Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

TITAN DRAGON PROPERTIES CORPORATION, *Petitioner,*	**G.R. No. 246088** Present: GESMUNDO, Chairperson CAGUIOA, ZALAMEDA, GAERLAN, and *LOPEZ, J., *JJ.*
- versus -	
MARLINA VELOSO-GALENZOGA, *Respondent.*	Promulgated: APR 28 2021

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DECISION

ZALAMEDA, *J.*:

A void judgment is in legal effect no judgment. By it no rights are divested. From it no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars any one. All acts performed under it and claims flowing out of it are void. The parties attempting to enforce it may be responsible as trespassers.[1]

This resolves the Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court (Rules) filed by petitioner Titan Dragon Properties

* Designated as additional member in lieu of J. Carandang who had prior participation in the case.

[1] *Estoesta, Sr. v. Court of Appeals,* 258-A Phil. 779, 789 (1989); G.R. No. 74817, 08 November 1989, citing Freeman on Judgments, Sec. 117, citing Campbell vs. McChan, 41 111, 45; Roberts v. Stowers, 7 Bush, 295 Huls v. Buntin 47 111, 396; Sherell v. Goddrum, 3 Humph, 418 [Per J. Paras]; emphasis omitted.

[2] *Rollo,* Vol. III, pp. 1108-1217.

Corporation (petitioner corporation) assailing the Decision[3] dated 01 June 2018 rendered by the Court of Appeals (CA), Division of Five,[4] and Resolution[5] dated 26 February 2019 rendered by the CA, Special Division of Five, Special Former Third Division[6] in CA-G.R. SP No. 150941 entitled, "Titan Dragon Properties Corporation v. Hon. Edgardo B. Bellosillo, in his official capacity as the Presiding Judge, Regional Trial Court, Branch 95, Quezon City, and Marlina Veloso-Galenzoga," which affirmed the Decision[7] dated 21 October 2016 rendered by the Honorable Edgardo B. Bellosillo, Presiding Judge of Branch 95, Regional Trial Court of Quezon City (Br. 95-RTC), in Civil Case No. R-QZN-15-03231-CV for Specific Performance.

Antecedents

The very subject of litigation is a 70,364-square meter (sq.m.) parcel of land (subject property) situated in *Barangay* Damayan Lagi, New Manila, Quezon City and registered in the name of Titan Dragon Properties Corporation under Transfer Certificate (TCT) No. 185260.[8] However, petitioner corporation, through its then President Antonio L. Yao (Yao), allegedly sold the subject property in favor of respondent Marlina Veloso-Galenzoga (respondent). Purportedly, the transaction was evidenced by a Deed of Absolute Sale[9] (Deed) executed between the parties on 08 December 1997 for a contract price of Sixty Million Pesos (Php 60,000,000.00). The Deed also obligated petitioner corporation to shoulder the payment of capital gains tax (CGT) and documentary stamp tax (DST) while respondent agreed to pay the transfer tax and registration fee.[10]

Respondent claimed that since 1997, she had been religiously paying real property taxes over the property. On the contrary, petitioner corporation failed to comply with its obligations to 1) deliver possession of the property and 2) pay the necessary CGT and DST.[11] Respondent averred she made several verbal demands to his good friend Yao, but to no avail, until the

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3 *Id.* at 1219-1231.

4 Penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Priscilla J. Baltazar-Padilla (a retired Member of this Court) and Ramon Paul L. Hernando (now a Member of this Court); Associate Justice Pedro B. Corales, dissenting, with Associate Justice Rosmari D. Carandang (now a Member of this Court) joining the dissent.

5 *Rollo,* Vol. IV, pp. 1387-1397.

6 Penned by Associate Justice Priscilla J. Baltazar-Padilla (a retired Member of this Court) and concurred in by Associate Justices Franchito N. Diamante and Marie Christine Azcarraga-Jacob; Associate Justice Pedro B. Corales, dissenting, with Associate Justice Nina G. Antonio-Valenzuela joining the dissent.

7 *Rollo,* Vol. IV, pp. 1376-1382.

8 *Rollo,* Vol. V, pp. 2432-2433.

9 *Rollo,* Vol. IV, pp. 1624-1625.

10 *Id.* at 1617, 1624.

11 *Rollo,* Vol. I, p. 217.

latter's demise. Thus, respondent filed a **Complaint**[12] **for specific performance** (specific performance case) dated 07 April 2015, to compel petitioner corporation to comply with its obligations.[13] The case was raffled to Br. 95-RTC.

Respondent filed a **Petition for *Mandamus***[14] (*mandamus* case) on 21 April 2015, docketed as **Civil Case No. R-QZM-15-03669-CV,** just two (2) weeks apart from the filing of the specific performance case. The petition was raffled to Branch 76, Regional Trial Court of Quezon City (Br. 76-RTC). In her petition, respondent alleged facts similar to the specific performance case, except for the allegation that on 13 January 2015, TCT No. 185260 was cancelled, resulting to two (2) derivative titles in the name of petitioner corporation under TCT Nos. 004-2015001698[15] and 004-2015001699.[16] Respondent claimed fraud as the owner's duplicate certificate of TCT No. 185260 was in her possession. She thus, sought to compel the Register of Deeds (RD) of Quezon City to 1) annul and cancel said derivative titles; and 2) reinstate TCT No. 185260.

Corresponding summonses were issued for both proceedings. However, the Sheriff's Return[17] dated 27 April 2015 in the specific performance case showed that Br. 95-RTC's deputy sheriff made attempts to serve the summons at the 6th Floor, PBCom Building, Ayala Avenue, Makati. The first was on 16 April 2015, when the deputy sheriff was informed by the administrative assistant of the building that petitioner company does not hold office at the 6th Floor. He verified the same and found that the entire floor is being occupied by PBCom bank. The second time, the deputy sheriff went back to the same address but the building manager of PBCom informed him that petitioner corporation was not holding office at the 6th Floor thereof. This prompted respondent to file a motion to serve summons to petitioner corporation by substituted service (publication),[18] which Br. 95-RTC granted in an Order[19] dated 09 June 2015.

