the title offered as security is on its face free of any encumbrances or lien, they are relieved of the responsibility of taking further steps to verify the title and inspect the properties to be mortgaged. As expected, the ascertainment of the status or condition of a property offered to it as security for a loan must be a standard and indispensable part of the bank's operations.[44] x x x (Citations omitted)

Indeed, the fact that DBP had previously accepted Lot 10031 as security for the loan extended by the bank to Ramon speaks volumes of the reason Lourdes believed in the validity of his title when the lot covered thereby was subsequently mortgaged to her, also by Ramon. To repeat, there was no reason at all for Lourdes to suspect that she was not dealing with the true owner of the property. She had every right to rely on what appeared on the title

of the property.

As aptly observed by the Court of Appeals, the fact that Lourdes was a friend of both Merlinda and her first husband Nelson; and that Lourdes and Ramon's son were both members of the Lion's Club did not ipso facto mean that Lourdes knew of the defect in Ramon's title.

The real estate mortgage should be cancelled

True, we have ruled in several cases that a void title may be the source of a valid title in the hands of an innocent purchaser for value.[45] In *Spouses Bautista v. Spouses Jalandoni* (*Spouses Bautista*),[46] however, the Court clarified that where the true owner has not been found negligent or has not committed an act which could have brought about the issuance of another title relied upon by the purchaser or mortgagee for value, then the true innocent owner, whether still registered or deemed registered, has a better right over the mortgagee in good faith. For "the law protects and prefers the lawful holder of registered title over the transferee of a vendor bereft of any transmissible rights." [47]

In *Spouses Bautista*, the *Spouses Bautista* acquired fraudulent titles to the real properties of *Spouses Jalandoni* and had successfully mortgaged these properties to Manila Credit Corporation (MCC). The Court found MCC to be a mortgagee in good faith. But the Court also found that *Spouses Jalandoni* had not been negligent nor performed any act which had otherwise led MCC itself to rely on the validity of the impostors' titles. Consequently, the Court ruled that whatever rights MCC may have acquired over the real properties as a mortgagee-in-good-faith cannot prevail over the superior rights of *Spouses Jalandoni* as true owners thereof.[48]

Here, insofar as the issuance of TCT No. T-86916 is concerned, Merlinda was not shown to have directly or indirectly caused it through her fault or negligence. Nor was it shown that, in one way or another, she led Lourdes, a mortgagee in good faith, to believe in, let alone, rely on the said title. It did not matter that Merlinda had by then been eased out, or erased, as the lot's registered owner due to the fraud perpetrated on her by Ramon.

In the earlier case of *Modina*[49] which involved the same Deed of Definite Sale dated December 17, 1975 used by Ramon to cause five TCTs, including TCT No. T-86916 to be registered in his name, the Court sustained Merlinda's claim that Ramon employed fraudulent acts to obtain these Torrens titles over Merlinda's properties. Note that the case only involved four titles, TCT Nos. T-86912, T-86913, T-86914, T-86915, simply because Merlinda at that time was seeking to recover only the properties under these titles. It was only much later that she also sought to recover the property subject of the present case under TCT No. T-86916.

Even then, the ruling of the Court on the invalid Deed of Definite Sale dated December 17, 1975, which was the root of all evils that befell Merlinda; and the fact that no fault may be properly attributed to Merlinda in the issuance of the fraudulent titles nor in causing third parties to rely thereon, applies with equal force to the present case involving TCT No. T-86916, viz.: [50]

The Court of Appeals, on the other hand, adopted the following findings a quo: that there is no sufficient evidence establishing fault on the part of MERLINDA, and therefore, the principle of in pari delicto is inapplicable and the sale was void for want of consideration. In effect, MERLINDA can recover the lots sold by her husband to petitioner MODINA. x x x (Emphasis supplied)

Applying *Spouses Bautista* and *Modina* here, Merlinda's title over Lot 10031 should prevail over the right of Lourdes as a mortgagee in good faith. In other words, whatever right Lourdes may have acquired over Lot 10031 must yield to the superior right of Merlinda as the true owner thereof. For no one can acquire a better right than

what the transferor has.[51] To rule otherwise would be the height of injustice. For then, registered owners without the least fault on their part could be divested of their title and deprived of their property.[52]

As the Court aptly elucidated in *Baltazar v. Court of Appeals*,[53] "such disastrous results which would shake and destroy the stability of land titles had not been foreseen by those who had endowed with indefeasibility land titles issued under the Torrens system." [54] In fine, the appellate court correctly decreed the reinstatement of TCT No. T-57961 in the name of Nelson Plana, married to Merlinda Relano free from any lien or encumbrance in favor of Lourdes Tan Chua.

Merlinda is entitled to damages from the Estate of Ramon Chiang through his heirs

Moral damages are treated as compensation to alleviate physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury caused by the defendant's culpable action.[55] Exemplary damages, on the other hand, may be imposed by way of example or correction for the public good. They are "imposed not to enrich one party or impoverish another, but to serve as a deterrent against or as a negative incentive to curb socially deleterious actions." [56]

Meanwhile, Article 2208 of the Civil Code states the policy that should guide the courts when awarding attorney's fees to a litigant, viz.:

Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable. (Emphasis supplied)

As aptly found by the appellate court, Merlinda had long suffered from Ramon's fraudulent acts which resulted in the undue deprivation of her property. Though incapable of pecuniary estimation, we find reasonable the award of P100,000.00 as moral damages to be reasonable. We also affirm the award of P100,000.00 as exemplary damages

in favor of Merlinda. Lastly, since Merlinda was compelled to litigate to protect her interest, the award of P50,000.00 as attorney's fees is likewise affirmed. The total amount shall earn legal interest at six percent (6%) per annum in accordance with *Nacar v. Gallery Frames*.^[57]

Appropriate Remedy for Lourdes

Curiously, Lourdes has not claimed any relief from the trial court, nor from the appellate court, or even from this Court. She and her counsel simply maintain that she is a mortgagee in good faith.

Notably, Lourdes and her counsel do not deny the veracity of the material information brought to fore for the first time by Merlinda in this proceeding. This is with respect to the existence of Civil Case No. 25285 for accounting and damages filed by Ramon against Lourdes way back in 1998. The case involved the same loan subject of the present case. Lourdes and her counsel do not deny either that she filed an answer to the complaint admitting Ramon's payment, and her receipt of P46,500.00 out of the P130,000.00 loan amount. Nor do they deny that a deposit by way of consignation with RTC, Branch 39 was made by Ramon as payment for the remaining amount of P83,500.00 he still owed Lourdes. Most of all, they do not refute the genuineness and due execution of the Partial Compromise Agreement which Lourdes jointly signed with Ramon in that case.

By their silence, Lourdes and her counsel are considered to have admitted every piece of information Merlinda has revealed in her petition regarding Civil Case No. 25285. It is clear, therefore, that long before the present case arose in 2001, Ramon already paid Lourdes a substantial, if not full settlement of the loan. And after the lapse of twenty-four (24) years since it was filed in 2001, in all probability, the case already got terminated. But even in the remote possibility that the case is still alive, whatever remedy or remedies Lourdes may still be seeking relative to the loan and the mortgage were already brought into that case where she prayed for the following awards:

4.

By way of moral damages, the amount of P500,000.00.

5.

By way of exemplary damages, the amount of P500,000.00.

6.

By way of attorney's fees, the amount of 25% of the amount collectible in the counterclaim, plus P50,000.00 for the defense in the main case.

7.

By way of litigation expense, the amount of P15,000.00.^[58]

Obviously, Civil Case No. 25285 is the reason Lourdes has never asked for any affirmative relief in the present case. She already received a substantial, if not full satisfaction of the loan or that which rightfully belonged to her as mortgagee of Ramon. Verily, she has been amply protected and will still be even with the consequent cancellation of the mortgage. We, therefore, delete the award of damages decreed by the Court of Appeals in her favor.

Lourdes and her counsel must show cause why they should not be cited in contempt of court for failing to disclose material facts dispositive of this case

We express our collective disappointment with the cavalier attitude of Lourdes and her counsel in not disclosing facts that are material to the just resolution of the instant case. We reiterate that had the facts been adequately revealed, as Lourdes and her counsel are ethically obliged to do, the issue about how to deal fairly with Lourdes as a mortgagee would have already been expeditiously settled.

As stated, from the facts we have unearthed, Lourdes had already received a substantial, if not full satisfaction of the loan or that which was rightfully due her as a mortgagee of Ramon. Civil Case No. 25285 was the appropriate forum for her claims and this should have been disclosed by her. The deliberate withholding of the facts surrounding this civil case and the concomitant Partial Compromise Agreement nearly led to an award that did not rightfully benefit her. She would have been compensated twice for a single obligation to pay her.

For these reasons, we have no choice but to require Lourdes and her counsel to show cause why each of them should not be cited in contempt of court for failing to disclose material facts dispositive of her allegations before the Court. This measure should serve as warning as well to litigants and their counsel seeking relief before the Court to be always candid and forthright in pleading facts in all matters involving them. For a single lie could delay the speedy disposition of cases and bring the entire administration of justice to disrepute and embarrassment if not unwanted and unnecessary convolutions.

ACCORDINGLY, the Petition is PARTLY GRANTED. The Decision dated June 25, 2018 and Resolution dated October 16, 2019 of the Court of Appeals in CA-G.R. CEB-CV No. 04831 are AFFIRMED with MODIFICATION, thus:

- (1) TCT No. T-86916 issued in the name of Ramon Chiang is cancelled;
- (2) The annotation of the Real Estate Mortgage on the back of TCT No. T-86916 under Entry No. 656728 in favor of Lourdes Tan Chua is likewise cancelled;
- (3) TCT No. T-57961 issued in the name of Nelson Plana married to Merlinda Relano is reinstated;
- (4) The Estate of Ramon Chiang, through his heirs is ordered to pay Merlinda Plana the following amounts:
 - P100,000.00 as moral damages;
 - P100,000.00 as exemplary damages;
 - P50,000.00 as attorney's fees; and
 - six percent (6%) interest per annum on these amounts from finality of this Decision until fully paid.
- (5) Respondent Lourdes Tan Chua and her counsel are ordered to show cause within ten (10) non-extendible days from notice to show cause why they should not be cited in contempt of court for their deliberate withholding of material facts as above-mentioned and for delaying the speedy disposition of the present case and nearly bringing the administration of justice to disrepute.

SO ORDERED.

Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, and Marquez, JJ., concur.

Gesmundo, C.J., see separate opinion.

Leonen, SAJ. and Caguioa, J., see separate concurring opinion.

Hernando, [*] J., on leave.

Kho, Jr., J., with concurring and dissenting opinion.

Singh, J., joined the concurring opinion of Justice Caguioa.

[*] On leave.

[1] Rollo, pp. 23-41.

[2] Id. at 45-58. Penned by Associate Justice Geraldine Fiel-Macaraig and concurred in by Associate Justices Pamela Ann Abella Maxino and Louis P. Acosta.

[3] Id. at 78-82. Penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Gabriel T. Ingles and Dorothy P. Montejo-Gonzaga.

[4] Id. at 29. See Petition for Review on Certiorari.

[5] Id. at 29.

[6] Id. at 197-198.

[7] Id.

[8] 376 Phil. 44 (1999).

[9] Rollo, p. 29.

[10] Id. at 50-51.

[11] Id.

[12] Records, pp. 39-44.

[13] Id.

[14] Id.

[15] Rollo, pp. 181-182.

[16] CA rollo, pp. 61-67. Penned by Judge Edgardo R. Catilo.

[17] Id. at 67.

[18] Rollo, p. 51.

[19] Id. at 45-58.

[20] Id. at 52.

[21] Id. at 52-53.

[22] Id. at 53.

[23] *Torbela v. Spouses Rosario*, 678 Phil. 1, 45 (2011).

[24] Rollo, pp. 57-58.

[25] Id. at 78-82.

[26] Id. at 27-40.

[27] Id.

[28] Id. at 90-95.

[29] Id. at 90-92.

[30] Id. at 113-122.

[31] Id. at 116-120.

[32] Id. at 135-136.

[33] Id. at 135-136.

[34] Id. at 180-196.

[35] Ruiz v. Dimailig, 799 Phil. 273, 281 (2016); See also Claudio v. Spouses Saraza, 767 Phil. 857, 866 (2015), citing Arguelles v. Malarayat Rural Bank, Inc., 730 Phil. 226, 234 (2014).

[36] 381 Phil. 355 (2000).

[37] Id.

[38] G.R. No. 228011, February 10, 2021, citations omitted.

[39] Modina v. Court of Appeals, supra note 8.

[40] Rollo, p. 51.

[41] 767 Phil. 857, 867 (2015).

[42] Homeowners' Association of Talayan Village, Inc. v. JM Tuason & Co., 772 Phil. 556, 573 (2015). Also see Naawan Community Rural Bank, Inc. v. Court of Appeals, 443 Phil. 56, 66 (2003) and Republic of the Philippines v. Limbonhai and Sons, 800 Phil. 163, 179 (2016).

[43] 803 Phil. 294 (2017).

[44] Id. at 311-312.

[45] See Spouses Bautista v. Spouses Jalandoni, 722 Phil. 144, 158 (2013), citing Tan v. De la Vega, 519 Phil. 515, 529 (2006), PNB v. Court of Appeals, 265 Phil. 703, 708 (1990).

[46] Id. at 158-159.

[47] Id. at 159.

[48] Id. at 160.

[49] Modina v. Court of Appeals, supra note 8.

[50] Id. at 51.

[51] Id. at 160.

[52] Id. at 159.

[53] 250 Phil. 349 (1988).

[54] Id. at 361.

[55] Spouses Bautista v. Jalandoni, supra note 45 at 157.

[56] Id. at 158.

[57] 716 Phil. 267, 278-279 (2013).

[58] Id. at 118-120.

SEPARATE OPINION

GESMUNDO, C.J.:

The undersigned respectfully maintains his proposal to revisit the standing doctrines which award disputed lands to innocent mortgagees for value instead of true landowners.

Briefly, the facts of the case involve parcels of land covered by transfer certificates of title (TCTs) issued pursuant to a December 17, 1975 "Deed of Definite Sale" executed between Merlinda Plana (petitioner) and her then second husband Ramon Chiang (Ramon) which was subsequently declared void by this Court in *Modina v. Court of Appeals*[1] (*Modina*) by way of affirming the Court of Appeals and Regional Trial Court's respective Decisions. One of these parcels of land covered by the Deed of Definite Sale (under TCT No. T-86916), but was not among the subject properties in *Modina*, was mortgaged to a third person prior to such ruling of invalidation.

To be fair, the ponencia applied existing doctrines in upholding the validity of the subject mortgage. The reasons being that: (1) a mortgagee has a right to rely in good faith on the certificate of title of the mortgagor of the property given as security and has no obligation to undertake further investigation in the absence of any sign that might arouse suspicion;^[2] (2) prior to herein mortgage to the third person, the same subject parcel of land was previously mortgaged to the Development Bank of the Philippines (DBP) which "is presumed to have conducted its due diligence prior to entering any transaction involving real property with the general public;"^[3] (3) public policy requires that mortgage rights over lots emanating from a void sale should be maintained when the mortgagee was proven to have acted in good faith;^[4] and (4) a void title may become the root of a valid title if the derivative title was obtained in good faith and for value.^[5]

I respectfully disagree and, instead, propose for a thorough revisit of the doctrines relating to an innocent mortgagee's status of ownership.

I.

Nature of Certificates of Title

Essential to analyzing the rights of third persons under the Torrens System is a concise introspection into the nature of certificates of title themselves.

To begin with, a certificate of title is merely an evidence of ownership or title over the particular property described therein.^[6] It merely confirms or records title already existing and vested.^[7] As such, it cannot be used to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of others.^[8] Otherwise, the acceptability of the Torrens System would be impaired if it is utilized to perpetuate fraud against the real owners.^[9] This is also the reason why good faith must concur with registration because, otherwise, registration would be an exercise in futility.^[10] As a consequence, when the instrument presented is forged, even if accompanied by the owner's duplicate certificate of

title, the registered owner does not thereby lose his or her title, and neither does the assignee in the forged deed acquire any right or title to the property.[11] Furthermore, if the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee.[12]

II.

Mortgages and Third-Party Dealings of Land

As to the essential requisites of pledge and mortgage contracts, Article 2085 of the Civil Code provides:

Article 2085. The following requisites are essential to the contracts of pledge and mortgage:

(1)

That they be constituted to secure the fulfillment of a principal obligation;

(2)

That the pledger or mortgagor be the absolute owner of the thing pledged or mortgaged;

(3)

That the persons constituting the pledge or mortgage have the free disposal of their property, and in the absence thereof, that they be legally authorized for the purpose.

Third persons who are not parties to the principal obligation may secure the latter by pledging or mortgaging their own property.

From the aforecited provision, it is clear that for a person to validly constitute a valid mortgage on real estate, he or she must be the absolute owner thereof.[13] This is consistent with the legal maxim strongly moored in basic logic that that no one can transfer a right to another greater than what he or she himself or herself has — *nemo dat quod non habet*. [14] Rightly so because, like "the spring that cannot rise above its source," a void contract cannot create a valid and legally enforceable right.[15] In consequence, when there is no valid real estate mortgage, there could also be no valid foreclosure or valid auction sale, either.[16] Thus, a void title under a simulated deed of sale, for instance, cannot ripen into a valid title.[17]

Contrastingly, there has been a recognized exception recognized in the oft-cited case of *Torbela v. Spouses Rosario*, [18] even if the mortgagor is not the rightful owner of the mortgaged property, or does not have a valid title therein, the mortgagee in good faith is nonetheless entitled to protection. The doctrine of upholding the validity of a real estate mortgage despite the invalidity of the underlying principal contract if the mortgagee dealt with relied in good faith on the certificate of title of the mortgagor, is founded on reasons of public policy.[19] To be specific, such public policy is based on the principle that "all persons dealing with property covered by a Torrens Certificate of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title." [20] As such, the ordinary buyer will not be considered an innocent purchaser for value if there is anything on the certificate of title that arouses suspicion, and the buyer failed to inquire or take steps to ensure that there is no cloud on the title, right, or ownership of the property being sold.[21] This has been reiterated in the case of *Spouses Cusi v. Domingo*, [22] to supposedly strengthen the Torrens System.

III.

Violation of the Family Code on Proscription of Sale of Properties Between Spouses

In the present case, there is one crucial fact unrebutted by the parties which militates the application of statutory protections available to innocent mortgagees for value: petitioner Merlinda Plana and mortgagor Ramon Chiang were spouses who are prohibited by law to sell property to each other. Obviously, when the object is contrary to law, a contract is void.[23] This is shown in Art. 1490 of the Civil Code, the law governing the marriage of petitioner and mortgagor Ramon, which provides:

Article 1490. The husband and the wife cannot sell property to each other, except:

(1)

When a separation of property was agreed upon in the marriage settlements; or

(2)

When there has been a judicial separation of property under Article 191.

To have a meaningful appreciation of the aforementioned provision's effects, it should be read together with Art. 5 of the Civil Code which states:

Article 5. Acts executed against the provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity.

To date, there has been no law providing for any exception to Art. 1490 of the Civil Code other than those already appearing in the same provision — particularly those relating to innocent mortgagees who happen to deal with lands registered pursuant to deeds violating such provision. Even equitable considerations would not justify the Court to carve out additional exceptions to Art. 1490 as equity is applied only in the absence, never in contravention, of statutory law.[24] As stated earlier and as pointed by the ponencia, the Court in *Modina* had already declared void the December 17, 1975 Deed of Definite Sale for being simulated and for being devoid of consideration. The same ruling also highlighted that the principle of *in pari delicto non oritur actio* does not apply to a sale deemed as void or inexistent for violating Art. 1490 of the Civil Code. As such, the issue as to the validity of the December 17, 1975 Deed of Definite Sale cannot anymore be re-litigated in this case as it is one of those issues which had already been "actually and directly resolved" in *Modina* and, thus, barred under the *res judicata* principle of conclusiveness of judgment.[25]

In effect, since the December 17, 1975 Deed of Definite Sale is void for being entered into in violation of law, petitioner now has a right to file an action for reconveyance over the parcels of land covered under such spurious deed. Therefore, the inevitable question arises: What effect does petitioner's right (as the true owner to pursue an action for reconveyance) has on respondent Lourdes Tan Chua's (Lourdes) right as a supposed innocent mortgagee for value? To answer the question, it is first imperative to trace the origins of the doctrine which holds that innocent mortgagees for value are preferred over true landowners in disputes involving subsequent dealings of registered lands.

