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of Title No. P-7711, which should be partitioned among them in the following proportions:

a. One-half share to the heirs of Gilberto Roldan; and

b. One-half share to the heirs of Silvela Roldan.

2. Petitioners are ordered to account for and deliver to the heirs of Silvela Roldan their one-half share on the produce of the land.

SO ORDERED.

Leonardo-de Castro, del Castillo, and *Tijam, JJ.,* concur.

Jardeleza, J., on official leave.

SECOND DIVISION

[G.R. No. 204663. September 27, 2017]

MUNICIPAL RURAL BANK OF LIBMANAN, CAMARINES SUR, *petitioner, vs.* **VIRGINIA ORDOÑEZ,** *respondent.*

SYLLABUS

1. CIVIL LAW; PROPERTY; POSSESSION; CAN BE ACQUIRED BY JURIDICAL ACTS.— For one to be considered in possession, one need not have actual or physical occupation of every square inch of the property at all times. Possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right. Possession can be acquired by juridical acts. These are acts to which the law gives the force of acts of possession. In one case, this Court has considered a claimant's

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act of assigning a caretaker over the disputed land, who cultivated the same and built a hut thereon, as evidence of the claimant's possession of the said land.

2. ID.; ID.; ID.; TAX DECLARATIONS OR REALTY TAX PAYMENTS ARE GOOD *INDICIA* OF POSSESSION IN THE CONCEPT OF OWNER.— [R]espondent and her predecessors-in-interest declared the disputed property for tax purposes and paid the realty taxes thereon, as early as 1949. Settled is the rule that although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession.

3. ID.; SPECIAL CONTRACTS; MORTGAGE; A BANKING INSTITUTION IS EXPECTED TO EXERCISE DUE DILIGENCE BEFORE ENTERING INTO A MORTGAGE CONTRACT.— [I]t is settled that 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. This Court has never failed 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.

4. ID.; ID.; SALES; THE ISSUE OF GOOD FAITH OR BAD FAITH OF A BUYER IS RELEVANT ONLY WHERE THE SUBJECT OF THE SALE IS A REGISTERED LAND BUT NOT WHERE THE PROPERTY IS AN UNREGISTERED LAND.— As to whether or not petitioner was in good faith, the issue of good faith or bad faith of a buyer is relevant only

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where the subject of the sale is a registered land but not where the property is an unregistered land. One who purchases an unregistered land does so at his peril. His claim of having bought the land in good faith, *i.e.*, without notice that some other person has a right to, or interest in, the property, would not protect him if it turns out that the seller does not actually own the property.

APPEARANCES OF COUNSEL

Simando and Associates for petitioner.
Gilbert P.E. Morandarte for respondent.

D E C I S I O N

PERALTA,[*] *J.*:

Assailed in the instant petition for review on *certiorari* are the Decision[1] and Resolution[2] of the Court of Appeals (*CA*), dated March 30, 2012 and October 17, 2012, respectively, in CA-G.R. CV No. 94947.

The pertinent factual and procedural antecedents of the case are as follows:

On June 20, 2000, herein respondent filed with the Regional Trial Court (*RTC*) of Libmanan, Camarines Sur a Complaint[3] for Quieting of Title against herein petitioner bank. Subsequently, on September 2, 2002, the Complaint was amended[4] where respondent alleged that: she is the owner of a 2,174 square meter parcel of land in Fundado, Libmanan, Camarines Sur; she acquired the property through inheritance; she and her

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[*] Acting Chairperson, per Special Order No. 2487 dated September 19, 2017.

[1] Penned by Associate Justice Romeo F. Barza, with the concurrence of Associate Justices Noel G. Tijam and Edwin D. Sorongon, Annex "A" to Petition; *rollo,* pp. 31-57.

[2] Annex "B" to Petition, *rollo*, pp. 58-60.

[3] Records, pp. 1-3.

[4] See Amended Complaint, *id*. at 54-56.

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predecessors-in-interest had been in open, peaceful, adverse, uninterrupted possession of the subject land in the concept of an owner since time immemorial; and petitioner's claim of ownership is unfounded, unmeritorious invalid and based upon an instrument which is null and void or, otherwise, unenforceable. Respondent prayed that she be declared the absolute owner and, thus, entitled to the lawful possession of the subject property. She also asked the trial court to order petitioner to pay attorney's fees and monthly rentals.

In its Answer with Counterclaim,[5] herein petitioner denied the material allegations of respondent's Amended Complaint contending that it is, in fact, the true and absolute owner of the subject land; and the property was previously owned by one Roberto Hermita (*Roberto*) who mortgaged the said land to petitioner but subsequently failed to satisfy his obligation causing petitioner to foreclose the mortgage and subsequently acquire the property and transfer title over it in its name. In its Counterclaim, petitioner prayed for the payment of moral damages and attorney's fees.

