WHEREFORE, the Petition is **PARTIALLY GRANTED**. The assailed August 23, 2012 Decision and May 14, 2014 Resolution of the Court of Appeals in CA-G.R. CV No. 01729 are **ANNULLED** and **SET ASIDE**. Civil Case No. 11985 is ordered **DISMISSED FOR LACK OF JURISDICTION, AND ALL PROCEEDINGS TAKEN THEREIN ARE DECLARED NULL AND VOID AND OF NO EFFECT**.

SO ORDERED.

Leonardo-de Castro[*] *(Acting Chairperson), Jardeleza,* and *Tijam, JJ.,* concur.

Sereno, C.J., on leave.

SECOND DIVISION

[G.R. No. 214803. April 23, 2018]

ALONA G. ROLDAN, *petitioner, vs.* **SPOUSES CLARENCE I. BARRIOS and ANNA LEE T. BARRIOS, ROMMEL MATORRES, and HON. JEMENA ABELLAR ARBIS, in her capacity as Presiding Judge, Branch 6, Regional Trial Court, Aklan,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; RULE ON HIERARCHY OF COURTS; A STRICT APPLICATION OF THE RULE OF HIERARCHY OF COURTS IS NOT NECESSARY WHEN THE CASES BROUGHT BEFORE THE APPELLATE

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[*] Designated as Acting Chairperson per Special Order No. 2540 dated February 28, 2018.

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COURTS DO NOT INVOLVE FACTUAL BUT LEGAL QUESTIONS; CASE AT BAR.— Preliminarily, we need to point out that generally a direct recourse to this Court is highly improper, for it violates the established policy of strict observance of the judicial hierarchy of courts. Although this Court, the RTCs and the Court of Appeals have concurrent jurisdiction to issue writs of *certiorari*, prohibition, *mandamus*, *quo warranto, habeas corpus* and injunction, such concurrence does not give the petitioner unrestricted freedom of choice of court forum. This Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and immemorial tradition. However, the judicial hierarchy of courts is not an iron-clad rule. A strict application of the rule of hierarchy of courts is not necessary when the cases brought before the appellate courts do not involve factual but legal questions. Since petitioner raises a pure question of law pertaining to the court's jurisdiction on complaint for judicial foreclosure of sale, we would allow petitioner's direct resort to us.

2. ID.; BATAS PAMBANSA BLG. 129, AS AMENDED BY REPUBLIC ACT NO. 7691; JURISDICTION; TO DETERMINE WHETHER A COURT HAS JURISDICTION OVER THE SUBJECT MATTER OF A CASE, IT IS IMPORTANT TO DETERMINE THE NATURE OF THE CAUSE OF ACTION AND OF THE RELIEF SOUGHT; CASE AT BAR.— Jurisdiction over the subject matter is the power to hear and determine cases of the general class to which the proceedings in question belong. It is conferred by law and an objection based on this ground cannot be waived by the parties. To determine whether a court has jurisdiction over the subject matter of a case, it is important to determine the nature of the cause of action and of the relief sought. Batas Pambansa Blg. (*BP*) 129 as amended by Republic Act No. (*RA*) 7691 pertinently provides for the jurisdiction of the RTC and the first level courts x x x From the foregoing, the RTC exercises exclusive original jurisdiction in civil actions where the subject of the litigation is incapable of pecuniary estimation. It also has jurisdiction in civil cases involving title to, or possession of, real property or any interest in it where the assessed value of the property involved exceeds ₱20,000.00, and if it is below ₱20,000.00, it is the first level court which has jurisdiction.

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An action "involving title to real property" means that the plaintiff's cause of action is based on a claim that he owns such property or that he has the legal right to have exclusive control, possession, enjoyment, or disposition of the same.