IV.

Jurisprudential Re-evaluation

The doctrine which holds that innocent mortgagees are also entitled to the protection accorded to "innocent purchasers for value" was first established in *Blanco v. Esquierdo*[26] where: (1) Section 38 of the Land Registration Act[27] extends the foregoing protection to innocent lessees, mortgagees, or other encumbrancer for value; and (2) it was held that the remedy of the persons prejudiced is to bring an action for damages against those causing the fraud, and if the latter are insolvent, an action against the Treasurer of the Philippines may be filed for the recovery of damages against the Assurance Fund. As to the first justification in *Blanco*, the same was replicated in Sec. 32 of the Property Registration Decree[28] (PRD) which reads:

Section 32. Review of decree of registration; Innocent purchaser for value. The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud. (Emphases supplied)

Relatedly, as to the subsequent dealings and registrations of lands already covered under existing certificates of title, Sec. 53 of the PRD provides:

Section 53. Presentation of owner's duplicate upon entry of new certificate. No voluntary instrument shall be registered by the Register of Deeds, unless the owner's duplicate certificate is presented with such instrument, except in cases expressly provided for in this Decree or upon order of the court, for cause shown.

The production of the owner's duplicate certificate, whenever any voluntary instrument is presented for registration, shall be conclusive authority from the registered owner to the Register of Deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him, in favor of every purchaser for value and in good faith.

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title. After the entry of the decree of registration on the original petition or application, any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void. (Emphases and italics supplied)

With the aforementioned provisions as guideposts, the following can be readily deduced:

- Sec. 32 of the PRD refers to "decrees" of registration which are issued as a result of an adjudication – not a purely administrative and ministerial – process relative to original certificates of title.

- Sec. 32 of the PRD protects innocent lessees, mortgagees, and other encumbrancers for value from the effects of wrongful registrations.
- Sec. 53 of the PRD renders null and void "subsequent" registrations procured by presentation of a forged deed or instrument.

At this point, the legal issue left to be resolved is: whether the protection in favor of innocent lessees, mortgagees, and other encumbrancers for value also extends to registrations procured by presentation of a forged deed or instrument.

The answer emphatically points to the negative.

Statutes are said to be in *pari materia* when they relate to the same person or thing, or to the same class of persons or things, or have the same purpose or object.[29] They should be read and construed together because enactments of the same legislature on the same subject are supposed to form part of one uniform system; later statutes are supplementary or complementary to the earlier enactments and, in the passage of its acts, the legislature is supposed to have in mind the existing legislations on the subject and to have enacted its new act with reference thereto.[30] Thus, statutes in *pari materia*, although in apparent conflict, are so far as reasonably possible construed to be in harmony with each other.[31] The same is also consistent with the reason why implied repeals are disfavored unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and the old laws.[32]

In this case, the protection in favor of innocent mortgagees for value accorded by Sec. 32 of the PRD appears to be incongruent with Art. 2085 of the Civil Code on the requisites for a valid mortgage. To resolve this conflict, there is a need to examine closely the phrase "whose rights may be prejudiced" in Sec. 32 of the PRD as it relates to innocent purchasers, lessees, mortgagees, and other encumbrancers for value and as opposed to an owner's right to enjoy and dispose of a thing under Art. 427 of the Civil Code.

There is an apparent prejudice of rights against an innocent mortgagee for value when foreclosure and eventual consolidation of title cannot be obtained despite fulfillment or occurrence of necessary conditions in a mortgage contract by reason of an adverse ruling affecting registration. However, such apparent prejudice is addressed by Sec. 95 of the PRD which reads:

Section 95. Action for compensation from funds. A person who, without negligence on his part, sustains loss or damage, or is deprived of land or any estate or interest therein in consequence of the bringing of the land under the operation of the Torrens system of arising after original registration of land, through fraud or in consequence of any error, omission, mistake or misdescription in any certificate of title or in any entry or memorandum in the registration book, and who by the provisions of this Decree is barred or otherwise precluded under the provision of any law from bringing an action for the recovery of such land or the estate or interest therein, may bring an action in any court of competent jurisdiction for the recovery of damages to be paid out of the Assurance Fund. (Emphases supplied)

Under the aforementioned provision, the following conditions which must be met, before compensation out of the Assurance Fund may be paid to those prejudiced by the consequence of bringing a land under the operation of the Torrens system, had been deduced in *Register of Deeds of Negros Occidental v. Anglo, Sr.*[33] as follows:

- The individual must sustain loss or damage, or the individual is deprived of land or any estate or interest.
- The individual must not be negligent.
- The loss, damage, or deprivation is the consequence of either: (a) fraudulent registration under the Torrens system after the land's original registration; or (b) any error, omission, mistake, or misdescription in any

certificate of title or in any entry or memorandum in the registration book.

- The individual must be barred or otherwise precluded under the provision of any law from bringing an action for the recovery of such land or the estate or interest therein.[34]

Among these conditions, the last one presents a question on who between the true landowner and the innocent mortgagee for value can bring an action under the law to recover the land lost as consequence of bringing such under the operation of the Torrens system.

As between a true owner and an innocent mortgagee for value, it is the true owner who has the recognized right under Art. 428 of the Civil Code to file an action for recovery. This means that the true owner cannot claim against the Assurance Fund as he or she is not "barred or otherwise precluded under the provision of any law from bringing an action for the recovery of such land or the estate or interest therein." For this purpose, a true owner may file an action for reconveyance which is one of those actions that fall under the classification of cases that involve "title to, or possession of, real property, or any interest therein." [35]

In comparison, an innocent mortgagee for value has no recognized right in either the Civil Code or the PRD to initiate an action for reconveyance in case his or her right to have the property subject of the mortgage contract foreclosed and eventually consolidated under his or her title. All that Secs. 32 and 53 of the PRD assure is that the rights of innocent mortgagees for value may not be "prejudiced" as regards any adverse consequences of registration. As such, a reasonable interpretation of the phrase "whose rights may be prejudiced" in Sec. 32 of the PRD should be to allow innocent mortgagees for value to claim against the Assurance Fund as they are effectively "barred or otherwise precluded under the provision of any law from bringing an action for the recovery" due to the lack of an express statutory grant of any right to file an action for reconveyance. All told, as between a true land owner and an innocent mortgagee for value, it is the latter who cannot file an action for reconveyance due to the absence of a statute recognizing such remedy and, thus, is entitled to recover from the Assurance Fund — not as against the subject realty.

In other words, such "prejudice" contemplated in Secs. 32 and 53 of the PRD should not operate to forfeit the true owner's rights to recover the property thru an action for reconveyance — especially if the underlying basis is the nullity of the deed effecting the assailed prior conveyance. These provisions do not operate to shift the burden to and to reclassify the true owners as the ones burdened under Sec. 95 of the PRD to file another action in order to claim against the Assurance Fund. Such right belongs to innocent mortgagees for value so as not to prejudice their rights adversely affected by the effects of registration.

Besides, as previously discussed, a certificate of title is merely evidence of ownership over the property described therein. Even if Sec. 32 of the PRD makes a judicial decree of registration along with the resultant issuance of a certificate of title "incontrovertible" after the lapse of one year of such decree, the same does not mean that the title or ownership itself is also unassailable. What is "incontrovertible" under Sec. 32 of the PRD is merely the "certificate" and not the title itself. Registering a piece of land under the Torrens System does not create or vest title as it is simply not a mode of acquiring ownership.[36] Such process of confirming title presupposes that the same must still be in good faith and must not be a result of fraud to prevent the rights of true owners, as well as innocent purchasers and mortgagees for value, from being prejudiced. Therefore, as a necessary consequence of a faulty and invalid registration, a true owner is not foreclosed from pursuing other statutory remedies to recover title to the land in an appropriate proceeding.

In sum and for the reasons above, it is the burden of the innocent mortgagee for value, instead of the true landowner and on the assumption that no other feasible statutory remedy is available, to claim against the Assurance Fund.

V.

Reassessment of the Torrens System Principle in View of the Indefeasibility Principle

As pointed out in the immediately preceding discussions, the reason as regards "strengthening" the Torrens System by not requiring one to "go behind the certificate of title"[37] is not enough to potentially deprive thru foreclosure an innocent landowner of his or her ownership rights over a piece of land. This would be the height of injustice as a true owner should be fully protected of his, her or its rights under the law against fraudulent schemes. Such practice would give an unwarranted premium to those who dispose of another's property without the latter's knowledge and/or consent (either thru express authorization or otherwise). More importantly, such doctrine is inconsistent with Art. 1378 of the Civil Code which states in part that "[i]f the contract is onerous, the doubt shall be settled in favor of the greatest reciprocity of interests." To allow the mortgagee in good faith the possibility of foreclosing a piece of land mortgaged by one who is not a landowner would not even result in a "reciprocity of interest" in favor of the actual landowner. In other words, the doctrine of favoring mortgagees in good faith — as to the award of ownership and possession — to strengthen the Torrens System goes against Art. 1378 of the Civil Code if the protection accorded to innocent mortgagees for value would be extended to registrations procured by presentation of a forged deed or instrument.

While it is true that the party injured without fault may claim against the erring party or the Assurance Fund, ruling in favor of the innocent third person who dealt with the land covered under a defective title instead of the true owner provides for an avenue of fraudulent schemes, limited only by imagination, to flourish. This is not consistent with the purpose for which the Torrens System was designed by law.

Therefore, it is respectfully proposed instead that the remedy of a mortgagee in good faith is to claim damages against the mortgagor for being the proximate cause of the legal injury suffered by the former. In case of the mortgagor's insolvency, then the innocent mortgagee's remedy would be to file an action against the Assurance Fund contemplated in Sec. 96 of the PRD. A true landowner should never be burdened with the problem of having to sue a mortgagor for damages and enduring an intangible emotional scar for having lost a real property through fraudulent acts. After all, the proximate cause of the mortgagee in good faith's legal injury was the mortgagor — not the landowner.

VI.

Relevance of DBP's Failure to Exercise Due Diligence

Evidence is the means, sanctioned by these rules, of ascertaining in a judicial proceeding the truth respecting a matter of fact.[38] To be admissible as evidence, proof adduced must comply with two qualifications: (1) relevance; and (2) competence.[39] Evidence is relevant if it has a relation to the fact in issue as to induce a belief in its existence or nonexistence.[40] Hence, a proponent must show the relevancy, materiality and competency of the proof adduced to qualify as evidence.[41]

In this case, the respondent-mortgagee cannot use DBP's non-exercise of due diligence to prove (or, at the very least, form a presumption) that mortgagor Ramon's representation as landowner is not irregular. This is irrelevant to prove that respondent-mortgagee Lourdes had no knowledge that the subject land was previously owned by petitioner-landowner Merlinda Plana and her late husband Nelson Plana. DBP's omission is independent of

Lourdes' ability to perceive any anomaly that her transaction with Ramon may reveal. As such, it is not capable of inducing a belief, at least on the part of the courts, of Ramon's ostensibly valid representation.

Besides, is there a showing that the respondent-mortgagee Lourdes had no knowledge of the previous ownership of the land considering that she and Nelson Plana (as well as by petitioner's son) are Chinese members of the Lion's Club? This circumstance cannot just be lightly brushed aside considering that membership in associations like the Lion's Club are usually founded on securing networks or connections in the business community in support of their collective civic works or charitable pursuits. Moreover, Lourdes should have been alarmed under the circumstances as Ramon's status on the face of the subject certificate of title involving the 5[th] lot is written as "single"[42] instead of married. Even the ponencia observed that both petitioner and mortgagor Ramon had only separated in fact;^[43] which means that they continued to be married to each other at the time of the mortgage. Since respondent Lourdes is not a mere acquaintance of mortgagor Ramon and his family, she cannot claim good faith in not investigating further despite irregularity of the mortgagor and purported landowner's status. Such countervailing facts make DBP's non-exercise of due diligence all the more irrelevant as it pertains to the supposed regularity of Ramon's representation.

VII.

Conclusion

The purpose of adopting the Torrens System in our jurisdiction is to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.^[44] This is to avoid any possible conflicts of title that may arise by giving the public the right to rely upon the face of the Torrens title and dispense with the need of inquiring further as to the ownership of the property.^[45] Another equally compelling purpose of the law is that, once a title is registered, the owner may rest secure — without the necessity of waiting in the portals of the court, or sitting in the "mirador de su casa" — to avoid the possibility of losing his or her land.^[46]

As applied in this case, a foreclosure — being a mere consequence — cannot be considered valid if the mortgage contract itself is void. In turn, a void foreclosure cannot effectively transfer the ownership of land from the owner of such mortgaged realty to the mortgagee, even if the latter dealt in good faith.

As incisively pointed out by Justice Alfredo Benjamin S. Caguioa's Separate Concurring Opinion in *Spouses Stilianopoulos v. Register of Deeds for Legaspi City*,^[47] failure to comply with the registration requirements averts the registration process and prevents the underlying transaction from affecting the land subject of the registration. Rightly so because a void or inexistent contract is one which has no force and effect from the very beginning.^[48] Void documents cannot be the source of rights and must be treated as mere scraps of paper.^[49] In effect, an innocent mortgagee for value cannot have a better right over a true landowner as he or she merely steps into the shoes of the mortgagor. This is because registration does not give the registrant a better right than what the registrant had prior to the registration.^[50]

As between persons adjudged with finality to be true and rightful owners of land and innocent mortgagees for value, the scales of justice should be tilted in favor of the former if the Torrens System is to stand the test of time against those who hack into the system and use it to perpetrate their devious schemes to the prejudice of innocent landowners. An interpretation shifting the burden of claiming against the Assurance Fund from true landowners to innocent mortgagees for value does not mean that the latter will be prejudiced with finality as they still have the

right to be compensated. The same interpretation is also meant to put a stop to fraudulent and ingenious land-grabbing schemes perpetrated by persons who mortgage lands belonging to another to third persons who may pose as innocent mortgagees for value.

Most importantly, a title cannot be considered "indefeasible" if it can be easily defeated by the registration of a spurious deed with the effect of transferring ownership from one to another who claims to be an innocent party in the entire land dealing. As such, there is a need to reinforce the strength of the Torrens System by upholding the true landowner's rights above those of third person's even if the latter is eventually be adjudged innocent. Strengthening the Torrens System's stability ensures that property rights are adequately protected and will eventually reduce land-related disputes. In this regard, the undersigned is of the view that there is a need for the Court to revisit its doctrines pertaining to the conflicting rights of true landowners and innocent mortgagees for value.

WHEREFORE, I vote for the Court to declare that, as between the true owner and the innocent mortgagee for value, it is the innocent mortgagee for value which should be burdened to claim from the Assurance Fund instead of the true owner for the reasons stated above.

[1] 376 Phil. 44 (1999) [Per J. Purisima, Third Division].

[2] Ponencia, p. 7, citing Homeowners Association of Talayan Village, Inc. v. JM Tuason & Co., Inc., 772 Phil. 556 (2015) [Per J. Perez, First Division]; see also Republic v. Limbonhai and Sons, 800 Phil. 163 (2016) [Per J. Peralta, Third Division]; Naawan Community Rural Bank, Inc. v. Court of Appeals, 443 Phil. 56 (2003) [Per J. Corona, Third Division].

[3] Id. at 7-8.

[4] Id. at 7, citing Cavite Development Bank v. Lim, 381 Phil. 355 (2000) [Per J. Mendoza, Second Division].

[5] Id. at 8, citing Spouses Bautista v. Spouses Jalandoni, 722 Phil. 144 (2013) [Per J. Mendoza, Third Division].

[6] Dy v. Aldea, 816 Phil. 657, 672 (2017) [Per J. Mendoza, Second Division].

[7] Spouses Yu v. Ayala Land, Inc., 851 Phil. 421, 442 (2019) [Per J. Peralta, Special Second Division].

[8] Hortizuela v. Tagufa, 754 Phil. 499, 508 (2015) [Per J. Mendoza, Second Division].

[9] Heirs of Clemente Ermac v. Heirs of Vicente Ermac, 451 Phil. 368, 376-377 (2003) [Per J. Panganiban, Third Division].

[10] Heirs of Arao v. Heirs of Eclipse, 843 Phil. 391, 404 (2018) [Per J. J. Reyes, Jr., Third Division].

[11] Dizon v. Beltran, 803 Phil. 608, 627 (2017) [Per J. Reyes, Third Division].

[12] Spouses Reyes v. Montemayor, 614 Phil. 256, 275 (2009) [Per J. Chico-Nazario, Third Division].

[13] Lagrosa v. Court of Appeals, 371 Phil. 225, 236 (1999) [Per J. Gonzaga-Reyes, Third Division].

[14] Development Bank of the Philippines v. Prudential Bank, 512 Phil. 267, 278 (2005) [Per J. Corona, Third Division].

[15] Mactan-Cebu International Airport Authority v. Unchuan, 786 Phil. 23, 33 (2016) [Per J. Mendoza, Second Division].

[16] Cruz v. Bancom Finance Corporation (now Union Bank of the Philippines), 429 Phil. 225, 244 (2002) [Per J.

Panganiban, Third Division].

[17] See *Spouses Velasquez v. Court of Appeals*, 399 Phil. 193, 203 (2000) [Per J. Gonzaga-Reyes, Third Division].

[18] 678 Phil. 1 (2011) [Per J. Leonardo-De Castro, First Division].

[19] *Id.* at 45.

[20] *Id.*

[21] *Heirs of Lopez v. Development Bank of the Philippines*, 747 Phil. 427, 440 (2014) [Per J. Leonen, Second Division].

[22] 705 Phil. 255 (2013) [Per J. Bersamin, First Division].

[23] Article 1409(1) of the Civil Code.

[24] *Agra v. Philippine National Bank*, 368 Phil. 829, 844 (1999) [Per J. Panganiban, Third Division].

[25] Cf. *Ley Construction and Development Corporation v. Philippine Commercial International Bank*, 635 Phil. 503, 511 (2010) [Per J. Leonardo-De Castro, First Division].

[26] 110 Phil. 494, 497-498 (1960) [Per J. Gutierrez David].

[27] Act No. 496 (November 6, 1902).

[28] Presidential Decree No. 1529 (June 11, 1978).

[29] *Philippine Global Communications, Inc. v. Relova*, 229 Phil. 388, 396 (1986) [Per J. Feria, En Banc].

[30] *Tan Co v. Civil Register of Manila*, 467 Phil. 904, 913 (2004) [Per J. Callejo, Sr., En Banc].

[31] *Gayo v. Verceles*, 492 Phil. 592, 603 (2005) [Per J. Callejo, Sr., Second Division].

[32] See *Javier v. Commission on Elections*, 777 Phil. 700, 725 (2016) [Per J. Brion, En Banc].

[33] 765 Phil. 714 (2015) [Per J. Leonen, Second Division].

[34] *Id.* at 736.

[35] *Heirs of Concha, Sr. v. Spouses Lumocso*, 564 Phil. 580, 596 (2007) [Per C.J. Puno, First Division].

[36] *Heirs of Dela Cruz v. Court of Appeals*, 358 Phil. 652, 660 (1998) [Per J. Romero, Third Division].

[37] See *Spouses Cusi v. Domingo*, *supra* note 22, at 267.

[38] RULES OF COURT, Rule 128, Sec. 1.

[39] *Gumabon v. Philippine National Bank*, 791 Phil. 101, 118 (2016) [Per J. Brion, Second Division].

[40] *Id.*, citing RULES OF COURT, Rule 128, Sec. 4.

[41] See *Catuiria v. Court of Appeals*, 306 Phil. 424, 426 (1994) [Per J. Bellosillo, Third Division].

[42] As found in *Modina v. Court of Appeals*, *supra* note 1, at 53.

[43] Ponencia, p. 2.

[44] *Cagatao v. Almonte*, 719 Phil. 241, 253 (2013) [Per J. Mendoza, Third Division].

