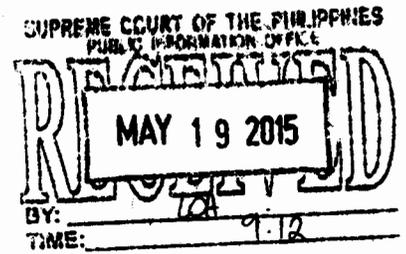




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City
SECOND DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **22 April 2015** which reads as follows:*

¶G.R. No. 187053 – Wenceslao C. Pascual v. Teresita A. Nava; G.R. No. 187054 - Jose C. Pascual v. Larry A. Nava; and G.R. No. 187055 – Wenceslao C. Pascual v. Ma. Ana A. Nava.

The consolidated petitions were filed to challenge the orders, dated December 19, 2008 and February 23, 2009, of the Regional Trial Court (RTC), Branch 74, Malabon City, which dismissed the special civil actions filed by the petitioners against the respondents for Judicial Foreclosure of Real Estate Mortgage.

The Facts

The petitioners and the respondents entered into a “Sanglaan Ng Lupa” or real estate mortgage to secure the latter’s loan to the former. The respondents somehow failed to pay their obligation to the petitioners despite demand. So the petitioners filed a special civil action for judicial foreclosure of mortgage against the respondents before the RTC. The respondents countered by filing a motion to dismiss on the ground of lack of jurisdiction.

On December 19, 2008, the RTC issued an order dismissing the complaints on the ground of lack of jurisdiction because the complaints failed to allege the assessed value of the real property sought to be foreclosed.

Acting on the motion for reconsideration filed by the petitioners, the RTC denied it, explaining that although the subject foreclosure cases are actions that are incapable of pecuniary estimation and, thus, within the jurisdiction of the RTC, the dismissal order was still proper. The reason given was the non-payment of correct docket fees considering that the assessed value of the property subject of the mortgage was not alleged in the complaints, citing as basis the case of *Serrano vs. Delica, G.R. No. 136325, July 19, 2005*.

From the final order of the RTC, the petitioners went directly to this Court by filing a petition for review on *certiorari*.

- more -

(296[b])URES

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The petitioners now question the dismissal order of the RTC, arguing that it paid the necessary filing fee based on 1) the amount of the respondents' debt regardless of the fact that the complaint failed to state the assessed value of the mortgaged property; and 2) the clerk of court's assessment. The petitioners argue that the filing fee need not rest – not necessarily – on the assessed value of the subject property. The petitioners point out that Rule 68 of the Rules of Court does not require that the plaintiff state the assessed value of the property sought to be mortgaged. Moreover, the payment of insufficient filing fees does not automatically divest the court of its jurisdiction in the absence of fraud. The Rules provide that a court shall give the party a period to complete payment and that there must be a re-assessment by the Clerk of Court.

The Court's Ruling

The consolidated petitions lack merit.

The petitioners' failure to allege in their respective complaints the assessed value or estimated value of the property sought to be mortgaged proved fatal to their cause. As there was no alleged basis, the docket fees could not be computed. For non-payment of the correct docket fees, the RTC did not acquire jurisdiction over the cases. Hence, the dismissal of the complaints was in order. In the case of *Manuel M. Serrano vs. Eugenio C. Delica*,¹ it was written:

We note, however, that neither the "assessed value" nor the "estimated value" of the questioned parcels of land were alleged by respondent in both his original and amended complaint. What he stated in his amended complaint is that the disputed realties have a "BIR zonal valuation" of ₱1,200.00 per square meter. However, the alleged "BIR zonal valuation" is not the kind of valuation required by the Rule. It is the assessed value of the realty. Having utterly failed to comply with the requirement of the Rule that he shall allege in his complaint the assessed value of his real properties in controversy, the correct docket fee cannot be computed. As such, his complaint should not have been accepted by the trial court. We, thus, rule that it has not acquired jurisdiction over the present case for failure of herein respondent to pay the required docket fee. On this ground alone, respondent's complaint is vulnerable to dismissal.

WHEREFORE, the petitions are DENIED.

SO ORDERED. "

Very truly yours,

MA. LOURDES G. PERFECTO
 MA. LOURDES G. PERFECTO
 Division Clerk of Court *My 5/4*

¹ 503 Phil. 71 (2005).

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 74
Malabon City
(SCA No. 06-014-MN; SCA No. 07-002-MIN & SCA 07-004-MN)

TERESITA A. NAVA,
LARRY A. NAVA
AND MA. ANA A. NAVA (reg)
Brgy. Tanza, Navotas City

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GR187053, 187054 & 187055. 04/22/15 (296[b])URES

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