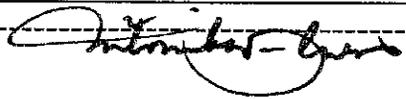


EN BANC

G.R. No. 250636 – MERLINDA PLANA, *Petitioner* v. LOURDES TAN CHUA and HEIRS OF RAMON CHIANG, *Respondents*.

Promulgated:

January 10, 2023

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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

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

² See *ponencia*, p. 2.

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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 5th 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 5th 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 5th lot – Lot 10031 covered by TCT No. T-86916 – to Lourdes to secure a ₱130,000.00 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 ₱130,000.00 loan, he already paid Lourdes ₱46,500.00; hence, by way of consignment of the balance of his remaining debt, he deposited the amount of ₱83,500.00 with the RTC.¹⁰

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.

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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 ₱300,000.00 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 ₱83,500.00, 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

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.*

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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 ₱83,500.00 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,

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.*

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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

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. Bombaas*, G.R. No. 233681, February 3, 2021.

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

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.

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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.

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.

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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 file 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

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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 ₱130,000.00 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 ₱500,000.00 each, attorney's fees at 25% of the amount collectible in the counterclaim plus ₱50,000.00 for the defense in the main case and litigation expense.³⁶

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

³⁶ See *ponencia*, p. 12.

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**.


ANTONIO T. KHO, JR.
Associate Justice

³⁷ Id.

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