



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 February 2021** which reads as follows:*

**“G.R. No. 249223 (*Prudential Bank now Bank of the Philippine Islands v. Heirs of the Late Ubaldo Martinez, Heirs of the Late Francisca Martinez, Spouses Armando and Editha Joaquico, and the Register of Deeds for Bulacan, Meycauayan Branch*<sup>1</sup>). – The Court resolves to:**

(1) **NOTE** and **DEEM AS SERVED** by substituted service pursuant to Section 8, Rule 13 of the 2019 Amended Rules of Court, the returned and unserved copy of the Resolution dated February 12, 2020 (which required respondents to comment on the petition) sent to Spouses Armando and Editha Joaquico at 152 Pulong Buhangin, Sta. Maria, 3022 Bulacan with notation, “Return to Sender, No One to Receive;” and

(2) **DISPENSE WITH** the comment of respondents Spouses Armando and Editha Joaquico on the petition required in the Resolution dated February 12, 2020.

**Antecedents**

On July 2, 2008, petitioner Prudential Bank, now Bank of the Philippine Islands (BPI), filed a petition<sup>2</sup> for annulment of judgment before the Court of Appeals against the Decision dated August 10, 2006<sup>3</sup> rendered

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<sup>1</sup> Hon. Wilfredo Nieves, Presiding Judge, Regional Trial Court-Branch 84, Malolos, Bulacan was deleted as respondent per the Court’s Resolution dated December 10, 2019, *rollo*, p. 214.

<sup>2</sup> *Id.* at 129-140.

<sup>3</sup> Penned by Presiding Judge Wilfredo T. Nieves, *id.* at 80-87.

by the Regional Trial Court (RTC), Branch 84, Malolos, Bulacan in Civil Case No. 797-M-94, entitled *Ubaldo Martinez, et al. v. Armando Joaquico, et al.*, with prayer to quash the corresponding writ of execution.<sup>4</sup>

Spouses Mariano Martinez and Paulina Julian (Spouses Mariano and Paulina) have eight (8) children: Ubaldo, Francisca,<sup>5</sup> Laura, Jose, Alfonsa, Simeona, Clarita, and Danilo. They owned a parcel of land measuring 8,259 square meters per Transfer Certificate of Title (TCT) No. T-28.008(M). They died intestate on March 18, 1987 and February 25, 1991, respectively.<sup>6</sup>

Thereafter, a deed of donation dated January 14, 1994 came out bearing the supposed names and signatures of Spouses Mariano and Paulina as donors and those of their eight (8) children and other descendants as donees. The subject of the deed of donation was the land covered by TCT No. T-28.008(M). By virtue of this deed, TCT No. T-28.008(M) was cancelled and TCT Nos. 203473(M), T-203474(M), T-203475(M), T-203476(M), T-203477(M), and T-203478(M) were issued in its stead. TCT No. 203475(M) was registered in the names of respondent Spouses Armando and Editha Joaquico (Spouses Joaquico). Later, TCT No. 203475(M) was subdivided into three (3) portions and new titles were issued for each, to wit: TCT Nos. T-206021, T-206022, and T-206023 (M), all in the name of Spouses Joaquico.<sup>7</sup>

On December 20, 1994, Spouses Joaquico mortgaged the lot under TCT No. T-206023 (M) to petitioner. This real estate mortgage was annotated on the back of TCT No. T-206023 (M) as early as December 21, 1994.<sup>8</sup>

Ubaldo and Francisca later filed an action for annulment of the deed of donation against all persons who either received or bought portions of the land covered by TCT No. T-28.008(M), including Spouses Joaquico, Laura Martinez, Clarita Martinez, Alfonsa Martinez, Elizabeth Bassette and her husband Rolando Malubay, Spouses Domingo and Emiliana Quijada, Danilo Estacio, Simeona Martinez, Emilia Martinez, Mario Martinez, Aurelio Martinez, Rebecca Martinez, Valeriano Martinez, Zenaida Martinez, Rodolfo Martinez, Elmer Martinez, Gina Martinez, Brando Martinez, and Atty. Alfredo Santos. Ubaldo and Francisca alleged that the signatures appearing on the deed of donation, especially those supposedly pertaining to their deceased parents were all forgeries. They averred that their parents' estate had not been settled yet.<sup>9</sup>

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<sup>4</sup> *Id.* at 88-89.

<sup>5</sup> Sometimes referred to as "Francesca" in some parts of the rollo.

<sup>6</sup> *Id.* at 80-81.

<sup>7</sup> *Id.* at 42-43.

<sup>8</sup> *Id.* at 134 and 136.