After the issues were joined, trial on the merits ensued.

On January 19, 2010, the RTC rendered its Decision[6] dismissing respondent's Amended Complaint as well as petitioner's Counterclaim.

The RTC ruled that, before entering into the contract of mortgage with Roberto Hermita, petitioner, through its manager, did its best to ascertain Roberto's claim of ownership and possession by conducting the requisite investigation. The RTC concluded that the weight of evidence preponderates in favor of herein petitioner.

Aggrieved, respondent filed an appeal with the CA.

On March 30, 2012, the CA promulgated its assailed Decision by ruling in respondent's favor and disposing as follows:

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[5] Records, pp. 8-9.

[6] *Id*. at 240-256.

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WHEREFORE, premises considered, the appealed decision is hereby REVERSED and SET ASIDE. The real estate mortgage contract dated March 23, 1995, covering the disputed property is hereby declared NULL and VOID and the plaintiff-appellant is declared owner thereof.

SO ORDERED.[7]

The CA held that: (1) respondent was able to prove that her predecessors-in-interest had possession of the subject land prior to that of petitioner's predecessor-in-interest; (2) they declared the property for tax purposes as early as 1949, as compared to petitioner's predecessor-in-interest who paid taxes thereon beginning only in 1970; and (3) contrary to the findings of the RTC, the evidence preponderates in favor of herein respondent. Thus, the CA declared respondent as owner of the subject lot and nullified the real estate mortgage executed between petitioner and Roberto.

Petitioner filed a Motion for Reconsideration, but the CA denied it in its Resolution dated October 17, 2012.

Hence, the present petition for review on *certiorari* with the following Assignment of Errors:

a) The Honorable Court of Appeals gravely erred when it held that respondent has prior possession over the property through her caretaker Roman Zamudio.

b) The Honorable Court of Appeals gravely erred when it ruled that acquisitive prescription cannot be made to apply to the possession of Roberto Hermita.

c) The Honorable Court of Appeals seriously erred when it pronounced that petitioner Municipal Rural Bank of Libmanan, Camarines Sur was utterly remiss in its duty to establish who the true owners and possessors of the subject property were.[8]

The petition is unmeritorious.

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[7] *Rollo*, p. 56.

[8] *Id*. at 17-18.

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Before delving into the merits of the instant petition, the Court finds it apropos to restate the nature of an action for quieting of title. Citing the case of *Baricuatro, Jr. v. Court of Appeals,*[9] this Court, in *Herminio M. De Guzman, for himself and as Attorney-in-fact of: Nilo M. De Guzman, et al. v. Tabangao Realty Inc.,*[10] held, thus:

> Regarding the nature of the action filed before the trial court, 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. Originating in equity jurisprudence, its purpose is to secure "x x x 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 any danger of 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, "x x x 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 x x x." (*Citation omitted.*)"[11]

The Court, then, went on to discuss that:

> Under the Civil Code, the remedy may be availed of under the following circumstances:
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> > 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.

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[9] 382 Phil. 15, 25 (2000).

[10] 753 Phil. 456 (2015).

[11] *Herminio M. De Guzman, for himself and as Attorney-in-fact of: Nilo M. De Guzman, et al. v. Tabangao Realty Inc., supra,* at 468.

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> An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.
>
> Art. 478. There may also be an action to quiet title or remove a cloud therefrom when the contract, instrument or other obligation has been extinguished or has terminated, or has been barred by extinctive prescription.

Article 477 of the Civil Code further provides that the plaintiff in an action to quiet title must have legal or equitable title to or interest in the real property, which is the subject matter of the action, but need not be in possession of said property.

For an action to quiet title to prosper, two indispensable requisites must concur: (1) the plaintiff or complainant has a legal or equitable title or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting a cloud on his title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.[12]

In *Spouses Ragasa v. Spouses Roa,*[13] this Court has, likewise, ruled that:

> [I]t is an established rule of American jurisprudence (made applicable in this jurisdiction by Art. 480 of the New Civil Code) that actions to quiet title to property in the possession of the plaintiff are imprescriptible.
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> The prevailing rule is that the right of a plaintiff to have his title to land quieted, as against one who is asserting some adverse claim or lien thereon, is not barred while the plaintiff or his grantors remain in actual possession of the land, claiming to be owners thereof, the reason for this rule being that while the owner in fee continues liable to an action, proceeding, or suit upon the adverse claim, he has a continuing right to the aid of a court of equity to ascertain and determine the nature of such claim and its effect on his title, or to assert any superior equity in his favor. He may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. But the rule that the statute of limitations is not available as a defense to an action to remove a cloud from title can only be invoked

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[12] *Id*. at 468-469.