[45] *Casimiro Development Corporation v. Mateo*, 670 Phil. 311, 323 (2011) [Per J. Bersamin, First Division].

[46] *Legarda v. Saleeby*, 31 Phil. 590, 593 (1915) [Per J. Johnson].

[47] 835 Phil. 351 (2018) [Per J. Perlas-Bernabe, En Banc].

[48] *Francisco v. Herrera*, 440 Phil. 814, 849 (2002) [Per J. Quisumbing, Second Division].

[49] *Fullido v. Grilli*, 781 Phil. 840, 857 (2016) [Per J. Mendoza, Second Division].

[50] *Chavez v. Public Estates Authority*, 433 Phil. 506, 581-582 (2002) [Per J. Carpio, En Banc].

SEPARATE CONCURRING OPINION

LEONEN, J.:

Through a fraudulent deed of definite sale, Ramon Chiang (Ramon) successfully transferred to himself the titles to five lots owned by Merlinda Relano (Merlinda) and her late husband Nelson Plana (Nelson). Ramon later sold four of the lots to one Serafin Modina (Serafin), while the fifth lot—Lot 10031, covered by Transfer Certificate of Title (TCT) No. T-86916—was mortgaged to Lourdes Chua (Lourdes) in 1996.[1] In 1999, this Court, in *Modina v. Court of Appeals*,^[2] declared the deed of definite sale and the subsequent sale of the four lots to Serafin void.

In 2000, Merlinda filed an action for reconveyance to recover Lot 10031 from Ramon and Lourdes.^[3] After due proceedings, the Regional Trial Court: (1) declared void the sale of Lot 10031 to Ramon and its subsequent mortgage to Lourdes; (2) ordered the cancellation of TCT No. T-86916 and the annotation of the mortgage; (3) reinstated TCT No. T-57961 in the name of Nelson and Merlinda; and (4) ordered Ramon to pay Merlinda moral and exemplary damages and attorney's fees.^[4]

Lourdes appealed, insisting that the mortgage was valid because she was a mortgagee in good faith.^[5]

The Court of Appeals affirmed the Regional Trial Court's Decision with modification. Holding that Lourdes was a mortgagee in good faith, making the mortgage valid, it ordered the annotation of the mortgage on TCT No. T-57961.^[6]

Agreeing in part with the Court of Appeals, the ponencia held that Lourdes was a mortgagee in good faith because "no circumstance was adduced which would have caused her to doubt [the] validity"^[7] of Ramon's title. Moreover, since Ramon had previously mortgaged the same property to a bank, which accepted the property as collateral, it found that Lourdes could not be faulted for relying on Ramon's title.^[8]

Nonetheless, the ponencia held that Lourdes's mortgage over the property should be canceled, because the right of a mortgagee in good faith cannot prevail over that of the true innocent owner of the property. As Ramon's title had previously been declared with finality to be void, Lourdes could not have acquired a better right.^[9]

I concur in the result.

Indeed, the right of a mortgagee in good faith cannot prevail over the right of the true owner who had no participation or contribution, either by fault or by negligence, in the transfer certificate of title relied on by the mortgagee. In *Spouses Bautista v. Spouses Jalandoni*:^[10]

Where the owner, however, could not be charged with negligence in the keeping of its duplicate certificates of title or with any act which could have brought about the issuance of another title relied upon by the purchaser or mortgagee for value, then the innocent registered owner has a better right over the mortgagee in good faith.

For "the law protects and prefers the lawful holder of registered title over the transferee of a vendor bereft of any transmissible rights."

In the case of *C.N. Hodges v. Dy Buncio & Co., Inc.*, which was relied upon by the Court in the cases of *Baltazar v. Court of Appeals*, *Torres v. Court of Appeals*, and in the more recent case of *Sanchez v. Quinio*, the Court held that:

The claim of indefeasibility of the petitioner's title under the Torrens land title system would be correct if previous valid title to the same parcel of land did not exist. The respondent had a valid title ... It never parted with it; it never handed or delivered to anyone its owner's duplicate of the transfer certificate of title; it could not be charged with negligence in the keeping of its duplicate certificate of title or with any act which could have brought about the issuance of another certificate upon which a purchaser in good faith and for value could rely. If the petitioner's contention as to indefeasibility of his title should be upheld, then registered owners without the least fault on their part could be divested or their title and deprived of their property. Such disastrous results which would shake and destroy the stability of land titles had not been foreseen by those who had endowed with indefeasibility land titles issued under the Torrens system.

Thus, in the case of *Tomas v. Philippine National Bank*, the Court stated that:

We, indeed, find more weight and vigor in a doctrine which recognizes a better right for the innocent original registered owner who obtained his certificate of title through perfectly legal and regular proceedings, than one who obtains his certificate from a totally void one, as to prevail over judicial pronouncements to the effect that one dealing with a registered land, such as a purchaser, is under no obligation to look beyond the certificate of title of the vendor, for in the latter case, good faith has yet to be established by the vendee or transferee, being the most essential condition, coupled with valuable consideration, to entitle him to respect for his newly acquired title even as against the holder of an earlier and perfectly valid title.[11] (Citations omitted)

Spouses Bautista similarly involved properties mortgaged by persons who acquired titles to them through an agent purportedly acting for the true owners. This Court found the deed of sale void because the agent was clearly unauthorized. As to who has a better right over the property, this Court concluded that whatever rights the mortgagee in good faith must yield to the superior rights of the true owners, as no one can acquire a better right than what the transferor has.[12]

However, I disagree with the ponencia's finding that respondent Lourdes was a mortgagee in good faith.

While a mortgagee dealing with registered land is not required to inquire further than what the Torrens certificate of title indicates on its face,[13] a mortgagee cannot close their eyes on known circumstances that should put a reasonably cautious person on guard.[14] In *Spouses Domingo v. Reed*: [15]

The honesty of intention that constitutes good faith implies freedom from knowledge or circumstances that ought to put a prudent person on inquiry. Good faith consists in the belief of the possessors that the persons from whom they received the thing are its rightful owners who could convey their title. Good faith, while always presumed in the absence of proof to the contrary, requires this well-founded belief.[16] (Citation omitted)

When a prospective mortgagee is faced with circumstances that would arouse their suspicion, they must take precautionary steps, if they are to qualify as a mortgagee in good faith:

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

with the measure of precaution which may be required of a prudent man in a like situation ...[17] (citations omitted)

"The status of a mortgagee in good faith is never presumed but must be proved by the person invoking it." [18]

Here, respondent Lourdes's claim that she acted in good faith fails to persuade given the circumstances surrounding the mortgage. As petitioner Merlinda alleged, respondent Lourdes was aware of the Modina ruling, where this Court declared void the deed of definite sale through which Ramon acquired title over Merlinda and Nelson's properties.[19] Even though Lot 10031 was never mentioned in Modina, as Lourdes claims, she should have been alerted as to probe further on Ramon's title and right over the mortgaged property. She had the means as she was acquainted with Nelson and Merlinda. Had she done so, she would have discovered Ramon's anomalous title.

Moreover, respondent Lourdes was co-member with Ramon's son in the Lion's Club,[20] even as Ramon's title indicates his civil status as single.[21] This should have prompted her to inquire further or at least confer with Ramon's son, since one's civil status has bearing on their capacity to dispose of or mortgage property.

For failing to investigate despite knowing circumstances that would cause suspicion, respondent Lourdes was negligent in protecting her interests. She deliberately closed her eyes on facts that should have put a reasonable person on guard. In *Dadis v. Spouses De Guzman*, [22] this Court held that "[a] person who deliberately ignores a significant fact that could create suspicion in an otherwise reasonable person is not an innocent mortgagee for value." [23]

Hence, respondent Lourdes was not a mortgagee in good faith. The Court of Appeals, therefore, erred in ordering the annotation of Lourdes's mortgage on Nelson and Merlinda's title.

It also appears that respondent Lourdes has already been fully paid the PHP 130,000.00 loan secured by the mortgage. In Civil Case No. 25285, an action for accounting and damages that Ramon filed against her in 1998, the remaining balance of PHP 83,500.00 was already released to her as per their partial compromise.[24] She did not disclose this fact. Neither did she disclose the pendency of Civil Case No. 25285 all throughout the lower court proceedings.

I therefore concur in the ponencia directing respondent Lourdes and her counsel to show cause why they should not be cited in contempt of court for not disclosing the pendency of Civil Case No. 25285, which was material and relevant in the speedy disposition of this case.

ACCORDINGLY, I vote to GRANT the Petition.

[1] Ponencia, pp. 2-3.

[2] 376 Phil 44 (1999) [Per J. Purisima, Third Division].

[3] Ponencia, p. 2.

[4] Id. at 3-4.

[5] Id. at 4.

[6] Id.

[7] Id. at 7-8.

[8] Id. at 8.

[9] Id. at 10.

[10] 722 Phil. 144 (2013) [Per J. Mendoza, Third Division].

[11] Id. at 158-160.

[12] Id. at 160.

[13] Claudio v. Spouses Saraza, 767 Phil. 857, 867 (2015) [Per J. Mendoza, Second Division].

[14] Id. at 869.

[15] 513 Phil. 339 (2005) [Per J. Panganiban, Third Division].

[16] Id. at 353.

[17] Crisostomo v. Court of Appeals, 274 Phil. 1134 (1991) [Per J. Paras, Second Division].

[18] Dadis v. Spouses De Guzman, 810 Phil. 749, 762 (2017) [Per J. Peralta, Second Division].

[19] Ponencia, p. 3.

[20] Id. at 10.

[21] Id. at 7.

[22] 810 Phil. 749 (2017) [Per J. Peralta, Second Division].

[23] Id. at 764.

[24] Ponencia, p. 12.

SEPARATE CONCURRING OPINION

CAGUIOA, J.:

I concur insofar as the ponencia rules against the mortgagee Lourdes Tan Chua (Lourdes) — but not for the reasons set out in the ponencia.

I submit this Separate Concurring Opinion to stress that, as formulated and articulated during the discussions of the Court En Banc, even as a mortgagee is found to have been in good faith, such mortgagee's rights cannot trump the rights of the registered owner of the property who had been defrauded. In other words, the rights of the registered owner take precedence over the rights of a mortgagee in good faith precisely because he or she is the registered owner — and the registered land owner's rights give way to a mortgagee in good faith only when such registered land owner is guilty of any negligence that gave rise to the issue of ownership or possession in the first place.

I submit that this case has given the Court the appropriate opportunity to revisit the prevailing interpretation of the innocent purchaser for value (IPV) principle and its derivatives (i.e., mortgagees, encumbrancers, and other holders in good faith).

I therefore concur in the ponencia which now clarifies the rule in determining the issues between a registered owner of the land and one who claims to be an IPV of the same.

As applied to the case at bar, I specifically submit that:

Foremost, under the facts of the case, as viewed by prevailing jurisprudence, Lourdes cannot be considered a mortgagee in good faith. As will be detailed herein, the records show that Lourdes failed to comply with the standards which holders must observe to be able to rely on the Torrens certificate covering the lot in dispute. Lourdes did not make any effort to ascertain whether the mortgagor, Ramon Chiang (Ramon), was in actual possession of the mortgaged lot at the time the mortgage in question was constituted. This circumstance is aggravated by the fact that Lourdes could have easily ascertained the validity of Ramon's title as well as his civil status if only she had chosen to consult her son who, by her own admission, was close to Ramon. Simply put, the circumstances surrounding the execution of the mortgage were replete with signs that should have aroused Lourdes' suspicion and should have impelled her to conduct further inquiry. That Lourdes chose to enter into the mortgage without further investigation precludes her, following prevailing jurisprudence, from invoking good faith based on a reliance on Ramon's Torrens certificate.

Second and more significantly, I agree with the point raised during the deliberations that this case does offer the Court a good opportunity to revisit the prevailing interpretation of the IPV principle and its derivatives (i.e., mortgagees, encumbrancers, and other holders in good faith). The current iteration of these principles, which treat a void title as a source of a valid title in the hands of a holder in good faith at all times, is diametrically opposed and contrary to the overarching principle which uniquely governs the Philippine Torrens system — that registration neither operates to confirm nor convey ownership and other real rights which do not in fact exist. This overarching principle must apply — as it does here — because of the general rule that after the expiration of the one-year period following registration, or the point at which the original registrant's Torrens certificate becomes incontrovertible, the concept of IPV no longer applies. Consequently, after the expiration of the one-year period after registration, i.e., after the Torrens certificate becomes incontrovertible, the IPV rule (which recognizes that a void title can be a source of a valid title in the hands of an innocent holder) arises only from an application of estoppel and equity that prevents the registered owner from asserting his or her rights.

Based on a review of the records, the following are the pertinent facts at hand:

This Petition for Review on Certiorari stems from a complaint for reconveyance (Reconveyance Complaint) filed by petitioner Merlinda Plana (Merlinda) against Lourdes and Ramon before Branch 23, Regional Trial Court (RTC) of Iloilo City (Iloilo RTC Br. 23), docketed as Civil Case No. 00-26387.[1]

The subject of the Reconveyance Complaint is a specific parcel of land denominated as Lot No. 10031.

Lot No. 10031 was previously registered under Transfer Certificate of Title (TCT) No. T-57961 issued in the name of Nelson Plana (Nelson), Merlinda's first husband. Nelson died in 1971.[2]

On March 17, 1975, Merlinda married Ramon.[3] On December 17, 1975, Ramon made Merlinda sign a Deed of Definite Sale (DDS) under which it was made to appear that Merlinda sold in favor of Ramon five parcels of land which were registered in the name of Nelson. Among these five parcels is Lot No. 10031.

Through said DDS, Ramon caused the issuance of TCT No. T-86916 over Lot 10031 in his name. Consequently, Nelson's TCT No. T-57961 was cancelled.[4]

In 1979, Merlinda and Ramon separated in fact.[5]

Subsequently, Ramon executed two deeds of sale dated August 3, 1979 and August 24, 1979 in favor of one Serafin Modina involving the remaining four parcels of land covered by the DDS.[6] Serafin Modina later discovered that these four parcels were previously sold to third parties by order of the then Court of First Instance

of Iloilo in the proceeding for the settlement of Nelson's estate.[7] This prompted Serafin Modina to file a complaint for recovery of possession with damages against said third parties.[8]

On January 25, 1996, while Serafin Modina's complaint was pending, Ramon constituted a mortgage (subject mortgage) over Lot 10031 in favor of Lourdes to secure a loan amounting to P130,000.00. The subject mortgage was annotated on the back of Ramon's TCT No. T-86916 as Entry No. 656728.[9]

Meanwhile, Serafin Modina's complaint made its way to this Court through a Petition for Review on Certiorari titled *Modina v. Court of Appeals*[10] (Modina) and docketed as G.R. No. 109355. On October 29, 1999, the Court issued a Decision therein declaring the DDS void and inexistent, primarily for being simulated and lacking in consideration.[11] The Court also noted that while the lower courts also found the DDS to be void for violating the prohibition against sales between spouses,[12] the Court treated this ground as a "surplusage" since it was not raised by the parties below.[13]

On August 25, 2000, Merlinda filed the Reconveyance Complaint before Iloilo RTC Br. 23. Therein, Merlinda argued, among others, that Lourdes cannot be deemed a mortgagee in good faith since she was aware that Ramon was not the real owner of Lot No. 10031 at the time the subject mortgage was executed.

On November 12, 2012, Iloilo RTC Br. 23 issued a Decision, the dispositive portion of which reads:

PREMISES CONSIDERED, Judgment is hereby rendered as follows:

- The [s]ale of Lot No. 10031 covered by [TCT] No. T-57961 on December 17, 1975 in favor of [Ramon] is hereby declared null and void;
- The [subject mortgage] of Lot No. 10031 secured by [TCT] No. T-86916 on January 25, 1996, in favor of [Lourdes] is also declared null and void;
- [TCT] No. T-86916 issued to [Ramon], pursuant to the [DDS] dated December 17, 1975, which was declared null and void, is hereby ordered cancelled;
- [TCT] No. T-57961 in the name of [Nelson] married to [Merlinda] is hereby reinstated and declared to be valid and subsisting;
- Entry No. 656728-Real Estate Mortgage in favor of [Lourdes], annotated at the back of TCT No. 86916 is hereby ordered cancelled;
- [Ramon] is hereby ordered to pay his estranged wife [Merlinda] the amount of P100,000 as Moral Damages; P100,000 as Exemplary Damages; and P50,000.00 Attorney's Fees.
- No Cost as to [Lourdes].

SO ORDERED.[14]

Following Modina, Iloilo RTC Br. 23 declared the sale of Lot No. 10031 in favor of Ramon null and void.

As well, it found that no fault could be attributed to Lourdes for accepting Lot No. 10031 as security as she merely relied on the face of Ramon's TCT No. T-86916 which indicated him as registered owner thereof. Be that as it may, Iloilo RTC Br. 23 declared the subject mortgage null and void since Ramon "did not have the requisite right of ownership to enter into such agreement." [15] It added that since the subject mortgage is null and void, Lourdes cannot draw any right therefrom.[16]

On June 25, 2018, the CA affirmed the Decision of Iloilo RTC Br. 23 with modification. The dispositive portion of the herein assailed CA Decision[17] reads:

WHEREFORE, the appeal is PARTIALLY GRANTED. The [November 12, 2012] Decision of [Iloilo RTC Br. 23] in Civil Case No. 00-26387 is AFFIRMED with MODIFICATION, in that the [subject mortgage] in favor of [Lourdes] is ordered to be inscribed in the re-issued [TCT] No. T-57961 in the name of [Nelson] x x x.[18]

The CA agreed that the sale of Lot No. 10031 in favor of Ramon is void. Like Iloilo RTC Br. 23, the CA also found that no fault could be attributed to Lourdes for relying on the face of Ramon's TCT No. 86916. In this connection, the CA ruled that the subject mortgage should be upheld as valid based on the doctrine of mortgagee in good faith. The CA reasoned, as follows:

In the case at hand, the defense that [Ramon] is not clothed with the right of ownership as the [DDS] is void cannot be raised against [Lourdes] who, as discussed, is a mortgagee in good faith.

This principle is based on the rule that all persons dealing with property covered by a Torrens Certificate of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title. This is the same rule that underlies the principle of innocent purchasers for value. The prevailing jurisprudence is that a mortgagee has a right to rely in good faith on the certificate of title of the mortgagor to the property given as security and in the absence of any sign that might arouse suspicion, has no obligation to undertake further investigation. Hence, even if the mortgagor is not the rightful owner of, or does not have a valid title to, the mortgaged property, the mortgagee in good faith is, nonetheless, entitled to protection.[19]

Merlinda's subsequent Motion for Reconsideration was denied, prompting her to file the present Petition.

The ponencia grants the Petition in part and affirms, with modification, the assailed CA Decision, as follows:

x x x The Decision dated June 25, 2018 and Resolution dated October 16, 2019 of the Court of Appeals in CA-G.R. CEB-CV No. 04831 are AFFIRMED with MODIFICATION, thus:

- TCT No. T-86916 issued in the name of Ramon Chiang is cancelled;
- The annotation of the Real Estate Mortgage on the back of TCT No. T-86916 under Entry No. 656728 in favor of Lourdes Tan Chua is likewise cancelled;
- TCT No. T-57961 issued in the name of Nelson Plana married to Merlinda Relano is reinstated;
- The Estate of Ramon Chiang, through his heirs is ordered to pay Merlinda Plana the following amounts:
 - P100,000.00 as moral damages;
 - P100,000.00 as exemplary damages;
 - P50,000.00 as attorney's fees; and
 - six percent (6%) interest per annum on these amounts from finality of this Decision until fully paid.

Respondent Lourdes Tan Chua and her counsel are ordered within ten (10) non-extendible days from notice to show cause why they should not be cited in contempt of court for their deliberate withholding of material facts as above-mentioned and for delaying the speedy disposition of the present case and nearly bringing the administration of justice to disrepute.