Anent the *mandamus* case, the Sheriff's Return[20] dated 11 May 2015, yielded service of summons to petitioner corporation at the 6th Floor of PBCom Building, Ayala Avenue, through a certain Jona Agustin, front desk

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12 *Rollo,* Vol. IV, pp. 1616-1622. Docketed as Civil Case No. R-QZN-15-03231-CV.
13 *Id.* at 1618.
14 *Rollo,* Vol. I, pp. 215-226.
15 *Rollo,* Vol. IV, pp. 1578-1580.
16 *Id.* at 1582-1583.
17 *Rollo,* Vol. V, p. 2450.
18 *Id.* at 2452-2456.
19 *Id.* at 2457-2458.
20 *Rollo,* Vol. II, p. 544.

representative, who refused to sign the acknowledgment. Nonetheless, Br. 76-RTC declared that summons was properly served. The *mandamus* case was submitted for decision on 16 June 2015 upon failure of petitioner corporation to file its answer.[21]

On the same day Br. 76-RTC also issued a Decision[22] in favor of respondent. According to the trial court, respondent had been in possession of the owner's duplicate copy of TCT No. 185260. It assumed that the RD irregularly cancelled said title and issued two (2) new titles without requiring the presentation of TCT No. 185260. Thus, in its decision, Br. 76-RTC disposed:

> **WHEREFORE**, premises considered, judgment is rendered ordering the Register of Deeds of Quezon City to:
>
> 1. Cancel Transfer Certificate of Title Nos. 004-2015001698 and 004-2015001699 in the name of Titan Dragon Properties Corporation;
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> 2. Reinstate Transfer Certificate of Title No. 185260;
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> 3. Annotate the Deed of Absolute Sale executed between Marlina Veloso-Galenzoga and Titan Dragon Properties Corporation, throught its president Antonio L. Yao, over the real property covered by Transfer Certificate of Title No. 185260; and
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> 4. Issue a new certificate of title over the subject property in favor of Marlina Veloso-Valenzoga, upon payment of the necessary fees and taxes.
>
> **SO ORDERED.**[23]

On 01 July 2015, petitioner corporation filed a Motion for Reconsideration[24] in the *mandamus* case. Allegedly, petitioner corporation discovered that a decision was issued against it and was only able to secure copies of the same with the clerk of court of Br. 76-RTC.

In said motion, petitioner corporation maintained that the summons was improperly served to a receptionist, who is not an employee of petitioner corporation, nor among those who could be validly served with

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[21] *Rollo*, Vol. IV, p. 1666.
[22] *Id.* at 1667-1670; rendered by Presiding Judge Alexander S. Balut.
[23] *Id.* at 1670.
[24] *Id.* at 1672-1683.

summons under Section 11, Rule 14[25] of the Rules of Court.[26]. Hence, the service of summons was invalid, and the consequent decision rendered therein void.

Petitioner corporation also asserted that the decision in the *mandamus* case expanded the reliefs sought by respondent when it ordered the annotation of the Deed between respondent and Yao in TCT No. 185260 and the issuance of a new title in respondent's name. This, considering that respondent did not even pray for these reliefs.

Br. 76-RTC, now presided by a new judge,[27] issued a Resolution[28] on 21 April 2016 granting petitioner corporation's motion for reconsideration. It ruled that the court did not acquire jurisdiction as the summons was invalidly served. Moreover, the *mandanus* case was decided without respondent moving to declare petitioner corporation in default, and without the subsequent presentation of respondent's evidence *ex parte*. The court also noted the precipitate haste in resolving the *mandamus* case having been decided the same day it was submitted for decision. Hence, the trial court set aside the Decision dated 16 June 2015 and ordered for summons to be issued to petitioner corporation.

Meanwhile, petitioner corporation was declared in default in the specific performance case upon motion by the respondent on 12 July 2016.[29] Thus, Br. 95-RTC rendered a Decision[30] dated 21 October 2016 granting respondent's complaint for specific performance, the dispositive portion of which states:

> WHEREFORE, Judgment by deafult is hereby rendered in favor of plaintiff and against defendant.
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> Accordingly, the Court Orders as follows:
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> 1. The defendant to pay the Capital Gains Tax and Documentary Stamp Tax to effect the transfer of title of the subject property; and

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[25] SECTION 11. *Service Upon Domestic Private Juridical Entity.* — When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel

[26] Pertains to the 1997 Rules of Court then in force.

[27] Acting Presiding Judge Maria Gilda Loja-Pangilinan.

[28] *Rollo,* Vol. II, pp. 562-565.

[29] *Rollo,* Vol. III, p. 1298, *see* Order dated 12 July 2016.

[30] *Rollo,* Vol. IV, pp. 1376-1382.

2. To deliver the possession of the subject real property to plaintiff Marlina Veloso-Galenzoga.

SO ORDERED.[31]

On 27 October 2016, an Omnibus Motion[32] was filed by respondent. She alleged that petitioner corporation caused the subdivision of the subject property fraudulently, resulting to the cancellation of TCT No. 185260 and the subsequent issuance of the derivative titles in its name. Respondent prayed for the trial court to cancel the said derivative titles for being void and to direct the RD of Quezon City to reinstate TCT No. 185260, annotate thereon the absolute deed of sale between respondent and Yao, and to issue a new title in her name.

In the interim, the said Decision dated 21 October 2016 in the specific performance case became final and executory on 12 December 2016 based on the Certificate of Finality[33] issued by the trial court on 04 January 2017. A day after said decision became final, the omnibus motion earlier filed by respondent was partly granted in an Order[34] dated 13 December 2016, the dispositive portion of which states:

> Accordingly, the Register of Deeds of Quezon City is ordered to annotate on TCT No. 185260 the Deed of Absolute Sale dated December 8, 1997 executed by and between Titan Dragon Properties Corporation and Marlina G. Veloso-Galenzoga; and to issue a new title in the name of plaintiff Marlina G. Veloso-Galenzoga upon payment of all taxes and fees due to the Government or upon the presentation of the pertinent Certificate Authorizing Registration from the Bureau of Internal Revenue, consistent with the Decision of the Honorable Court dated October 21[,] 2016.
>
> SO ORDERED.

On 24 April 2017, a Writ of Execution[35] was issued pursuant to an order of even date rendered by Br. 95-RTC granting the motion filed by respondent for the issuance of the said writ. However, the writ directed not only the execution of the Decision dated 21 October 2016, but likewise, the subsequent Order dated 13 December 2016. A Notice to Comply[36] was

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31 *Id.* at 1382.
32 *Rollo*, Vol II, pp. 690-695.
33 *Rollo*, Vol. I, p. 212.
34 *Rollo*, Vol. II, pp. 696-698.
35 *Rollo*, Vol. IV, pp. 1384-1385.
36 *Rollo*, Vol. II, p. 519.

issued compelling both the petitioner corporation and the RD of Quezon City to comply with the writ of execution.

