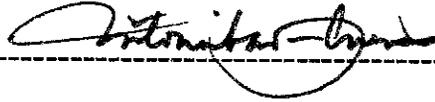


EN BANC

G.R. No. 250636 (*Merlinda Plana, petitioner vs. Lourdes Tan Chua and Heirs of Ramon Chiang, respondents*).

Promulgated: January 10, 2023



SEPARATE OPINION

GESMUNDO, C.J.:

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

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

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

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

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

³ *Id.* at 7-8.



acted in good faith;⁴ and (4) a void title may become the root of a valid title if the derivative title was obtained in good faith and for value.⁵

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

I. Nature of Certificates of Title

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

To begin with, a certificate of title is merely an evidence of ownership or title over the particular property described therein.⁶ It merely confirms or records title already existing and vested.⁷ As such, it cannot be used to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of others.⁸ Otherwise, the acceptability of the Torrens System would be impaired if it is utilized to perpetuate fraud against the real owners.⁹ This is also the reason why **good faith must concur with registration** because, otherwise, registration would be an exercise in futility.¹⁰ As a consequence, **when the instrument presented is forged, even if accompanied by the owner's duplicate certificate of title, the registered owner does not thereby lose his or her title, and neither does the assignee in the forged deed acquire any right or title to the property.**¹¹ Furthermore, **if the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee.**¹²

II. Mortgages and Third-Party Dealings of Land

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

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

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

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

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

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

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

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

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

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

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

- (1) That they be constituted to secure the fulfillment of a principal obligation;
- (2) That the pledgor or mortgagor be the absolute owner of the thing pledged or mortgaged;
- (3) That the persons constituting the pledge or mortgage have the free disposal of their property, and in the absence thereof, that they be legally authorized for the purpose.

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

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

Contrastingly, there has been a recognized exception recognized in the oft-cited case of *Torbela v. Spouses Rosario*,¹⁸ even if the mortgagor is not the rightful owner of the mortgaged property, or does not have a valid title therein, the mortgagee in good faith is nonetheless entitled to protection. The doctrine of upholding the validity of a real estate mortgage despite the invalidity of the underlying principal contract if the mortgagee dealt with relied in good faith on the certificate of title of the mortgagor, is founded on reasons of **public policy**.¹⁹ To be specific, such public policy is based on the principle that “all persons dealing with property covered by a Torrens Certificate of Title, as buyers or mortgagees, are not required to go beyond

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

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

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

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

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

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

¹⁹ *Id.* at 45.

what appears on the face of the title.”²⁰ As such, the ordinary buyer will not be considered an innocent purchaser for value if there is anything on the certificate of title that arouses suspicion, and the buyer failed to inquire or take steps to ensure that there is no cloud on the title, right, or ownership of the property being sold.²¹ This has been reiterated in the case of *Spouses Cusi v. Domingo*,²² to supposedly strengthen the Torrens System.

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

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

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

- (1) When a separation of property was agreed upon in the marriage settlements; or
- (2) When there has been a judicial separation of property under Article 191.

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

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

To date, there has been no law providing for any exception to Art. 1490 of the Civil Code other than those already appearing in the same provision — particularly those relating to innocent mortgagees who happen to deal with lands registered pursuant to deeds violating such provision.

²⁰ Id.

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

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

²³ Article 1409(1) of the Civil Code.

Even equitable considerations would not justify the Court to carve out additional exceptions to Art. 1490 as equity is applied only in the absence, never in contravention, of statutory law.²⁴ As stated earlier and as pointed by the *ponencia*, the Court in *Modina* had already declared void the December 17, 1975 Deed of Definite Sale for being simulated and for being devoid of consideration. The same ruling also highlighted that the principle of *in pari delicto non oritur actio* does not apply to a sale deemed as void or inexistent for violating Art. 1490 of the Civil Code. As such, the issue as to the validity of the December 17, 1975 Deed of Definite Sale cannot anymore be re-litigated in this case as it is one of those issues which had already been “actually and directly resolved” in *Modina* and, thus, barred under the *res judicata* principle of conclusiveness of judgment.²⁵

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

IV. Jurisprudential Re-evaluation

The doctrine which holds that innocent mortgagees are also entitled to the protection accorded to “innocent purchasers for value” was first established in *Blanco v. Esquierdo*²⁶ where: (1) Section 38 of the Land Registration Act²⁷ extends the foregoing protection to innocent lessees, mortgagees, or other encumbrancer for value; and (2) it was held that the remedy of the persons prejudiced is to bring an action for damages against those causing the fraud, and if the latter are insolvent, an action against the Treasurer of the Philippines may be filed for the recovery of damages against the Assurance Fund. As to the first justification in *Blanco*, the same was replicated in Sec. 32 of the Property Registration Decree²⁸ (*PRD*) which reads:

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

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

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

²⁷ Act No. 496 (November 6, 1902).

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

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

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

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

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

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

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

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

1. Sec. 32 of the PRD refers to “decrees” of registration which are issued as a **result of an adjudication – not a purely administrative and ministerial** – process relative to original certificates of title.
2. Sec. 32 of the PRD **protects innocent lessees, mortgagees, and other encumbrancers for value** from the effects of **wrongful registrations**.
3. Sec. 53 of the PRD renders **null and void “subsequent” registrations** procured by presentation of a **forged deed or instrument**.

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

The answer emphatically points to the negative.