SO ORDERED.[20]

In its ruling, the ponencia finds Lourdes to be a mortgagee in good faith, as Merlinda "failed to adduce any special compelling reason to depart from this concurrent finding."[21]

In addition, the ponencia holds that all the requisites necessary for the application of the doctrine of mortgagee in

good faith concur, namely:

(a) the mortgagor is not the rightful owner of, or does not have valid title to, the property; (b) the mortgagor succeeded in obtaining a Torrens title over the property; (c) the mortgagor succeeded in mortgaging the property to another person; (d) the mortgagee relied on what appears on the title and there exists no facts and circumstances that would compel a reasonably cautious man to inquire into the status of the property; and (e) the mortgage contract was registered.[22]

Despite the finding that Lourdes is a "mortgagee in good faith," the ponencia nonetheless orders the cancellation of the subject mortgage for while the Court has previously held that "a void title may be the source of a valid title in the hands of an innocent purchaser [or holder] for value,"[23] such rule cannot apply where "the true owner has not been found negligent or has not committed an act which could have brought the issuance of another title relied upon by the purchaser or mortgager for value." [24] The ponencia explains that in such cases, the true innocent owner has a better right over the mortgagee in good faith.[25]

As stated at the outset, I concur in the disposition of not giving effect to the mortgage. However, I disagree with the ruling insofar as it finds Lourdes to be a mortgagee in good faith.

The lower courts' findings with respect to Lourdes' good faith may be revisited

A preliminary discussion on procedural matters is necessary.

As a rule, the scope of the Court's power of review under Rule 45 of the Rules of Court is limited only to questions of law.[26] A question of law arises when there is doubt as to what the law is on a certain set of facts, while there is a question of fact when doubt arises as to the truth or falsity of the alleged facts. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.[27]

Generally, the existence of good faith or lack of it, being dependent on the facts, also constitutes a question of fact. However, the Court has held that when there is no dispute as to the relevant facts but only as to the legal conclusion which may be drawn from said facts, the question of good faith properly becomes a question of law, thus:

In determining whether respondents are buyers in good faith, it must be pointed out that "the ascertainment of good faith, or lack of it, and the determination of whether due diligence and prudence were exercised or not, are questions of fact" which are beyond the ambit of petitions for review on certiorari under Rule 45 of the Rules of Court. However, in *Heirs of Nicolas S. Cabigas v. Limbaco*, the Court, while recognizing that the question of whether a person acted with good faith or bad faith in purchasing and registering real property is a question of fact, also stated that when there is no dispute as to the facts, the question of whether or not the conclusion drawn from these facts is correct is a question of law.[28]

Here, the following facts are not in dispute: (1) Ramon mortgaged Lot No. 10031 in favor of Lourdes in June 1996;[29] (2) at such time, Lot No. 10031 was covered by TCT No. T-86916 issued in Ramon's name;[30] (3) Lourdes relied on the face of Ramon's title;[31] and (4) Lourdes did not take steps to ascertain whether Ramon was in possession of Lot No. 10031 at such time because the latter's title was "clean." [32] It would thus appear that the question of whether Lourdes can be deemed to have acted in good faith when she accepted the subject mortgage based on these undisputed facts constitutes a question of law.

In any event, the Court is nevertheless empowered to review questions of fact in the face of certain established exceptions, to wit:

(1) when the findings are grounded entirely on speculation[s], surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[33] (Emphasis supplied)

The 11th exception squarely applies in this case. As will be explained in detail below, reliance on a clean title may only serve as a basis for a claim of good faith when several requisites concur, namely, (i) that the seller is the registered owner of the land; (ii) the registered owner is in possession of the land; and (iii) at the time of the sale, the purchaser of the land was free from any knowledge of any adverse claim or interest of another on the land, and was not aware of any defect on the seller's title over the land, or his or her capacity to convey the same. Here, the CA overlooked the established facts which show that the second and third requisites do not concur.

Lourdes is not a mortgagee in good faith

Even under the current iteration of the IPV principle, the records show that Lourdes fails to qualify as a mortgagee in good faith.

While the law is that no valid mortgage can arise unless the mortgagor has a valid title or ownership over the mortgaged property,[34] prevailing jurisprudence has carved out an exception — a mortgagee can be deemed to have acquired valid title even if the mortgagor's title on the encumbered property is defective if the mortgagee acted in good faith. In such exceptional cases, it is clear that the burden of proof to trigger the exception lies with the person claiming it. As held in *Concorde Condominium, Inc. v. Philippine National Bank*:[35]

[T]he burden of proving the status of a purchaser/mortgagee in good faith lies upon one who asserts that status. This onus probandi cannot be discharged by mere invocation of the legal presumption of good faith. Indeed, the status of a buyer/mortgagee in good faith is never presumed but must be proven by the person invoking it.[36]

As stated, the ponencia finds Lourdes to be a mortgagee in good faith based on the concurrence of the requisites set forth in *Jimenez v. Jimenez*,[37] to wit:

x x x (a) the mortgagor is not the rightful owner of, or does not have valid title to, the property; (b) the mortgagor succeeded in obtaining a [Torrens certificate] over the property; (c) the mortgagor succeeded in mortgaging the property to another person; (d) the mortgagee relied on what appears on the title and there exists no facts and circumstances that would compel a reasonably cautious man to inquire into the status of the property; and (e) the mortgage contract was registered.[38]

I submit that requisite (d) above is belied by the records of the case.

Notably, in *Heirs of Cudal, Sr. v. Spouses Suguitan, Jr.*[39] (*Heirs of Cudal*), the Court explained the prevailing principles governing proof of good faith with respect to buyers of registered land, thus:

To prove good faith, a buyer of registered and titled land need only show that he [or she] relied on the face of

the title to the property. He [or she] need not prove that he [or she] made further inquiry for he [or she] is not obliged to explore beyond the four corners of the title. Such degree of proof of good faith, however, is sufficient only when the following conditions concur: first, the seller is the registered owner of the land; second, the latter is in possession thereof; and third, at the time of the sale, the buyer was not aware of any claim or interest of some other person in the property, or of any defect or restriction in the title of the seller or in his [or her] capacity to convey title to the property.

Absent one or two of the foregoing conditions, then the law itself puts the buyer on notice and obliges the latter to exercise a higher degree of diligence by scrutinizing the certificate of title and examining all factual circumstances in order to determine the seller's title and capacity to transfer any interest in the property. Under such circumstance, it is no longer sufficient for said buyer to merely show that he [or she] relied on the face of the title; he [or she] must now also show that he [or she] exercised reasonable precaution by inquiring beyond the title. Failure to exercise such degree of precaution makes him [or her] a buyer in bad faith.[40] (Emphasis and underscoring supplied)

Clearly, a purchaser's reliance on the Torrens certificate will only be sufficient to prove good faith upon concurrence of the following requisites: (i) the seller is the registered owner of the land; (ii) the registered owner is in possession of the land; and (iii) at the time of the sale, the purchaser of the land was free from any knowledge of any adverse claim or interest of another on the land, and was not aware of any defect on the seller's title over the land, or his or her capacity to convey the same. These requisites represent the standards that holders must observe to be able to rely on the Torrens certificate, and be deemed to have acted in good faith. Moreover, these requisites also apply to mortgages involving registered land, as the phrase "innocent purchaser for value" is statutorily deemed to include mortgagees or other encumbrancers for value.[41]

Applying the foregoing requisites, Lourdes fails to qualify as an innocent mortgagee or a mortgagee in good faith. To begin with, courts will take judicial notice of the record, pleadings, or judgment of a case in another court between the same parties or involving one of the parties, as well as of the record of another case between different parties in the same court.[42]

Here, as the ponencia adds, the records show that before Merlinda filed the Reconveyance Complaint subject of this Petition, Ramon filed on July 13, 1998 a complaint for accounting and damages against Lourdes (Accounting Complaint) also with Branch 39, RTC of Iloilo City (Iloilo RTC Br. 39).[43]

The ponencia finds that the failure of Lourdes and counsel to disclose the pendency of Civil Case No. 25285 betrays a "cavalier attitude"[44] and, ultimately, a reason to order both Lourdes and her counsel to show cause for why they should not be cited in contempt of court for failure to disclose material facts which are dispositive of her allegations before the Court. While I agree with the ponencia that failure to include this material information may be grounds to hold a party in contempt, I wish to note that this Accounting Complaint was raffled to Iloilo RTC Branch 39 and was docketed as Civil Case No. 25285. In turn, the relevant pleadings and documents filed, as well as the significant orders and other issuances of Iloilo RTC Br. 39 in Civil Case No. 25285, have all been annexed to Merlinda's Petition and Reply, and thus form part of the records of this Petition.[45] As such, the Court is bound to take judicial notice of these annexes culled from the records of Civil Case No. 25285.

More importantly, based on these material pieces of information which Lourdes failed to mention, I find that a holistic appreciation of the relevant records in Civil Case No. 25285, together with the facts attendant in the Reconveyance Complaint subject of this Petition, supports the only conclusion that can be deduced: that Lourdes is not a mortgagee in good faith.

A perusal of the Accounting Complaint[46] reveals the following allegations made by Ramon:

- He obtained a P130,000.00 loan from Lourdes, which was secured by the subject mortgage;

- As additional security, he was allegedly required to issue a Traders Royal Bank (TRB) check dated December 31, 1997 in the amount of P130,000.00 (first TRB check);
- He later obtained another loan amounting to P20,000.00, for which he was required to issue another TRB check dated December 16, 1997 in the amount of P20,000.00 (second TRB check);
- He religiously paid the monthly installment of P4,500.00 until December 31, 1997;
- However, Lourdes allegedly tried to collect interest amounting to 7% per month, which he refused to pay for the reason that it was never agreed upon in writing;
- As of the filing of the Accounting Complaint, he had already paid the amount of P65,500.00, leaving a balance of P83,500.00;
- He sent Lourdes a letter dated February 24, 1998 expressing his intention to consign the amount of P83,500.00 as payment for his outstanding balance, since Lourdes never followed through with her promise of sending her son Johnny Chua (Johnny) to collect the payment; and
- On July 8, 1998, he consigned/deposited the aforesaid balance of P83,500.00 with Iloilo RTC Br. 39 and later informed Lourdes of such deposit through a letter dated July 8, 1998.[47]

In her Answer,[48] Lourdes alleged that Ramon actually obtained three different loans from her, specifically: (i) a P130,000.00 loan dated June 25 1996 which was secured by the subject mortgage; (ii) a P20,000.00 loan dated January 1, 1997 secured by the first TRB check post-dated December 16 1997; and (iii) another P130,000.00 loan dated December 1, 1997 secured by the second TRB check post-dated December 31, 2017.[49]

According to Lourdes, all three loans were subject to a stipulated monetary interest of 3% per month. Lourdes thus argued that the principal loans remained outstanding, as the payments made by Ramon thus far only cover the monthly interest. Hence, as counterclaim, Lourdes prayed for the payment of all three loans plus the 3% monthly interest due. In default thereof, Lourdes prayed for the foreclosure of the subject mortgage.[50]

Ramon and Lourdes later entered into a Partial Compromise Agreement[51] on March 15, 2001 under which Lourdes conditionally accepted the P83,500.00 Ramon deposited with Iloilo RTC Br. 39, without prejudice to her right to pursue her counterclaims.

Later still, Ramon's Accounting Complaint was dismissed with prejudice because of his failure to appear at pre-trial despite due notice. In turn, Lourdes was allowed to present evidence in support of her counterclaim ex-parte.[52]

While Lourdes' counterclaim appears to have also been dismissed due to her failure to appear at the hearing scheduled for the ex-parte presentation of her evidence,[53] Lourdes later filed an appeal to pray for its reinstatement. This appeal was granted, and the counterclaim was thus reinstated and remanded to Iloilo RTC Br. 39 for trial upon order of the CA Nineteenth Division in its Decision[54] dated December 21, 2012 in CA-G.R. CV No. 00920.[55]

Thus, at present, Lourdes' counterclaim in Civil Case No. 25285 remains pending with Iloilo RTC Br. 39.

Significantly, in Lourdes' deposition in Civil Case No. 25285 taken on January 7, 2021, she stated under oath that she had no actual knowledge of the circumstances relating to the loan secured by the subject mortgage, thus:

[Q]:

How did you know Ramon Chiang, how well did you know Ramon Chiang yourself?

A:

It was Johnny who knew him. I only saw them together and whatever transaction they have I do not know about it because it was Johnny who was with him.

x x x x

[Q]:

Now, Madam Witness, I would like to ask you whether this was a business transaction between you and Ramon or between Johnny and Ramon?

A:

I had no involvement, just the two of them.

Q:

Okay. Next question? So, you just signed this document but it was really between them?

A:

The transaction was between them and I [did] not involve myself in that transaction.[56] (Emphasis supplied)

Lourdes' statements coincide with Johnny's testimony in the Reconveyance Complaint subject of this Petition. To quote:

Direct Examination

Q:

Have you ever [gone] to the [subject lot]?

A:

No sir.

Q:

Do you know if your mother [has] ever been to [the subject lot] at any time whatsoever?

A:

No, sir.

x x x x

Cross-Examination

x x x x

Q:

If it were not for you, your mother [would not have agreed] to loan him [money]?

A:

Yes.

Q:

It was because of you that x x x your mother agreed to lend money to him, is that correct?

A:

That is true because there was x x x collateral.

Q:

So your mother also accepts [r]eal [e]state [m]ortgage[s] as collateral for loan?

A:

My answer a while ago, she [lent] money to Ramon Chiang because of me.

Q:

And not because of the collateral?

A:

If there was no collateral, we don't accept.

Q:

x x x [W]hat do you mean?

A:

Because I was the one who facilitated. I was the one who convinced my mother to lend to him.

x x x x

Q:

[Merlinda] testified that she is the one occupying the [subject lot] and was staying there even at the time because she reside[s] there. Did you or did you not know of this fact?

A:

I did not check[.]

Clarificatory questions by the court:

x x x x

Q:

Your mother immediately accepted the transaction to mortgage the title?

A:

Yes, Your Honor.

Q:

And the document was prepared on that day?

A:

One or two days.

Q:

Your mother did not bother anymore to inspect the [subject lot]?

A:

We did not bother to check the [subject lot] because first, Ramon is a fellow Chinese, and mother learned that he is a relative of Jose Mari Chan and my mother and the mother of Jose [Mari] Chan are good friends.[57] (Emphasis supplied)

In all, Lourdes' sworn deposition, taken with Johnny's testimony in the Reconveyance Complaint subject of present Petition, confirm that: (i) the execution of the mortgage was facilitated solely by Johnny; (ii) Lourdes merely agreed to extend the loan and accept the subject lot as security precisely because Johnny convinced her to; and (iii) neither Lourdes nor Johnny exerted earnest efforts to ascertain whether Ramon was in possession of the subject lot at the time of the mortgage.

Further perusal of Lourdes' deposition in Civil Case No. 25285 also reveals that Ramon and Johnny were more than remote acquaintances:

[Q]:

So, in your Judicial Affidavit, the one that is produce[d] now before us in this proceeding is just the photocopy of x x x the Promissory Note x x x correct?

A:

Yes, Sir.

Q:

And you cannot find any document and copy that shows the original Promissory Note anymore, is that correct?

A:

Yes, it was lost by Johnny because Ramon and my son Johnny were close. The original document was with Johnny.[58] (Emphasis supplied)

Again, this is corroborated by Johnny's testimony in the Reconveyance Complaint:

Q:

Is it not a purely business transaction between you and Ramon Chiang, is that correct?

A:

It was a business transaction because there was interest.

Q:

You said that your business does not accept [r]eal [e]state [m]ortgage as collateral but you said that this is a purely business transaction, what do you mean?

A:

We accept jewelry as collateral but because I know Ramon Chiang, I asked him what will be his collateral and he showed me his title, a clean title and it was already mortgaged to the bank before. He showed to me the title as collateral, just a favor.

x x x x

Q:

In other words, it was a personal favor from you to introduce Ramon Chiang to your mother?

A:

Yes, it was a favor.[59] (Emphasis and underscoring supplied)

As shown in the foregoing narration, Ramon and Johnny were more than mere acquaintances, sharing more than a "remote social connection,"[60] and were in fact close friends. Johnny would have thus been aware of Ramon's real civil status and the fact of Merlinda and Ramon's marriage. Lourdes, in turn, could have easily confirmed these matters if only she made the standard inquiries. In this regard, I echo the keen observations of the Chief Justice:

Besides, is there a showing that Lourdes had no knowledge of the previous ownership of the land considering that she and [Nelson] Plana (as well as x x x [Merlinda's] son) are Chinese members of the Lion's Club? This circumstance cannot be lightly brushed aside considering that the membership in associations like the Lion's Club [is] usually founded on securing network or connections in the business community in support of their collective civic works or charitable pursuits. Moreover, Lourdes should have been alarmed under the circumstances as Ramon's status on the face of the subject certificate of title involving the 5th lot is written as "single" instead of married. Even the ponencia observed that both [Merlinda] and mortgagor Ramon had only separated in fact; which means that they continued to be married to each other at the time of the mortgage. Since [Lourdes] is not a mere acquaintance of mortgagor Ramon and his family, she cannot claim good faith in not investigating further despite the irregularity of the mortgage and purported landowner's status.[61]

It must also be noted that Lourdes' reliance on the fact that the subject property had already been mortgaged by Ramon with a bank prior to the mortgage does not support her claim of good faith. If anything, such a reliance suggests only that apart from Lourdes, the previous bank mortgagee also failed to exercise the due diligence of a mortgagee in good faith, perhaps in even graver measure because it was a financial institution imbued with an extraordinary degree of diligence, as the Court held in the case of *Philippine National Bank v. Corpuz*: [62]

As a rule, the Court would not expect a mortgagee to conduct an exhaustive investigation of the history of the mortgagor's title before he [or she] extends a loan. But petitioner PNB is not an ordinary mortgagee; it is a bank. Banks are expected to be more cautious than ordinary individuals in dealing with lands, even registered ones, since the business of banks is imbued with public interest. It is of judicial notice that the standard practice for banks before approving a loan is to send a staff to the property offered as collateral and verify the genuineness of the title to determine the real owner or owners.[63]

In addition, in the case of *Philippine Banking Corp. v. Dy*, [64] the Court plainly stated, thus:

Primarily, it bears noting that the doctrine of "mortgagee in good faith" is based on the rule that all persons dealing with property covered by a Torrens Certificate of Title are not required to go beyond what appears on the face of the title. This is in deference to the public interest in upholding the indefeasibility of a certificate of title as evidence of lawful ownership of the land or of any encumbrance thereon. In the case of banks and other financial institutions, however, greater care and due diligence are required since they are imbued with public interest, failing which renders the mortgagees in bad faith. Thus, before approving a loan application, it is a standard operating practice for these institutions to conduct an ocular inspection of the property offered for mortgage and to verify the genuineness of the title to determine the real owner(s) thereof. The apparent purpose of an ocular inspection is to protect the "true owner" of the property as well as innocent third parties with a right, interest or claim thereon from a usurper who may have acquired a fraudulent certificate of title thereto.[65] (Emphasis supplied; citations omitted)

Still, it should also be noted that Lourdes ran a pawnshop through which she lent money in exchange for collateral, and that contrary to the pawnshop's usual practice of requiring jewelry as security, Lourdes made an exception for Ramon and accepted the subject lot as security. Under these circumstances, it was incumbent upon Lourdes to ascertain whether Ramon was in possession of the subject lot, and verify the latter's personal circumstances with Johnny. Instead, she blindly proceeded with the transaction upon the prodding of her son.

Clearly, Lourdes failed to comply with the minimum standards which holders must observe to be able to rely on the Torrens certificate and be deemed to have acted in good faith under prevailing jurisprudence. Again, the records confirm that Lourdes did not ascertain whether Ramon was in possession of Lot 10031 at the time the subject mortgage was executed, and that Lourdes could have easily ascertained the defects in Ramon's title if only she had chosen to verify the relevant facts with her son to whom Ramon was "close." As explained in *Heirs of Cudal*, these circumstances should have aroused Lourdes' suspicion and impelled her to conduct further inquiry. Failing this, Lourdes is barred from invoking good faith based on mere reliance on the four corners of Ramon's Torrens certificate.

In other words, it became incumbent upon Lourdes to establish that she entered into the transaction with due diligence and in utmost good faith. However, the evidence on record confirm exactly the opposite — that Lourdes blindly entered into the transaction and approved the mortgage without knowledge of its incidents. Thus, Lourdes cannot invoke the principle of mortgagee in good faith even in its prevailing iteration.