The Deputy RD of Quezon City[37] was prompted to write a Letter[38] to the Land Registration Authority (LRA) on 19 May 2017, seeking guidance on the implementation of the writ of execution in the specific performance case. According to the Deputy RD, TCT No. 185260, registered in the name of petitioner corporation, was already cancelled and two (2) derivative titles were issued, still under the name of petitioner corporation, due to the subdivision of the subject property. However, on 16 April 2015, a certain Atty. Levito D. Baligod presented an alleged owner's duplicate copy of TCT No. 185260 which the RD found dubious. Without confiscating the same, the then Acting RD requested for an investigation on the authenticity of said copy. Thus, the LRA, through its Task Force *Titulong Malinis* in TFTM No. 15-009, and supported by the findings of the Banknotes and Securities Printing Department of the Bangko Sentral ng Pilipinas in its Report dated 17 March 2017, stated that **the cancelled owner's duplicate and the original/registry copies of TCT No. 185260 of petitioner corporation were authentic and genuine.**[39]

It was also relayed by the Deputy RD of Quezon City to the LRA, in her letter dated 19 May 2017, that respondent filed a specific performance case to compel petitioner corporation to pay the proper taxes with the Bureau of Internal Revenue and to deliver possession over the property, which case had already been decided in respondent's favor. Br. 95-RTC, however, issued an Order granting an omnibus order praying for the issuance of a new title in the name of respondent. The Deputy RD of Quezon City claimed that to comply with the trial court's directive would be tantamount to a collateral attack on TCT No. 185260 and its derivatives, in violation of the provisions of Section 48[40] of Presidential Decree No. (PD) 1529.[41]

Renato D. Bermejo (Bermejo), the LRA Administrator, issued an undated Legal Opinion[42] pertaining to the query of the Deputy RD of Quezon City. According to Bermejo, the LRA is inclined on the execution and compliance of the RD of Quezon City considering that the questioned decision of the trial court is already final and executory.

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[37]Atty. Myra Roby S. Puruganan.

[38]*Rollo*, Vol. IV, pp. 1633-1635.

[39]*Rollo*, Vol. II, pp. 1632-1634.

[40]Section 48. *Certificate not subject to collateral attack.* - A certificate of title shall not be subject of collateral attack. It cannot be altered, modified, or cancelled, except in a direct proceeding in accordance with law.

[41]*Rollo*, Vol. IV, p. 1635.

[42]*Rollo*, Vol. II, pp. 524-526.

The RD of Quezon City filed a Manifestation[43] before Br. 95-RTC stating that the title sought to be cancelled, TCT No. 185260, had already been previously cancelled. Moreover, the RD is incapable of processing the issuance of a new title from a cancelled title considering its effect on the stability and indefeasibility of titles covered under the Torrens system.

Br. 95-RTC, however, was unimpressed and thus, commanded the RD to show cause why it should not be cited in contempt for failure to abide by the notice to comply in an Order[44] dated 09 October 2017.

On the other hand, respondent filed in the *mandamus* case, a Motion to Withdraw Petition on 08 September 2017. Respondent alleged that the RD of Quezon City sought legal opinion concerning "issues that are closely intertwined with the case" and that the LRA issued a legal opinion directing said RD to perform certain acts which, if performed, would amount to the same reliefs sought by her.[45] Respondent, however, failed to expound on the basis of her claim.

Petitioner corporation submitted a comment/opposition on the motion to withdraw, claiming that another case for specific performance had been filed by respondent in another branch. According to petitioner corporation, the *mandamus* and specific performance cases claim for reliefs which are not only related, but similar, hence, the motion to withdraw must be denied on the ground of forum shopping.[46]

On 18 October 2017, Br. 76-RTC issued an Order[47] dismissing the *mandamus* case with prejudice on the ground of forum shopping. The trial court found that respondent ultimately seeks, in both the *mandamus* and specific performance cases, for title to the subject property to be established in her favor. Further, respondent failed to state in her certification against forum shopping the existence and pendency of the specific performance case.

Respondent then filed a petition for *certiorari* under Rule 65 of the Rules, docketed as C.A.-G.R. No. 156169 entitled, "Marlina Veloso-

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43 *Rollo,* Vol. II, pp. 542-543.
44 *Rollo,* Vol. IV, pp. 1661-1662
45 *Rollo,* Vol. I, pp. 470-473, *see* Order dated 18 October 2017.
46 *Id.* at 471.
47 *Id.* at 470.

Galenzoga v. The Registry of Deeds of Quezon City, et al.," assailing the dismissal of the *mandamus* case with prejudice. This was later denied by the CA[48] in its Decision[49] dated 16 November 2018, affirming the finding of Br. 76-RTC that respondent committed forum shopping. The motion for reconsideration filed by respondent herein was likewise denied by the majority of the CA Division of Five of the Former Special Sixteenth Division by Resolution[50] dated 30 July 2019, penned by Associate Justice Maria Filomena D. Singh, with the former *ponente* of the Decision dated 16 November 2018, Associate Justice Stephen C. Cruz, now dissenting.

Eventually, the *mandamus* case reached the Court, with respondent filing a petition for review on *certiorari* assailing the dismissal of her petition for *certiorari* before the CA, docketed as G.R. No. 248747. The Court takes judicial notice that on 15 June 2020, the Third Division of the Court, finding no reversible error on the part of the CA, denied the same.

Petition for *Certiorari* (Under Rule 65) filed before the CA assailing the Specific Performance case

During the pendency of C.A.-G.R. No. 156169, petitioner corporation filed its own petition for *certiorari* before the CA, docketed as **C.A.-G.R. SP No. 150941**, seeking to annul and set aside in the specific performance case, the Decision dated 21 October 2016, and Writ of Execution dated 24 April 2017, as well as the proceedings held and conducted, and issuances rendered, by the Hon. Edgardo Bellosillo (Judge Bellosillo), Presiding Judge of Br. 95-RTC, pursuant to the same.

Petitioner corporation, through then counsel, Atty. Reynaldo P. Melendres, maintained that Judge Bellosillo committed grave abuse of discretion when he rendered the assailed decision despite improper service of summons in violation of petitioner corporation's right to due process and when he ordered the issuance of the writ of execution despite the Decision being void.

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48 Special Sixteenth Division; penned by Associate Justice Stephen S. Cruz and concurred in by Associate Justices Maria Filomena D. Singh and Gabriel T. Robeniol.

49 *Rollo,* Vol. IV, pp. 1853-1863.

50 *Rollo,* Vol. V, pp. 2733-2741; penned by Associate Justice Maria Filomena D. Singh and concurred in by Associate Justices Stephen C. Cruz, Pablito A. Perez, Ronaldo Roberto B. Martin and Gabriel T. Robeniol.

According to petitioner corporation, it only learned of the specific performance case against it on 12 May 2017. Allegedly, petitioner corporation was informed by its security guards stationed at the subject property that a broker went to said property wielding a copy of the decision and writ of execution. However, petitioner corporation never received any summons from Br. 95-RTC.