3. ID.; SPECIAL CIVIL ACTIONS; FORECLOSURE OF REAL ESTATE MORTGAGE; AS FORECLOSURE OF MORTGAGE IS A REAL ACTION, IT IS THE ASSESSED VALUE OF THE PROPERTY WHICH DETERMINES THE COURT'S JURISDICTION; EXPLAINED.— It is worthy to mention that the essence of a contract of mortgage indebtedness is that a property has been identified or set apart from the mass of the property of the debtor-mortgagor as security for the payment of money or the fulfillment of an obligation to answer the amount of indebtedness, in case of default in payment. Foreclosure is but a necessary consequence of non-payment of the mortgage indebtedness. In a real estate mortgage when the principal obligation is not paid when due, the mortgagee has the right to foreclose the mortgage and to have the property seized and sold with the view of applying the proceeds to the payment of the obligation. Therefore, the foreclosure suit is a real action so far as it is against property, and seeks the judicial recognition of a property debt, and an order for the sale of the res. As foreclosure of mortgage is a real action, it is the assessed value of the property which determines the court's jurisdiction. Considering that the assessed value of the mortgaged property is only ₱13,380.00, the RTC correctly found that the action falls within the jurisdiction of the first level court under Section 33(3) of BP 129 as amended.

APPEARANCES OF COUNSEL

Adolfo M. Iligan for petitioner.

Leonida & Ibardolaza Law and Notarial Office for respondent Rommel D. Matorres.

Florencio D. Gonzales for Sps. Clarence and Ana Lee Barrios.

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D E C I S I O N

PERALTA, *J.*:

Before us is a petition for *certiorari* assailing the Order[1] dated July 22, 2014 issued by the Regional Trial Court (*RTC*), Branch 6, Kalibo, Aklan as well as the Order[2] dated August 18, 2014 denying reconsideration thereof.

The antecedent facts are as follows:

On February 3, 2014, petitioner Alona G. Roldan filed an action[3] for foreclosure of real estate mortgage against respondents spouses Clarence I. Barrios and Anna Lee T. Barrios and respondent Romel D. Matorres, docketed as Civil Case No. 9811. She alleged the following:

x x x x x x x x x

2. That on October 13, 2008, defendants borrowed from plaintiff the sum of Two Hundred Fifty Thousand Pesos (₱250,000.00), Philippine Currency, payable within the period of one (1) year from said date, with an interest thereon at the rate of 5% per month; and to secure the prompt and full payment of the principal and interest, defendants made and executed on October 13, 2008 a Deed of Real Estate Mortgage in favor of plaintiff upon a parcel of land and improvements thereon described as follows:

A parcel of land (Lot 5891-A-4) situated in Baybay, Makato, Aklan, containing an area of four hundred seventy-eight (478) square meters, more or less x x x declared in the name of Spouses Clarence Barrios and Anna Lee T. Barrios, assessed in the sum of ₱13,380.00, tax effectivity for the year 2008. Said land is covered by OCT No. P-5561 pt.

x x x x x x x x x

3. That the condition of said mortgage, as stated therein, is such, that if within the period of one year from October 13, 2008, the

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[1] Per Presiding Judge Jemena Abellar Arbis; *rollo*, p. 37.

[2] *Id.* at 41.

[3] *Id.* at 10-11.

defendants shall pay or cause to be paid to the plaintiff, her heirs and assigns, the said sum of ₱250,000.00 together with the agreed interest, then the said mortgage shall be discharged; otherwise, it shall remain in full force and effect, to be enforceable in the manner provided by law.

4. That the time for payment of said loan is overdue and defendants failed and refused to pay both the principal obligation and the interest due starting from February 2011 to the present notwithstanding repeated demands;

5. That there are no other persons having or claiming interest in the mortgaged property except Romel D. Matorres whom plaintiff recently discovered that the defendants mortgaged again to the said person the same property subject of this suit for One Hundred Fifty Thousand Pesos, (₱150,000.00) on June 11, 2012 x x x The said Romel D. Matorres is however a mortgagee in bad faith.