[13] 526 Phil. 587 (2006).

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by a complain[ant] when he is in possession. One who claims property which is in the possession of another must, it seems, invoke his remedy within the statutory period.[14]

In the instant case, for reasons to be discussed hereunder, the Court agrees with the CA that herein respondent was able to prove by preponderance of evidence that she has a legal or equitable title or interest in the real property subject of the action and that the deed, claim, encumbrance, or proceeding claimed to be casting a cloud on her title is, in fact, invalid or inoperative, despite its *prima facie* appearance of validity or legal efficacy.

In its first assigned error, petitioner argues that the CA erred in holding that: (1) respondent's predecessors-in-interest designated a certain Roman Zamudio (Zamudio) as caretaker of the subject lot; and (2) respondent has prior possession over the said property through Zamudio.

The Court does not agree.

First, the Court finds no cogent reason to depart from the conclusion of the CA that the testimony of respondent's witness Perpetuo Parafina (*Parafina*), who is the owner of the land adjacent to the disputed property, is clear that Zamudio was indeed the person assigned by respondent's mother as caretaker of the questioned land.[15] In fact, the RTC, in its Decision dated January 19, 2010, likewise made a positive finding that Zamudio was, in fact, respondent's caretaker. Moreover, Parafina testified that, since 1960, he knows the property as owned by respondent's mother.[16]

The question that follows is whether Zamudio's occupation of the subject property as caretaker may be considered as proof of respondent's and her predecessors-in-interest's prior possession of the said land.

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[14] *Spouses Ragasa v. Spouses Roa, supra,* at 592-593.

[15] See TSN, December 11, 2003, pp. 2-3.

[16] See TSN, June 21, 2004, p. 2.

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The Court rules in the affirmative.

For one to be considered in possession, one need not have actual or physical occupation of every square inch of the property at all times.[17] Possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right.[18] Possession can be acquired by juridical acts.[19] These are acts to which the law gives the force of acts of possession.[20] In one case,[21] this Court has considered a claimant's act of assigning a caretaker over the disputed land, who cultivated the same and built a hut thereon, as evidence of the claimant's possession of the said land.

In the present case, it has been established that respondent and her predecessors-in-interest authorized Zamudio as caretaker of the subject land. Thus, Zamudio's occupation of the disputed land, as respondent's caretaker, as early as 1975, is considered as evidence of the latter's occupation of the said property. Petitioner's argument that respondent's possession must not be a mere fiction but must, in fact, be actual is unavailing as this requirement is applicable only in proceedings for land registration under Presidential Decree 1529, otherwise known as the *Land Registration Decree*, which is not the case here. On the other hand, it was only in 1986 that petitioner's predecessor-in-interest started occupying the same property.

Moreover, respondent and her predecessors-in-interest declared the disputed property for tax purposes and paid the realty taxes thereon, as early as 1949. Settled is the rule that although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are

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[17] *Bunyi, et al. v. Factor,* 609 Phil. 134, 141 (2009).

[18] *Id*.

[19] *Id*.

[20] *Id*.

[21] *Heirs of Bienvenido & Araceli Tanyag v. Gabriel, et al*., 685 Phil. 517 (2012).

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good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession.[22] On the other hand, it was only in 1970 that Roberto's father declared the subject property for taxation purposes.

As to petitioner's contention, in its second assignment of error, that Roberto acquired ownership of the subject property through prescription, the Court finds no cogent reason to depart from the ruling of the CA on this matter and, thus, quotes the same with approval, to wit:

> x x x Besides, Article 1134 of the Civil Code x x x states that "x x x (o)rdinary acquisitive prescription of things **requires** possession in good faith **and** with just title for the time fixed by law." In this case, however, it cannot be said that the possession of Roberto Hermita was in good faith. This is clear from the testimony of Roberto Hermita that, prior to mortgaging the subject property to the defendant-appellee bank, the mother of the plaintiff-appellant approached him and claimed ownership over the subject land as well. x x x
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> x x x x x x x x x
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> Neither can the Court agree with the trial court that extraordinary acquisitive prescription under Article 1137 of the Civil Code can be appreciated in favor of Sofronio Hermita, predecessor-in-interest of Roberto Hermita. As previously discussed, no evidence, testimonial or documentary, was ever presented by the defendant-appellee that Sofronio Hermita was ever in possession of the subject land. The trial court's conclusion that the uninterrupted possession of Sofronio Hermita since 1970 already ripened into a title by prescription, is therefore without any evidentiary basis. Hence, since it has not been shown that Sofronio Hermita acquired ownership over the subject property, it follows that he did not have the power to transfer the ownership of the subject property to his son Roberto Hermita when the latter allegedly bought the same.
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> In fine, it cannot be said that Roberto Hermita had already acquired ownership over the subject land when he mortgaged the same to the defendant-appellee bank.[23]

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[22] *Villasi v. Garcia, et al*., 724 Phil. 519, 530 (2014).