Petitioner corporation asserted that while summons by publication was effected, no diligent inquiry was made by the sheriff in serving the summons personally. Due to invalid service of summons, petitioner corporation was deprived of due process to present its meritorious defense.

In its Comment/Opposition,[51] respondent insisted that the sheriff made diligent efforts in serving the summons. Furthermore, based on the Articles of Incorporation (AOI) and the General Information Sheets (GIS) filed by petitioner corporation for the years 2006 to 2015, it has consistently declared PBCom Bulding, Ayala Avenue, Makati City as its principal place of business.

Respondent likewise claimed that petitioner corporation availed of the wrong remedy, the proper one being a petition for annulment of judgment under Rule 47 of the Rules.

On 04 October 2017, petitioner corporation, now represented by new counsel, filed a Motion for Leave to File and Admit Attached Supplemental Reply (with Motion to Set Case for Oral Arguments).[52] In its Supplemental Reply,[53] petitioner raised the issue of forum shopping and alleged that the *mandamus* case and the specific performance case ultimately sought for the issuance of a new title in the name of respondent, with essentially the same facts and circumstances and the same parties with common interest.

Moreover, respondent's right of action in the specific performance case has already prescribed and is now barred by laches. It took seventeen (17) years from the execution of the deed of absolute sale before respondent filed a complaint for specific performance, beyond the 10-year period provided under Article 1144 of the Civil Code.[54]

[51] *Rollo,* Vol. V, pp. 1869-1891.
[52] *Id.* at 1925-1928.
[53] *Id.* at 1929-1973.
[54] Article 1144. The following actions must be brought within ten years from the time the right of action accrues:
(1) Upon a written contract;

Contrary to respondent's claim, petitioner corporation maintained the first page of its 2014 GIS clearly showed its complete and current address at "c/o Mindanao Textile Corp, -Km 16, ACSIE Compound, Severina Ind'l. Estate, Paranaque" (KM 16). However, respondent only attached, and the sheriff merely relied on, the cover page of petitioner corporation's GIS when in fact, the first page revealed its current address.

The sheriff was also required to make at least three (3) attempts on at least two (2) different dates to serve the summons pursuant to *Manotoc v. Tinga.*[55] However, he only made a second attempt to serve the summons at the same address as in his first attempt.

Petitioner corporation also claimed that it made the correct resort *via* a Rule 65 petition based on several decisions of the Court; a petition for annulment of judgment not being a plain, speedy and adequate remedy against judgments rendered or proceedings had without valid service of summons.

Finally, the authenticity of the Deed and the alleged duplicate copy of TCT No. 185260 in respondent's possession was put into question.

Ruling of the Court of Appeals

In its Decision[56] dated 01 June 2018, the Court of Appeals (CA) Division of Five[57] ruled to dismiss petitioner corporation's petition for being the wrong mode of appeal. The speedy and adequate remedy is a petition for annulment of judgment under Rule 47 of the Rules considering that the basis of the petition is the lack of jurisdiction over the person of petitioner corporation.

The CA Division of Five also ruled that service of summons by publication was properly done. The sheriff cannot be faulted for not

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55 530 Phil. 454 (2006); G.R. No. 130974, 16 August 2006 [Per J. Velasco].

56 *Rollo,* Vol. III, pp. 1219-1231.

57 Penned by Associate Justice Elihu A. Ybanez and concurred in by Associate Justices Priscilla J. Baltazar-Padilla (a retired Member of this Court) and Ramon Paul L. Hernando (now a Member of this Court); Associate Justice Pedro B. Corales, dissenting, with Associate Justice Rosmari D. Carandang (now a Member of this Court) joining the dissent.

attempting to serve summons at petitioner corporation's alleged business address at KM 16 considering it was not even stated in respondent's complaint for specific performance and pertained to the address of an unrelated company,[58] *i.e.*, Mindanao Textile, Corp.

The dispositive portion of the CA's Decision reads:

> **FOR THESE REASONS**, the instant Petition for *Certiorari* is **DISMISSED**. The assailed Decision dated dated (sic) 21 October 2016 and the subsequent Writ of Execution dated 24 April 2017, both issued by the public respondent Regional Trial Court, Branch 95, Quezon City in Civil Case No. R-QZN-15-03231-CV are **AFFIRMED**.
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> **SO ORDERED.**[59]

Associate Justice Pedro A. Corales (Justice Corales), a member of the CA Division of Five, however, registered his dissent with the majority.[60] Justice Corales observed that there was a patent lack of valid service of summons. The sheriff did not even bother to serve the summons personally upon those authorized to receive the same, such as petitioner corporation's president, managing partner, general manager, corporate secretary, treasurer or in-house counsel. The lack of diligence to serve the summons personally rendered invalid the summons by publication. After all, it may only be resorted to after unsuccessful attempts to serve the summons personally and after diligent inquiry as to petitioner corporation's whereabouts.

Justice Corales also noted that the writ of execution issued in the specific performance case altered the terms of the judgment sought to be executed. The writ of execution, aside from ordering the payment of DST and CGT and the turn over of possession of the subject property, added a directive to the RD of Quezon City to annotate on TCT No. 185260 the absolute deed of sale and to issue a new title in the name of respondent.

In disregarding the rules on service of summons, and in altering the decision sought to be executed, Judge Bellosillo committed grave abuse of discretion. His manifest and obstinate disregard of the basic rules of procedure warrants the resort to Rule 65 of the Rules.

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[58] *Rollo*, Vol. III, p. 1229
[59] *Id.* at 1230.
[60] *Id.* at 1232-1253.

Petitioner corporation filed its Motion for Reconsideration[61] which the majority of the CA Special Division of Five[62] denied in its Resolution[63] dated 26 February 2019, the dispositive portion of which states:

> **WHEREFORE**, WE stand by OUR Decision dated June 1, 2018. The Motion for Reconsideration is **DENIED.**
>
> **SO ORDERED**.

Feeling aggrieved, petitioner corporation filed the instant petition for review on *certiorari.*

Issues

Both parties presented a slew of issues which may be condensed and simplified to the following: 1) propriety of resort to Rule 65 of the Rules; 2) the validity of the service of summons by publication; and 3) the propriety of the expansion of the writ of execution issued in the specific performance case.

Ruling of the Court

A judgment may be voided through either a collateral attack, or by direct attack via a petition for certiorari under Rule 65 or a petition for annulment of judgment under Rule 47

A void judgment is defined as one that, from its inception, is a complete nullity and without legal effect. A void judgment is not entitled to the respect accorded to, and is attended by none of the consequences of, a valid adjudication. Indeed, a void judgment need not be recognized by

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[61] *Rollo,* Vol. IV, pp. 1399-1460.