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

In this case, the protection in favor of innocent mortgagees for value accorded by Sec. 32 of the PRD appears to be incongruent with Art. 2085 of

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

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

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

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

the Civil Code on the requisites for a valid mortgage. To resolve this conflict, there is a need to examine closely the phrase “whose rights may be prejudiced” in Sec. 32 of the PRD as it relates to innocent purchasers, lessees, mortgagees, and other encumbrancers for value and as opposed to an owner’s right to enjoy and dispose of a thing under Art. 427 of the Civil Code.

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

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

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

1. The individual must sustain loss or damage, or the individual is deprived of land or any estate or interest.
2. The individual must not be negligent.
3. The loss, damage, or deprivation is the consequence of either: (a) fraudulent registration under the Torrens system after the land’s original registration; or (b) any error, omission, mistake, or misdescription in any certificate of title or in any entry or memorandum in the registration book.

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

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

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

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

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

In other words, such “prejudice” contemplated in Secs. 32 and 53 of the PRD **should not operate to forfeit the true owner’s rights to recover the property thru an action for reconveyance** — especially if the underlying basis is the nullity of the deed effecting the assailed prior conveyance. These provisions **do not operate to shift the burden** to and to

³⁴ Id. at 736.

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

reclassify the true owners as the ones burdened under Sec. 95 of the PRD to file another action in order to claim against the Assurance Fund. Such right belongs to innocent mortgagees for value so as not to prejudice their rights adversely affected by the effects of registration.

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

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

V. **Reassessment of the Torrens System Principle in View of the Indefeasibility Principle**

As pointed out in the immediately preceding discussions, the reason as regards “strengthening” the Torrens System by not requiring one to “go behind the certificate of title”³⁷ is not enough to potentially deprive thru foreclosure an innocent landowner of his or her ownership rights over a piece of land. This would be the height of injustice as a true owner should be fully protected of his, her or its rights under the law against fraudulent schemes. Such practice would give an unwarranted premium to those who dispose of another’s property without the latter’s knowledge and/or consent (either thru express authorization or otherwise). More importantly, such doctrine is inconsistent with Art. 1378 of the Civil Code which states in part that “[i]f the contract is onerous, the doubt shall be settled in favor of the

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

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

greatest reciprocity of interests.” To allow the mortgagee in good faith the possibility of foreclosing a piece of land mortgaged by one who is not a landowner would not even result in a “reciprocity of interest” in favor of the actual landowner. In other words, **the doctrine of favoring mortgagees in good faith — as to the award of ownership and possession — to strengthen the Torrens System goes against Art. 1378 of the Civil Code if the protection accorded to innocent mortgagees for value would be extended to registrations procured by presentation of a forged deed or instrument.**

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

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

VI. Relevance of DBP’s Failure to Exercise Due Diligence

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

³⁸ RULES OF COURT, Rule 128, Sec. 1.

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

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

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

In this case, the respondent-mortgagee **cannot use DBP's non-exercise of due diligence to prove** (or, at the very least, form a presumption) that mortgagor Ramon's **representation** as landowner is **not irregular**. This is *irrelevant* to prove that respondent-mortgagee Lourdes had no knowledge that the subject land was previously owned by petitioner-landowner Merlinda Plana and her late husband Nelson Plana. DBP's omission is independent of Lourdes' ability to perceive any anomaly that her transaction with Ramon may reveal. As such, it is not capable of inducing a belief, at least on the part of the courts, of Ramon's ostensibly valid representation.

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

VII. Conclusion

The purpose of adopting the Torrens System in our jurisdiction is to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.⁴⁴ This is to avoid any possible conflicts of title that may arise by giving the public the right to rely upon the face of the Torrens title and dispense with the need of inquiring further as to the ownership of the property.⁴⁵ Another equally compelling purpose of the law is that, once a title is registered, the owner may rest

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

⁴³ *Ponencia*, p. 2.

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

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

secure — without the necessity of waiting in the portals of the court, or sitting in the “*mirador de su casa*” — to avoid the possibility of losing his or her land.⁴⁶

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

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

As between persons adjudged with finality to be true and rightful owners of land and innocent mortgagees for value, the scales of justice should be tilted in favor of the former if the Torrens System is to stand the test of time against those who hack into the system and use it to perpetrate their devious schemes to the prejudice of innocent landowners. An interpretation shifting the burden of claiming against the Assurance Fund from true landowners to innocent mortgagees for value does not mean that the latter will be prejudiced with finality as they still have the right to be compensated. The same interpretation is also **meant to put a stop to fraudulent and ingenious land-grabbing schemes perpetrated by persons who mortgage lands belonging to another to third persons who may pose as innocent mortgagees for value**.

Most importantly, a title cannot be considered “indefeasible” if it can be easily defeated by the registration of a spurious deed with the effect of transferring ownership from one to another who claims to be an innocent

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

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

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

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

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

party in the entire land dealing. As such, there is a need to reinforce the strength of the Torrens System by upholding the true landowner's rights above those of third person's even if the latter is eventually be adjudged innocent. Strengthening the Torrens System's stability ensures that property rights are adequately protected and will eventually reduce land-related disputes. In this regard, the undersigned is of the view that there is a need for the Court to revisit its doctrines pertaining to the conflicting rights of true landowners and innocent mortgagees for value.

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


ALEXANDER G. GESMUNDO
Chief Justice