[23] *Rollo*, pp. 50-53. (Emphasis in the original)

Indeed, aside from tax declarations, petitioner failed to present evidence to prove that, prior to selling the subject lot to Roberto, his father exercised acts of ownership over the said property.

As to the third assigned error, it is settled that a banking institution is expected to exercise due diligence before entering into a mortgage contract.[24] 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.[25]

This Court has never failed to stress the remarkable significance of a banking institution to commercial transactions, in particular, and to the country's economy in general.[26] The banking system is an indispensable institution in the modern world and plays a vital role in the economic life of every civilized nation.[27] 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.[28] Consequently, the highest degree of diligence is expected, and high standards of integrity and performance are even required of it.[29]

In the instant case, contrary to the findings of the RTC that petitioner's manager did his best to ascertain Roberto's claim of ownership over the disputed land, the Court agrees with the findings of the CA that petitioner was, in fact, remiss in exercising the required degree of diligence, prudence, and care before it entered into a mortgage contract with Roberto. With more reason should petitioner have practiced caution and mindfulness,

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[24] *Philippine National Bank v. Jumamoy, et al*., 670 Phil. 472, 481 (2011).

[25] *Id*.

[26] *Philippine National Bank v. Juan F. Villa*, G.R. No. 213241, August 1, 2016.

[27] *Id*.

[28] *Id*.

[29] *Id*.

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considering that the questioned lot is not titled. Thus, the Court agrees with the CA that a simple check with the proper authorities would have shown that the same property has been previously declared as owned by respondent's predecessors-in-interest and that realty taxes had been paid thereon as early as 1949. Petitioner alleges in its present petition that its bank manager consulted the local assessor's office as to the existence of any other tax declaration covering the subject lot but a careful reading of the testimony of petitioner's manager shows that nothing therein would prove such allegation. Moreover, if petitioner's manager had indeed made an ocular inspection of the said property to determine its actual condition and verify the identity of the true owner and possessor thereof, he should have easily discovered that respondent's caretaker was also in possession of the said property and is actually occupying a portion of the same.

As to whether or not petitioner was in good faith, the issue of good faith or bad faith of a buyer is relevant only where the subject of the sale is a registered land but not where the property is an unregistered land.[30] One who purchases an unregistered land does so at his peril.[31] His claim of having bought the land in good faith, *i.e.*, without notice that some other person has a right to, or interest in, the property, would not protect him if it turns out that the seller does not actually own the property.[32] In the instant case, there is no dispute that at the time that petitioner entered into a contract of mortgage with Roberto and in subsequently buying the subject lot during the auction sale, the same was still an unregistered land. Thus, petitioner may not claim good faith and due diligence in dealing with Roberto. As a consequence, the CA did not commit error in nullifying the real estate mortgage contract between petitioner and Roberto and in declaring respondent as the owner of the disputed lot.

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[30] *Rural Bank of Siaton (Negros Oriental), Inc. v. Macajilos*, 527 Phil. 456, 471 (2006); *David v. Bandin*, 233 Phil. 139, 150 (1987).

[31] *Id*.

[32] *Id.*

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WHEREFORE, the Court **AFFIRMS** the Decision of the Court of Appeals, promulgated on March 30, 2012, and its Resolution dated October 17, 2012, in CA-G.R. CV No. 94947.

SO ORDERED.

Perlas-Bernabe, Caguioa, and *Reyes, Jr., JJ.,* concur.

Carpio, J., on official leave.

THIRD DIVISION

[G.R. No. 205695. September 27, 2017]

JESUS APARENTE *y* VOCALAN, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT AGAINST UNREASONABLE SEARCHES AND SEIZURES; A WARRANT IS REQUIRED TO BE ISSUED IN ORDER FOR A SEARCH AND SEIZURE TO BE DEEMED REASONABLE; EXCEPTION; A WARRANTLESS ARREST THAT PRECEDES A WARRANTLESS SEARCH MAY BE VALID AS LONG AS THESE TWO ACTS ARE SUBSTANTIALLY CONTEMPORANEOUS, AND THERE IS PROBABLE CAUSE IN THE FORM OF OVERT ACTS WHICH SHOW THAT A CRIME HAD BEEN COMMITTED, WAS BEING COMMITTED, OR WAS ABOUT TO BE COMMITTED.— Article III, Section 2 of the Constitution provides that the right of the people against unreasonable searches and seizures is inviolable x x x. In *People v. Cogaed*, this Court explained that while this rule generally requires a warrant to be issued in order for a search or seizure to be deemed reasonable, there