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If it was encashed, petitioner Tan should have presented the check, but he did not.

The lack of criminal liability of petitioners then notwithstanding, they are civilly liable in the amount of ₱470,350, to bear 12% interest from the filing of the information on January 30, 2002 up to the time it is fully paid.[31]

WHEREFORE, the challenged decision of the Court of Appeals convicting petitioners Gemma Ilagan, Albert Cordero Sy, and Jaime Tan is *REVERSED* and *SET ASIDE*. Petitioners are thus *ACQUITTED* of the crime charged.

The decision on the civil aspect of the case is *MODIFIED*. Petitioner Jaime Tan is ordered to pay private complainant, Rosita Tan, the amount of ₱470,350, to bear 12% interest from the filing of the Information on January 30, 2002 up to the time it is fully paid.

SO ORDERED.

Quisumbing (Chairperson), Carpio, Tinga, and *Velasco, Jr., JJ.,* concur.

THIRD DIVISION

[G.R. No. 167848. April 27, 2007]

BANK OF COMMERCE, *petitioner, vs.* **SPS. PRUDENCIO SAN PABLO, JR., and NATIVIDAD O. SAN PABLO,** *respondents.*

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[31] *Eastern Shipping Lines, Inc. vs. Court of Appeals*, G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95-97.

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SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; ACTION FILED BY RESPONDENT SPOUSES IS AN ACTION FOR QUIETING OF TITLE, A REAL ACTION, THE JURISDICTION OF WHICH IS DETERMINED BY THE ASSESSED VALUE OF THE PROPERTY; ASSESSED VALUE OF SUBJECT PROPERTY IN CASE AT BAR AS ALLEGED IN THE COMPLAINT APTLY FALLS WITHIN THE JURISDICTION OF THE MUNICIPAL TRIAL COURT.— Upon cursory reading of the records, we gathered that the case filed by the spouses San Pablo before the MTC was an action for quieting of title, and nullification of the SPA, Deed of Real Estate Mortgage, and foreclosure proceedings. While the body of the complaint consists mainly of allegations of forgery, however, the primary object of the spouses San Pablo in filing the same was to effectively free the title from any unauthorized lien imposed upon it. Clearly, the crux of the controversy before the MTC chiefly hinges on the question of who has the better title over the subject property. Is it the spouses San Pablo who claim that their signatures on the loan document were forged? Or is it the Bank of Commerce which maintains that the SPA and the Deed of Real Estate Mortgage were duly executed and, therefore, a valid source of its right to foreclose the subject property for non-payment of loan? An action for quieting of title is a common law remedy for the removal of any cloud upon or doubt or uncertainty with respect to title to real property. The mortgage of the subject property to the Bank of Commerce, annotated on the Spouses San Pablo's TCT, constitutes a cloud on their title to the subject property, which may, at first, appear valid and effective, but is allegedly invalid or voidable for having been made without their knowledge and authority as registered owners. We thus have established that the case filed by the spouses San Pablo before the MTC is actually an action for quieting of title, a real action, the jurisdiction over which is determined by the assessed value of the property. The assessed value of the subject property located in Mandaue City, as alleged in the complaint, is ₱4,900.00, which aptly falls within the jurisdiction of the MTC.

2. ID.; ID.; PETITIONER IS ESTOPPED FROM REPUDIATING THE AUTHORITY OF THE COURT TO TRY AND DECIDE

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THE CASE AFTER HAVING ACTIVELY PARTICIPATED IN THE PROCEEDINGS BEFORE IT AND INVOKING ITS JURISDICTION BY SEEKING AN AFFIRMATIVE RELIEF THEREFROM.— Even granting for the sake of argument that the MTC did not have jurisdiction over the case, the Bank of Commerce is nevertheless estopped from repudiating the authority of the court to try and decide the case after having actively participated in the proceedings before it and invoking its jurisdiction by seeking an affirmative relief therefrom. As we have explained quite frequently, a party may be barred from raising questions of jurisdiction when *estoppel by laches* has set in. *Estoppel by laches* is failure or neglect for an unreasonable and unexplained length of time to do what, by exercising due diligence, ought to have been done earlier, warranting the presumption that the party entitled to assert it has either abandoned it or has acquiesced to the correctness or fairness of its resolution. This doctrine is based on grounds of public policy which, for the peace of the society, requires the discouragement of stale claims, and, unlike the statute of limitations, is not a mere question of time but is principally an issue of inequity or unfairness in permitting a right or claim to be enforced or espoused. In *Soliven v. Fastforms Philippines, Inc.*, we thus ruled: While it is true that jurisdiction may be raised at any time, "this rule presupposes that estoppel has not supervened." In the instant case, respondent actively participated in all stages of the proceedings before the trial court and invoked its authority by asking for an affirmative relief. Clearly, respondent is estopped from challenging the trial court's jurisdiction, especially when the adverse judgment is rendered. Participation in all stages before the trial court, which included invoking its authority in asking for affirmative relief, effectively bars the party by estoppel from challenging the court's jurisdiction. The Court frowns upon the undesirable practice of a party participating in the proceedings and submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse.