WHEREFORE, it is respectfully prayed that upon due notice and hearing, judgment be rendered ordering defendants SPS. CLARENCE I. BARRIOS and ANNA LEE T. BARRIOS:

1. To pay unto the court within the reglementary period of ninety days the sum of ₱250,000.00 together with the stipulated interest at five percent (5%) per month starting from February 2011 to the present, plus the additional sum of ₱25,000.00 the total amount due for attorney's fees; litigation expenses and costs; and that in default of such payment, the above-mentioned property be ordered sold to pay off the mortgage debt and its accumulated interest;

2. To teach the defendants a lesson for having mortgaged the property subject of this suit without plaintiffs consent or knowledge, the defendants be ordered to pay the plaintiff the sum of ₱50,000.00 as exemplary damages.

3. That plaintiff be granted such other relief in law and equity.[4]

Respondents spouses Barrios filed their Answer[5] with Special and Affirmative Defenses contending that the computation of

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[4] *Id.*

[5] *Id.* at 16-18.

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their alleged loan obligation was not accurate; that they had filed with the RTC a petition for rehabilitation of a financially distressed individuals under Special Proceeding No. 9845, thus there is a need to suspend the foreclosure proceedings. On the other hand, respondent Matorres filed his Answer[6] with Special and Affirmative Defenses admitting that the subject land was mortgaged to him; that he had also filed a judicial foreclosure case against respondents spouses Barrios pending with the RTC of Kalibo Aklan, Branch 6, docketed as Civil Case No. 9642; that petitioner had no cause of action against him as they did not have any transaction with each other; and prayed for damages and attorney's fees, and cross-claim against respondent spouses for moral damages.

On July 22, 2014, the RTC issued the assailed Order as follows:

> Civil Cases Nos. 9642 and 9811 are complaints for Foreclosure of Real Estate Mortgage that involved the same property, Lot 5891-A-4, situated in Baybay, Makato, Aklan, owned by Spouses Clarence Barrios and Anna Lee Barrios.
>
> It appearing from the complaint that the assessed value of the property mortgaged is only ₱13,380.00 and the instant cases being a real action, the assessed value of the property determines the jurisdiction.
>
> The assessed value of the property involved being below ₱20,000.00, it is the first level court that has jurisdiction over the cases.
>
> Premises considered, for lack of jurisdiction, Civil Cases Nos. 9642 and 9811 are ordered DISMISSED without prejudice.
>
> SO ORDERED.[7]

Petitioner and respondent Matorres filed their respective motions for reconsideration.

In an Order dated August 18, 2014, the RTC denied petitioner's motion as follows:

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[6] *Id.* at 25-30.

[7] *Id.* at 37.

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x x x x x x x x x

Petitioner in her Motion argued that foreclosure of real estate mortgage is an action incapable of pecuniary estimation and jurisdiction lies with the Regional Trial Court.

Petitioner's argument is devoid of merit.

A petition for foreclosure of real estate mortgage is a real action and the assessed value of the property determines jurisdiction while location of the property determines the venue.

Premises considered, the Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.[8]

Respondent Matorres' motion for reconsideration was also denied in an Order[9] dated September 1, 2014.

Petitioner filed the instant petition for *certiorari* alleging grave abuse of discretion committed by the RTC when it ordered the dismissal of her foreclosure case without prejudice and denying her motion for reconsideration. She argues that foreclosure of mortgage is an action incapable of pecuniary estimation which is within the exclusive jurisdiction of the RTC.

In his Comment, respondent Matorres joins the position and arguments of petitioner that the cause of action of the foreclosure cases is incapable of pecuniary estimation, hence, falling within the jurisdiction of the RTC.

Respondents spouses Barrios filed their Explanation and Comment alleging that petitioner violated the Tax Reform Act of 1997 for her failure to issue official receipts on the payments made by them; that she failed to show any proof of authority from the Bangko Sentral ng Pilipinas relative to her money-lending activities.

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[8] *Id.* at 41.

[9] *Id.* at 65.

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The issue for resolution is whether the RTC committed grave abuse of discretion in dismissing the foreclosure cases filed with it on the ground of lack of jurisdiction.