[62] Special Former Third Division; penned by Associate Justice Priscilla J. Baltazar-Padilla (a retired Member of this Court) and concurred in by Associate Justices Franchito N. Diamante and Marie Christine Azcarraga-Jacob; Associate Justice Pedro B. Corales, dissenting, with Associate Justice Nina G. Antonio-Valenzuela joining the dissent.

[63] *Rollo*, Vol. IV, pp. 1387-1397.

anyone, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It has no legal or binding force or efficacy for any purpose or at any place. It cannot affect, impair, or create rights, nor can any rights be based on it. All proceedings founded on the void judgment are themselves regarded as invalid and ineffective for any purpose.[64]

As void judgments produce no legal and binding effect, they are deemed inexistent. They may result from lack of jurisdiction over the subject matter or a lack of jurisdiction over the person of either of the parties. And they may also arise if they were rendered with grave abuse of discretion amounting to lack or excess of jurisdiction. Such void judgments may be attacked directly *via* a petition for annulment of judgment under Rule 47, and via a petition for *certiorari* under Rule 65 of the Rules, respectively.[65]

The majority of the CA Division of Five ruled that petitioner corporation should have availed of the remedy of annulment of judgment instead of petition for *certiorari* in attacking the decision of Br. 95-RTC in the specific performance case. This, considering that petition essentially assails the lack of jurisdiction over its person, not having been validly served with summons.

We do not agree.

While it is true that defective service of summons negates the Court's jurisdiction and is thus recognized as a ground for an action for annulment of judgment,[66] this does not preclude the remedy of *certiorari.*

In cases where a tribunal's action is tainted with grave abuse of discretion, Rule 65 of the Rules provides the remedy of a special civil action for *certiorari* to nullify the act.[67] After all, the concept of lack of jurisdiction as a ground to annul a judgment does not embrace abuse of discretion.[68]

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[64] *Roces v. House of Representatives Electoral Tribunal,* 506 Phil. 654, 671 (2005); G.R. No. 167499, 15 September 2005 [Per J. Puno].

[65] *See Mercury Drug Corp. v. Spouses Huang,* 817 Phil. 434, 453 (2017); G.R. No. 197654, 30 August 2017 [Per J. Leonen].

[66] *Carreon v. Aguillon,* G.R. No. 240108, 29 June 2020 [Per J. Bernabe].

[67] *Imperial v. Armes,* 804 Phil. 439, 460 (2017); G.R. Nos. 178842 & 195509, 30 January 2017 [Per J. Jardeleza].

[68] *Republic v. "G" Holdings Inc.,* 512 Phil. 253, 263 (2005); G.R. No. 141241, 22 November 2005 [Per J. Corona].

Here, petitioner corporation does not only assail the lack of jurisdiction over its person on account of an invalid service of summons but likewise the grave abuse of discretion allegedly committed by Judge Bellosillo in patently disregarding the Rules of Court and applicable jurisprudence in issuing the decision and writ of execution in the specific performance case. To recall, petitioner corporation asserts that the expansion of the scope of the decision smacks of grave abuse of discretion considering that the writ of execution issued included reliefs not even prayed for in the complaint. After all, a petition for *certiorari* is a remedy directed not only to correct errors of jurisdiction, but also to set right, undo, and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government.[69]

We are aware that while a void judgment is no judgment at all, any action to challenge it must be done through the correct remedy.[70] However, to haphazardly conclude that the remedy of annulment is the only proper remedy and precludes resort to *certiorari,* by singularly taking the allegation of lack of jurisdiction over the person of petitioner corporation as basis, is a myopic appreciation of the facts, issues and pieces of evidence, as well as interpretation of procedural rules and established jurisprudence. A holistic approach is favored to better serve the interest of justice.

Further, the lack of a valid service of summons may be properly assailed in a Rule 65 petition. Jurisprudence has allowed a *certiorari* petition to render judgments and writs of executions issued without valid service of summons as void. In *Matanguihan v. Tengco,*[71] the Court ruled *certiorari* is proper where the proceeding in the trial court has gone so far out of hand as to require prompt action. An action for an annulment of judgment is not a plain, speedy and adequate remedy. Similar resort to Rule 65 was allowed in *Filmerco Commercial Co., Inc. v. Intermediate Appellate Court,*[72] and in *Santiago Syjuco, Inc. v. Castro.*[73] More recently, the Court affirmed the findings of grave abuse of discretion by the appellate court committed by the trial courts in issuing decisions *sans* proper service of summons in *Pascual*

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69 *See Lim v. Lim,* G.R. No. 214163, 01 July 2019 [Per J. Leonen].
70 *Supra* at note 67.
71 184 Phil. 425 (1980); G.R. No. L-27781, 28 January 1980 [Per J. Fernandez].
72 233 Phil. 197 (1987); G.R. No. 70661, 09 April 1987 [Per J. Gutierrez, Jr.].
73 256 Phil. 621 (1989); G.R. No. 70403, 07 July 1989 [Per J. Narvasa].

v. Pascual,[74] *Express Padala (Italia) v. Ocampo,*[75] and *Interlink Movie Houses, Inc. v. Court of Appeals.*[76]

Even assuming, *arguendo,* that a petition for annulment of judgment is the proper remedy, the CA is not barred from taking cognizance of the petition. In *Heirs of So v. Obliosca,*[77] where the inverse happened, *i.e.,* annulment of judgment was deemed as improper remedy, the Court ruled that the higher interests of justice and equity demand that procedural norms be brushed aside:

> After all, rules of procedure are intended to promote rather than defeat substantial justice, and should not be applied in a very rigid and technical sense. Rules of procedure are merely tools designed to facilitate the attainment of justice; they are promulgated to aid the court in the effective dispensation of justice. The Court has the inherent power and discretion to amend, modify or reconsider a final judgment when it is necessary to accomplish the ends of justice.
>
> If the rigid application of the Rules would frustrate rather than promote justice, it is always within the Court's power to suspend the Rules or except a particular case from its operation. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself has already declared to be final.[78]

Given the realities obtaining in this case, the liberal construction of the Rules will promote and secure a just determination of the parties' causes of action against each other. As the court of the last resort, justice should be the paramount consideration when the Court is confronted with an issue on the interpretation of the Rules, subject to petitioner's burden to convince the Court that enough reasons obtain to warrant the suspension of a strict adherence to procedural rules.[79] Petitioner corporation has shown more than enough valid and justifiable reasons why a relaxation of the Rules should be accounted in its favor.