3. CIVIL LAW; SPECIAL CONTRACTS; MORTGAGE; WHILE IT IS A SETTLED RULE THAT A MORTGAGEE HAS A RIGHT TO RELY ON THE CERTIFICATE OF TITLE OF THE MORTGAGOR OF THE PROPERTY GIVEN AS A SECURITY IN THE ABSENCE OF ANY SIGN THAT MAY

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AROUSE SUSPICION, THE DOCTRINE, HOWEVER, PRESUPPOSES THAT THE MORTGAGOR, WHO IS NOT THE RIGHTFUL OWNER OF THE PROPERTY HAS ALREADY SUCCEEDED IN OBTAINING TORRENS TITLE OVER THE PROPERTY.— In *Cavite Development Bank v. Spouses Lim,* the Court explained the doctrine of mortgagee in good faith, thus: There is, however, a situation where, despite the fact that the mortgagor is not the owner of the mortgaged property, his title being fraudulent, the mortgage contract and any foreclosure sale arising there from are given effect by reason of public policy. This is the doctrine of "the mortgagee in good faith" based on the rule that all persons dealing with property covered by the Torrens Certificates of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title. The public interest in upholding the indefeasibility of a certificate of title, as evidence of lawful ownership of the land or of any encumbrance thereon, protects a buyer or mortgagee who, in good faith, relied upon what appears on the face of the certificate of title. Indeed, 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 in the absence of any sign that might arouse suspicion, the mortgagee has no obligation to undertake further investigation. This doctrine pre-supposes, however, that the mortgagor, who is not the rightful owner of the property, has already succeeded in obtaining Torrens title over the property in his name and that, after obtaining the said title, he succeeds in mortgaging the property to another who relies on what appears on the title. This is not the situation in the case at bar since Santos was not the registered owner for he merely represented himself to be the attorney-in-fact of the spouses San Pablo.

4. ID.; ID.; ID.; A MORTGAGEE BANK, UNLIKE PRIVATE INDIVIDUALS, IS EXPECTED TO EXERCISE GREATER CARE AND PRUDENCE IN ITS DEALINGS, INCLUDING THOSE INVOLVING REGISTERED LANDS.— In cases where the mortgagee does not directly deal with the registered owner of real property, the law requires that a higher degree of prudence be exercised by the mortgagee. As we have enunciated in the case of *Abad v. Guimba:* While one who buys from the registered owner does not need to look behind the certificate of title, one who buys from one who is not a registered owner is expected to examine not only the certificate

of title but all the factual circumstances necessary for [one] to determine if there are any flaws in the title of the transferor, or in [the] capacity to transfer the land. Although the instant case does not involve a sale but only a mortgage, the same rule applies inasmuch as the law itself includes a mortgagee in the term "purchaser." This principle is applied more strenuously when the mortgagee is a bank or a banking institution. In the case of *Cruz v. Bancom Finance Corporation*, we ruled: Respondent, however, is not an ordinary mortgagee; it is a mortgagee-bank. As such, unlike private individuals, it is expected to exercise greater care and prudence in its dealings, including those involving registered lands. A banking institution is expected to exercise due diligence before entering into a mortgage contract. The ascertainment of the status or condition of a property offered to it as security for a loan must be a standard and indispensable part of its operations. We never fail to stress the remarkable significance of a banking institution to commercial transactions, in particular, and to the country's economy in general. The banking system is an indispensable institution in the modern world and plays a vital role in the economic life of every civilized nation. Whether as mere passive entities for the safekeeping and saving of money or as active instruments of business and commerce, banks have become an ubiquitous presence among the people, who have come to regard them with respect and even gratitude and, most of all, confidence. Consequently, the highest degree of diligence is expected, and high standards of integrity and performance are even required, of it.