Preliminarily, we need to point out that generally a direct recourse to this Court is highly improper, for it violates the established policy of strict observance of the judicial hierarchy of courts. Although this Court, the RTCs and the Court of Appeals have concurrent jurisdiction to issue writs of *certiorari*, prohibition, *mandamus*, *quo warranto, habeas corpus* and injunction, such concurrence does not give the petitioner unrestricted freedom of choice of court forum. This Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the Constitution and immemorial tradition.[10] However, the judicial hierarchy of courts is not an iron-clad rule. A strict application of the rule of hierarchy of courts is not necessary when the cases brought before the appellate courts do not involve factual but legal questions.[11] Since petitioner raises a pure question of law pertaining to the court's jurisdiction on complaint for judicial foreclosure of sale, we would allow petitioner's direct resort to us.

The RTC dismissed the foreclosure cases finding that being a real action and the assessed value of the mortgaged property is only ₱13,380.00, it is the first level court which has jurisdiction over the case and not the RTC.

Jurisdiction over the subject matter is the power to hear and determine cases of the general class to which the proceedings in question belong. It is conferred by law and an objection based on this ground cannot be waived by the parties.[12] To determine

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[10] *Mangaliag v. Judge Catubig-Pastoral*, 510 Phil. 637, 645, citing *Ouano v. PGTT International Investment Corporation*, 433 Phil. 28, 34 (2002); *Vergara, Sr. v. Suelto*, 240 Phil. 719, 732 (1987).

[11] *SSgt Pacoy v. Hon. Cajigal*, 560 Phil. 599, 607 (2007); *Mangaliag v. Catubig-Pastoral*, 510 Phil. 637, 647 (2005).

[12] *Heirs of Valeriano Concha, Sr. v. Sps. Lumocso*, 564 Phil. 581, 592-593, citing *Republic v. Sangalang*, 243 Phil. 46, 50 (1988).

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whether a court has jurisdiction over the subject matter of a case, it is important to determine the nature of the cause of action and of the relief sought.[13]

Batas Pambansa Blg. (*BP*) 129 as amended by Republic Act No. (*RA*) 7691 pertinently provides for the jurisdiction of the RTC and the first level courts as follows:

> Sec. 19. *Jurisdiction in civil cases*. — Regional Trial Courts shall exercise exclusive original jurisdiction:
>
> 1. In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;
>
> 2. In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (₱20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (₱50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts.

and

> Sec. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in civil cases*. — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
>
> x x x x x x x x x
>
> 3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein where the assessed value of the property or interest therein does not exceed Twenty thousand pesos (₱20,000.00) or, in civil actions in Metro Manila, where such assessed value does not exceed Fifty thousand pesos (₱50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs: Provided, That in cases of land not declared

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[13] *Id.*, citing *Philippine Association of Free Labor Unions, et al. v. Padilla, et al.*, 106 Phil. 591 (1959), citing *Perkins v. Roxas*, 72 Phil. 514 (1941).

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> for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots.

From the foregoing, the RTC exercises exclusive original jurisdiction in civil actions where the subject of the litigation is incapable of pecuniary estimation. It also has jurisdiction in civil cases involving title to, or possession of, real property or any interest in it where the assessed value of the property involved exceeds ₱20,000.00, and if it is below ₱20,000.00, it is the first level court which has jurisdiction. An action "involving title to real property" means that the plaintiffs cause of action is based on a claim that he owns such property or that he has the legal right to have exclusive control, possession, enjoyment, or disposition of the same.[14]

The allegations and reliefs sought in petitioner's action for foreclosure of mortgage showed that the loan obtained by respondents spouses Barrios from petitioner fell due and they failed to pay such loan which was secured by a mortgage on the property of the respondents spouses; and prayed that in case of default of payment of such mortgage indebtedness to the court, the property be ordered sold to answer for the obligation under the mortgage contract and the accumulated interest. It is worthy to mention that the essence of a contract of mortgage indebtedness is that a property has been identified or set apart from the mass of the property of the debtor-mortgagor as security for the payment of money or the fulfillment of an obligation to answer the amount of indebtedness, in case of default in payment.[15] Foreclosure is but a necessary consequence of non-payment of the mortgage indebtedness.[16] In a real estate mortgage when the principal obligation is not paid when due, the mortgagee

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[14] *Heirs of Generoso Sebe, et al. v. Heirs of Veronica Sevilla, et al.*, 618 Phil. 395, 407 (2009).