Revisit of the IPV principle: indefeasibility under the Torrens system

Notably, even as the *Iloilo RTC Br. 23*, the CA, and the ponencia are one in finding that the sale of Lot 10031 in favor of Ramon is absolutely null and void, there remains a disparity in their treatments of the subject mortgage and its effects as against Merlinda and Lourdes. This disparity illustrates the continuing confusion that arises from the prevailing interpretation of the IPV principle and its derivatives.

Hence, even as the records show that Lourdes does not qualify as a mortgagee in good faith under prevailing jurisprudence, I nevertheless submit that it is high time for the Court to recalibrate the IPV principle and its derivatives to properly reflect the intent of Presidential Decree No. 1529[66] (PD 1529) and reconcile the same with the overarching principle governing the Philippine Torrens system — that registration neither operates to confirm nor convey ownership and other real rights which do not in fact exist.

Bearing the aforesaid overarching principle in mind, I propose to restate the rules governing the IPV principle and its derivatives, as follows:

- Upon expiration of the one-year period after the issuance of a Torrens certificate, the title of the original registrant becomes incontrovertible pursuant to Section 53 of PD 1529. Thus, as a general rule, any Torrens certificate thereafter issued through fraud or misrepresentation shall be null and void, and shall not serve as a source of a valid title in the hands of a holder in good faith.
- As an exception, a subsequent Torrens certificate derived from one procured by fraud may be given effect in the hands of a holder in good faith only in cases where the fraud resulted from the original registrant's own negligence. In such exceptional cases, the original negligent registrant is estopped to question the title of the innocent holder whose rights shall be respected as they ought to be based on the principles of equity.

Stated differently, the rule that a void title serves as a source of a valid title in the hands of an innocent holder

should be treated as a narrow exception which may be applied solely on the basis of estoppel and equity. It should neither be treated nor applied as the general rule.

To properly explain the basis for this proposed restatement, it is apt to first discuss the history of the Torrens system and its paramount feature of indefeasibility.

The Torrens system of title registration, pioneered in South Australia in 1858 by Sir Robert Torrens, draws itself as distinct from previous land conveyance and registration systems with its pragmatic simplicity when it identifies as its cornerstone the indefeasibility of a title to "save persons dealing with registered proprietors from the trouble and expense of going behind the register in order to investigate the history of their author's title,"[67] viz.:

Prior to the implementation of the Torrens system of registration, conveyancing in South Australia, as in other colonies, was mired in the complexities inherent in the English system of conveyancing. This was most obvious in relation to proof of title to land, which "necessitated tracing title back through an unbroken chain of events and documents, perhaps as far as the Crown grant." The previous land registration system, based on the registration of deeds, did little to overcome the difficulties and uncertainties in proof of title because it was the deed, rather than the title, that was registered. Registration therefore provided no assurance of validity, merely providing priority if valid. The need to investigate title every time land was conveyed or otherwise dealt with meant that parties had to incur expense in both time and money every time a transaction was entered into. Due to the complexities of such investigation, purchasers also had to abide a certain degree of risk that defects in the vendor's title would not be fully discovered in the investigation. The system of independent titles proposed by Torrens obviated the costs involved in the investigation of title. By overturning the common law rule of *nemo dat quo[d] non habet*, it also significantly reduced the risk to a purchaser of any conveyance which was duly registered under such a system, since the purchaser's title upon registration would be "indefeasible" and free from defects affecting the vendor's title.[68]

The linchpin mechanism of the Torrens system is the paramount role of registration, which distinguishes it from the previous passing of title to land, which mainly required proof of ownership. Registration vis-à-vis the Torrens system was acutely described as such:

Instruments when executed are merely personal contracts between the parties, upon which action for damages may be raised, but they do not bind the land. The entry on the folium of the Register alone passes the property, creates the charge or lesser estate, discharges, or transfers it.[69]

The Australian Torrens system of registration is thus characterized by the concept of indefeasibility, which ascribes permanence to the certificate of title, thus:

x x x The courts recognize this fact and have said with reference to a title based upon the recording act that "it is impossible in the nature of things that there should be a mathematical certainty of a good title." However, since the establishment of the Torrens System, we find that there can be a certainty as to title. Many statements of courts and text writers are to be found such as the following: "The purpose of this statute is to create a judgment [in rem] perpetually conclusive. Other proceedings [in rem] may determine the status of a ship or other chattel that is transient; this legislation provides for a decree that shall conclude the title to an interest that is to be as lasting as the land itself.[70]

Notably, the concept of indefeasibility is viewed in the Australian context as being limited to indefeasibility from prior claims, thus:

It seems clear that the indefeasibility intended to be conferred by s 42(1) is only indefeasibility from prior estates and proprietary interests. It is not intended to immunize the registered proprietor from all claims whatsoever, whether or not they may otherwise affect the land. In the words of Lord Wilberforce in *Frazer v Walker*, indefeasibility "does not involve that the registered proprietor is protected against any claim

whatsoever[.]"]

It is less common to encounter Torrens statutes that refer explicitly to indefeasibility. One such rare statute is the Real Property Act 1886 (SA). However, like the Victorian Act, indefeasibility is intended to be limited. x x x

x x x x

The reference to ["]encumbrances, liens, estates or interests["] suggests that the indefeasibility conferred x x x is intended only to protect the registered proprietor from claims based on prior title.[71] (Emphasis supplied)

While slightly nuanced to cover "claims based on prior title," the concept of indefeasibility appears to be absolute, as it has nonetheless been extended to cover instances where certificates of title were registered based on forged documents:

x x x x First, the case of the forged instrument falls squarely within the exclusionary rule prohibiting claims based on prior title. Apart from the statutory exception for fraud, a prior owner would need to assert a claim against the registered proprietor on the basis of their prior title in order to get their land back. Hence, such a claim falls within the category of claims prohibited by the principle of indefeasibility rather than the category of claims permitted by the inter se rule. Although the Torrens system is primarily motivated by the need to reduce costs, difficulty and delay involved in investigating title, the protection of indefeasibility was extended beyond cases where there was a defect in the vendor's title. It was extended to cases where, although the vendor's title was unimpeachable, the transfer itself was defective because the instrument was a forgery or otherwise void. In so extending the principle of indefeasibility, the protection from prior title became complete. Not only is the registered proprietor protected from prior title which afflicted the vendor's title, he or she is likewise protected from the defrauded vendor's own (prior) title.

x x x x

Insofar as the validity of the transaction is impugned, on the basis of fraud or forgery, the principle of indefeasibility extends to protect the registered proprietor from the effects of nullity.[72] (Emphasis supplied)

It thus appears that in the Australian context, the IPV principle operates as an adjunct of absolute indefeasibility which serves to make the protection from "claims based on prior title" given by the Torrens system "complete."

Despite its noble underpinnings, this absolutist approach is not free from opposition and criticism. Notably, the carving out of fraudulently registered titles was foreseen early on as a guard against unscrupulous parties who may turn the Torrens system on its head as a tool to legitimize forged titles:

Lack of jurisdiction and fraud, therefore, are two possible defects that may prevent a Torrens certificate from being conclusive. It is obvious, also, that the aura of indefeasibility which surrounds a Torrens certificate will constantly tempt the unscrupulous to employ the system for turning bad titles into good ones, and the presence of an examiner of titles, whose business it is to prevent such occurrences, has not, and probably will not, in the future, entirely eliminate such a practice. Sooner or later, by some hook or crook, a bad title will be registered, and the decree of registration will, in turn, be attacked by the rightful owner of the land.[73]

In fact, in a 1935 essay which enumerated the reasons why the titles then registered in the recording system should be transferred to the Torrens system, one cited advantage for the Torrens system is, precisely, the protection against forgery, viz.:

2.

Elimination of the necessity of ever having to defend one's title because of forgery of one's name to a deed or mortgage. A forger can accomplish nothing with a forged instrument unless he [or she] also has possession of

the owner's duplicate certificate of title.

x x x x

9.

To secure immunity from risk of loss, or impairment of title from the dangers incident to a title based upon the recording system, such as: forged deeds (deed void); deeds recorded which have never been "delivered" (deed void); deed executed pursuant to a forged or undelivered power of attorney or executed after revocation of the power by death or insanity of the maker (deed void); x x x[74] (Emphasis supplied)

Nevertheless, literature has also been quick to specify the type or degree of fraud capable of impeaching an otherwise indefeasible title, to wit:

It is necessary at this point to define what is meant by the term "fraud." We have seen that jurisdiction for the purpose of registration proceedings can constitutionally be obtained as to unknown residents or known non-residents by publication. Suppose A, who wishes to register his [or her] title, has no actual notice of B, who is a resident and claims an interest in the land, but could have been aware of his [or her] existence by the exercise of reasonable diligence, or was with notice of facts that should have put him [or her] on inquiry that would have disclosed B's interest. x x x It is apparent that if a duty of diligent inquiry is to be imposed upon the applicant for registration, and if notice by itself, actual or constructive, of outstanding claims can taint him [or her] with fraud, decrees of registration will be subject to constant danger of attack and will be no more conclusive than judgments in actions to quiet title. Needless to say, such a result would clearly be at cross purposes with the obvious intent of the Torrens [s]ystem to have the decree of registration as conclusive as possible, and this intent should have strong weight with the courts. The Privy Council has settled this question, as far as the British colonies are concerned, in what would appear to be a most logical way, holding that the fraud necessary to permit impeachment of a registered title must be actual fraud; that is, conduct amounting to actual dishonesty in obtaining registration; not what is called constructive or equitable fraud. It must be "brought home" to the party whose title it xx x sought to impeach.[75]

Despite opposition, the absolutist approach was deemed "the doctrine of choice"[76] for the Australian Torrens system. As espoused by Chief Justice Garfield Barwick in *Breskvar v. Wall*,[77] a case decided by the High Court of Australia, "a registration which results from a void instrument is effective according to the terms of the registration. It matters not what the cause or reason for which the instrument is void." [78]

The Philippine context

The Torrens system was introduced in the Philippines when the United States instituted Act No. 496, otherwise referred to as the Land Registration Act of 1903 (Act 496). Act 496, which is said to be a verbatim copy of the Massachusetts Land Registration Act of 1898, set out alongside the requirements under the Civil Code several key Torrens system principles, including the concept of indefeasibility of the registered title, the mirror principle, as well as the rule of confirmation of title by registration.[79]

The Cadastral Act (Act No. 2259) was later introduced in 1913 to bolster the systematic registration of title, and in 1978, through PD 1529, the judicial and administrative title registration processes were combined and supplemented by several ancillary provisions.

Did the introduction of the Torrens system in the Philippines result in the wholesale adoption of the absolutist approach? Contrary to prevailing jurisprudence, I respectfully submit that it did not.

To aid the discussion that follows, a brief run-down of relevant concepts is in order.

Ownership is the independent and general right of a person to control a thing particularly in his or her possession,

enjoyment, disposition, and recovery, subject to no restrictions except those imposed by the state or private persons, without prejudice to the provisions of the law.[80] Ownership over real property is acquired and transmitted by the concurrence of a title and a mode of acquisition.

Mode is the specific cause which produces dominion and other real rights. Under the Civil Code,[81] the modes to acquire and transmit ownership and other real rights over property are law, donation,[82] succession,[83] tradition,[84] and prescription.[85]

On the other hand, title is the juridical justification for one's claim over real property; it is the right which gives the means to the acquisition or transfer of ownership and other real rights.[86] The concept of title, insofar as it relates to ownership and other real rights, must be distinguished from a certificate of title.

Under the Philippine Torrens system of registration, a certificate of title (referred to as "certificate" or "Torrens certificate" for clarity) serves as evidence of ownership over the particular property described therein. Thus, ownership should neither be confused nor deemed synonymous with the existence of a Torrens certificate in one's name, because registration under the Torrens system presupposes that ownership over the property had been previously acquired, and merely operates to confirm existing ownership.[87]

From these basic concepts arise the overarching principle that registration neither operates to confirm nor convey ownership and other real rights which do not in fact exist.[88] This overarching principle, based on civil law precepts, serves as a distinguishing characteristic of the Philippine Torrens system and operates as a guide in navigating its nuances, particularly with respect to the concept of indefeasibility and the auxiliary IPV principle.

In its current iteration, the IPV principle is understood as follows:

Where innocent third persons, relying on the correctness of the [Torrens certificate] thus issued, acquire rights over the property, the court cannot disregard such rights and order the total cancellation of the [Torrens certificate]. The effect of such an outright cancellation would be to impair public confidence in the [Torrens certificate], for everyone dealing with property registered under the Torrens system would have to inquire in every instance whether the [Torrens certificate] has been regularly or irregularly issued. This is contrary to the evident purpose of the law. Every person dealing with registered land may safely rely on the correctness of the [Torrens certificate] issued therefor and the law will in no way oblige him [or her] to go behind the [Torrens certificate] to determine the condition of the property.[89]

Pursuant to Section 32[90] of PD 1529, the IPV principle has been extended to innocent mortgagees and other encumbrancers for value. Section 32 provides:

Section 32. Review of decree of registration; Innocent purchaser for value. — The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his [or her] remedy by action for damages against the applicant or any other persons responsible for the fraud. (Emphasis supplied)

Hence, the Court has held:

Just as an innocent purchaser for value may rely on what appears in the [Torrens certificate], a mortgagee has the right to rely on what appears in the [Torrens certificate] presented to him [or her], and in the absence of anything to excite suspicion, he [or she] is under no obligation to look beyond the [Torrens certificate] and investigate the title of the mortgagor appearing on the face of the said [Torrens certificate]. Furthermore, it is a well-entrenched legal principle that when an innocent mortgagee who relies upon the correctness of a [Torrens certificate] consequently acquires rights over the mortgaged property, the courts cannot disregard such rights.[91]

As stated at the outset, the IPV principle and its derivatives have been applied to validate Torrens certificates sourced from those obtained through fraud and/or misrepresentation:

x x x [I]t is well-settled that even if the procurement of a [Torrens certificate] was tainted with fraud and misrepresentation, such defective [Torrens certificate] may be the source of a completely legal and valid title in the hands of an innocent purchaser for value.[92] (Emphasis supplied)

The conclusion that a Torrens certificate obtained through fraud may nevertheless be the source of a valid title in the hands of an innocent holder for value appears to be anchored on the second paragraph of Section 53 of PD 1529, which reads:

The production of the owner's duplicate certificate, whenever any voluntary instrument is presented for registration, shall be conclusive authority from the registered owner to the Register of Deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him [or her], in favor of every purchaser for value and in good faith. (Emphasis supplied)

It is immediately clear, therefore, that the IPV principle, as currently applied, goes against the overarching principle that registration neither operates to confirm nor convey ownership and other real rights which do not actually exist.

Within the context of this crucial incongruence, can Section 53, paragraph 2 of PD 1529 be reconciled with this overarching principle? I submit that it can. To do so, it is necessary to trace its roots.

Section 53 of PD 1529 was substantially adopted from Section 55 of Act 496. Section 55 reads:

SECTION 55. No new certificate of title shall be entered, no memorandum shall be made upon any certificate of title by the clerk, or by any register of deeds, in pursuance of any deed or other voluntary instrument, unless the owner's duplicate certificate is presented for such indorsement, except in cases expressly provided for in this Act, or upon the order of the court, for cause shown; and whenever such order is made, a memorandum thereof shall be entered upon the new certificate of title and upon the owner's duplicate.

The production of the owner's duplicate certificate whenever any voluntary instrument is presented for registration shall be conclusive authority from the registered owner to the clerk or register of deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him [or her], in favor of every purchaser for value and in good faith: Provided, however, That in all cases of registration procured by fraud the owner may pursue all his [or her] legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title: And provided further, That after the transcription of the decree of registration on the original application, any subsequent registration under this Act procured by the presentation of a forged duplicate certificate, or of a forged deed or other instrument, shall be null and void. In case of the loss or theft of an owner's duplicate certificate, notice shall be sent by the owner or by someone in his [or her] behalf to the

register of deeds of the province in which the land, lies as soon as the loss or theft is discovered. (Emphasis supplied)

In the early case of *Dela Cruz v. Fabie, et al.*,^[93] (Fabie) the Court had the occasion to interpret Section 55 of Act 496.

In Fabie, petitioner Marcos Dela Cruz (Marcos) was the administrator of the estate of decedent Gregoria Hernandez (Gregoria). Sometime in 1904, Gregoria was declared by the Court of Land Registration to be the owner of the property subject of the case. During Gregoria's lifetime, her agent, Vedasto Velasquez (Vedasto) obtained a Torrens certificate over the subject property by presenting a forged Deed of Sale purportedly executed by Gregoria in his favor. Vedasto was able to obtain a Torrens certificate as he had been entrusted to keep all documents and muniments of title in relation to the subject property. Subsequently, Gregoria filed an action to declare the forged Deed of Sale null and void. The Court of First Instance (CFI) of Manila ruled in her favor. However, while the CFI case was pending, Vedasto sold the subject property under pacto de retro in favor of respondent Ramon Fabie (Ramon). Even before the five-year redemption period under the pacto de retro sale expired, Ramon obtained a Torrens certificate by presenting the document evincing the pacto de retro sale and Vedasto's Torrens certificate.

Marcos thus filed a case to declare the sale between Vedasto and Ramon void, and to cause the cancellation of the latter's Torrens certificate. The lower court ruled in favor of Marcos. However, the Court reversed on appeal, based on the finding that Ramon was a purchaser in good faith. The Court held:

The inscription of ownership made in the registry in behalf of [Gregoria] had disappeared, having been substituted by the entry in the name of [Vedasto]; and as the registry showed the latter to be the owner of the land, [Ramon] was [able] to arrange with [Vedasto] to purchase it. It having been proven that [Ramon's] ownership was and is perfect and absolute and that he is entitled to possess, as he does possess, the land in question, it is indisputable that [Gregoria] had lost her property[.]^[94] (Emphasis supplied)

The Decision further explains:

According to section 55 of [Act 496], "after the transcription of the decree of registration on the original application, any subsequent registration under this Act procured by the presentation of a forged duplicate certificate, or of a forged deed or other instrument, shall be null and void."

[Query]: x x x Is the inscription x x x made in the name of [Ramon] also null and void? No, if it is shown that [Ramon] was an innocent holder, because the same section of the Act just above cited provides: "That in all cases of registration procured by fraud the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice to the rights of any innocent holder for value of a [Torrens certificate]."^[95]

Through Fabie, the Court gave Act 496 an interpretation which follows the absolutist approach espoused by its Australian counterpart. In so doing, Fabie gave rise to the prevailing doctrine which accords primacy to the rights of innocent holders for value over that of the real registered owner at all times.

In his Concurring Opinion in Fabie, Justice Carson averred that this absolutist approach is consistent with the views of William C. Niblack (Niblack), an eminent authority in the study of the Torrens system. To quote:

I here insert some citations from the comment by William C. Niblack in his Analysis of the Torrens System of Conveying Land, on the effect upon that system of forgery (Chapter XI), because they quite clearly develop some of the difficulties confronting us in the disposition of this case, and the reasoning on which the court must rely in its rulings on the various contentions of the parties.