The service of summons was invalid; Br. 95-RTC never acquired jurisdiction

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[74] 622 Phil. 307 (2009); G.R. No. 171916, 04 December 2009 [Per J. Peralta].
[75] 817 Phil. 911 (2017); G.R. No. 202505, 06 September 2017 [Per J. Jardeleza].
[76] 823 Phil. 1032 (2018); G.R. No. 203298, 17 January 2018 [Per J. Martirez].
[77] 566 Phil. 397 (2008); G.R. No. 147082, 28 January 2008 [Per J. Nachura].
[78] *Id.* at 616.
[79] *Pimentel v. Adiao,* G.R. No. 222678 (Resolution), 17 October 2018 [Per J. Caguioa].

Respondent moved for the service of summons by publication after the branch deputy sheriff failed to serve summons twice at the provided address, "6th Floor of PBCom Building, Ayala Avenue, Makati City," which the trial court granted. Petitioner corporation, however, asserts that the requisites for service of summons for publication were not even met; thus, the service through such means is invalid.

Personal service of summons is the preferred mode of service of summons. Thus, as a rule, summons must be served personally upon the defendant or respondent wherever he or she may be found.[80] The Rules, however, allow service of summons through other modes, such by by substituted service, and by publication. Under Section 14, Rule 14 of the Rules[81] then in force, summons by publication may be effected, by leave of court, when the whereabouts of the defendant is unknown and cannot be ascertained with diligent inquiry.

Thus, before summons by publication may be allowed, the following requirements must be satisfied: 1) there must be a written motion for leave of court to effect service of summons by publication, supported by affidavit of the plaintiff or some person on his behalf, setting forth the grounds for the application;[82] and 2) there must be diligent efforts exerted by the sheriff in ascertaining the whereabouts of the defendant.[83]

A perusal of the records reveals that the foregoing requirements were not met. While respondent filed, through counsel, a Motion to Serve Summons by Substituted Service,[84] praying for summons by publication, it was not accompanied by the required affidavit executed either by respondent or by some other person on her behalf. Moreover, the Sheriff's Return[85] does not show that diligent or earnest efforts were exerted by the sheriff in ascertaining the whereabouts of petitioner corporation.

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[80] *De Pedro v. Romasan Development Corp.*, 748 Phil. 706, 727 (2014); G.R. No. 194751, 26 November 2014 [Per J. Leonen].

[81] Section 14. *Service upon defendant whose identity or whereabouts are unknown.* — In any action where the defendant is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court, be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the court may order.

[82] Section 17. *Leave of court.* — Any application to the court under this Rule for leave to effect service in any manner for which leave of court is necessary shall be made by motion in writing, supported by affidavit of the plaintiff or some person on his behalf, setting forth the grounds for the application.

[83] Section 14, Rule 14 of the 1997 Rules of Court then in force.

[84] *Rollo*, Vol. V, pp. 2452-2456.

[85] *Id.* at 2450.

The diligence requirement under Section 14, Rule 14 of the Rules means that there must be prior resort to personal service under Section 7 and substituted service under Section 8 of the same Rule, and proof that these modes were ineffective before summons by publication may be allowed.[86] In *Manotoc v. Court of Appeals*,[87] the Court ruled that the sheriff must be resourceful, persevering, canny, and diligent in serving the process on the defendant. Moreover, there must be several attempts by the sheriff to personally serve the summons within a reasonable period, which means at least three (3) tries, preferably on at least two (2) different dates. There must likewise be reasons cited why such efforts were unsuccessful. It is only then that impossibility of service can be confirmed or accepted.[88]

The Sheriff's Return in this case states:

> THIS IS TO CERTIFY that on April 16, 2015, **the undersigned tried to Serve a copy of the Summons together with the Complaint and Annexes to the defendant Titan Dragon Properties Corporation located at 6th Floor, PBCom Buidling, Ayala Avenue, Makati City.** On same date, the undersigned was informed by a certain Administrative Assistant, Ms. Gina Busque[,] that no such company exist[s] at the given address. The Undersigned went up to the 6th Floor of the PBCom Building to verify the said address and I found out that the Entire 6th Floor is occupied by PBCom Bank.
>
> Dissatisfied, the undersigned went again on April 23, 2015, **the undersigned again tried to Serve a copy of the Summons together with the Complaint and Annexes to the defendant.** On the same date, the undersigned was informed by the Building Manager of PBCom, a certain Mr. Jonathan P. Roda that the defendant Titan Dragon Properties Corporation was not holding office at the above described address.
>
> Respectfully returned for your information and guidance.[89] [Emphasis supplied.]

It is apparent from the said return that the sheriff only tried to serve the summons personally twice on two (2) separate dates, contrary to respondent's allegation that the sheriff made three (3) of the mandated attempts. The sheriff's act of going up to the 6th Floor to check whether or

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86 *Supra* at note 75 at 918.

87 *Supra* at note 55; *see also Borlongan v. Banco de Oro,* 808 Phil. 505 (2017); G.R. Nos. 217617 & 218540 (Resolution), 05 April 2017 [Per J. Velasco] which applied the rules in *Manotoc* in the service of summons by publication.

88 *Id.* at 470.

89 *Rollo,* Vol. V, p. 2450.

not petitioner corporation was holding office thereat[90] cannot, by any stretch of imagination, be considered as a separate attempt to serve summons. For one, the sheriff did not even state that he made an attempt to serve the summons anew to petitioner corporation when he went to the 6th Floor of PBCom. For another, the sheriff himself categorically alleged in his return that he "tried to Serve a copy of the Summons together with the Complaint and Annexes to the defendant Titan Dragon Properties Corporation located at 6th Floor, PBCom Buidling, Ayala Avenue, Makati City" only on 16 April 2015 and again on 23 April 2015.

Further, the sheriff did not even bother to state if he made inquiries with Administrative Assistant Ms. Gina Busque and Building Manager Mr. Jonathan P. Roda, both of PBCom Tower, if petitioner corporation previously held office in the said building and whether they have information where it may now be found. Also, nothing in the said return shows that the sheriff tried to effect a substituted service of summons. Neither did the sheriff bother to explain, at the very least, that substituted service of summons was not feasible.

Both parties in this case belabored the issue of whether or not the sheriff exerted efforts to locate the whereabouts of petitioner corporation. Respondent insists that the cover pages of the GIS and AOI of petitioner corporation for several years show its address as 6th Floor, PBCom Building, Ayala Avenue, Makati City. Petitioner corporation, on the other hand, maintains that it provided, in the same GIS alluded to by respondent, its current address at Km 16, ACSIE Compound, Severina Ind'l. Estate, Parañaque. However, respondent merely attached its cover page, without including the rest of the GIS, or at least, the first page thereof where its current address is stated.