5. ID.; ID.; ID.; PETITIONER BANK CLEARLY FAILED TO OBSERVE THE REQUIRED DEGREE OF CAUTION IN ASCERTAINING THE GENUINENESS AND EXTENT OF THE AUTHORITY OF THE MORTGAGOR TO MORTGAGE THE SUBJECT PROPERTY.— The Bank of Commerce clearly failed to observe the required degree of caution in ascertaining the genuineness and extent of the authority of Santos to mortgage the subject property. It should not have simply relied on the face of the documents submitted by Santos, as its undertaking to lend a considerable amount of money required of it a greater degree of diligence. That the person applying for the loan is other than the registered owner of the real property being mortgaged should have already raised a red flag and which should have induced the Bank of Commerce

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to make inquiries into and confirm Santos' authority to mortgage the Spouses San Pablo's property. A person who deliberately ignores a significant fact that could create suspicion in an otherwise reasonable person is not an innocent purchaser for value.

6. ID.; ID.; ID.; THE FORGED SPECIAL POWER OF ATTORNEY (SPA) AND DEED OF REAL ESTATE MORTGAGE IS *VOID AB INITIO* AND, AS A CONSEQUENCE THEREOF, THE FORECLOSURE PROCEEDINGS CONDUCTED ON THE STRENGTH OF THE SAID DOCUMENTS IS LIKEWISE *VOID AB INITIO*.— We thus rule that the forged SPA and Deed of Real Estate Mortgage is void *ab initio*. Consequently, the foreclosure proceedings conducted on the strength of the said SPA and Deed of Real Estate Mortgage, is likewise void *ab initio*. Since the Bank of Commerce is not a mortgagee in good faith or an innocent purchaser for value on the auction sale, it is not entitled to the protection of its rights to the subject property. Considering further that it was not shown that the Bank of Commerce has already transferred the subject property to a third person who is an innocent purchaser for value (since no intervention or third-party claim was interposed during the pendency of this case), it is but proper that the subject property should be retained by the Spouses San Pablo.

7. ID.; DAMAGES; AWARD OF MORAL DAMAGES AND ATTORNEY'S FEES ARE PROPER AND JUSTIFIED; CASE AT BAR.— Having laid that the bank of Commerce is not in good faith necessitates us to award moral damages, exemplary damages, attorney's fees and costs of litigation in favor of the spouses San Pablo. Moral damages are not awarded to penalize the defendant but to compensate the plaintiff for the injuries he may have suffered. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. In the instant case, we find that the award of moral damages is proper. The Bank of Commerce, in allowing Santos to secure a loan out of the property belonging to the spouses San Pablo, without taking the necessary precaution demanded by the circumstances owing to the public policy imbued in the banking business, caused injury to the latter which calls for the imposition of moral damages. As for the award of exemplary damages, we deem that the same is proper for the Bank of

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Commerce was remiss in its obligation to inquire into the veracity of Santos' authority to mortgage the subject property, causing damage to the spouses San Pablo. Finally, we rule that the award of attorney's fees and litigation expenses is valid since the spouses San Pablo were compelled to litigate and thus incur expenses in order to protect its rights over the subject property.

APPEARANCES OF COUNSEL

Angara Abello Concepcion Regala and Cruz for petitioner.
Felipe S. Velasquez for respondents.

D E C I S I O N

CHICO-NAZARIO, *J.*:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court, filed by petitioner Bank of Commerce seeking to reverse and set aside the Decision[1] of the Court of Appeals dated 10 September 2004, and its Resolution[2] dated 10 March 2005. The Court of Appeals, in its assailed Decision and Resolution reversed the Decision[3] of the Regional Trial Court (RTC) of Mandaue City, Branch 56 dated 25 June 2002, which affirmed the Decision,[4] of the Municipal Trial Court (MTC) of Mandaue City, Branch 2, dismissing for lack of merit the complaint against Melencio Santos (Santos) and the Bank of Commerce filed by the respondent Spouses Prudencio (Prudencio) and Natividad (Natividad) San Pablo for the declaration of nullity of the Special Power of Attorney (SPA) and cancellation of Real Estate Mortgage. The dispositive portion of the Court of Appeals Decision reads:

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[1] Penned by Associate Justice Vicente L. Yap with Associate Justices Arsenio Magpale and Ramon Bato, Jr., concurring.

[2] *Rollo,* pp. 64-66.

[3] *Id*. at 101-110.

[4] *Id*. at 88-100.