In some acts it is provided that the production of the owner's duplicate certificate, whenever any voluntary

instrument is presented for registration, shall be conclusive authority from the registered owner to the registrar of titles to enter a new certificate or to make a memorial of registration in accordance with such instrument, and that a new certificate or memorial shall be binding upon the registered owner and upon all claiming under him [or her], in favor of every purchaser for value and in good faith. x x x [I]t seems to be unnecessary [to require the purchaser in good faith to present] any other evidence of the existence and identity of the registered owner than the production of the owner's duplicate certificate, and it seems that he [or she] may rely on the validity of a conveyance from the person producing such certificate. If this is the right construction of this declaration, it validates the title of an innocent person for value, relying on the production of the certificate, who is registered as the immediate result of a forgery committed by some third person, and, in doing so, it goes one step beyond the general Torrens system, which requires that a registration be made under the last real registered owner, in order to be valid. x x x The intention of the legislature must be very clear, before a court will hold that a person registered and claiming immediately under a forced instrument will take an indefeasible title by virtue of his [or her] registration, and it may be very doubtful whether, in enacting the provisions just referred to, there was really any intent on the part of the legislature to declare that the production of that duplicate certificate should validate a new certificate, even though it was issued as the result of a forgery. x x x

While the acts of Massachusetts, Hawaii, and the Philippine Islands provide that the production of the owner's duplicate certificate shall be conclusive authority to the registrar to make a new registration, and that a new certificate shall be binding in favor of every purchaser for value and in good faith, there is this qualification: 'After the transcription of the decree of registration on the original application, any subsequent registration which is procured by the presentation of a forged duplicate certificate, or of a forged deed or other instrument, shall be null and void.' This qualification does not say that any title founded on a forgery shall be null and void, but it merely says that a registration procured by a forged certificate or other instrument shall be void, and we may infer that under such a statute the general rule applies, that a registration may be the root of a good title, and that a person registered in good faith and for value under a prior registration procured by forgery, when the last certificate is produced, takes a valid title. Looked at from this point of view, the three acts just mentioned simply declare the general rule where the statute is silent on the subject of forgery, and are in effect the same as the South Australia, California and Ontario statutes.

x x x x

If a Torrens act makes a title founded on a forge[d] instrument null and void, it renders certificates of title clearly defeasible, and tends to take away the confidence of the public in them; and if it makes a forged instrument capable of becoming the root of a new title, it upsets the long cherished and popular tradition that a forged instrument is absolutely void for all purposes. The English theory that a landed proprietor is to be protected as far as possible in his [or her] proprietary rights may be the basis of the deep-seated and general feeling that a person ought not to lose his [or her] land, under any possible circumstances, by means of or as the result of a forgery. One who does not understand the reasons of the general rule, as to the effect of forgery under the Torrens system, may regard it as a compromise between two different policies, but the rule arises logically from certain principles of title registration. A proposed purchaser of land who becomes registered under an imposter, and not under a real registered owner, gets no title to the land, loses the money he [or she] has paid on the proposed purchase, and has no recourse to the indemnity fund. He [or she] has been guilty of negligence contributing to the loss, and his [or her] loss did not arise from operations under the act, because he [or she] dealt with a person who was not registered under the act, at least as to the property in question. Whatever may be the practical merits of the theory, his [or her] case does not detract from the general proposition that one registered under the last registered owner of an estate in land gets the title to the registered estate. Where one in good faith for value is registered as a new owner under a person who is registered with a title, invalid because it was procured by forgery, one of two innocent persons must lose the land — either the owner from whom the transfer was forged, or the registered purchaser from the registered person, whose title was invalid while he [or she] was so registered. In the absence of any constitutional limitations on its powers, it is competent for the legislature to say which one shall have the title, and in establishing a system of title

registration, it is proper for it to declare, in favor of the last certificate of title issued under governmental authority, that the new registered owner shall have it, and that the victim of the forgery shall be left to his [or her] actions against the wrongdoer and against the indemnity fund.[96] (Emphasis and underscoring supplied)

Niblack thus claims that there are two views on the treatment of fraud and forgery under the Torrens system.

First is the absolutist approach which, as discussed, validates a Torrens certificate sourced from a fraudulent registration in the hands of an innocent holder.

Second is the traditional approach which protects the real registered owner's title from the effects of fraudulent registration. Niblack's analysis goes further to state that like the Australian Torrens system, the Philippine Torrens system explicitly adopts the absolutist approach through Section 55 of Act 496, which is restated, thus:

SECTION 55. No new certificate of title shall be entered, no memorandum shall be made upon any certificate of title by the clerk, or by any register of deeds, in pursuance of any deed or other voluntary instrument, unless the owner's duplicate certificate is presented for such indorsement, except in cases expressly provided for in this Act, or upon the order of the court, for cause shown; and whenever such order is made, a memorandum thereof shall be entered upon the new certificate of title and upon the owner's duplicate.

The production of the owner's duplicate certificate whenever any voluntary instrument is presented for registration shall be conclusive authority from the registered owner to the clerk or register of deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him [or her], in favor of every purchaser for value and in good faith: Provided, however, That in all cases of registration procured by fraud the owner may pursue all his [or her] legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title: And provided further, That after the transcription of the decree of registration on the original application, any subsequent registration under this Act procured by the presentation of a forged duplicate certificate, or of a forged deed or other instrument, shall be null and void. In case of the loss or theft of an owner's duplicate certificate, notice shall be sent by the owner or by someone in his [or her] behalf to the register of deeds of the province in which the land, lies as soon as the loss or theft is discovered.

In his Dissent, Justice Moreland questions Niblack's interpretation. According to Justice Moreland, the language of Section 55 of Act 496 makes Niblack's interpretation "untenable," thus:

The necessary result of Mr. Niblack's discussion is that the proviso under consideration produces no effect whatever except between the owner and the forger.

This theory seems to me to be untenable. x x x [T]he proviso taken in conjunction with the enacting clause to which it relates, as a mere matter of language, to an innocent purchaser for value; and the limitation contained in the proviso is precisely a limitation on the rights of the innocent purchaser. It is well recognized that a proviso is a clause engrafted on a preceding enactment for the purpose of restraining or modifying the enacting clause, or of excepting something from its operation which otherwise would have been within it; and that its appropriate office is to restrain or modify the enacting clause and not to enlarge it. Clearly the enacting clause here is "the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him [or her], in favor of every purchaser for value and in good faith." Now, the proviso, referring directly to this enacting clause, declares that "any subsequent registration under this Act procured by the presentation of a forged duplicate certificate, or forged deed or other instrument, shall be null and void." To what does the proviso refer? Clearly to the declaration in favor of an innocent purchaser for value and to him [or her] alone. The proviso is meaningless unless that be so. There is no person mentioned in the enacting clause between whom the owner the proviso could possibly establish a relation except the innocent purchaser. The innocent purchaser is alone named in the enacting clause and the effect of the forger's act on him [or her]

is alone declared in the proviso. It requires no interpretation or construction to reach this conclusion; and I have gone into it thus far only by way of reply. If the language of statutes were looked at by judges and authors with the same abstraction with which they look at ordinary articles in the newspapers there would be far more application and far less interpretation and construction of statutes. If one should receive a letter from his wife in which she says that yesterday she sent all of the children to school except Virginia, it would take no interpretation or construction of the letter, or involved argument, to determine which child was not sent to school. If a statute says that a registration shall protect an innocent purchaser except when it is obtained by forgery it takes no consideration, or interpretation, or construction, or fine distinctions, or involved argument, to determine when a registration does not protect an innocent purchaser. This is precisely what the proviso before us does. The statute states that a registration shall be conclusive upon the owner and shall protect an innocent purchaser for value except when that registration is procured by forgery.[97] (Emphasis and underscoring supplied)

I submit that Justice Moreland's interpretation is more consistent with the language of Section 55 of Act 496 and the overarching principle of the Philippine Torrens system — that registration neither operates to confirm nor convey ownership and other real rights which do not in fact exist.

To note, Section 55 of Act 496 had been substantially carried over and adopted as Section 53 of PD 1529. Section 53 now states:

Section 53. Presentation of Owner's Duplicate Upon Entry of New Certificate. — No voluntary instrument shall be registered by the Register of Deeds, unless the owner's duplicate certificate is presented with such instrument, except in cases expressly provided for in this Decree or upon order of the court, for cause shown.

The production of the owner's duplicate certificate, whenever any voluntary instrument is presented for registration, shall be conclusive authority from the registered owner to the Register of Deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him [or her], in favor of every purchaser for value and in good faith.

In all cases of registration procured by fraud, the owner may pursue all his [or her] legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title. After the entry of the decree of registration on the original petition or application, any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void.

Following Justice Moreland's approach, I submit that Section 53 is more properly interpreted as follows:

- As a general rule, a new Torrens certificate or a memorandum inscribed thereon shall be binding upon the real registered owner and all persons claiming under him or her in favor of every purchaser for value and in good faith. This is the import of Section 53, paragraph (2).
- As an exception to the general rule, "any subsequent registration[98] procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void," even as against an innocent holder for value. This is the import of the second sentence of Section 53, paragraph (3).
- In cases of fraudulent registration, the real registered owner may pursue all his or her legal and equitable remedies against the parties to the fraud, without prejudice to the right of an innocent holder for value to pursue his or her own legal and equitable remedies against the parties to the fraud. This is the import of the first sentence of Section 53, paragraph (3).
- Nevertheless, the subsequent registration effected through fraud, and all others arising therefrom, shall be null and void. Again, this is the import of the second sentence of Section 53, paragraph (3).

Proceeding from this, it becomes clear that the apparent conflict between the treatment of fraudulent registration under Section 53 of PD 1529 and the concept of indefeasibility espoused in Section 32 of PD 1529 can be reconciled simply by delineating their respective scopes.

To recall, Section 32 of PD 1529 states:

Section 32. Review of decree of registration; Innocent purchaser for value. — The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his [or her] remedy by action for damages against the applicant or any other persons responsible for the fraud. (Emphasis and underscoring supplied)

A close reading of Section 32 shows that it refers specifically to the decree of registration, and applies only to the one-year period following its entry in the Register of Deeds. Read in this light, Section 32 can be simplified, as follows:

- The decree of registration shall not be reopened or revised for any reason, except actual fraud. Defrauded parties are granted the right to file the proper petition to reopen or revise the decree but only within a period of one year from entry of the decree and the consequent issuance of the Torrens certificate.
- Nevertheless, a timely filed petition to reopen or revise a decree of registration shall not be granted in favor of the defrauded party if an innocent holder for value has acquired the subject property or an interest therein in the interim. In such cases, the rights of an innocent holder for value shall be respected, without prejudice to the right of the defrauded party to pursue all legal and equitable remedies against the parties responsible for the fraud.
- After the lapse of the one-year period, the decree of registration and the Torrens certificate issued in the name of the original registrant becomes incontrovertible. From then on, the original registrant is deemed the "real registered owner."

Accordingly, it is well to emphasize the distinction between the rights extended by PD 1529 in favor of Torrens certificate holders during the one--year period following the issuance of the Torrens certificate vis-à-vis the rights extended after the expiration of said period.

During the aforesaid one-year period, Section 32 shall apply. The right of the innocent holder for value takes precedence over that of the original registrant in the event of fraud. The reason behind this is clear — during this period, the original registrant's Torrens certificate remains controvertible and open to dispute by express provision of law. It is only during this one-year period where the IPV principle may operate to validate a Torrens certificate arising from one procured through fraud or misrepresentation.

After the lapse of the one-year period, also under express provision of law, the Torrens certificate issued in favor of the original registrant becomes incontrovertible. This means that the ownership of the original registrant is

deemed indefeasible pursuant to the decree of registration. From such point, it would now be Section 53 that shall apply. The original registrant is deemed the "real registered owner" whose rights take precedence even against innocent holders for value. From such point, the IPV principle ceases to operate. In turn, subsequent registrants are afforded protection through the constructive notice rule^[99] and owner's duplicate requirement^[100] set forth in Sections 52 and 53 of PD 1529. Through these twin safeguards, the purpose of the Torrens system is fulfilled, that is, to "save persons dealing with registered proprietors from the trouble and expense of going behind the register in order to investigate the history of their author's title."

To understand the rationale behind these distinctions, one needs to appreciate that in the Philippine context, what is deemed "inconvertible" or "indefeasible" is the Torrens certificate issued on the basis of a valid and existing title, that is, issued pursuant to a judicial decree confirming the existence of a valid title, or issued pursuant to a valid government grant over public land. With respect to the latter, the Court's En Banc ruling in *Delos Reyes v. Razon, et al.*^[101] is instructive:

It will be noted that one of the averments of the special defense set up by the answer is that the title upon which plaintiff relies was obtained by deceit, in fraud of the true owner of the land. The case, therefore, squarely presents the issue as to whether such a certificate of title as that upon which plaintiff relies is as incontestable as are those based upon decrees of the Court of Land Registration or of the Court of First Instance rendered in land registration cases.

It is settled conclusively in this jurisdiction that the titles by virtue of final decrees of the Court of Land Registration or of the Courts of First Instance in accordance with the provisions of the Land Registration Act (Act No. 496) are conclusive and binding upon all the world, but the proceedings by which the title to land are determined in the courts under the act are judicial. Process is served by publication upon all persons who have an interest in the land, and they are given an opportunity to appear and oppose the petition for registration if they desire to do so. The action is one in rem, and the court acquired jurisdiction over the res by the service of its process in the manner prescribed by the statute. x x x

The proceedings by which titles to portions of the public domain are granted to homesteader in accordance with the provisions of the Public Land Act, on the contrary, are purely administrative.

x x x x

The full text of this section of the Land Registration Act is as follows:

SEC. 122. Whenever public lands in the Philippine Islands belonging to the Government of the United States or to the Government of the Philippine Islands are alienated, granted, or conveyed to persons or to public or private corporations the same shall be brought forthwith under the operation of this Act and shall become registered lands. It shall be the duty of the official issuing the instrument of alienation, grant, or conveyance in behalf of the Government to cause such instrument, before its delivery to the grantee, to be filed with register of deeds for the province where the land lies and to be there registered like other deeds and conveyances, whereupon a certificate shall be entered as in other cases of registered land, and an owner's duplicate certificate issued to the grantee. The deed, grant or instrument of conveyance from the Government shall not take effect as conveyance or bind the land, but shall operate only as a contract between the Government and the grantee and as evidence of authority to the clerk or register of deeds to make registration. The act of registration shall be the operative act to convey and affect the lands and in all cases under this Act[,] registration shall be made in the office of the register of deeds for the province where the land lies. After due registration and [issuance] of the certificate and owner's duplicate[,] such land shall be registered land for all purposes under this Act.

The trial judge was of the opinion, and so held, that the effect of the registration of the homestead patent and the issuance of a duplicate certificate of title to the patentee was to vest in him an incontestable title to the land, precisely as though his ownership had been determined by the final decree of a competent court under the Land

Registration Act, and that the title so issued is absolutely conclusive and indisputable.

We are of the opinion that section 122 of the Land Registration Act is not susceptible of this interpretation.

It will be observed that the section under consideration expressly determines the class of land to which its operation is limited. This is declared to be "public land x x x belonging to the Government x x x."

There is nothing in the section to warrant the conclusion that it was intended to apply to private property erroneously included in a government patent, as to which the Government has no right at all. The statement in the last paragraph of the section that upon the registration of the patent and the issuance of the title "such land shall be registered land for all purposes under this Act" must be read in the light of the antecedent language. The words "such land" are evidently used to refer to the only class of land to which the section in terms refers, which is, "public land x x x belonging to the Government x x x" As to such land the issuance of the certificate vests an absolute title in the homesteader, but as to land which is not public and does not belong to the Government, it can have no such effect.

This conclusion is strengthened by consideration of the fact that there is no express declaration in section 122 of any intention on the part of the Legislature to give to the act of registration of the patent — a mere ministerial act by an administrative official — the effect of divesting all outstanding titles, or to convert a void patent into a valid title by the mere act of registration.

The incontestable and absolute character of the Torrens titles issued after judicial proceedings under the Land Registration Act is conferred by the language of Sections 38 and 39. Section 38 declares that the "decree of registration" entered by the court shall bind the land and "be conclusive upon and against all persons." Section 39 establishes the incontestable validity of certificates of title issued "in pursuance of a decree of registration." Nowhere in these sections or elsewhere in Act No. 496 is it declared that similar conclusive validity is to attach to certificates not based upon a "decree of registration." Certainly the mere ministerial act of transcribing a homestead patent in a book and issuing a certified copy of the entry is not such a decree.[102] (Emphasis and underscoring supplied; citations omitted)

As later clarified by the Court En Banc in *Republic v. Carle*[103] (*Carle*):

x x x a [Torrens certificate] issued pursuant to a homestead patent partakes of the nature of a [Torrens certificate] issued as a consequence of a judicial proceeding as long as the land disposed of is really a part of the disposable land of the public domain, and becomes indefeasible and incontrovertible upon the expiration of one year from the date of the issuance thereof.[104]

In turn, the incontestable and indefeasible character of a Torrens certificate does not operate when the land covered thereby is not capable of registration.[105] This is precisely why the State's right of reversion over public land incapable of disposition, appropriation or private acquisition does not prescribe.[106]

The foregoing discussion highlights the key difference between the Australian and Philippine Torrens systems which militates against the continued perpetuation of the absolutist approach in this jurisdiction. The Australian Torrens system accords indefeasibility to all Torrens certificates, as it operates not merely as a system of registration of title, but a system of title by registration. Again, as explained by the High Court of Australia through Chief Justice Garfield Barwick in *Breskvar v. Wall*:

The Torrens system of registered title of which the [Real Property Act] is a form is not a system of registration of title but a system of title by registration. That which the certificate of title describes is not the title which the registered proprietor formerly had, or which but for registration would have had. The title it certifies is not historical or derivative. It is the title which registration itself has vested in the proprietor. Consequently, a

registration which results from a void instrument is effective according to the terms of the registration. It matters not what the cause or reason for which the instrument is void.[107] (Emphasis supplied)

Clearly, the Australian Torrens system functions in a way that is different from (or more accurately, opposite to) the Philippine Torrens system, which, as stated, merely operates to confirm existing ownership following the traditional approach.

As explained, the continued adoption of the absolutist approach in this jurisdiction would directly contradict the overarching principle which uniquely governs the Philippine Torrens system — that registration neither operates to confirm nor convey ownership and other real rights which do not in fact exist. If the absence of a valid title renders Torrens certificates arising from the registration of government patents void, it stands to reason that Torrens certificates arising from the registration of forged and/or simulated documents be likewise treated as void.

The early case of *Legarda v. Saleeby*[108] (*Saleeby*) is most instructive with respect to the very rationale of the Torrens system of registration, viz.:

The plaintiffs having secured the registration of their lot, including the wall, were they obliged to constantly be on the alert and to watch all the proceedings in the land court to see that someone else was not having all, or a portion of the same, registered? If that question is to be answered in the affirmative, then the whole scheme and purpose of the torrens system of land registration must fail. The real purpose of that system is to quiet title to land; to put a stop forever to any question of the legality of the title, except claims which were noted at the time of registration, in the certificate, or which may arise subsequent thereto. That being the purpose of the law, it would seem that once a title is registered the owner may rest secure, without the necessity of waiting in the portals of the court, or sitting in the "[mirador de su casa]," to avoid the possibility of losing his [or her] land. Of course, it cannot be denied that the proceeding for the registration of land under the [T]orrens system is judicial (*Escueta vs. Director of Lands*, 16 Phil. Rep., 482). It is clothed with all the forms of an action and the result is final and binding upon all the world. It is an action in rem. (*Escueta vs. Director of Lands* (supra); *Grey Alba vs. De la Cruz*, 17 Phil. Rep., 49; *Roxas vs. Enriquez*, 29 Phil. Rep., 31; *Tyler vs. Judges*, 175 Mass., 71; *American Land Co. vs. Zeiss*, 219 U.S., 47.)

While the proceeding is judicial, it involves more in its consequences than does an ordinary action. All the world are parties, including the government. After the registration is complete and final and there exists no fraud, there are no innocent third parties who may claim an interest. The rights of all the world are foreclosed by the decree of registration. The government itself assumes the burden of giving notice to all parties. To permit persons who are parties in the registration proceeding (and they are all the world) to again litigate the same questions, and to again cast doubt upon the validity of the registered title, would destroy the very purpose and intent of the law. The registration, under the [T]orrens system, does not give the owner any better title than he [or she] had. If he [or she] does not already have a perfect title, he [or she] cannot have it registered. Fee simple titles only may be registered. The certificate of registration accumulates in one document a precise and correct statement of the exact status of the fee held by its owner. The certificate, in the absence of fraud, is the evidence of title and shows exactly the real interest of its owner. The title once registered, with very few exceptions, should not thereafter be impugned, altered, changed, modified, enlarged, or diminished, except in some direct proceeding permitted by law. Otherwise all security in registered titles would be lost. A registered title cannot be altered, modified, enlarged, or diminished in a collateral proceeding and not even by a direct proceeding, after the lapse of the period prescribed by law.[109] (Emphasis supplied)

Clearly, the rationale in *Saleeby* affirms that the spirit of the Torrens system is the security of the registered owner in the ownership of his or her land. This is the legal basis for the application of the maxim. As Justice Johnson emphatically delivered for the Court therein, should a registered owner not feel secured against illegal and fraudulent removal or negation of his or her ownership rights over a registered property, then the very purpose of the Torrens system has failed. In addition, the Court, in *Saleeby*, similarly makes salient that the security that the

registered owner finds in the system stands on the safeguard of constructive notice that is effected upon registration, which consequently results in the faultless logic that no IPV is possible over an inexistent or void title to a land.