<sup>9</sup> *Id.* at 43 and 78.

The complaint was docketed as Civil Case No. 797-M-94 and raffled to RTC-Branch 84, Malolos, Bulacan. On March 20, 2000, the complaint was subsequently amended to substitute the heirs of Ubaldo and Francisca as party plaintiffs.<sup>10</sup> On June 16, 1997, the notice of *lis pendens* was annotated at the back of all the titles issued subsequent to TCT T-28.008(M), including TCT No. T-206023 (M).<sup>11</sup>

Meantime, Spouses Joaquico defaulted in their loan payment to petitioner which consequently initiated an extrajudicial foreclosure sale of the property under TCT No. T-206023 (M). At the auction sale held on January 7, 2003, petitioner was declared as the highest bidder and a Certificate of Sale was issued in its favor. The Certificate of Sale, however, was not immediately annotated in TCT No. T-206023 (M) because of the events that happened within the company, *i.e.*, subsequent merger of Prudential Bank with BPI.<sup>12</sup>

On August 10, 2006, the trial court rendered its decision in Civil Case No. 797-M-94 granting the complaint. The trial court declared the deed of donation as null and void. Consequently, it ordered the Register of Deeds of Bulacan to cancel TCT Nos. T-203473(M), T-203474(M), T-203475(M), T-203476(M), T-203477(M), and T-203478(M), and to reinstate TCT No. T-28.008(M).<sup>13</sup> A writ of execution to implement said decision was issued on April 20, 2007.<sup>14</sup> The Writ of Execution was annotated on TCT No. T-206023 (M) as of May 29, 2007.<sup>15</sup>

When petitioner attempted to annotate its certificate of sale<sup>16</sup> in 2007, it could no longer do so as TCT No. 206023 (M) was already cancelled by virtue of the trial court's decision and writ of execution.<sup>17</sup>

Hence, petitioner was constrained to initiate the petition for annulment of judgment.

### **Proceedings Before the Court of Appeals**

Petitioner averred that the decision of the trial court, which declared as void the deed of donation and consequently ordered the cancellation of all derivative titles of TCT No. T-28.008(M), was secured through extrinsic fraud. Respondents deliberately failed to implead the bank despite knowing fully well that a mortgage in its favor was annotated on TCT No.

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<sup>10</sup> *Id.* at 67-74.

<sup>11</sup> *Id.* at 43 and 78.

<sup>12</sup> *Id.* at 19-20 and 136.

<sup>13</sup> *Id.* at 88.

<sup>14</sup> *Id.* at 88-89.

<sup>15</sup> *Id.* at 130 and 136.

<sup>16</sup> *Id.* at 90.

<sup>17</sup> *Id.* at 136.

T-206023 (M). As mortgagee in good faith, the bank was an indispensable party that should have been impleaded in the action before the trial court. Without its knowledge and participation in the case below, the decision rendered thereon was a nullity.<sup>18</sup>

In its Resolution dated January 31, 2012,<sup>19</sup> the Court of Appeals remanded the case to the trial court for reception of evidence.

The case was raffled to RTC-Branch 20, Malolos, Bulacan, presided by Judge Mirasol O. Dychingco.<sup>20</sup> During trial, petitioner presented Manager Cecilia A. Vergara who testified on the mortgage and foreclosure sale of the property under TCT No. T-206023 (M).<sup>21</sup> On the other hand, only the heirs of Ubaldo filed its comment on the petition. They presented one of the heirs, Elolita Martinez, who testified on the nullity of the deed of donation and the subsequent decision and writ of execution issued by RTC-Branch 84, Malolos, Bulacan.<sup>22</sup>

Thereafter, RTC-Branch 20, Malolos, Bulacan, referred back the case to the Court of Appeals for proper disposition.<sup>23</sup>

### **Ruling of the Court of Appeals**

By its assailed Decision dated June 17, 2019<sup>24</sup> the Court of Appeals denied the petition.

The Court of Appeals held that respondents did not commit fraud when it did not implead petitioner as party defendant in the action for annulment of deed of donation. It noted that petitioner was not impleaded because it was not an indispensable party to the deed of donation itself, which was the document sought to be nullified. The action only concerned the heirs of the late Mariano Martinez and Paulina Julian.<sup>25</sup>

Even assuming that petitioner should have been impleaded as a party, the petition for annulment of judgment must still fail because it is a remedy available only when the party seeking the annulment can no longer avail of the ordinary remedies through no fault of said party. In petitioner's case, it failed to show that it could not have availed of the ordinary remedies such as but not limited to new trial, appeal, and relief from judgment. The notice of *lis pendens* was annotated on TCT No. T-206023 (M) as early as June

<sup>18</sup> *Id.* at 133-135.

