



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**ANTONIO BACLIG,<sup>1</sup>**

*Petitioner,*

**G.R. No. 230200**

Present:

- versus -

**GESMUNDO, C.J.,\***  
**HERNANDO,**  
*Acting Chairperson,\*\**  
**ZALAMEDA,**  
**ROSARIO, and**  
**MARQUEZ, JJ.**

**THE RURAL BANK OF  
 CABUGAO, INC.,<sup>2</sup> FLORANTE  
 R. RIGUNAY, MIGUEL A.  
 FRANDO AND THE REGISTER  
 OF DEEDS OF ILOCOS SUR,<sup>3</sup>**

*Respondents.*

Promulgated:

**JUL 03 2023** *with file*

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**DECISION**

**HERNANDO, J.:**

This resolves the Petition for Review on *Certiorari* Under Rule 45<sup>4</sup> assailing the January 20, 2017 Resolution<sup>5</sup> of the Court of Appeals (CA) in CA-

\* On official leave.

\*\* Per Special Order No. 2998 dated July 3, 2023.

<sup>1</sup> While the Petition states “Antonio Baclic, et al.,” only petitioner, not his siblings, executed the Verification and Certification Against Non-Forum Shopping. In the June 11, 2014 Decision of the Court of Appeals, petitioner’s siblings, Floro, Luzviminio, Rosalie, Ronald, Mario, and Emilio, all surnamed Baclic, were however indicated as plaintiffs-appellants.

<sup>2</sup> Also referred to as “Rural Bank of Cabugao, Inc.,” “Rural Bank of Cabugao, Ilocos Sur, Inc.,” and “Rural Bank of Cabugao Ilocos Sur, Inc.” in some parts of the *rollo*.

<sup>3</sup> Per the body of the Petition, the only respondent indicated is the “Rural Bank of Cabugao, Inc.” However, the June 11, 2014 Decision of the appellate court indicate “Rural Bank of Cabugao Ilocos Sur, Inc., Florante R. Rigunay, Miguel A. Frando, and the Register of Deeds of Ilocos Sur” as defendants-appellees.

<sup>4</sup> *Rollo*, pp. 12-61.

<sup>5</sup> *Id.* at 62. Signed by Division Clerk of Court Atty. Dionisio C. Jimenez.

*W*

G.R. CV No. 100571. The CA denied the prayer of petitioner Antonio Baclig and his siblings (collectively, Baclig et al.) to essentially reverse its earlier finding that no Motion for Reconsideration was filed by them before the appellate court.<sup>6</sup>

### **Antecedents**

In 1972, Baclig et al.'s parents<sup>7</sup> obtained a ₱1,000.00-loan from respondent The Rural Bank of Cabugao, Inc. (the Bank). The loan was secured by a Real Estate Mortgage<sup>8</sup> covering a 1,355-square meter (sq m) parcel of corn land in Pug-os, Cabugao, Ilocos Sur and a 28-sq m house erected thereon (subject property).<sup>9</sup>

When the loan matured, Baclig et al.'s parents were unable to pay the obligation, causing the Bank to initiate foreclosure proceedings. A Notice of Extra-Judicial Sale of Foreclosed Properties<sup>10</sup> was posted at the office of the Bank, the municipal building of Cabugao, and the Office of the Provincial Sheriff. At the auction sale, the subject property was sold to the Bank, the only bidder, at the bid price of ₱2,500.00. A Certificate of Sale<sup>11</sup> was subsequently issued.<sup>12</sup>

During the period for redemption, Baclig et al.'s parents failed to redeem the subject property. Hence, in 1998, the Bank executed an Affidavit of Consolidation of Ownership<sup>13</sup> and a Deed of Sale.<sup>14</sup> Subsequently, Tax Declaration Nos. 23-020518<sup>15</sup> and 23-020519<sup>16</sup> were issued in the name of the Bank. In 2003, it filed a Petition for Issuance of Writ of Possession<sup>17</sup> before the Regional Trial Court (RTC) of Cabugao, Ilocos Sur.<sup>18</sup>

On the other hand, Baclig et al.'s parents instituted a case for Annulment of Foreclosure and Auction Sale<sup>19</sup> before the same court in 2004. They alleged that the foreclosure sale was unconscionable considering the disparity in the value of the subject property and the amount for which it was loaned, and that

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<sup>6</sup> Id.

<sup>7</sup> Mateo and Guadalupe Baclig.

<sup>8</sup> *Rollo*, p. 166.

<sup>9</sup> Id. at 138.

<sup>10</sup> Dated May 26, 1986.

<sup>11</sup> *Rollo*, p. 167; dated July 26, 1986.

<sup>12</sup> Id. at 138.

<sup>13</sup> Id. at 173.

<sup>14</sup> Id. at 174.

<sup>15</sup> Id. at 178-178b.

<sup>16</sup> Id. at 177-177b.

<sup>17</sup> Id. at 181-184.

<sup>18</sup> Id. at 138.

<sup>19</sup> Not attached to the Petition.

the foreclosure sale was void for lack of personal notice to them. In their Memorandum,<sup>20</sup> Baclig et al.'s parents raised the issue of whether the Bank complied with the requirements of Act No. 3135<sup>21</sup> in foreclosing the subject property.<sup>22</sup>

For its part, the Bank countered that it observed all the requirements under the law.<sup>23</sup>

During the pendency of the case, Baclig et al.'s parents passed away and were substituted by Baclig et al.<sup>24</sup>

### **Ruling of the Regional Trial Court**

In its February 25, 2013 Decision,<sup>25</sup> the RTC ruled in favor of the Bank, viz.:

WHEREFORE, premises considered, for failure of the plaintiffs to establish their case by a preponderance of evidence, the Court hereby orders the DISMISSAL of the complaint.

No cost.

SO ORDERED.<sup>26</sup>

The trial court held that pursuant to jurisprudence, inadequacy of price does not nullify a sale since a low price is more beneficial to the mortgage debtor for it makes redemption easier; that personal notice to the mortgagor is not necessary under Section 3 of Act No. 3135; and that laches and estoppel had already set in.<sup>27</sup>

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

In its June 11, 2014 Decision,<sup>28</sup> the CA affirmed the RTC Decision, viz.:

WHEREFORE, premises considered, the instant appeal is **DENIED**. The assailed Decision dated February 25, 2013 of the Regional Trial Court, Branch 24 of Cagayan, Ilocos Sur, is **AFFIRMED**.

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<sup>20</sup> Not attached to the Petition.

<sup>21</sup> Entitled "AN ACT TO REGULATE THE SALE OF PROPERTY UNDER SPECIAL POWERS INSERTED IN OR ANNEXED TO REAL-ESTATE MORTGAGES." Approved: March 6, 1924.

<sup>22</sup> *Rollo*, pp. 138-139.

<sup>23</sup> *Id.* at 139.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 147-154. Penned by Judge Nida B. Alejandro.

<sup>26</sup> *Id.* at 154.

<sup>27</sup> *Id.* at 149-154.

<sup>28</sup> *Id.* at 137-146. Penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Noel G. Tijam and Priscilla J. Baltazar-Padilla (both former Members of this Court).

*n*

**SO ORDERED.**<sup>29</sup>

The appellate court held that since the loan granted to Baclig et al.'s parents did not exceed ₱50,000.00, publication of the notice of sale was not necessary; that the posting of the notice in different places sufficed to comply with the requirements of Act No. 3135; and that inadequacy of the price does not nullify a sale because it is beneficial to the mortgage debtor. The appellate court further rejected Baclig et al.'s new argument that the sale was void for being conducted more than 13 years from the execution of the mortgage contract.<sup>30</sup>

Months after the CA Decision was rendered, the appellate court issued its October 30, 2014 Resolution<sup>31</sup> stating that an Entry of Judgment<sup>32</sup> was issued after the Judicial Records Division reported that no Motion for Reconsideration or Supreme Court petition was filed by any of the parties.<sup>33</sup>

Upon learning of the Entry of Judgment, Baclig et al.'s counsel, Atty. Melver G. Tolentino (Atty. Tolentino), filed an Urgent Motion to Set Aside Resolution and Entry of Judgment,<sup>34</sup> stating that he actually filed a Motion for Reconsideration via registered mail.<sup>35</sup> He attached thereon a copy of the Motion for Reconsideration.<sup>36</sup>

Acting on the Urgent Motion to Set Aside Resolution and Entry of Judgment, the CA, in its June 30, 2015 Resolution,<sup>37</sup> required Atty. Tolentino to show proof of receipt of the filing of the Motion for Reconsideration within 10 days from notice.<sup>38</sup> After Atty. Tolentino failed to comply, the CA, through its January 18, 2016 Resolution,<sup>39</sup> ordered him to comply anew.<sup>40</sup>

In compliance with the second order, Atty. Tolentino submitted a Certification<sup>41</sup> issued by the Philippine Postal Corporation stating that Registered Mail No. 41 was delivered to the CA and received by one "Mr. Joan A. Veluz" on July 14, 2014.<sup>42</sup> Accordingly, the appellate court, through its June

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<sup>29</sup> Id. at 145.

<sup>30</sup> Id. at 140-145.

<sup>31</sup> Id. at 106. Signed by Division Clerk of Court Donna Lara B. Oropesa.

<sup>32</sup> Id. at 107-A. The Entry of Judgment states that the June 11, 2014 Decision of the CA has become final and executory on July 9, 2014.

<sup>33</sup> Id. at 106.

<sup>34</sup> Id. at 109-112.

<sup>35</sup> Id. at 109-110.

<sup>36</sup> Id. at 113-123.

<sup>37</sup> Id. at 104. Signed by Division Clerk of Court Atty. Dionisio C. Jimenez.

<sup>38</sup> Id.

<sup>39</sup> Id. at 103. Signed by Division Clerk of Court Atty. Venues B. Maglaya-Taloma.

<sup>40</sup> Id.

<sup>41</sup> Id. at 101.

<sup>42</sup> Id.

7, 2016 Resolution,<sup>43</sup> directed the Division Clerk of Court to check the veracity of the receipt of the Motion for Reconsideration and ordered Baclig et al.'s counsel to file the necessary entry of appearance.<sup>44</sup>

Pursuant to the CA's order, the Division Clerk of Court issued a Report<sup>45</sup> stating that upon verification, no Motion for Reconsideration was filed by Atty. Tolentino on the case. Instead, what was received by "Ms. Joan Veluz" of the Receiving Section was a Compliance pertaining to a different case.<sup>46</sup>

In view thereof, the appellate court, in its June 27, 2016 Resolution,<sup>47</sup> denied Baclig et al.'s Urgent Motion to Set Aside Resolution and Entry of Judgment and ordered Atty. Tolentino to show cause why he should not be held in contempt for stating that he filed a Motion for Reconsideration when in fact he did not.<sup>48</sup>

Atty. Tolentino failed to comply with the show cause order and thus, the appellate court issued its October 18, 2016 Resolution<sup>49</sup> reiterating the directive.<sup>50</sup> However, the service thereof was unsuccessful as it was returned with the postal notation "DECEASED."<sup>51</sup> The CA, in its October 25, 2016 Resolution,<sup>52</sup> then ordered Baclig et al. to confirm the truthfulness of the notation.<sup>53</sup>

In a Manifestation & Motion with Notice of Withdrawal as Counsel,<sup>54</sup> Baclig et al., through their new counsel, Atty. Mayvelyn P. Tajon (Atty. Tajon), explained that Atty. Tolentino had been murdered. Atty. Tajon stated that he believed in the existence of the Motion for Reconsideration filed by Atty. Tolentino and if it were true that there was a mistake in enclosing the wrong pleading, it was purely an honest mistake.<sup>55</sup>

The CA then finally issued the assailed January 20, 2017 Resolution, which reads:

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<sup>43</sup> Id. at 92-96. Penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Noel G. Tijam and Priscilla J. Baltazar-Padilla (both former Members of this Court).

<sup>44</sup> Id. at 95.

<sup>45</sup> See id. at 84.

<sup>46</sup> Id.

<sup>47</sup> Id. at 83-86. Penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Noel G. Tijam and Priscilla J. Baltazar-Padilla (both former Members of this Court).

<sup>48</sup> Id. at 85-86.

<sup>49</sup> Id. at 81-82. Penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Noel G. Tijam and Priscilla J. Baltazar-Padilla (both former Members of this Court).

<sup>50</sup> Id.

<sup>51</sup> See id. at 79.

<sup>52</sup> Id.

<sup>53</sup> Id. Signed by Division Clerk of Court Atty. Venues B. Maglaya-Taloma.

<sup>54</sup> Id. at 64-76.

<sup>55</sup> Id. at 64-70.

*Considering the Manifestation & Motion with Notice of Withdrawal filed on November 4, 2016 by collaborating counsel Atty. Mayvelyn P. Tajon, the Court RESOLVES –*

*1. To NOTE Atty. Tajon's information (with supporting documents) about the death of Atty. Melver G. Tolentino on September 15, 2016, rendering as moot the issue of contempt of court against him;*

*2. To DENY Atty. Tajon's prayer to consider the alleged motion for reconsideration of Atty. Tolentino relative to the June 11, 2014 Decision, in view of the Resolution dated June 27, 2016 which maintained the entry of judgment;*

*3. To GRANT the withdrawal of Atty. Maycelyn [sic] P. Tajon from the case; and*

*4. To DIRECT the Archives Section to remand the records of the case to the trial court for execution of this Court's final and executory decision.<sup>56</sup> (Emphasis supplied)*

Hence, this Petition, where petitioner argues, among others, that the assailed Resolution violated the constitutional provision on decisions clearly and distinctly stating the facts and law on which they are based; that Atty. Tolentino indeed filed a Motion for Reconsideration and if not, there was only an inadvertent, excusable, and honest mistake; that Baclig et al.'s parents did not default on the loan as shown by the records of the case; that newly-discovered evidence, consisting of a promissory note, shows that the Bank foreclosed the wrong obligation; that the price of the subject property was inadequate; and that courts must act in Baclig et al.'s protection pursuant to Article 24 of the Civil Code because they are indigents.<sup>57</sup>

Initially, the Court ordered the denial of the Petition for failure to sufficiently show any reversible error.<sup>58</sup> However, upon reconsideration,<sup>59</sup> the Court reinstated the Petition.<sup>60</sup>

### **Issue**

Did the appellate court err in issuing the assailed Resolution?

### **Our Ruling**

The Petition is partly meritorious.

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<sup>56</sup> Id. at 62.

<sup>57</sup> Id. at 23-56.

<sup>58</sup> Id. at 203-204. Signed by Deputy Division Clerk of Court Teresita Aquino Tuazon.

<sup>59</sup> See Motion for Reconsideration with Motion to Refer the Case to the Court En Banc, id. at 205-217.

<sup>60</sup> Id. at 253-254.

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### On the relaxation of procedural rules

Sec. 1, Rule 52 of the Rules of Court<sup>61</sup> provides a 15-day reglementary period for filing a motion for reconsideration. Petitioner argues that he and his siblings were able to timely file their Motion for Reconsideration which should have prevented the CA Decision from becoming final and executory. However, the records clearly show that no such Motion for Reconsideration was filed within the reglementary period, as what was actually filed was a Compliance pertaining to a different case.<sup>62</sup> Hence, in the natural course of things, the Decision would have attained finality.

Upon review of the records, however, the Court is convinced that meritorious and exceptional circumstances exist in this case which necessitate the relaxation of the rule. For one, there is a glaring serious irregularity in the foreclosure proceedings that would render the same void, and which irregularity the lower courts had apparently overlooked. For the other, Baclig was able to demonstrate that the failure to attach the correct pleading was simply an honest human mistake that is not attributable to him and his siblings; that their counsels exerted great efforts to rectify the mistake; and that the strict application of the rule will result in a miscarriage of justice.<sup>63</sup>

Indeed, while the general rule is that negligence of the counsel binds the client,<sup>64</sup> the Court has also carved out exceptions in exceptional cases, thus:

We have, however, carved out exceptions to this rule; as where the reckless or gross negligence of counsel deprives the client of due process of law; or **where the application of the rule will result in outright deprivation of the client's liberty or property; or where the interests of justice so requires [sic] and relief ought to be accorded to the client who suffered by reason of the lawyer's gross or palpable mistake or negligence.** In order to apply the exceptions rather than the rule, the circumstances obtaining in each case must be looked into.<sup>65</sup> (Emphasis supplied)

Taking into account the circumstances of this case, the Court is of the view that the strict application of the rule on the 15-day reglementary period will result in the outright deprivation of Baclig et al.'s property, and that the higher interest of justice will be better served by resolving the case on the merits.

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<sup>61</sup> SECTION 1. *Period for Filing.* — A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party.

<sup>62</sup> See *rollo*, p. 84.

<sup>63</sup> *Id.* at 30-38.

<sup>64</sup> *Philippine Amusement and Gaming Corporation v. Court of Appeals*, 839 Phil. 122, 130 (2018), citing *Multi-Trans Agency Phils., Inc. v. Oriental Assurance Corp.*, 608 Phil. 478, 493-494 (2009).

<sup>65</sup> *Id.*

*W*

To be sure, the Court is empowered to undertake this course even if an Entry of Judgment had already been issued, considering that the rule on immutability of final judgments is not a hard-and-fast rule, thus:

**Nonetheless, the immutability of final judgments is not a hard and fast rule as the Court has the power and prerogative to relax the same in order to serve the demands of substantial justice considering:** (a) matters of life, liberty, honor, or property; **(b) the existence of special or compelling circumstances**; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) the lack of any showing that the review sought is merely frivolous and dilatory; and (f) that the other party will not be unjustly prejudiced thereby.<sup>66</sup> (Emphasis in the original)

Accordingly, the rule on the 15-day reglementary period is relaxed and the Motion for Reconsideration attached to Baclig et al.'s Urgent Motion to Set Aside Resolution and Entry of Judgment is admitted.

#### **On Sec. 14, Art. VIII and the invocation of newly-discovered evidence**

Before delving into the merits of the Motion for Reconsideration, the Court will first address petitioner's arguments in the Petition on the supposed violation of the constitutional provision on decisions clearly and distinctly stating the facts and law on which they are based, and his invocation of newly-discovered evidence.

*First*, petitioner argues that the CA, in issuing the assailed Resolution, violated Sec. 14, Art. VIII of the Constitution on decisions clearly and distinctly stating the facts and law on which they are based.<sup>67</sup> However, the provision does not apply because it refers to "decisions," not to resolutions disposing of incidental matters<sup>68</sup> like the assailed Resolution here. It is settled that courts are allowed to issue minute resolutions to save time that may be better utilized in drafting decisions and orders of more important nature.<sup>69</sup> Since the assailed Resolution merely reiterated the June 27, 2016 Resolution of the appellate court maintaining the Entry of Judgment, a full-blown decision is clearly not necessary.

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<sup>66</sup> *People v. Depillo*, G.R. No. 197252, June 23, 2021, citing *People v. Layag*, 797 Phil. 386, 389 (2016).

<sup>67</sup> *Rollo*, p. 23.

<sup>68</sup> *Jalandoni v. Office of the Ombudsman*, G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, May 10, 2021. Citations omitted.

<sup>69</sup> See *Borromeo v. Court of Appeals*, 264 Phil. 388, 394 (1990).



*Second*, petitioner argues that newly-discovered evidence, consisting of a promissory note, shows that the Bank foreclosed the wrong obligation.<sup>70</sup> However, the invocation of newly-discovered evidence is not proper in a Rule 45 petition.<sup>71</sup> Firstly, under the Rules of Court, the existence of newly-discovered evidence is raised in motions for new trial.<sup>72</sup> Secondly, the motion raising the existence of such evidence is filed within the period for taking an appeal,<sup>73</sup> or before the CA loses jurisdiction over the case.<sup>74</sup> Here, not only is the newly-discovered evidence raised in a Rule 45 petition, the period for raising such matter had also already long lapsed.

Besides, petitioner failed to show that the supposed newly-discovered evidence “could not have been discovered and produced at trial even with the exercise of reasonable diligence.”<sup>75</sup> Petitioner himself admits that the evidence was discovered in his parents’ closets;<sup>76</sup> thus, it could have ordinarily been located by the use of reasonable diligence.

### **On the validity of the auction sale**

Going now to the merits of the Motion for Reconsideration, the Court finds that the auction sale is void for failure to comply with the publication requirement. Sec. 3 of Act No. 3135 expressly requires the publication of the notice of sale if the property is worth more than ₱400.00, thus:

SECTION 3. Notice shall be given by posting notices of the sale for not less than twenty days in at least three public places of the municipality or city where the property is situated, and **if such property is worth more than four hundred pesos, such notice shall also be published once a week for at least three consecutive weeks in a newspaper of general circulation in the municipality or city.** (Emphasis supplied)

In *Security Bank Corporation v. Spouses Mercado*,<sup>77</sup> the Court underscored the importance of the publication requirement: to give the sale a reasonably wide publicity to secure bidders and prevent a sacrifice of the property.<sup>78</sup> The Court categorically held that failure to publish the notice of sale constitutes a jurisdictional defect that invalidates the sale, *viz.*:

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<sup>70</sup> *Rollo*, pp. 44-51.

<sup>71</sup> See *Ladines v. People*, 776 Phil. 75, 84 (2016).

<sup>72</sup> RULES OF COURT, Rule 37, Sec. 1; Rule 53, Sec. 1.

<sup>73</sup> RULES OF COURT, Rule 37, Sec. 1.

<sup>74</sup> RULES OF COURT, Rule 53, Sec. 1.

<sup>75</sup> See *Ladines v. People*, *supra*, citing *Custodio v. Sandiganbayan*, 493 Phil. 194, 205 (2005).

<sup>76</sup> *Rollo*, p. 45

<sup>77</sup> 834 Phil. 286 (2018).

<sup>78</sup> *Id.* at 300. Citation omitted.

**Failure to advertise a mortgage foreclosure sale in compliance with statutory requirements constitutes a jurisdictional defect which invalidates the sale.** This jurisdictional requirement may not be waived by the parties; to allow them to do so would convert the required public sale into a private sale. Thus, the statutory provisions governing publication of notice of mortgage foreclosure sale must be strictly complied with, and that even slight deviations therefrom will invalidate the notice and render the sale at least voidable.<sup>79</sup> (Emphasis supplied)

In *Caubang v. Spouses Crisologo*.<sup>80</sup>

The principal object of a notice of sale in a foreclosure of mortgage is not so much to notify the mortgagor as to inform the public generally of the nature and condition of the property to be sold, and of the time, place, and terms of the sale. Notices are given to secure bidders and prevent a sacrifice of the property. **Therefore, statutory provisions governing publication of notice of mortgage foreclosure sales must be strictly complied with and slight deviations therefrom will invalidate the notice and render the sale, at the very least, voidable.** Certainly, the statutory requirements of posting and publication are mandated and imbued with public policy considerations. **Failure to advertise a mortgage foreclosure sale in compliance with the statutory requirements constitutes a jurisdictional defect, and any substantial error in a notice of sale will render the notice insufficient and will consequently vitiate the sale.**<sup>81</sup> (Emphases supplied)

To demonstrate the strictness of the rule, the Court had invalidated foreclosure sales for lighter reasons,<sup>82</sup> thus:

In one case, we declared a foreclosure sale void for failing to comply with the requirement that the notice shall be published once a week for at least three consecutive weeks. There, although the notice was published three times, the second publication of the notice was done on the first day of the third week, and not within the period for the second week.<sup>83</sup> (Citations omitted)

Here, in determining the Bank's compliance with the publication requirement, the appellate court considered the fact that the amount of the loan did not exceed ₱50,000.00, thus:

**Since the loan granted to the spouses Baclig did not exceed ₱50,000, publication was no longer necessary,** thus posting the said notice in the offices of [the Bank], Municipal Building of Cabugao, Ilocos Sur, and the Office of the Provincial Sheriff, Vigan, Ilocos Sur is sufficient compliance with the notice-posting requirements of the law.<sup>84</sup> (Emphasis supplied)

<sup>79</sup> Id. at 301. Citation omitted.

<sup>80</sup> 753 Phil. 92 (2015).

<sup>81</sup> Id. at 98, citing *Philippine National Bank v. Nepomuceno Productions Inc.*, 442 Phil. 655, 664 (2002).

<sup>82</sup> *Security Bank Corporation v. Spouses Mercado*, supra at 301.

<sup>83</sup> Id.

<sup>84</sup> *Rollo*, pp. 141-142.

However, as correctly pointed out by Baclig et al. in their Motion for Reconsideration, it is not the **value of the loan** that determines the necessity of publication; rather, it is the **value of the property**.<sup>85</sup> This is clear from the wording of Sec. 3.

Significantly, the records show that the subject property was worth more than ₱400.00 in 1986. The tax declarations show that the land's market value was ₱121,950.00 and the house erected thereon, ₱18,360.00.<sup>86</sup> Hence, there is no doubt that the Notice of Extra-Judicial Sale of Foreclosed Properties should have been published.

Tellingly, the Bank never denied the non-publication of the notice in any of its pleadings. It simply argued that the burden to prove non-compliance was with Baclig et al. While this is true, the Court has also ruled that "negative allegations need not be proved even if essential to one's cause of action or defense if they constitute a denial of the existence of a document the custody of which belongs to the other party."<sup>87</sup> Thus, in *Philippine Savings Bank v. Spouses Geronimo*,<sup>88</sup> the Court upheld the lack of publication despite the failure of the respondents therein to categorically prove their claim, thus:

Notwithstanding, petitioner could have easily produced the affidavit of publication and other competent evidence (such as the published notices) to refute respondents' claim of lack of publication of the notice of sale. In *Spouses Pulido v. Court of Appeals*, the Court held:

While it may be true that the party alleging non-compliance with the requisite publication has the burden of proof, still negative allegations need not be proved even if essential to one's cause of action or defense if they constitute a denial of the existence of a document the custody of which belongs to the other party.<sup>89</sup> (Citation omitted)

Similarly here, if the notice of sale was really published, the Bank could have easily produced the affidavit of publication or any other competent evidence to refute Baclig et al.'s claim of lack of publication. Instead, the Bank chose to remain silent on the matter. This confirms Baclig et al.'s claim that the notice was not published,<sup>90</sup> rendering the auction sale void. As a consequence, the Certificate of Sale, Affidavit of Consolidation of Ownership, Deed of Sale, and Tax Declaration Nos. 23-020518 and 23-020519 are also void.

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<sup>85</sup> Id. at 115.

<sup>86</sup> Id. at 177-177b, 178-178b.

<sup>87</sup> *Philippine Savings Bank v. Spouses Geronimo*, 632 Phil. 378, 387 (2010), citing *Spouses Pulido v. Court of Appeals*, 321 Phil. 1064, 1069 (1995).

<sup>88</sup> Id.

<sup>89</sup> Id. at 387, citing *Spouses Pulido v. Court of Appeals*, supra.

<sup>90</sup> See rollo, p. 129.

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**On the remaining arguments of  
Baclig et al. in their Motion for  
Reconsideration**

In addition to the issue on publication, Baclig et al. also reiterated their arguments on personal notice, default, prescription, and the applicability of Art. 24 of the Civil Code.<sup>91</sup> They also reiterated their prayer for damages. However, these lack merit.

*First*, is it settled that unless stipulated by the parties, personal notice to the mortgagor in extrajudicial foreclosure proceedings is not necessary, *viz.*:

In *Carlos Lim, et al. v. Development Bank of the Philippines*, we held that unless the parties stipulate, personal notice to the mortgagor in extrajudicial foreclosure proceedings is not necessary because Section 3 of Act No. 3135 only requires the posting of the notice of sale in three public places and the publication of that notice in a newspaper of general circulation.<sup>92</sup> (Citation and original emphasis omitted)

As Baclig et al. have not shown that there was a stipulation on personal notice, the lack thereof is not a ground to invalidate the sale.

*Second*, Baclig et al. failed to prove that they were not in default. That it took the Bank some time to foreclose the subject property does not prove that they did not default on their obligation. On the contrary, the records bear their admission of “fail[ing] to pay their obligation to the defendant bank.”<sup>93</sup>

*Third*, as correctly held by the CA, the right of action to enforce a right arising from mortgage accrues not from the execution of the mortgage contract, but from when the mortgagor defaults in the payment of his or her obligation to the mortgagee.<sup>94</sup> Here, Baclig et al. failed to prove that the Bank’s right of action had already prescribed.

*Fourth*, as pointed out by the Bank, while Art. 24 of the Civil Code directs courts to be vigilant for the protection of the disadvantaged party in all contractual, property, or other relations, the same cannot be taken to mean that all cases must be decided in favor of such party. Cases must be decided based on their merits and based on what is just and legal.<sup>95</sup>

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<sup>91</sup> Id. at 22-56.

<sup>92</sup> *Ramirez v. The Manila Banking Corporation*, 723 Phil. 674, 680 (2013).

<sup>93</sup> See *rollo*, p. 343.

<sup>94</sup> Id. at 144-145.

<sup>95</sup> See id. at 338-339.

*Finally*, Baclig et al.'s prayer for damages deserves scant consideration for not being substantiated. "Well-settled it is that actual or compensatory damages must be duly proved with a reasonable degree of certainty."<sup>96</sup>

In fine, Baclig et al.'s arguments on personal notice, default, prescription, and the applicability of Art. 24 of the Civil Code, as well as their prayer for damages, lack merit. However, this does not affect the Court's finding that the auction sale is void considering that the notice of such sale was not published.

In ruling this way, the Court understands the far-ranging ramifications of nullifying the sale, especially considering that the transaction transpired more than three decades ago. However, the irregularity is too serious and too glaring to ignore. **The law is clear that failure to publish the notice of sale constitutes a jurisdictional defect that invalidates the sale.** The statutory provisions governing the publication of notice of foreclosure sales must be strictly complied with and even slight deviations therefrom will invalidate the notice.<sup>97</sup>

**WHEREFORE**, the Petition is partly **GRANTED**. The Resolutions dated January 20, 2017, June 27, 2016, January 18, 2016, and October 30, 2014 of the Court of Appeals in CA-G.R. CV No. 100571 are **SET ASIDE** insofar as they uphold the finality of the June 11, 2014 Decision and deny the admission of the Motion for Reconsideration and the Urgent Motion to Set Aside Resolution and Entry of Judgment. In their place, a new judgment is rendered **SETTING ASIDE** the Entry of Judgment in CA-G.R. CV No. 100571 and **ORDERING** the same from being stricken off the Court of Appeals' Book of Entries of Judgment.

Further, the July 7, 2014 Motion for Reconsideration filed by petitioner Antonio Baclig and his siblings is **PARTLY GRANTED**. The June 11, 2014 Decision of the Court of Appeals in CA-G.R. CV No. 100571 and the February 25, 2013 Decision of the Regional Trial Court of Cabugao, Ilocos Sur, Branch 24 in Civil Case No. 600-KC are **REVERSED** and **SET ASIDE**. Accordingly, the auction sale covering the subject property and the consequent Certificate of Sale, Affidavit of Consolidation of Ownership, Deed of Sale, and Tax Declaration Nos. 23-020518 and 23-020519 are declared **NULL** and **VOID**. No cost.

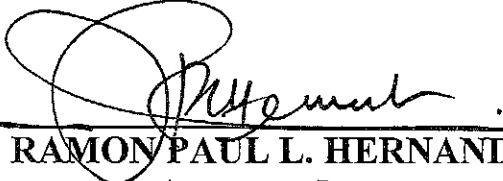
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<sup>96</sup> *Republic v. Looyuko*, 788 Phil. 1, 17 (2016).

<sup>97</sup> *Security Bank Corporation v. Spouses Mercado*, supra note 77, at 301. Citation omitted.

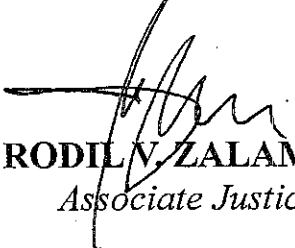
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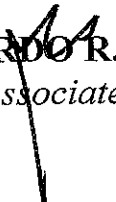
**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*  
*Acting Chairperson*

WE CONCUR:

(On official leave)  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*


  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

**ATTESTATION**

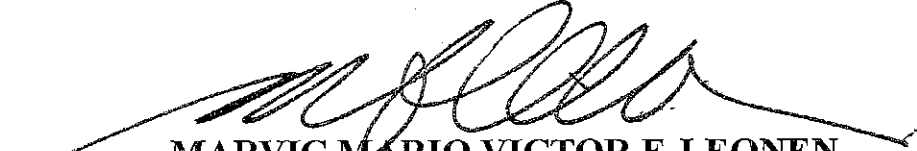
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**RAMON PAUL L. HERNANDO**  
*Acting Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, 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.



**MARVIC MARIO VICTOR F. LEONEN**  
*Acting Chief Justice* \*\*\*

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\*\*\* Per S.O. No. 2989 dated June 24, 2023.