Equitable Remedies

It should be stressed, however, that the recalibration of the IPV principle and its derivatives towards the traditional approach will not stymie or unduly burden dealings with registered land. Far from it, a revisit of the IPV principle will instead fold the transactions concerning land back into a framework that protects the registered owners, preserves the confidence of parties in these transactions, and prevents the facilitation and legitimization of fraudulent schemes of obtaining registered land in the name of expediency and convenience.

The proposed recalibration does not preclude innocent holders from invoking equitable remedies against negligent registered owners. Thus, in instances where the owner's duplicate certificate and other documents necessary to transfer title are negligently entrusted by the real registered owner in favor of the defrauder who is thus clothed with apparent authority to cause the entry of a new Torrens certificate, the title of the innocent holder who transacts on the basis thereof shall be entitled to respect based on the principle of equitable estoppel, and the principle that "as between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his [or her] act of confidence must bear the loss." [110]

To be sure, the application of the principles of estoppel and equity in this context is not novel.

In *Veloso v. Court of Appeals*, [111] a certain Francisco Veloso (Francisco) filed an action for annulment and reconveyance of property against one Aglaloma Escario (Aglaloma) claiming to be the real owner of the 177-square-meter lot disputed therein. Francisco argued that his Torrens certificate was fraudulently cancelled in lieu of a new one issued in the name of Aglaloma based on a void Deed of Absolute Sale purportedly executed by his wife as his attorney-in-fact. Francisco argued that he never authorized anybody to sell the disputed lot. In this connection, Francisco claimed that the power of attorney supposedly authorizing his wife to sell the disputed lot had been forged.

The trial court ruled in favor of Aglaloma. The CA affirmed in toto, prompting Francisco to elevate the case to the Court. Ruling in favor of Aglaloma, the Court held:

x x x [T]he trial court did not err in applying equitable estoppel in this case. The principle of equitable estoppel states that where one or two innocent persons must suffer a loss, he [or she] who by his [or her] conduct made the loss possible must bear it. From the evidence adduced, it should be the petitioner [registered owner] who should bear the loss. As the court [a quo] found:

Besides, the records of this case disclosed that the plaintiff is not entirely free from blame. He admitted that he is the sole person who has access to TCT No. 49138 and other documents appertaining thereto (TSN, May 23, 1989, pp. 7-12). However, the fact remains that the Certificate of Title, as well as other documents necessary for the transfer of title were in the possession of plaintiff's wife, Irma L. Veloso, consequently leaving no doubt or any suspicion on the part of the defendant as to her authority. Under Section 55 of Act 496, as amended, Irma's possession and production of the Certificate of Title to defendant operated as "conclusive authority" from the plaintiff to the Register of Deeds to enter a new certificate. [112] (Emphasis and underscoring supplied)

The application of equity in this context is anchored on the real registered owner's negligence, as it is the very act of entrusting the owner's duplicate certificate which facilitates the fraud and defeats the safeguards embedded in the Torrens system precisely for said owner's protection.

By design, the Philippine Torrens system is equipped with safeguards to protect the real registered owner and all

subsequent parties who deal with registered land. As a mechanism to prevent fraudulent registration, Section 53 provides that "[n]o voluntary instrument shall be registered by the Register of Deeds, unless the owner's duplicate certificate is presented with such instrument, except in cases expressly provided for in [PD 1529] or upon order of the court, for cause shown." It adds that "[t]he production of the owner's duplicate certificate, whenever any voluntary instrument is presented for registration, shall be conclusive authority from the registered owner to the Register of Deeds to enter a new certificate or to make a memorandum or registration in accordance with such instrument x x x[.]"

Corollary to this, Section 52 provides for the constructive notice rule, which states that "[e]very conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing or entering."

By requiring the presentation of the owner's duplicate as a condition for registration of voluntary instruments, Section 53 aims to ensure that only those transactions entered into or stemming from the title of the real registered owner are recorded and placed within the scope of the Torrens system, and that no transaction which deviates from the title of the real registered owner is given effect. On the other hand, the constructive notice rule in Section 52 operates to place all third parties on notice of all legitimate transactions concerning the registered property.

Thus, in situations where it is the registered owner who commits acts tending to defeat or frustrate these protective mechanisms, then it is he or she (the real registered owner) who must necessarily suffer the loss.

That said, I deem it necessary to reiterate that following the proper interpretation of Sections 32 and 53 of PD 1529 as detailed above, the general rule should be that once the title of the original registrant becomes incontrovertible upon the expiration of the one-year period after the issuance of the latter's Torrens certificate, then any Torrens certificate subsequently issued through fraud or misrepresentation shall be null and void, and shall not serve as a source of a valid title even in the hands of a holder in good faith. As an exception, a subsequent Torrens certificate derived from one procured by fraud may be given effect in the hands of a holder in good faith but only in cases where the fraud resulted from the original registrant's own negligence. In such exceptional cases, the title of the innocent holder shall be respected based on the principles of estoppel and equity. Again, the oft-quoted rule that a void title serves as a source of a valid title in the hands of an innocent holder should be treated as a narrow exception to the general rule which may be applied solely on the basis of equity.

The award of actual and temperate damages is unwarranted in the present case

Finally, considering the foregoing discussions, I agree with the ponencia's deletion of the award of actual[113] and temperate damages in favor of Lourdes, since her right to these amounts has yet to be established.

To recall, actual and temperate damages are treated under Articles 2199 and 2224 of the Civil Code:

Article 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him [or her] as he [or she] has duly proved. Such compensation is referred to as actual or compensatory damages.

Article 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be provided with certainty.

To sustain an award for actual damages, proof of pecuniary loss is necessary. On the other hand, an award for temperate damages is premised on an injury for which definite proof of pecuniary loss cannot be offered. As explained by the Code Commission:

In some States of the American Union, temperate damages are allowed. There are cases where from the nature of the case, definite proof of pecuniary loss cannot be offered, although the court is convinced that there has been such loss. For instance, injury to one's commercial credit or to the goodwill of a business firm is often hard to show with certainty in terms of money. Should damages be denied for that reason? The judge should be empowered to calculate moderate damages in such cases, rather than that the plaintiff should suffer, without redress from the defendant's wrongful act.[114]

Here, Lourdes' entitlement to actual or temperate damages remains subject to proof in Civil Case No. 25285, which, based on the representations of the parties, remains pending to this day. It bears noting that while Lourdes has been allowed to pursue a counterclaim and present evidence ex parte, the grant of her counterclaim is still subject to the presentation of preponderant evidence justifying the same. To my mind, awarding such damages in the present case would effectively grant Lourdes relief without proof of her entitlement thereto. Lourdes' remedy lies with Iloilo RTC BR. 39 where her counterclaim is pending.

Based on these premises, I CONCUR and vote to PARTLY GRANT the Petition, REVERSE the June 28, 2018 Decision of the Court of Appeals in CA-G.R. CEB-CV No. 04831, and ENTER a new Decision, decreeing as follows:

- TCT No. T-86916 issued in the name of Ramon Chiang is cancelled;
- The annotation of the Real Estate Mortgage on the back of TCT No. T-86916 under Entry No. 656728 in favor of Lourdes Tan Chua is likewise cancelled;
- TCT No. T-57961 issued in the name of Nelson Plana married to Merlinda Relano is reinstated;
- The Estate of Ramon Chiang, through his heirs is ordered to pay Merlinda Plana the following amounts:
 - P100,000.00 as moral damages;
 - P100,000.00 as exemplary damages;
 - P50,000.00 as attorney's fees; and
- Six percent (6%) interest per annum on these amounts from finality of this Decision until fully paid.

Respondent Lourdes Tan Chua and her counsel are ordered to show cause within ten (10) non-extendible days from notice to show cause why they should not be cited in contempt of court for their deliberate withholding of material facts as above-mentioned and for delaying the speedy disposition of the present case and nearly bringing the administration of justice to disrepute.

[1] Rollo, p. 46.

[2] Id.

[3] Id. at 29.

[4] The exact date of issuance of TCT No. T-86916 does not appear in the records.

[5] Rollo, p. 46.

[6] See *Modina v. Court of Appeals*, 376 Phil. 44, 48 (1999).

[7] The date of the order rendered by the Court of First Instance of Iloilo and that of the sale made in favor of third parties pursuant thereto neither appear in the discussion in *Modina* nor in the records of the present Petition.

[8] See *Modina v. Court of Appeals*, *supra* note 6.

[9] *Rollo*, p. 47.

[10] *Id.* at 48.

[11] See *Modina v. Court of Appeals*, *supra* note 6.

[12] Based on CIVIL CODE, Art. 1490

[13] See *Modina v. Court of Appeals*, *supra* note 6, at 53.

[14] *Rollo*, pp. 48-49.

[15] *Id.* at 49.

[16] *Id.*

[17] *Id.* at 45-58. Penned by Associate Justice Geraldine C. Fiel-Macaraig, with the concurrence of Associate Justices Pamela Ann Abella Maxino and Louis P. Acosta.

[18] *Id.* at 57-58.

[19] *Id.* at 56.

[20] *Ponencia*, pp. 13-14.

[21] *Id.* at 7.

[22] *Id.*, citing *Jimenez v. Jimenez*, G.R. No. 228011, February 10, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67186>>.

[23] *Id.* at 9, citing *Spouses Bautista v. Spouses Jalandoni*, 722 Phil. 144, 149 (2013), further citing *Tan v. De la Vega*, 519 Phil. 515, 529 (2006) and *Philippine National Bank v. Court of Appeals*, 265 Phil. 703 (1990).

[24] *Id.*

[25] *Id.*

[26] *Sarmiento v. Dizon*, G.R. No. 235424, February 3, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67245>>.

[27] *Id.*

[28] *Heirs of Cudal, Sr. v. Spouses Suguitan, Jr.*, G.R. No. 244405, August 27, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66517>>.

[29] *Rollo*, p. 181.

[30] See *id.* at 184.

[31] *Id.*

[32] *Id.*

[33] Sarmiento v. Dizon, supra note 26.

[34] See CIVIL CODE, Art. 2085, which requires that the mortgagor "be the absolute owner" of the property so mortgaged.

[35] 843 Phil. 954, 993 (2018).

[36] Id. See also Ruiz v. Dimailig, 799 Phil. 273, 282 (2016), where the Court held that:

x x x the burden of proof that one is a mortgagee in good faith and for value lies with the person who claims such status. A mortgagee cannot simply ignore facts that should have put a reasonable person on guard, and thereafter claim that he or she acted in good faith under the belief that the mortgagor's title is not defective.

[37] Jimenez v. Jimenez, supra note 22.

[38] Id.

[39] Supra note 28.

[40] Id.

[41] See generally Presidential Decree No. 1529, Sec. 32.

[42] On mandatory judicial notice, see Republic v. Court of Appeals, 343 Phil. 428 (1997).

[43] Rollo, p. 90. The Accounting Complaint was later amended to implead Lourdes' husband Emilio Chua.

[44] Ponencia, p. 13.

[45] Particularly, Ramon's Complaint and Amended Complaint (rollo, pp. 90-93; 102-106); Lourdes' Answer (rollo, pp. 113-121); the various orders of the Iloilo RTC Br. 39 in Civil Case No. 25285 (rollo, pp. 100-101; 123-134; 137-139; 150); the Partial Compromise Agreement between Ramon and Lourdes (rollo, pp. 135-136); the December 21, 2012 Decision of the CA Nineteenth Division in CA-G.R. CV No. 00920 which granted Lourdes' prayer to remand the case to Iloilo RTC Br. 39 (rollo, pp. 141-149); and the transcript of Lourdes' deposition dated January 7, 2021 (rollo, pp. 234-273).

[46] Id. at 90-93; 102-106.

[47] Id. at 90-93.

[48] Id. at 113-120.

[49] Id.

[50] Id. at 119-120.

[51] Id. at 135-136.

[52] Id. at 137.

[53] Id. at 138.

[54] Id. at 141-149. Penned by Associate Justice Edgardo L. Delos Santos (later appointed as a member of the Court), with the concurrence of Associate Justices Pamela Ann Abella Maxino and Marilyn B. Lagura-Yap.

[55] Id.

[56] See id. at 226-227; 265-267.

[57] See *id.* at 70-73.

[58] See *id.* at 258.

[59] See *rollo*, p. 71.

[60] *Id.* at 53.

[61] Separate Opinion of Chief Justice Alexander G. Gesmundo, p. 12.

[62] 626 Phil. 410 (2010).

[63] *Id.* at 412-413.

[64] 698 Phil. 750 (2012).

[65] *Id.* at 757.

[66] AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES, or The Property Registration Decree, dated June 11, 1978.

[67] Kelvin Low, The Nature of Torrens Indefeasibility: Understanding the Limits of Personal Equities, MELBOURNE UNIVERSITY LAW REVIEW, Vol. 33, 205-234, p. 206.

[68] *Id.*

[69] Lynden Griggs, In Personam, Garcia v NAB and the Torrens System – Are They Reconcilable? QUEENSLAND UNIVERSITY OF TECHNOLOGY LAW & JUSTICE JOURNAL (2001), p. 78, citing R. Torrens, A HANDY BOOK ON THE REAL PROPERTY ACT OF SOUTH AUSTRALIA (1862), p. 8.

[70] R.G. Patton, The Torrens System of Land Title Registration, MINNESOTA LAW REVIEW (1935), p. 534.

[71] Kelvin Low, The Nature of Torrens Indefeasibility: Understanding the Limits of Personal Equities, *supra* note 67, at 211.

[72] *Id.* at 215.

[73] Loring M. Staples, Conclusiveness of a Torrens Certificate of Title, MINNESOTA LAW REVIEW (1924), pp. 202-203.

[74] R.G. Patton, The Torrens System of Land Title Registration, *supra* note 70, at 533-532.

[75] Loring M. Staples, Conclusiveness of a Torrens Certificate of Title, *supra* note 73, at 205-206.

[76] Rouhshi Low and Lynden Griggs, Immediate indefeasibility–Is it under threat?, AUSTRALIA PROPERTY LAW JOURNAL (2011), 19(2), p. 223.

[77] *Breskvar v. Wall*, 126 CLR 376 (1971).

[78] Judgment of Chief Justice Garfield Barwick in *Breskvar v. Wall*, *id.*

[79] Daniel Fitzpatrick, Caroline Compton and Joseph Foukona, Property and the State or 'The Folly of Torrens': A Comparative Perspective, UNSW LAW JOURNAL, Vol. 42(3), p. 963.

[80] Paras, E., CIVIL CODE OF THE PHILIPPINES, ANNOTATED (Sixteenth Ed., 2008) Vol. II, p. 81.

[81] CIVIL CODE, Art. 712.

[82] "Donation is an act of liberality whereby a person disposes gratuitously of a thing or right in favor of another, who accepts it." See CIVIL CODE, Art. 725.

[83] "Succession is a mode of acquisition by virtue of which the property, rights and obligations to the extent of the value of the inheritance, of a person are transmitted through his [or her] death to another or others either by his [or her] will or by operation of law." See CIVIL CODE, Art. 774.

[84] As a result of certain contracts such as sale, barter, donation, assignment, or mutuum. See *Acap v. Court of Appeals*, 321 Phil. 381, 390 (1995).

[85] "By prescription, one acquires ownership and other real rights through the lapse of time in the manner and under the conditions laid down by law." See CIVIL CODE, Art. 1106.

[86] See *Treyes v. Larlar*, G.R. No. 232579, September 8, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66814>>.

[87] See *Chavez v. Public Estates Authority*, 433 Phil. 506, 581-582 (2002).

[88] That original registration under the Torrens system serves merely as a means to confirm ownership is evident from the fact that registrants have been consistently required to assert and prove ownership of the land subject of their application for original registration. Under Act 496, Sec. 19, registrants were required to declare that they are the owners "in fee simple" of the parcel of land subject of their application. Under PD 1529, Sec. 14, only those who have acquired ownership in the manner provided thereunder may lodge ordinary registration proceedings.

[89] *Cabuhat v. Court of Appeals*, 418 Phil. 451, 456 (2001).

[90] Section 32 states, in part: "[w]henever the phrase 'innocent purchaser for value' or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value."

[91] *Cabuhat v. Court of Appeals*, supra note 89.

[92] *Id.*

[93] 35 Phil. 144 (1916).

[94] *Id.* at 151.

[95] *Id.* at 160.

[96] Concurring Opinion of Justice Carson in *Dela Cruz v. Fabie, et al.*, supra note 93, at 166-170.

[97] Dissenting Opinion of Justice Moreland in *Dela Cruz v. Fabie, et al.*, supra note 93, at 178-179.

[98] That is, subsequent to the original certificate of title issued pursuant to a decree of registration. Restated, any subsequent registration is one "after the entry of the decree of registration on the original petition or application."

[99] Section 52 states:

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

[100] To reiterate, Section 53 states, in part:

No voluntary instrument shall be registered by the Register of Deeds, unless the owner's duplicate certificate is presented with such instrument, except in cases expressly provided for in this Decree or upon order of the court, for cause shown.

The production of the owner's duplicate certificate, whenever any voluntary instrument is presented for registration, shall be conclusive authority from the registered owner to the Register of Deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him, in favor of every purchaser for value and in good faith.

[101] 38 Phil. 480 (1918).

[102] Id. at 482-491.

[103] 105 Phil. 1227 (1959).

[104] Id. at 1231, citing *Lucas v. Durian*, 102 Phil. Unrep. 1157 (1957).

[105] *Melendres v. Catambay, et. al.*, 844 Phil. 56, 72 (2018), citing *Dizon, et. al. v. Rodriguez*, 121 Phil. 681 (1965).

[106] *Martinez v. Court of Appeals*, 155 Phil. 591, 600 (1974), citing *Republic v. Ramona Ruiz, et. al.*, 131 Phil. 870 (1968) and *Republic v. Ramos*, 117 Phil. 45 (1963).

[107] Judgment of Chief Justice Garfield Barwick in *Breskvar v. Wall*, *supra* note 78.

[108] 31 Phil. 590 (1915).

[109] Id. at 593-594.

[110] See generally *De Lara and De Guzman v. Ayroso*, 95 Phil. 185, 188 (1954), which adopts the this oft--quoted principle of equity from the U.S. Supreme Court case of *Eliason v. Wilborn*, 281 US 457, 461 (1930).

[111] 329 Phil. 398 (1996).

[112] Id. at 408.

[113] Equivalent to the value of the principal loan secured by the subject mortgage.

[114] As cited in *Araneta v. Bank of America*, 148-B Phil. 124, 131 (1971).

CONCURRING AND DISSENTING OPINION

KHO, JR., J.:

I concur insofar as the ponencia declares that (a) respondent Lourdes Tan Chua (Lourdes) is a mortgagee in good faith; and (b) the deletion of the award of damages in her favor.

However, and for reasons as will be explained hereunder, I respectfully tender my dissent as to: (a) the ponencia's application of the Court's ruling in *Spouses Bautista v. Spouses Jalandoni*[1] (*Spouses Bautista*) that petitioner Merlinda Relano Plana (Merlinda), as owner of Lot 10031 covered by Transfer Certificate of Title (TCT) No. T-86916, was, in effect, not negligent or had not committed any act which could have brought about the issuance of another title relied upon by Lourdes, the mortgagee for value; (b) the directive to cancel the real estate mortgage of Lourdes annotated on TCT No. T-86916; (c) the notion that Lourdes has been amply and will still be

protected even with the consequent cancellation of the mortgage; and (d) the issuance of a show cause order against Lourdes and her counsel as to why they should not be cited in contempt.

I.