<sup>19</sup> Penned by Presiding Justice Romeo F. Barza and concurred in by Associate Justice Fernanda Lampas Peralta and Associate Justice Magdangal M. De Leon, *id.* at 141-142.

<sup>20</sup> *Id.* at 45 and 146-149.

<sup>21</sup> *Id.* at 45-46 and 152-162.

<sup>22</sup> *Id.* at 46 and 165-170.

<sup>23</sup> *Id.* at 194-195.

<sup>24</sup> Penned by retired Presiding Justice Romeo F. Barza and concurred in by Associate Justice Fernanda Lampas Peralta and Associate Justice Louis P. Acosta; *rollo*, pp. 41-53.

<sup>25</sup> *Id.* at 50.

16, 1997. The auction sale where petitioner was declared as the highest bidder was annotated only in 2003. It should have been made aware of the notice of *lis pendens* at least by then and could have intervened in the proceedings below. It did not. More, the writ of execution was annotated on April 20, 2007. Petitioner could have moved to quash the writ, but once again, it failed to do so.<sup>26</sup>

Lastly, it noted that the Certificate of Sale in petitioner's favor was issued as early as January 7, 2003. The trial court's decision declaring the deed of donation as null was only rendered on August 10, 2006. It only goes to show that petitioner failed to lift a finger to protect its rights as a mortgagee.<sup>27</sup>

Through assailed Resolution dated September 3, 2019,<sup>28</sup> the Court of Appeals denied petitioner's motion for reconsideration.<sup>29</sup>

### The Present Petition

Petitioner insists that the decision of RTC-Branch 84, Malolos, Bulacan in Civil Case No. 797-M-94 declaring as void the deed of donation should be annulled on ground of extrinsic fraud. It maintains that the bank is an indispensable party that should have been impleaded in the case below. It is indispensable because the company has a claim or interest in a portion of the property covered by the assailed deed of donation. It stands to be benefited or prejudiced by the outcome of the case, as it was actually prejudiced by the decision of the trial court.<sup>30</sup>

Fraud can be seen in the fact that the mortgage in its favor was annotated on TCT No. T-206023 (M) as early as 1994. Thus, respondent heirs of Ubaldo and Francisca were or should have been notified thereof when they applied for the annotation of the notice of *lis pendens* and filed the case for annulment of deed of donation in 1997. This annotation could not have also escaped respondents' attention when they filed the second amended complaint in 2000. In view of respondents' fraudulent act, the bank was deprived of its day in court and was eventually deprived of its property without due process of law.<sup>31</sup>

The Court of Appeals even ascribed fault in the bank for not intervening in the proceedings below. But, petitioner maintains that it could not have intervened therein as it was not aware of said proceedings. Too, it cannot be faulted for not immediately annotating the Certificate of Sale

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<sup>26</sup> *Id.* at 50-51.

<sup>27</sup> *Id.* at 52.

<sup>28</sup> *Id.* at 55-56.

<sup>29</sup> *Id.* at 57-64.

<sup>30</sup> *Id.* at 24-25.

<sup>31</sup> *Id.* at 25-30.

as it was preoccupied in the merger proceedings. In any event, it immediately sought the annulment of the judgment as soon as it learned that TCT No. T-206023 (M) was cancelled.<sup>32</sup>

The judgment should also be annulled on ground that RTC-Branch 84, Malolos, Bulacan did not acquire jurisdiction over the bank. It contends that it is an indispensable party to the action for annulment of deed of donation that should have been impleaded as a party, summoned to answer the complaint, and given the chance to participate in the proceedings. Not having been impleaded, the judgment issued by RTC-Branch 84, Malolos, Bulacan is null and void.<sup>33</sup>

In their Comment dated September 2, 2020,<sup>34</sup> respondents heirs of the Ubaldo Martinez countered that the Court of Appeals did not err when it held that petitioner failed to proffer clear and convincing evidence to show that they committed fraud in securing annulment of the deed of donation. They emphasize that the document sought to be annulled before the trial court only concerns the heirs of the late Spouses Mariano Martinez and Paulina Julian. Certainly, it was never their intent to exclude the bank from the proceedings. Their failure to implead petitioner was not due to any fraudulent cause but because of the simple fact that it was not an indispensable party thereto.<sup>35</sup>