Indeed, the cover page of petitioner corporation's GIS shows its address at the 6th Floor of PBCom Building. It is equally true, however, that on the very next page of the GIS, its current address at KM 16 is likewise provided. Thus, the sheriff, upon failure to serve the summons at the address provided by respondent, should have endeavored to ask the latter for an alternative address; or, at the very least, asked for the complete pages of petitioner corporation's GIS.

The sheriff could have also visited the subject property and attempted to serve the summons at said place. This, considering respondent's prayer in

[90] *Id.* at 2373, *see* Comment/Opposition (Re: Petition for Review on Certiorari dated 20 March 2019).

her complaint in the specific performance case that petitioner corporation remains in possession thereof. Moreover, the sheriff could have tried searching for petitioner corporation's address using the internet. However, the sheriff did the bare minimum by limiting service at the 6th Floor of PBCom Building. To Our mind, the sheriff fell short of his duty to be resourceful, persevering, canny, and diligent in serving the summons on petitioner corporation.

Contrary to the findings of the majority of the CA Division of Five,[91] the presumption of regularity in the performance of the sheriff's duty cannot justify the glaring disregard of procedural rules.[92] After all, the presumption of regularity in the issuance of the sheriff's return does not apply to patently defective returns,[93] as in this case.

Likewise, We stress that respondent had the responsibility to provide alternative addresses after the service of summons at the original given address turned futile. After all, respondent claimed herself in her complaint for *mandamus,* which she filed two (2) weeks after the specific perfomance case, that she demanded from Yao, while still alive, and after the latter's death, from the representatives/owners of petitioner corporation, to abide by the terms of the Deed.[94] This only shows that respondent was aware all along of the whereabouts of petitioner corporation and/or its representatives.

In *Yu v. Yu,*[95] citing *Dulap v. Court of Appeals,*[96] the Court explained the importance of requiring the fullest compliance with all the requirements of the statute permitting service by publication in this wise:

> x x x Where service is obtained by publication, the entire proceeding should be closely scrutinized by the courts and a strict compliance with every condition of law should be exacted. Otherwise great abuses may occur, and the rights of persons and property may be made to depend upon the elastic conscience of interested parties rather than the enlightened judgment of the court or judge.

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91 *Rollo,* Vol. III, p. 1229, *see* Decision dated 01 June 2018.

92 *Yuk Ling Ong v. Co,* 755 Phil. 158, 169 (2015); G.R. No. 206653, 25 February 2015 [Per J. Mendoza].

93 *People's General Insurance Corp. v. Guansing,* G.R. No. 204759, 14 November 2018 [Per J. Leonen], citing *Manotoc v. Court of Appeals,* 530 Phil. 454, 476-477 (2006); G.R. No. 130974, 16 August 2006 [Per J. Velasco, Jr.].

94 *Rollo,* Vol. I, p. 217; *see* Petition for *Mandamus.*

95 787 Phil. 569 (2016); G.R. No. 200072, 20 June 2016 [Per J. Peralta].

96 149 Phil. 636, 649 (1971); G.R. No. L-28306, 18 December 1971 [Per J. Villamor].

In court proceedings, there is no right more cherished than the right of every litigant to be given an opportunity to be heard. This right begins at the very moment that summons is served on the defendant. The Rules place utmost importance in ensuring that the defendant personally grasp the weight of responsibility that will befall him.[97] Statutes prescribing modes other than personal service of summons must be strictly complied with to give the court jurisdiction, and such compliance must appear affirmatively on the return.[98] As such, the rules must be followed strictly, faithfully and fully as they are extraordinary in character and considered in derogation of the usual method of service.[99]

Absent compliance with the rigid requirements on the service of summons, service by publication is invalid. Hence, Br. 95-RTC never acquired jurisdiction over the person of petitioner corporation. Necessarily, the proceedings and any judgment, including all issuances rendered in the specific performance case are null and void.[100]

The Writ of Execution issued in the specific performance case expanded the scope of the Decision dated 16 October 2016 of Br. 95-RTC it sought to execute

A void judgment creates no rights and produces no effect, thus all acts performed pursuant to it and all claims emanating from it have no legal effect,[101] including writs of execution issued pursuant thereto. Considering that the proceedings and the decision in the specific performance case are void, necessarily, the writ of execution ordered by Br. 95-RTC to be issued is likewise void.

The Court notes, however, that the patent nullity of the proceedings in the specific performance case is further exacerbated by the issuance of a writ of execution which included matters not even prayed for by respondent in her complaint. As earlier stated, respondent merely prayed for two (2)

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97 *Supra* at note 92.

98 *Guiguinto Credit Cooperative, Inc. (GUCCI) v. Torres,* 533 Phil. 476, 490 (2006); G.R. No. 170926, 15 September 2006 [Per J. Ynares-Santiago].

99 *See Borlongan v. Banco de Oro*, 808 Phil. 505, 520 (2017); G.R. Nos. 217617 & 218540, 05 April 2017 [Per J. Velasco].

100 *See United Coconut Planters Bank v. Spouses Sy,* G.R. No. 204753, 27 March 2019 [Per J. Caguioa].

101 *See Calanza v. Paper Industries Corp. of the Philippines,* 604 Phil. 304, 315 (2009); G.R. No. 146622, 24 April 2009 [Per J. Chico-Nazario].

things: first, that petitioner corporation be made to pay the CGT and DST pursuant to the absolute deed of sale; and second, for petitioner corporation to turn over possession of the subject property.

Notwithstanding, the writ directed not only the execution of the Decision dated 21 October 2016, which already became final on 12 December 2016, but likewise, the subsequent Order dated 13 December 2016. The latter order mandated the RD of Quezon City to reinstate TCT No. 185260, which had been earlier cancelled and subdivided by petitioner corporation, to annotate thereon the absolute deed of sale between respondent and Yao, and to issue a new title in the name of respondent. Thus, Judge Bellosillo whimsically expanded the scope of an already final and executory decision at the time by including reliefs not even stated in the said decision or prayed for by respondent in her complaint for specific performance. Such act is a blatant disregard of the most basic rules of procedure. It is so contumacious and scandalous that it behooves the Court why the appellate court turned a blind eye on this issue.