As a brief background, Spouses Nelson Plana (Nelson) and Merlinda owned five (5) lots covered by TCT Nos. T-57960, T-57961, T-57962, T-57963, and T-57864 located in Santa Barbara, Iloilo.[2]

After Nelson's death, Merlinda married Ramon Chiang (Ramon). However, Merlinda and Ramon's marriage eventually fell apart. During their marriage, it was alleged that Ramon fraudulently made Merlinda sign a Deed of Definite Sale dated December 17, 1975 selling the five (5) lots to him. Thus, TCT Nos. T-57960, T-57961, T-57962, T-57963, and T-57864 were cancelled and five (5) new titles were issued in the name of Ramon alone, i.e., TCT Nos. T-86912, T-86913, T-86914, T-86915, and T-86916.[3]

Subsequently, Ramon sold four (4) of the five (5) lots covered by TCT Nos. T-86912, T-86913, T-86914, and T-86915 to Serafin Modina (Serafin), as evidenced by Deeds of Sale dated August 3, 1979 and August 24, 1979.[4] The 5[th] lot, identified as Lot 10031 and covered by TCT No. T-86916, was not sold to Serafin and remained in Ramon's name.

Sometime in 1980, and as stated by the ponencia,[5] Merlinda sued Ramon to recover the four (4) lots sold under the Deed of Definite Sale covered by TCT Nos. T-86912, T-86913, T-86914, and T-86915, which were already sold by Ramon to Serafin. In a Decision dated October 29, 1999, the Court in *Modina v. Court of Appeals (Modina)*[6] affirmed the court a quo's ruling that declared as null and void the Deed of Definite Sale between Merlinda and Ramon for being simulated and without consideration. Thus, Merlinda was allowed to recover the four (4) lots.[7]

It is worthy to point out that while the Deed of Definite Sale between Merlinda and Ramon involved five (5) lots which were covered by Ramon's TCT Nos. T-86912, T-86913, T-86914, T-86915, and T-86916, Merlinda took action to recover the four (4) lots only but failed to take any action to recover the 5[th] lot—Lot 10031 under TCT No. T-86916.[8] Thus, TCT No. T-86916 covering Lot 10031 remained in Ramon's name.

Sometime in June 1996, during the pendency of the *Modina* case and more than 15 years from the suit of Merlinda against Ramon for the recovery of the four (4) lots, Ramon mortgaged the 5[th] lot—Lot 10031 covered by TCT No. T-86916 – to Lourdes to secure a P130,000.00 loan. The mortgage was annotated on the back of TCT No. T-86916 under Entry No. 656728.[9]

On July 13, 1998, Ramon filed a Complaint for Accounting and Damages (Accounting case) against Lourdes, docketed as Civil Case No. 25285 and raffled to Regional Trial Court of Iloilo City, Branch 39 (RTC). Ramon asserted that out of his P130,000.00 loan, he already paid Lourdes P46,500.00; hence, by way of consignment of the balance of his remaining debt, he deposited the amount of P83,500.00 with the RTC.[10]

In her Answer with Counterclaim for Judicial Foreclosure of Real Estate Mortgage and Damages, Lourdes claimed that Ramon's deposit with the RTC was insufficient to fully pay his loan in view of the 3% monthly interest attached to it, which Ramon never paid. Ramon's indebtedness to Lourdes already amounted to P300,000.00 as of the filing of the Accounting Case in 1998. Lourdes thus prayed that Lot 10031 covered by TCT No. T-86916 be foreclosed to satisfy Ramon's indebtedness and that she be granted damages, attorney's fees, and litigation expenses.[11]

Consequently, a Partial Compromise Agreement was entered into by Ramon and Lourdes dated March 15, 2001, wherein Lourdes agreed to the conditional acceptance of the amount of P83,500.00, which Ramon deposited with the RTC.[12]

On August 25, 2000, or 20 years after Merlinda sued Ramon to recover the four (4) lots covered by the Deed of Definite Sale (which became the subject of the Modina case), Merlinda finally filed a complaint for reconveyance of the 5th lot – Lot 10031 covered by TCT No. T-86916 – against Ramon and the mortgagee in good faith, Lourdes, which was raffled to the same RTC.[13]

Eventually, in a Decision dated November 12, 2012, the RTC ruled that the sale of Lot 10031 to Ramon was void, albeit it recognized Lourdes as a mortgagee in good faith since she relied on the face of TCT No. T-86916 showing that Ramon, as "single," was the owner of Lot 10031. Nonetheless, the RTC nullified Lourdes' mortgage interest over Lot 10031 because it emanated from a void sale.[14]

Aggrieved, Lourdes appealed to the Court of Appeals (CA), insisting that as a mortgagee in good faith, her mortgage interest over Lot 10031 should be upheld despite the nullity of Ramon's title thereto. Siding with Lourdes, the CA issued a Decision dated June 25, 2018, ruling that since Lourdes is indeed a mortgagee in good faith, then her mortgage interest over Lot 10031 should be deemed valid and must be respected. According to the CA, the doctrine of a mortgagee in good faith provides that even if the mortgagor is not the owner of the mortgaged property, the mortgage contract arising therefrom are given effect by reason of public policy.[15]

Merlinda filed a Motion for Reconsideration, which was, however, denied in a Resolution dated October 16, 2019. Hence, the instant petition filed by Merlinda.[16]

II.

As stated earlier, the ponencia ruled in Merlinda's favor by ordering the cancellation of Lourdes' mortgage interest over Lot 10031.

In so ruling, the ponencia held that Lourdes is a mortgagee in good faith as she merely relied on Ramon's TCT No. 86916, and that no circumstance was adduced which would have caused her to doubt its validity, and she immediately caused the registration of the mortgage under Entry No. 656728 on the back of TCT No. T-86916. Further, the ponencia noted that prior to the mortgage of Lot 10031 to Lourdes, Ramon had earlier mortgaged the same lot to the Development Bank of the Philippines (DBP) using the same TCT No. T-86916 under his name. DBP, being a banking institution, is presumed to have conducted its due diligence prior to the mortgage.[17]

I agree with the ponencia that Lourdes is a mortgagee in good faith in relation to the real estate mortgage between her and Ramon.

However, notwithstanding the status of Lourdes as a mortgagee in good faith, the ponencia still ruled that Lourdes' mortgage interest over Lot 10031 should be cancelled.[18] Relying on the Court's ruling in *Spouses Bautista*, which cites, among others, *Baltazar v. Court of Appeals*[19] (*Baltazar*), the ponencia ratiocinates that when "the true owner has not been found negligent or has not committed an act which could have brought about the issuance of another title relied upon by the x x x mortgagee for value, then the true innocent owner, whether still registered or deemed registered, has a better right over the mortgagee in good faith." [20]

In this connection, the ponencia ruled that Merlinda has not shown to have directly or indirectly caused the issuance of TCT No. T-86916 covering Lot 10031 through her fault or negligence, it did not matter that Merlinda had by then been eased out, or erased, as the lot's registered owner due to Ramon's fraud.[21]

The ponencia also noted the Accounting case filed by Ramon against Lourdes and the Partial Compromise Agreement that was entered into by the parties in 2001, wherein Lourdes conditionally agreed to accept from Ramon the amount of P83,500.00 that he deposited with the RTC. The ponencia opines that any remedy that Lourdes may have with the loan and mortgage was already brought in said Accounting case wherein she prayed for damages, attorney's fees and litigation expenses. Thus, the award of damages granted by the CA in her favor

was deleted.[22]

Finally, the ponencia issued a show cause order against Lourdes and her counsel as to why they should not be cited in contempt, considering their cavalier attitude in not disclosing the facts surrounding the Accounting case, specifically, the Partial Compromise Agreement entered into by Ramon and Lourdes which nearly led to an award that did not rightfully benefit Lourdes and would have compensated her twice for a single obligation to pay.[23]

As stated earlier, I respectfully disagree with the ponencia's view that Merlinda has not shown to have directly or indirectly caused the transfer of TCT No. T-86916 through her fault or negligence, which would result to the cancellation of Lourdes' real estate mortgage in Merlinda's favor. Further, I do not agree with ponencia's notion that Lourdes has been amply and will still be protected even with the consequent cancellation of the mortgage. Lastly, I do not join the ponencia in the issuance of the aforementioned show cause order.

III.

Principle of Innocent Purchaser for Value; Exceptions thereto.

The Torrens system, as adopted in the country, provides an effective measure that protects the indefeasibility and integrity of land titles once the claim of ownership is established and recognized under its system.[24] Thus, a person who purchases a land may be assured that the seller's title thereto is valid, so as not to subsequently render the purchase ineffectual.[25]

Complementing this is the doctrine that every person dealing with a registered land may safely rely on the correctness of the certificate of title and may dispense with the need to go beyond it to determine the conditions of the land;[26] thus, protecting third persons or innocent purchaser in good faith and for value who relied on the certificate of title.[27]

To be more precise, an innocent purchaser for value (IPV), is someone who purchases a property of another and pays full and fair price for the same without or before notice that some other person has a right to, or interest in the property.[28] "As such, a defective title – or one the procurement of which is tainted with fraud and misrepresentation – may be the source of a completely legal and valid title, provided that the buyer is an innocent third person who, in good faith, relied on the correctness of the certificate of title, or an innocent purchaser for value." [29]

Notably, case law instructs that the IPV principle extends to mortgagees in good faith. In *Arguelles v. Malarayat Rural Bank, Inc.*, [30] the Court, through Associate Justice Martin S. Villarama, Jr., held that "a mortgagee has a right to rely in good faith on the certificate of title of the mortgagor of the property offered as security, and in the absence of any sign that might arouse suspicion, the mortgagee has no obligation to undertake further investigation." [31]

Notably, however, in *Spouses Bautista and Baltazar*, the Court carved out an exception insofar as mortgagees in good faith are concerned. In these cases, it was clarified that a true owner, who has not been found negligent or has not committed an act which led to the issuance of another title relied upon by a mortgagee for value, has a better right over a mortgagee in good faith. In those cases, the Court essentially held that whatever rights the mortgagee in good faith has cannot prevail over the superior rights of the true owner, as the latter has not been negligent or performed any act which led the mortgagee to rely on the validity of the mortgagor's purported title over the property involved therein.

In *Spouses Bautista*, the Court, through Associate Justice Jose C. Mendoza, held that the true owner had no knowledge that their titles over their properties were fraudulently cancelled and new titles were issued in favor of a third party. It was found out that the signatures of the true owners were forged by a supposed agent to be able to dispose the properties in favor of a third party. Subsequently, such third party mortgaged the same to acquire a loan. The Court ruled that the true owner had not been negligent in any manner and had not performed any act which may give rise to any claim by a third person. In fact, the true owner had the title over the subject properties in his possession the whole time.[32]

Similarly, in the case of *Baltazar*, the Court, through Associate Justice Florentino P. Feliciano, held that in a declaration of ownership and reconveyance case, the Sheriff failed to serve the summons and a copy of the complaint against the true owner. As a result, the true owner was declared in default and lost the property. His title over the property was then cancelled and another one was issued in favor of a third party. It must be noted that the true owner never parted with his title.[33]

As may be gleaned above, *Spouses Bautista* and *Baltazar* similarly instruct that in instances when the true owners could not be charged with negligence as they never parted with their duplicate certificates or when they did not commit any act which could have brought about the issuance of another title relied upon by a purchaser or mortgagee for value, then it is only right that the true owner be given priority over the purchaser or mortgagee in good faith.[34] Verily, for the exception as enunciated in these cases to apply, it must be shown that the true owner should not have been found to be either negligent or committed an act, or even failed to act, which led to the issuance of another title relied upon by a mortgagee for value.

Thus, the principal issue that must be resolved in this case is whether Merlinda, claiming to be the true owner of Lot 10031 covered by TCT No. T-86916, was not negligent or did not commit any act or omission which could have brought the issuance of another title relied upon by Lourdes, the mortgagee for value, at the time when Lot 10031 was mortgaged to her by Ramon.

Spouses Bautista and *Baltazar* have no application to this case.

I fully agree with the Court's ruling in *Spouses Bautista* and *Baltazar* that when the true owners could not be charged with negligence or when they did not commit any act which could have brought about the issuance of another title relied upon by a purchaser or mortgagee for value, then it is only right and just that the true owner be given priority over the purchaser or mortgagee in good faith.

It is my considered view however that *Spouses Bautista* and *Baltazar* do not apply to this case since Merlinda was NEGLIGENT with respect to Lot 10031 and HAS FAILED to take any action to protect her interest therein for a long period of time (20 long years) that led to the persistence of another title covering Lot 10031 in Ramon's name, which Lourdes relied upon in good faith when the lot was mortgaged to her by Ramon.

As already adverted to, Merlinda, through the suit subject of the *Modina* case, had already commenced steps as early as in 1980 in recovering the four (4) out of five (5) lots covered by the Deed of Definite Sale between her and Ramon executed in December 17, 1975.

However, for reasons only known to her, Merlinda chose to exclude TCT No. T-86916 covering Lot 10031 in her suit against Ramon, nor did Merlinda promptly filed a complaint to recover Lot 10031 from Ramon at that time, as an alternative.

As stated by the ponencia, it was only much later that Merlinda sought to recover Lot 10031 under TCT No. T-86916. In fact, Merlinda waited for 20 long years, or from 1980 when she filed her suit for recovery – despite knowing of the fraudulent transfer of TCT No. T-86916 under Ramon's name – until the year 2000 to file the instant complaint for reconveyance of Lot 10031.

This inexplicable delay on Merlinda's part to initiate any action to recover Lot 10031 has indubitably created a window of opportunity for Ramon to mortgage the said lot under TCT No. T-86916, first to DBP, and thereafter, to Lourdes. Verily, Merlinda's actuations in waiting for 20 long years before questioning the sale of TCT No. T-86916 create doubt on the actual circumstances surrounding the transfer of the five (5) lots from Ramon to Merlinda. Interestingly, the Modina case was devoid of any facts detailing how Ramon was able to make Merlinda sign the Deed of Definite Sale or gain access to the certificates of title for presentation to the Register of Deeds. It merely concluded that there was no sufficient evidence establishing Merlinda's fault.

Thus, Merlinda's negligence and inexplicable delay in bringing the complaint for reconveyance undoubtedly allowed Ramon to mortgage Lot 10031 to DBP and eventually to Lourdes, a mortgagee in good faith. Accordingly, in contrast to the ruling of the ponencia, Merlinda, as clearly borne out by the facts of this case and that of Modina, is NOT and SHOULD NOT be considered an innocent registered owner with superior rights than Lourdes as a mortgagee in good faith.

In light of the foregoing considerations, Merlinda is obviously at fault insofar as the transactions involving Lot 10031 under TCT No. T-86916 is concerned, and the exception carved out in Spouses Bautista and Baltazar does not apply in this case. As such, Lourdes' status as a mortgagee in good faith must be respected and her mortgage interest over the said property should not be cancelled.

Lourdes will not be amply protected with the cancellation of the mortgage.

Furthermore, it is respectfully opined that the ponencia merely dealt with probabilities when it stated that the Accounting case must have already been terminated in view of the lapse of 24 years. It has not determined with certainty the present status of the Accounting case.

Notably, in his Separate Concurring Opinion, Associate Justice Alfredo Benjamin S. Caguioa points out that based on the pleadings and documents annexed to Merlinda's petition and reply, it appears that although the Accounting case was dismissed for Ramon's failure to appear at the pre-trial despite notice, Lourdes' counterclaim thereto remains pending at present.[35] Relatedly, it bears noting that in her Answer with Counterclaim for Judicial Foreclosure of Real Estate Mortgage and Damages in the Accounting case, Lourdes contended that the amount being consigned by Ramon was not in full payment of his obligation in view of the subsequent loans that Ramon obtained from her and the 3% monthly interest which he never paid; thus, the amount of P130,000.00 which Lourdes' already received cannot be deemed full satisfaction of Ramon's indebtedness. In fact, Lourdes prayed that Lot 10031 be foreclosed to satisfy Ramon's indebtedness.

In view of the uncertainty of the status of the Accounting case, Lourdes' status as a mortgagee in good faith must be respected and her mortgage interest over Lot 10031 should be maintained so that her recourse to foreclose the subject property in Civil Case No. 25285, in case of a favorable ruling by the RTC, may not be lost. Perforce, the CA ruling must be affirmed sans the award of damages in Lourdes' favor.

Lourdes and her counsel should not be issued a show cause order for contempt in view of their failure to disclose

the Accounting case.

Lastly, I dissent as to the ponencia's directive to issue a show cause order against Lourdes and her counsel as to why they should not be cited for contempt for failing to disclose the Accounting case.

As discussed above, Lourdes contended in the Accounting case that the amount consigned by Ramon was not in full payment of his obligation in view of Ramon's subsequent loans from her and the 3% monthly interest which he never paid. In fact, Lourdes prayed that Lot 10031 be foreclosed to satisfy Ramon's indebtedness. Lourdes likewise prayed therein that she be awarded with moral damages and exemplary damages at P500,000.00 each, attorney's fees at 25% of the amount collectible in the counterclaim plus P50,000.00 for the defense in the main case and litigation expense.[36]

It appears that Lourdes' counterclaim in the Accounting case remains pending at present. Lourdes, well-aware of the other reliefs that she prayed for in the Accounting case, had the propriety not to ask for any other relief in this case except that she be adjudged by the Court to be a mortgagee in good faith, which was acknowledged by the ponencia.[37] It should be noted that the reliefs that Lourdes specifically prayed for in this case and the Accounting case are different.

Thus, contrary to the ponencia's ratiocination, the failure of Lourdes to disclose the Accounting case should not be interpreted as an attempt by her to be compensated twice for a single obligation to pay nor did she seek an award in this case which did not rightfully befit her. In my considered view, said non-disclosure was not made to delay the speedy disposition of the case or to bring the entire administration of justice to disrepute and embarrassment as to justify a show cause order against Lourdes and her counsel.

Accordingly, I VOTE to AFFIRM the Decision dated June 25, 2018 and the Resolution dated October 16, 2019 of the Court of Appeals in CA-G.R. CEB-CV No. 04831 with MODIFICATION in that the award of damages in favor of respondent Lourdes Tan Chua must be DELETED.

[1] 722 Phil. 144 (2013) [Per J. Mendoza, Third Division].

[2] See ponencia, p. 2.

[3] Id.

[4] See id. See also *Modina v. CA*, 376 Phil. 44 (1999).

[5] See ponencia, p. 2.

[6] 376 Phil. 44 (1999) [Per J. Purisima, Third Division].

[7] See id.

[8] See ponencia, p. 2. See also *Modina v. CA*, id.

[9] See ponencia, pp. 2-3.

[10] See id. at 5.

[11] See id.

[12] See id. at 5-6.

[13] See *id.* at 2.

[14] See *id.* at 3.

[15] See *id.* at 4.

[16] See *id.*

[17] See *id.* at 7-9.

[18] See *id.* at 9-10.

[19] 250 Phil. 349 (1988) [Per J. Feliciano, Third Division].

[20] See ponencia, p. 9.

[21] See *id.*

[22] See *id.* at 12-13.

[23] See *id.* at 13.

[24] *Republic v. Umali*, 253 Phil. 732 (1989) [Per J. Cruz, First Division].

[25] *Id.*

[26] *Rufloe v. Burgos*, 597 Phil. 261, 270-271 (2009) [Per J. Leonardo-De Castro, First Division].

[27] See *Aguirre v. Bombaes*, G.R. No. 233681, February 3, 2021.

[28] *Sps. Aboitiz v. Sps. Po*, 810 Phil. 123, 168 (2017) [Per J. Leonen, Second Division], citing *Leong v. See*, 749 Phil. 314, 324-325 (2014) [Per J. Leonen, Second Division].

[29] *Locsin v. Hizon*, 743 Phil. 420, 429 (2014) [Per J. Velasco, Jr., Third Division].

[30] 730 Phil. 226 (2014) [First Division].

[31] *Id.* at 235, citing *Bank of Commerce v. Spouses San Pablo*, 550 Phil. 805, 821 (2007).

[32] *Spouses Bautista v. Spouses Jalandoni*, *supra* note 1, at 158-160.

[33] *Baltazar v. Court of Appeals*, *supra* note 19.

[34] See *Spouses Bautista v. Spouses Jalandon*, *supra* note 1, at 158-159; and *Baltazar v. Court of Appeals*, *id.*

[35] See Associate Justice Alfredo Benjamin S. Caguioa's Separate Concurring Opinion, p. 12.

[36] See ponencia, p. 12.

[37] *Id.*

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