Petitioner cannot also cry foul in claiming that it was not notified of the proceedings below. As the Court of Appeals duly noted, the notice of *lis pendens* was annotated in TCT No. T-206023 (M) as early as June 16, 1997. Petitioner was the one remiss in its duties as supposed mortgagee in good faith. By petitioner's own narration, the Certificate of Sale was issued back in 2003. Yet, it took years before the petitioner got it registered. As mortgagee bank, petitioner should have been more cautious and should have exercised the highest degree of diligence in dealing with its properties. Lastly, petitioner failed to offer any justifiable reason why it did not avail of other remedies available before it under the Rules.<sup>36</sup>

### Issues

a. Did the Court of Appeals commit reversible error when it denied the petition for annulment of judgment?

b. Is petitioner an indispensable party that should have been impleaded in the action for nullification of deed of donation docketed as Civil Case No. 797-M-94?

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<sup>32</sup> *Id.* at 30-31.

<sup>33</sup> *Id.* at 31-32.

<sup>34</sup> *Id.* at 218-232.

<sup>35</sup> *Id.* at 220-222.

<sup>36</sup> *Id.* at 223-227.

### Ruling

Primarily, it is noted that the Court of Appeals was not furnished with a copy of the present petition in violation of Section 3, Rule 45 of the Revised Rules of Court, *viz.*:

**Section 3. Docket and other lawful fees; proof of service of petition.** — Unless he has theretofore done so, the petitioner shall pay the corresponding docket and other lawful fees to the clerk of court of the Supreme Court and deposit the amount of P500.00 for costs at the time of the filing of the petition. Proof of service of a copy thereof **on the lower court concerned** and on the adverse party shall be submitted together with the petition. (Emphasis supplied)

Failure to serve a copy of the petition to the Court of Appeals is a ground for outright dismissal of the petition pursuant to Section 5 of the same Rules, *viz.*:

**Section 5. Dismissal or denial of petition.** — The **failure of the petitioner to comply with** any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, **proof of service of the petition**, and the contents of and the documents which should accompany the petition **shall be sufficient ground for the dismissal thereof.** (Emphases supplied)

On this factor alone, the petition must be denied.

But, even on the merits, the petition must fail.

In *Lasala, et al. v. National Food Authority*,<sup>37</sup> the Court reiterated that an annulment of judgment runs counter to the general rule of immutability of final judgments, thus, petitions for annulment of judgment is only available under certain exceptional circumstances, *viz.*:

Annulment of judgment is a recourse equitable in character, allowed only in exceptional cases as where there is no available or other adequate remedy. Rule 47 of the 1997 Rules of Civil Procedure, as amended, governs actions for annulment of judgments or final orders and resolutions, and Section 2 thereof explicitly provides only two grounds for annulment of judgment, i.e., extrinsic fraud and lack of jurisdiction. The underlying reason is traceable to the notion that annulling final judgments goes against the grain of finality of judgment. Litigation must end and terminate sometime and somewhere, and it is essential to an effective administration of justice that once a judgment has become final, the issue or cause involved therein should be laid to rest. The basic rule of finality of

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<sup>37</sup> 767 Phil. 285, 296 (2015) citing *Antonino v. Register of Deeds of Makati*, 688 Phil. 527, 536-537 (2012).

judgment is grounded on the fundamental principle of public policy and sound practice that at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law.

Thus, annulment of judgment may be availed only on two (2) grounds, namely: a) extrinsic fraud; and b) lack of jurisdiction over the person of the party or subject matter.

Extrinsic fraud refers to any fraudulent act of the prevailing party in litigation committed outside of the trial of the case, where the defeated party is prevented from fully exhibiting his side by fraud or deception practiced on him by his opponent, such as by keeping him away from court, by giving him a false promise of a compromise, or where an attorney fraudulently or without authority connives at his defeat.<sup>38</sup>

In *Pinausukan Seafood House v. Far East Bank & Trust Company, et al.*,<sup>39</sup> the Court decreed that extrinsic fraud, as a ground for the annulment of a judgment, must emanate from an act of the adverse party, and the fraud must be of such nature as to have deprived petitioner of its day in court.

Here, it cannot be said that respondents applied fraud to deprive petitioner of its day in court. For as early as 1997, a notice of *lis pendens* was annotated on all derivative titles of TCT No. T-28.008(M), including TCT No. T-206023 (M). The notice of *lis pendens* served as an advice or warning to all people who deal with the property that they so deal with it at their own risk, and whatever rights they may acquire in the property in any voluntary transaction are subject to the results of the action.<sup>40</sup> At the very least, petitioner could have learned about the *lis pendens* in 2003 when it moved for the foreclosure sale of the property covered by TCT No. T-206023 (M). In *Calma v. Lachica, Jr.*,<sup>41</sup> the Court reiterated that banking institutions, like petitioner, are expected to exert a higher degree of diligence, care, and prudence than individuals in handling real estate transactions. As borne out by the records, petitioner clearly failed to exert the kind of diligence required of it in dealing with the land covered by TCT No. T-206023 (M). Surely, petitioner has no one to blame but itself.