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WHEREFORE, the Petition for review is GRANTED and the assailed Decision and Order of the Regional Trial Court, Branch 56, Mandaue City, Cebu, in Civil Case 4135-A must be as they are hereby, SET ASIDE. We therefore declare the so-called Special Power of Attorney, the Deed of Real Estate Mortgage and the Foreclosure proceedings to be NULL and VOID *ab initio*. And, in the meantime, if the subject Lot No. 1882-C-1-A covered by Transfer Certificate of Title No. (26469)-7561 has been sold and a new transfer certificate of title had been issued, let the Registry of deeds of Mandaue City cancel the new title and issue a new one in favor of Natividad O. San Pablo, unless the new title holder is a purchaser in good faith and for value. In the latter case, respondent Bank of Commerce and respondent Melencio G. Santos are hereby held jointly and severally liable to petitioners for the fair market value of the property as of the date of finality of this decision. Moreover, private respondents are likewise held jointly and severally liable to petitioners ₱50,000.00 as moral damages, ₱25,000.00 as exemplary damages, ₱25,000.00 plus ₱1,000.00 per count appearance as attorney's fees and ₱10,000.00 as litigation expenses. No costs.

The antecedent factual and procedural facts of this case are as follows:

On 20 December 1994, Santos obtained a loan from Direct Funders Management and Consultancy Inc., (Direct Funders) in the amount of ₱1,064,000.40.[5]

As a security for the loan obligation, Natividad executed a SPA[6] in favor of Santos, authorizing the latter to mortgage to Direct Funders a paraphernal real property registered under her name and covered by Transfer Certificate of Title (TCT) No. (26469)-7561[7] (subject property).

In the Deed of Real Estate Mortgage[8] executed in favor of Direct Funders, Natividad and her husband, Prudencio, signed as the co-mortgagors of Santos. It was, however, clear between the parties that the loan obligation was for the sole benefit of

[5] Records, Vol. I, pp. 15-21.

[6] *Id*. at 14.

[7] *Id*. at 10-12.

[8] *Id*. at 15-21.

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Santos and the spouses San Pablo merely signed the deed in order to accommodate the former.

The aforesaid accommodation transaction was made possible because Prudencio and Santos were close friends and business associates. Indeed, Prudencio was an incorporator and a member of the Board of Directors of Intergems Fashion Jewelries Corporation (Intergems), a domestic corporation in which Santos acted as the President.

Sometime in June 1995, the spouses San Pablo received a letter from Direct Funders informing them that Santos failed to pay his loan obligation with the latter. When confronted with the matter, Santos promised to promptly settle his obligation with Direct Funders, which he actually did the following month.

Upon learning that Santos' debt with Direct Funders had been fully settled, the spouses San Pablo then demanded from Santos to turn over to them the TCT of the subject property but the latter failed to do so despite repeated demands. Such refusal prompted the spouses San Pablo to inquire as to the status of the TCT of the subject property with the Register of Deeds of Mandaue City and to their surprise, they discovered that the property was again used by Santos as collateral for another loan obligation he secured from the Bank of Commerce.

As shown in the annotation stamped at the back of the title, the spouses San Pablo purportedly authorized Santos to mortgage the subject property to the Bank of Commerce, as evidenced by the SPA allegedly signed by Natividad on 29 March 1995. It was further shown from the annotation at the back of the title that the spouses San Pablo signed a Deed of Real Estate Mortgage over the subject property in favor of Bank of Commerce, which they never did.[9]

In order to free the subject property from unauthorized encumbrances, the spouses San Pablo, on 22 December 1995, filed a Complaint seeking for the Quieting of Title and Nullification of the SPA and the deed of real estate mortgage with the prayer

[9] *Id*. at 11.

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for damages against Santos and the Bank of Commerce before the MTC of Mandaue City, Branch 2.

In their complaint, the spouses San Pablo claimed that their signatures on the SPA and the Deed of Real Estate Mortgage allegedly executed to secure a loan with the Bank of Commerce were forged. They claimed that while the loan with the Direct Funders was obtained with their consent and direct participation, they never authorized the subsequent loan obligation with the Bank of Commerce.