[15] *Equitable PCI Bank, Inc. v. Fernandez, et al.*, 623 Phil. 343, 349 (2009), citing *China Banking Corporation v. Court of Appeals*, 333 Phil. 158 (1996).

[16] *Id.* at 349-350, citing *Producers Bank of the Philippines v. Court of Appeals*, 417 Phil. 646, 656 (2001).

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has the right to foreclose the mortgage and to have the property seized and sold with the view of applying the proceeds to the payment of the obligation.[17] Therefore, the foreclosure suit is a real action so far as it is against property, and seeks the judicial recognition of a property debt, and an order for the sale of the res.[18]

As foreclosure of mortgage is a real action, it is the assessed value of the property which determines the court's jurisdiction. Considering that the assessed value of the mortgaged property is only ₱13,380.00, the RTC correctly found that the action falls within the jurisdiction of the first level court under Section 33(3) of BP 129 as amended.

Petitioner cites *Russell v. Vestil*[19] to show that action for foreclosure of mortgage is an action incapable of pecuniary estimation and, therefore, within the jurisdiction of the RTC. We are not persuaded. In the *Russell* case, we held:

In *Singsong vs. Isabela Sawmill*, we had the occasion to rule that:

> [I]n determining whether an action is one the subject matter of which is not capable of pecuniary estimation, this Court has adopted the criterion of first ascertaining the nature of the principal action or remedy sought. If it is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the municipal courts or in the courts of first instance would depend on the amount of the claim. However, where the basic issue is something other than the right to recover a sum of money, where the money claim is purely incidental to, or a consequence of, the principal relief sought, this Court has considered such actions as cases where the subject of the litigation may not be estimated in terms of money, and are cognizable exclusively by courts of first instance (now Regional Trial Courts).

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[17] *Id.*, citing *Union Bank of the Philippines v. Court of Appeals*, 370 Phil. 837, 846-847 (1999).

[18] *Banco Español-Filipino v. Palanca*, 37 Phil. 921, 928-929 (1918).

[19] 364 Phil. 392 (1999).

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Examples of actions incapable of pecuniary estimation are those for specific performance, support, or foreclosure of mortgage or annulment of judgment; also actions questioning the validity of a mortgage, annulling a deed of sale or conveyance and to recover the price paid and for rescission, which is a counterpart of specific performance.

While actions under Sec. 33(3) of B.P. 129 are also incapable of pecuniary estimation, the law specifically mandates that they are cognizable by the MTC, METC, or MCTC where the assessed value of the real property involved does exceed ₱20,000.00 in Metro Manila, or ₱50,000.00, if located elsewhere. If the value exceeds ₱20,000.00 or ₱50,000.00 as the case may be, it is the Regional Trial Courts which have jurisdiction under Sec. 19(2). However, the subject matter of the complaint in this case is annulment of a document denominated as "DECLARATION OF HEIRS AND DEED OF CONFIRMATION OF PREVIOUS ORAL PARTITION."[20]

Clearly, the last paragraph clarified that while civil actions which involve title to, or possession of, real property, or any interest therein, are also incapable of pecuniary estimation as it is not for recovery of money, the court's jurisdiction will be determined by the assessed value of the property involved.

WHEREFORE, the petition for *certiorari* is **DISMISSED** as we find no grave abuse of discretion committed by the Regional Trial Court, Branch 6, Kalibo, Aklan in dismissing the complaint for lack of jurisdiction.

SO ORDERED.

Carpio,[*] *Acting C.J. (Chairperson), Perlas-Bernabe, Caguioa,* and *Reyes, Jr., JJ.*, concur.

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[20] *Id.* at 400-401. (Citations omitted)

[*] Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.