As for the trial court's alleged lack of jurisdiction to implement its decision against petitioner because the latter was not given its day in court as an indispensable party, we reckon with Rule 3, Section 7<sup>42</sup> of the Rules

<sup>38</sup> *Lasala, et al. v. National Food Authority*, 767 Phil. 285, 301 (2015).

<sup>39</sup> 725 Phil. 19, 24 (2014).

<sup>40</sup> *Valderama v. Arguelles*, 829 Phil. 29, 46 (2018).

<sup>41</sup> 821 Phil. 607, 620 (2017).

<sup>42</sup> Rule 3, Section 7. *Compulsory joinder of indispensable parties.* — Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

of Court. It defines indispensable parties as parties-in-interest without whom there can be no final determination of an action. As such, they must be joined either as plaintiffs or as defendants.<sup>43</sup> *Spouses Aboitiz v. Spouses Po*<sup>44</sup> further defined an indispensable party as the party whose legal presence in the proceeding is so necessary that “*the action cannot be finally determined*” without him or her because his or her interests in the matter and in the relief “*are so bound up with that of the other parties.*”

The action filed before the trial court here was one for nullification of the deed of donation which purportedly settled the estate of the late Spouses Mariano Martinez and Paulina Julian and distributed the same to their children, among other persons, including Spouses Joaquico. As the Court of Appeals correctly ruled “*petitioner had nothing to do with the annulment of said document as this concerns only the heirs of Mariano and Paulina.*”<sup>45</sup> As such, the issues in the action for the nullification of the deed of donation *can* be completely determined without petitioner whose interest in the matter and in the relief is not “*so bound up with that of the other parties.*” On this score, *Servicewide Specialists Incorporated v. Hon. Court of Appeals, et al.*<sup>46</sup> is apropos:

x x x An indispensable party is one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had. The party's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with the other parties' that his legal presence as a party to the proceeding is an absolute necessity. In his absence there cannot be a resolution of the dispute of the parties before the court which is effective, complete, or equitable.

**Conversely, a party is not indispensable to the suit if his interest in the controversy or subject matter is distinct and divisible from the interest of the other parties and will not necessarily be prejudiced by a judgment which does complete justice to the parties in court. He is not indispensable if his presence would merely permit complete relief between him and those already parties to the action or will simply avoid multiple litigation.** (Emphasis supplied)

Again, petitioner had no direct interest in the deed of donation. The issue therein as to the validity and genuineness of the deed of donation may be, as in fact it had been, determined with finality even without petitioner's participation thereof.

In any case, petitioner is not left without a recourse. It can still go after Spouses Joaquico for the payment of the principal amount of the

<sup>43</sup> *Regner v. Logarta, et al.*, 562 Phil. 862, 874 (2007).

<sup>44</sup> 810 Phil. 123, 165 (2017).

<sup>45</sup> *Id.* at 50.

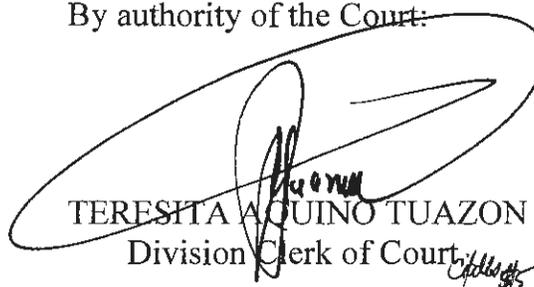
<sup>46</sup> 321 Phil. 427, 434-435 (1995), citing *Imson v. Court of Appeals*, 309 Phil. 53, 60-61 (1994).

loan, interests, and the expenses petitioner spent for the foreclosure sale. But, as stated, petitioner had no ground to seek the annulment of the Decision dated August 10, 2006 of the trial court in Civil Case No. 797-M-94.

**WHEREFORE**, the petition is **DENIED** and the Decision dated June 17, 2019 and Resolution dated September 3, 2019 of the Court of Appeals in CA-G.R. SP No. 104134 are **AFFIRMED**.

**SO ORDERED.”**

By authority of the Court:



TERESITA AQUINO TUAZON  
Division Clerk of Court

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 84  
Malolos City, Bulacan  
(Civil Case No. 797-M-94)

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