During the pendency of the case, the Bank of Commerce, for non-payment of the loan, initiated the foreclosure proceedings on the strength of the contested Deed of Real Estate Mortgage. During the auction sale, the Bank of Commerce emerged as the highest bidder and thus a Certificate of Sale was issued under its name. Accordingly, the spouses San Pablo amended their complaint to include the prayer for annulment of the foreclosure sale.[10]

In his Answer,[11] Santos countered that the loan with the Bank of Commerce was deliberately resorted to with the consent, knowledge and direct participation of the spouses San Pablo in order to pay off the obligation with Direct Funders. In fact, it was Prudencio who caused the preparation of the SPA and together with Santos, they went to the Bank of Commerce, Cebu City Branch to apply for the loan. In addition, Santos averred that the spouses San Pablo were receiving consideration from Intergems for extending accommodation transactions in favor of the latter.

For its part, Bank of Commerce filed an Answer with Compulsory Counterclaim,[12] alleging that the spouses San Pablo, represented by their attorney-in-fact, Santos, together with Intergems, obtained a loan in the amount of ₱1,218,000.00. It denied the allegation advanced by the spouses San Pablo that the SPA and the Deed of Real Estate Mortgage were spurious. Since the loan already became due and demandable, the Bank of Commerce sought the foreclosure of the subject property.

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[10] *Id.* at 96-103.

[11] *Id.* at 50-51.

[12] *Id.* at 118-120.

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After the Pre-Trial Conference, trial on the merits ensued.

During the trial, Anastacio Barbarona, Jr., the Manager of the Bank of Commerce, Cebu City Branch, testified that the spouses San Pablo personally signed the Deed of Real Estate Mortgage in his presence.[13] The testimony of a document examiner and a handwriting expert, however, belied this claim. The expert witness, after carefully examining the loan documents with the Bank of Commerce, attested that the signatures of the spouses San Pablo on the SPA and the Deed of Real Estate Mortgage were forged.[14]

On 10 July 2001, the MTC rendered a Decision,[15] dismissing the complaint for lack of merit. The MTC declared that while it was proven that the signatures of the spouses San Pablo on the loan documents were forged, the Bank of Commerce was nevertheless in good faith. The dispositive portion of the decision reads:

> WHEREFORE, foregoing considered, the instant complaint is hereby ordered DISMISSED for lack of merit. The dismissal of this case is without prejudice to the filing of the appropriate criminal action against those responsible for the falsification of the questioned special power of attorney and deed of real estate mortgage.

Aggrieved, the spouses San Pablo appealed the adverse decision to the RTC of Mandaue City, Branch 56, which, in turn, affirmed the unfavorable ruling of the MTC in its Decision[16] promulgated on 25 June 2002. The decretal part of the said decision reads:

> WHEREFORE, in view of the foregoing, the Court hereby resolves to affirm the assailed Decision.

Similarly ill-fated was the Motion for Reconsideration filed by the spouses San Pablo which was denied by the RTC for lack of merit.[17]

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[13] TSN, 19 October 2000; records, Vol. II.

[14] TSN, 28 February 1999.

[15] Records, Vol. I, pp. 448-460.

[16] *Id*., Vol. II, pp. 508-518.

[17] *Id*. at 543-545.

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Unyielding, the spouses San Pablo elevated the matter before the Court of Appeals through a Petition for Review under Rule 42 of the Revised Rules of Court,[18] assailing the adverse decisions of the MTC and RTC.

In a Decision[19] dated 10 September 2004, the appellate court granted the petition filed by the spouses San Pablo and reversed the decisions of the MTC and RTC. In setting aside the rulings of the lower courts, the Court of Appeals ruled that since it was duly proven that the signatures of the spouses San Pablo on the loan documents were forged, then such spurious documents could never become a valid source of title. The mortgage contract executed by Santos over the subject property in favor of Bank of Commerce, without the authority of the spouses San Pablo, was therefore unenforceable, unless ratified.

The Bank of Commerce is now before this Court assailing the adverse decision rendered by the Court of Appeals.[20] For the resolution of this Court are the following issues:

I.

WHETHER OR NOT THE MTC HAS JURISDICTION TO HEAR THE CASE FILED BY THE SPOUSES SAN PABLO.

II.

WHETHER OR NOT THE FORGED SPA AND SPECIAL POWER OF ATTORNEY COULD BECOME A VALID SOURCE OF A RIGHT TO FORECLOSE A PROPERTY.

III.

WHETHER OR NOT THE AWARDS OF DAMAGES, ATTRONEY'S FEES AND LITIGATION EXPENSES ARE PROPER IN THE INSTANT CASE.

In questioning the adverse ruling of the appellate court, the Bank of Commerce, for the first time in more than 10 years of pendency of the instant case, raises the issue of jurisdiction. It

[18] *Id.* at 547-558.

[19] *Rollo,* pp. 69-90.

[20] *Id.* at 12-50.

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asseverates that since the subject matter of the case is incapable of pecuniary estimation, the complaint for quieting of title and annulment of the SPA, the Deed of Real Estate Mortgage, and foreclosure proceedings should have been originally filed with the RTC and not with the MTC. The decision rendered by the MTC, which did not acquire jurisdiction over the subject matter of the case, is therefore void from the very beginning. Necessarily, the Court of Appeals erred in giving due course to the petition when the tribunal originally trying the case had no authority to try the issue.

We do not agree.

Upon cursory reading of the records, we gathered that the case filed by the spouses San Pablo before the MTC was an action for quieting of title, and nullification of the SPA, Deed of Real Estate Mortgage, and foreclosure proceedings. While the body of the complaint consists mainly of allegations of forgery, however, the primary object of the spouses San Pablo in filing the same was to effectively free the title from any unauthorized lien imposed upon it.

Clearly, the crux of the controversy before the MTC chiefly hinges on the question of who has the better title over the subject property. Is it the spouses San Pablo who claim that their signatures on the loan document were forged? Or is it the Bank of Commerce which maintains that the SPA and the Deed of Real Estate Mortgage were duly executed and, therefore, a valid source of its right to foreclose the subject property for non-payment of loan?

An action for quieting of title is a common law remedy for the removal of any cloud upon or doubt or uncertainty with respect to title to real property. As clarified by this Court in *Baricuatro, Jr. v. Court of Appeals*[21]:

> x x x Originating in equity jurisprudence, its purpose is to secure "… an adjudication that a claim of title to or an interest in property, adverse to that of the complainant, is invalid, so that the complainant and those claiming under him may be forever afterward free from

[21] G.R. No. 105902, 9 February 2000, 325 SCRA 137, 146-147.

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any danger or hostile claim. **In an action for quieting of title, the competent court is tasked to determine the respective rights of the complainant and other claimants,** "… not only to place *things in their proper place*, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best (citation omitted). Such remedy may be availed of under the circumstances enumerated in the Civil Code:

> "ART. 476. **Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding** which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, **an action may be brought to remove such cloud or to quiet the title,**
>
> An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein."

The mortgage of the subject property to the Bank of Commerce, annotated on the Spouses San Pablo's TCT, constitutes a cloud on their title to the subject property, which may, at first, appear valid and effective, but is allegedly invalid or voidable for having been made without their knowledge and authority as registered owners. We thus have established that the case filed by the spouses San Pablo before the MTC is actually an action for quieting of title, a real action, the jurisdiction over which is determined by the assessed value of the property.[22] The assessed value of the subject property located in Mandaue City, as alleged in the complaint, is ₱4,900.00, which aptly falls within the jurisdiction of the MTC.

According to Section 33 of *Batas Pambansa Blg.* 129, as amended, otherwise known as The Judiciary Reorganization Act of 1980:

Sec. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.*

[22] Section 33 of *Batas Pambansa Blg.* 129.

[17] *Id.* at 543-545.

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— Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

xxx xxx xxx

(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 (₱50,000.0) exclusive of interest, damages of whatever kind, attorney's fees' litigation expenses and costs: Provided, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots. (As amended, R.A. No. 7691.)

Even granting for the sake of argument that the MTC did not have jurisdiction over the case, the Bank of Commerce is nevertheless estopped from repudiating the authority of the court to try and decide the case after having actively participated in the proceedings before it and invoking its jurisdiction by seeking an affirmative relief therefrom.

As we have explained quite frequently, a party may be barred from raising questions of jurisdiction when *estoppel by laches* has set in. *Estoppel by laches* is failure or neglect for unreasonable and unexplained length of time to do what, by exercising due diligence, ought to have been done earlier, warranting the presumption that the party entitled to assert it has either abandoned it or has acquiesced to the correctness or fairness of its resolution. This doctrine is based on grounds of public policy which, for the peace of the society, requires the discouragement of stale claims, and, unlike the statute of limitations, is not a mere question of time but is principally an issue of inequity or unfairness in permitting a right or claim to be enforced or espoused.[23]

In *Soliven v. Fastforms Philippines, Inc.*, we thus ruled:

While it is true that jurisdiction may be raised at any time, "this rule presupposes that estoppel has not supervened." In the instant

[23] *Laxina, Sr. v. Office of the Ombudsman,* G.R. No. 153155, 30 September 2005, 471 SCRA 542, 554.

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case, respondent actively participated in all stages of the proceedings before the trial court and invoked its authority by asking for an affirmative relief. Clearly, respondent is estopped from challenging the trial court's jurisdiction, especially when the adverse judgment is rendered.[24]

Participation in all stages before the trial court, which included invoking its authority in asking for affirmative relief, effectively bars the party by estoppel from challenging the court's jurisdiction.[25] The Court frowns upon the undesirable practice of a party participating in the proceedings and submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse.[26]

We now proceed to resolve the issue of whether a forged SPA or Deed of Real Estate Mortgage could be a source of a valid title. Settled is the fact, as found by the MTC and as affirmed by both the RTC and the Court of Appeals, that the SPA and the Deed of Real Estate Mortgage had been forged. Such fact is no longer disputed by the parties. Thus, the only issue remaining to be threshed out in the instant petition is whether the Bank of Commerce is a mortgagee in good faith. The MTC and the RTC held that the Bank of Commerce acted in good faith in entering into the loan transaction with Santos, while the Court of Appeals, on the other hand, ruled otherwise.

The Bank of Commerce posits that it is a mortgagee in good faith and therefore entitled to protection under the law. It strenuously asserts that it is an innocent party who had no knowledge that the right of Santos to mortgage the subject property was merely simulated.

In *Cavite Development Bank v. Spouses Lim,*[27] the Court explained the doctrine of mortgagee in good faith, thus:

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[24] G.R. No. 139031, 18 October 2004, 440 SCRA 389, 395.

[25] *Pantranco North Express, Inc. v. Court of Appeals*, G.R. No. 105180, 5 July 1993, 224 SCRA 477, 491.

[26] *Producers Bank of the Philippines v. National Labor Relations Commission,* 359 Phil. 45, 52 (1998).

[27] 381 Phil. 355, 368 (2000) as cited in *Ereña v. Querrer-Kauffman*, G.R. No. 165853, 22 June 2006, 492 SCRA 298, 319.

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There is, however, a situation where, despite the fact that the mortgagor is not the owner of the mortgaged property, his title being fraudulent, the mortgage contract and any foreclosure sale arising there from are given effect by reason of public policy. This is the doctrine of "the mortgagee in good faith" based on the rule that all persons dealing with property covered by the Torrens Certificates of Title, as buyers or mortgagees, are not required to go beyond what appears on the face of the title. The public interest in upholding the indefeasibility of a certificate of title, as evidence of lawful ownership of the land or of any encumbrance thereon, protects a buyer or mortgagee who, in good faith, relied upon what appears on the face of the certificate of title.

Indeed, 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 in the absence of any sign that might arouse suspicion, the mortgagee has no obligation to undertake further investigation. This doctrine pre-supposes, however, that the mortgagor, who is not the rightful owner of the property, has already succeeded in obtaining Torrens title over the property in his name and that, after obtaining the said title, he succeeds in mortgaging the property to another who relies on what appears on the title. This is not the situation in the case at bar since Santos was not the registered owner for he merely represented himself to be the attorney-in-fact of the spouses San Pablo.

In cases where the mortgagee does not directly deal with the registered owner of real property, the law requires that a higher degree of prudence be exercised by the mortgagee. As we have enunciated in the case of *Abad v. Guimba*:[28]

x x x While one who buys from the registered owner does not need to look behind the certificate of title, one who buys from one who is not a registered owner is expected to examine not only the certificate of title but all the factual circumstances necessary for [one] to determine if there are any flaws in the title of the transferor, or in [the] capacity to transfer the land. Although the instant case does not involve a sale but only a mortgage, the same rule applies inasmuch as the law itself includes a mortgagee in the term "purchaser."

[28] G.R. No. 157002, 29 July 2005, 465 SCRA 356, 369.

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This principle is applied more strenuously when the mortgagee is a bank or a banking institution. In the case of *Cruz v. Bancom Finance Corporation*, We ruled:

> Respondent, however, is not an ordinary mortgagee; it is a mortgagee-bank. As such, unlike private individuals, it is expected to exercise greater care and prudence in its dealings, including those involving registered lands. A banking institution is expected to exercise due diligence before entering into a mortgage contract. The ascertainment of the status or condition of a property offered to it as security for a loan must be a standard and indispensable part of its operations.[29]

We never fail to stress the remarkable significance of a banking institution to commercial transactions, in particular, and to the country's economy in general. The banking system is an indispensable institution in the modern world and plays a vital role in the economic life of every civilized nation. Whether as mere passive entities for the safekeeping and saving of money or as active instruments of business and commerce, banks have become an ubiquitous presence among the people, who have come to regard them with respect and even gratitude and, most of all, confidence.[30] Consequently, the highest degree of diligence is expected, and high standards of integrity and performance are even required, of it.[31]

The Bank of Commerce clearly failed to observe the required degree of caution in ascertaining the genuineness and extent of the authority of Santos to mortgage the subject property. It should not have simply relied on the face of the documents submitted by Santos, as its undertaking to lend a considerable amount of money required of it a greater degree of diligence. That the person applying for the loan is other than the registered owner of the real property being mortgaged should have already raised a red flag and which should have induced the Bank of

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[29] 429 Phil. 225, 239 (2002).

[30] *Metropolitan Bank and Trust Company v. Cabilzo*, G.R. No. 154469, 6 December 2006.

[31] *Bank of the Philippine Islands v. Casa Montessori Internationale*, G.R. No. 149454, 28 May 2004, 430 SCRA 261, 283.

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Commerce to make inquiries into and confirm Santos' authority to mortgage the Spouses San Pablo's property. A person who deliberately ignores a significant fact that could create suspicion in an otherwise reasonable person is not an innocent purchaser for value.[32]

Having laid that the bank of Commerce is not in good faith necessitates us to award moral damages, exemplary damages, attorney's fees and costs of litigation in favor of the spouses San Pablo. Moral damages are not awarded to penalize the defendant but to compensate the plaintiff for the injuries he may have suffered.[33] Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due.[34] In the instant case, we find that the award of moral damages is proper. The Bank of Commerce, in allowing Santos to secure a loan out of the property belonging to the spouses San Pablo, without taking the necessary precaution demanded by the circumstances owing to the public policy imbued in the banking business, caused injury to the latter which calls for the imposition of moral damages. As for the award of exemplary damages, we deem that the same is proper for the Bank of Commerce was remiss in its obligation to inquire into the veracity of Santos' authority to mortgage the subject property, causing damage to the spouses San Pablo.[35] Finally, we rule that the award of attorney's fees and litigation expenses is valid since the spouses San Pablo were compelled to litigate and thus incur expenses in order to protect its rights over the subject property.[36]

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[32] *Id*.

[33] *Bautista v. Mangaldan Rural Bank, Inc.,* G.R. No. 100755, 10 February 1994, 230 SCRA 16, 21.

[34] *Philippine Airlines, Inc. v. Court of Appeals*, 193 Phil. 560,579 (1981).

[35] *Simex International (Manila), Inc. v. Court of Appeals,* G.R. No. 88013, 19 March 1990, 183 SCRA 360, 367-368.

[35] *Rizal Surety Insurance Company v. Court of Appeals,* 329 Phil. 786, 810-811 (1996).

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Prescinding from the above, we thus rule that the forged SPA and Deed of Real Estate Mortgage is void *ab initio.* Consequently, the foreclosure proceedings conducted on the strength of the said SPA and Deed of Real Estate Mortgage, is likewise void *ab initio.* Since the Bank of Commerce is not a mortgagee in good faith or an innocent purchaser for value on the auction sale, it is not entitled to the protection of its rights to the subject property. Considering further that it was not shown that the Bank of Commerce has already transferred the subject property to a third person who is an innocent purchaser for value (since no intervention or third-party claim was interposed during the pendency of this case), it is but proper that the subject property should be retained by the Spouses San Pablo.

WHEREFORE, in view of the foregoing, the instant petition is *DENIED*. The Decision dated 10 September 2004 rendered by the Court of Appeals in CA-G.R. SP No. 76562, is hereby *AFFIRMED.* The SPA, the Deed of Real Estate Mortgage, and the Foreclosure Proceedings conducted in pursuant to said deed, are hereby declared *VOID **AB INTIO***. The Register of Deeds of Mandaue City is hereby *DIRECTED* to cancel Entry Nos. 9089-V.9-D.B and 9084-V.9-D.B annotated on TCT No.-(26469)-7561 in the name of Natividad Opolontesima San Pablo. The Bank of Commerce is hereby *ORDERED* to pay the spouses San Pablo ₱50,000.00 as moral damages, ₱25,000.00 as exemplary damages, ₱20,000.00 as attorney's fees and ₱20,000.00 as litigation expenses. Cost against the petitioner.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Callejo, Sr., and *Nachura, JJ.,* concur.