Elementary is the rule that a writ of execution must substantially conform to the judgment sought to be enforced, more particularly, to that ordained or decreed in the dispositive portion of the decision.[102] The courts may not go beyond the terms of the judgment sought to be executed. Where the executions is not in harmony with the judgment which gives it life and exceeds it, it has *pro tanto* no validity. To maintain otherwise would be to ignore the constitutional provision against depriving a person of his property without due process of law.[103]

Judge Bellosillo, as Presiding Judge of Br. 95-RTC, committed grave abuse of discretion in allowing summons by publication which eventually led to the declaration of default on the part of petitioner corporation and the issuance of the assailed judgment by default and the writ of execution

[102] *See Spouses Golez v. Spouses Navarro,* 702 Phil. 618, 631 (2013); G.R. No. 192532, 30 January 2013, [Per J. Reyes]; *Vargas v. Cajucom,* 761 Phil. 43, 53 (2015); G.R. No. 171095, 22 June 2015 [Per J. Peralta].

[103] *See Villoria v. Piccio,* 95 Phil. 802, 806 (1954); G.R. No. L-7344, 16 September 1954, citing Moran's Rule of Court, Vol. I, 1952 ed., p. 809 [Per J. Reyes].

In petitions for review on *certiorari* emanating from Rule 65 petitions, the question of law presented before the Court is whether or not the CA was correct in its finding of the presence or absence of grave abuse of discretion amounting to lack or excess of jurisdiction.[104] And in this, We find that contrary to the ruling of the majority of the CA Division of Five, Judge Bellosillo committed grave abuse of discretion.

Grave abuse of discretion means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. The abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and the abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.[105]

The manifest abuse of discretion exhibited by Judge Bellosillo in allowing the service of summons through publication, which led to the issuance of judgment of default against petitioner corporation and in expanding the dispositive portion of the Decision dated 16 October 2016 by issuing a writ of execution containing terms neither appearing in said decision nor in the complaint for specific performance, must not be countenanced. Moreso, the wanton disregard of basic procedural requirements led to the deprivation of due process of law on the part of petitioner corporation.

If only to emphasize the gravity of the abuse of discretion committed, petitioner corporation was stripped of, not only the possession of the subject property, but likewise, title thereto. To reiterate, the writ of execution included the cancellation of its derivative titles emanating from TCT No. 185260 and the issuance of a new title in the name of respondent. This, despite the fact that the case is simply one for specific performance for the payment of CGT and DST and the turn over of possession of the subject property.

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[104] *G.V. Florida Transport, Inc. v. Tiara Commercial Corp.*, 820 Phil. 235, 245 (2017); G.R. No. 201378, 18 October 2017 [Per. J. Jardeleza].

[105] *The City of Iloilo v. Honrado*, 775 Phil. 21, 31-32 (2015); G.R. No. 160399, 09 December 2015 [Per J. Bersamin].

Based on the records, petitioner corporation, in fact, was ousted of possession over the subject property on 03 February 2020.[106] Worse, its derivative titles were cancelled[107] and new ones[108] were issued in the name of respondent.[109] Thus, the trial court judge should have exercised prudence and caution considering especially that the property involved in this case is a 7-hectare plot of land in the prime location of New Manila, Quezon City.

An order of default is frowned upon and not looked upon with favor

The Court takes notice that as a result of the allowance of service of summons by publication, petitioner corporation was declared in default and a judgment by default was entered against it. This deprived petitioner corporation of its day in court to present its meritorious defense which eventually led to the deprivation of its title to and possession over the subject 70,364 sq.m property in New Manila, Quezon City without due process of law.

The policy of the law is to have every litigant's case tried on the merits as much as possible. Hence, judgments by default are frowned upon. **A case is best decided when all contending parties are able to ventilate their respective claims, present their arguments and adduce evidence in support thereof.** The parties are thus given the chance to be heard fully and the demands of due process are subserved. Moreover, it is only amidst such an atmosphere that accurate factual findings and correct legal conclusions can be reached by the courts.[110]

A void decision is a nullity, thus, it never acquires finality

The Decision dated 21 October 2016 in the specific performance case, including all orders, resolutions and the writ of execution issued pursuant thereto, are void. When a judgment is void for lack of jurisdiction and its

[106] *Rollo,* Vol. V, p. 2909, *see* Motion for Leave to File and Admit Attached Manifestation with Supplemental Application for the Issuance of a *Status Quo Ante* Order and/or Temporary Restraining Order.

[107] *Rollo,* Vol. IV, pp. 1585-1592.

[108] *Id.* at 1594-1599.

[109] *Rollo,* Vol. III, p.1195, *see* Petition for Review; Vol. V, p. 2711, *see* Reply.

[110] *San Pedro Cineplex Properties, Inc. v. Heirs of Enaño,* 649 Phil. 710, 714 (2010); G.R. No. 190754, 17 November 2010 [Per J. Carpio-Morales]; emphasis supplied.

nullity is shown by virtue of its own recitals, it may be said to be a lawless thing, which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head.[111] A void judgment is no judgment at all, hence, it can never attain finality.[112]

Finally, considering the nullity of the issuance of the summons by publication, all proceedings emanating therefrom are likewise void. Thus, in order to afford petitioner corporation of its day in court, as originally prayed for by petitioner corporation in its pleadings[113] before the CA, and to afford the parties ample opportunity to thresh out their respective claims and defenses, the remand of the case to the trial court is proper. Forthwith, Br. 95-RTC is mandated to issue summons anew to petitioner corporation at its current address.

WHEREFORE, premises considered, the petition is hereby **GRANTED.** The Decision dated 01 June 2018 rendered by the Court of Appeals, Division of Five, and Resolution dated 26 February 2019 rendered by the Court of Appeals, Special Division of Five, Special Former Third Division, in CA-G.R. SP No. 150941 are **REVERSED and SET ASIDE.** Accordingly, the Decision dated 21 October 2016 of Branch 95, Regional Trial Court of Quezon City, as well as all issuances rendered pursuant thereto, are declared **NULL and VOID.**

The case is hereby **REMANDED** to Branch 95, Regional Trial Court of Quezon City for further proceedings. The presiding judge of the said court is mandated to issue anew the required summons to petitioner corporation and proceed with the trial of the case with dispatch.

SO ORDERED.

RODIL V. ZALAMEDA
Associate Justice

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[111] *Trinidad v. Yatco,* 111 Phil. 466, 470 (1961); G.R. No. L-17288, 27 March 1961 [Per J. Reyes, JBL] citing *El Banco Español-Filipino v. Palanca,* 37 Phil. 921, 949 (1918); G.R. No. L-11390, 26 March 1918 [Per J. Street].

[112] *Land Bank of the Phils. v. Spouses Orilla,* 703 Phil. 565, 575 (2013); G.R. No. 194168, 13 February 2013 [Per J. Peralta].

[113] *Rollo,* Vol. V, pp. 1925-1965, *see* Motion For Leave to File and Admit Attached Supplemental Reply (with Motion to Set Case for Oral Arguments).

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice