



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 29 July 2020 which reads as follows:*

“G.R. No. 251495 (*Luzon Development Bank v. Estelita Capuno Olayta, Ramon Capuno, et al.*). – After a judicious study of the case, the Court resolves to **DENY** the present petition and **AFFIRM** with **MODIFICATION** the Decision<sup>1</sup> dated August 19, 2019 and the Resolution<sup>2</sup> dated January 23, 2020 of the Court of Appeals (CA) in CA-G.R. CV No. 108327 for failure of petitioner Luzon Development Bank (LDB) to show that the CA committed reversible error in sustaining the finding that it is not a mortgagee in good faith. Accordingly, the instant petition is denied, without prejudice to a separate civil action that LDB may pursue against Spouses Ramon and Cecilia Capuno for the payment of the latter’s loan obligations.

As a rule, the issue of whether a mortgagee is in good faith cannot be entertained in a Rule 45 petition because the ascertainment of good faith or the lack thereof and the determination of negligence are factual issues which lie outside the scope of a petition for review on *certiorari*.<sup>3</sup> This Court is not a trier of facts and is not into re-examination and re-evaluation of testimonial and documentary evidence on record.<sup>4</sup> There are recognized exceptions<sup>5</sup> but the present case does not fall under any of them.

At any rate, it bears noting that the doctrine of mortgagee in good faith is based on the rule that all persons dealing with property covered by a Torrens Certificate of Title are not required to go beyond what appears on the face of the title. This is in deference to the public interest in upholding

<sup>1</sup> Penned by Associate Justice Rafael Antonio M. Santos, with Associate Justices Geraldine C. Fiel-Macaraig and Walter S. Ong, concurring; *rollo*, pp. 34-47.

<sup>2</sup> *Id.* at 48-53.

<sup>3</sup> *Dadis v. Spouses De Guzman*, 810 Phil. 749, 756 (2017).

<sup>4</sup> *Id.*

<sup>5</sup> See *Spouses Miano v. Manila Electric Company*, 800 Phil. 118, 123 (2016), citing *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225 (1990).

the indefeasibility of a certificate of title as evidence of lawful ownership of the land or of any encumbrance thereon. In the case of banks and other financial institutions, however, greater care and due diligence are required as they are imbued with public interest, failing on which renders the mortgagees in bad faith. Thus, before approving a loan application, it is a standard operating practice for these institutions to conduct an ocular inspection of the property offered for mortgage and to verify the genuineness of the title to determine the real owner(s) thereof. The apparent purpose of an ocular inspection is to protect the “true owner” of the property as well as innocent third parties with a right, interest or claim thereon from a usurper who may have acquired a fraudulent certificate of title thereto.<sup>6</sup>

Notably, in this petition, LDB’s claim that it was a mortgagee in good faith entitled to protection on its mortgage lien is a mere reiteration of the factual issue and argument raised by LDB in its appeal, which had already been fully discussed and passed upon by the CA. In finding that LDB is not a mortgagee in good faith, the CA held:

In this case, the Court examines the steps taken by defendant-appellant LDB to find out whether the latter truly exercised the required higher degree of diligence as a mortgagee-bank in granting the loan to defendant spouses.

Criselda Latina (Latina), who at the time the loan was granted was the bank manager of defendant-appellant LDB and the bank officer who conducted the ocular inspection of the subject property to be used as loan collateral, testified that she relied on the following documents in granting defendant Spouses Ramon and Cecilia’s loan application: [a] TCT No. T-328343 covering the subject property and registered in the name “*RAMON CAPUNO, married to Cecilia Garcia*”; [b] Tax Declaration No. 1686 covering subject property also in the name of “*RAMON CAPUNO, m/to Cecilia Garcia*”; [c] Real Property Tax Receipt No. 9930227 dated 16 April 1996 showing payment of real property taxes for subject property and written out to “*Sps Ramon Capuno & Cecilia Garcia*.”

Although defendant-appellant LDB claims to have exercised “the degree of diligence required of banks in dealing with properties offered as security,” the Court finds that defendant-appellant LDB failed to exercise the required care, prudence, and due diligence in ascertaining the ownership of the defendant Spouses Ramon and Cecilia before entering into a contract of mortgage with them.

As admitted by defendant-appellant LDB’s manager, Latina, based on the ocular inspection of the property they conducted, they found that there were “*two (2) other residential houses erected on the lot*,” as stated in the Inspection and Appraisal Report executed.

This was enough to arouse defendant-appellant LDB’s suspicion for it to conduct further investigation to determine who owned these two residential houses and what was the basis of their occupation of the subject

<sup>6</sup> *Landbank of the Philippines v. Musni*, 806 Phil. 308, 318-319 (2017), citing *Philippine Banking Corporation v. Dy*, 698 Phil. 750 (2012).

property. However, Latina admitted that she did not even talk to the residents of these two other houses when she conducted her ocular inspection of the mortgaged property:

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If indeed defendant-appellant LDB exercised due diligence in processing the loan application, the existence of several other houses erected on the property being offered as collateral should have alerted it to investigate the right of possession or ownership, if any, of the occupants of these houses. If it exercised due diligence, it would have discovered that defendant Spouses Ramon and Cecilia's title over the subject property, having been derived from the Deed of Donation, was questionable or dubious. By this fact alone, defendant-appellant LDB should have been more wary in just relying on the above-mentioned documents submitted by defendant Spouses Ramon and Cecilia for purposes of obtaining their loan without further checking their veracity.

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Therefore, the Court affirms the trial court's ruling that defendant-appellant LDB is not a mortgagee in good faith:

**Had there been an exhaustive and in depth credit investigation, the fact that there were houses erected therein as claimed by the plaintiffs; the facts and circumstances that lead to the acquisition of the subject mortgaged properties by Ramon Capuno could have been unearthed.** To the mind of the Court, the defendant banks principally relied on the documents submitted by defendant Ramon Capuno. Hence, to the mind of the Court, both defendant banks did not exercise due diligence to make them mortgagees in good faith.<sup>7</sup>

If only LDB exercised the highest degree of diligence required in dealing with properties offered as security in a mortgage contract, it would have discovered the real ownership of the mortgaged property. Its failure to exercise the required diligence "constitutes negligence, and negates its assertion that it is a mortgagee in good faith."<sup>8</sup>

Where the findings of fact of the trial courts are affirmed by the CA, the same are accorded the highest degree of respect and, generally, will not be disturbed on appeal. Such findings are binding and conclusive on this Court.<sup>9</sup> Accordingly, this Court finds no reason to depart from the findings of the CA, which affirmed the findings of the RTC, that LDB is not a mortgagee in good faith.

On the payment of the unpaid loan obligation, petitioner LDB prays that in case its petition be denied, the Court, in the interest of justice and

<sup>7</sup> *Rollo*, pp. 42-46. (Emphasis and italics in the original, citations omitted)

<sup>8</sup> *Prudential Bank (now Bank of the Philippine Islands) v. Rapanot*, 803 Phil. 294, 313 (2017).

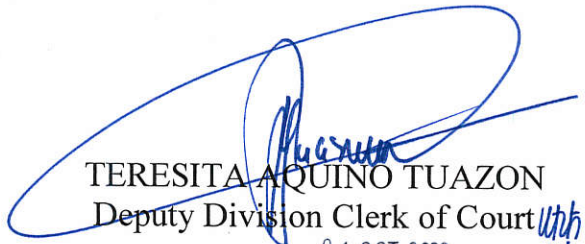
<sup>9</sup> *Landbank of the Philippines v. Musni*, supra note 6, at 322-323.

fairness, order respondent Spouses Capuno to pay LDB the total due and demandable loan obligation plus interest and penalties.

LDB's prayer cannot be granted. Basic rules of fair play, justice, and due process require that arguments or issues not raised in the trial court may not be raised for the first time on appeal.<sup>10</sup> As found by the CA, such issue was neither alleged in its appeal before the CA. Thus, as aptly held by the CA, the said issue cannot be considered at a late stage of the case in a motion for reconsideration.

**SO ORDERED."**

Very truly yours,

  
 TERESITA AQUINO TUAZON  
 Deputy Division Clerk of Court  
 01 OCT 2020

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HON. PRESIDING JUDGE (reg)  
 Regional Trial Court, Branch 25  
 Biñan 4024 Laguna  
 (Civil Case No. B-5551)

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 Ma. Orosa Street  
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 CA-G.R. CV No. 108327

\*with copy of CA Decision dated 19 August 2019  
 and Resolution dated 23 Jan. 2020  
*Please notify the Court of any change in your address.*  
 GR251495. 07/29/2020(4)URES

<sup>10</sup> *Chinatrust (Phils.) Commercial Bank v. Turner*, 812 Phil. 1, 16 (2017).