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WHEREFORE, PREMISES CONSIDERED, the Court **DISMISSES** the appeal and **AFFIRMS with MODIFICATION** the Decision dated October 13, 2014 of the Court of Appeals in CA-G.R. CR-H.C. No. 05340 finding accused-appellant Marlon Manson y Resultay guilty beyond reasonable doubt of the crime of Statutory Rape under Article 266-A, paragraph 1 (d) of the Revised Penal Code, as amended by Republic Act 8353. The Court sentences Manson to suffer the penalty of *reclusion perpetua* and to pay AAA the amount of ₱14,439.25 as actual damages, ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages, and another ₱75,000.00 as exemplary damages, all with interest at the rate of six percent (6%) *per annum* from the finality of this judgment until fully paid.

SO ORDERED.

Velasco, Jr. (Chairperson), Perez, Mendoza,[*] and *Reyes, JJ.,* concur.

THIRD DIVISION

[G.R. No. 215640. Novemeber 28, 2016]

NESTOR CABRERA, *petitioner, vs.* **ARNEL CLARIN and WIFE; MILAGROS BARRIOS and HUSBAND; AURORA SERAFIN and HUSBAND; and BONIFACIO MORENO and WIFE,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; COURTS; THE JUDICIARY REORGANIZATION ACT OF 1980 (R.A. NO.

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[*] Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza per Raffle dated December 8, 2014.

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7691); JURISDICTION OVER REAL ACTIONS; ABSENT ANY ALLEGATION IN THE COMPLAINT OF THE ASSESSED VALUE OF THE PROPERTY, IT CANNOT READILY BE DETERMINED WHICH COURT HAS ORIGINAL AND EXCLUSIVE JURISDICTION OVER THE CASE, AS THE COURTS CANNOT TAKE JUDICIAL NOTICE OF THE ASSESSED OR MARKET VALUE OF THE LAND. — Before the amendments, the plenary action of *accion publiciana* was to be brought before the RTC regardless of the value of the property. With the modifications introduced by R.A. No. 7691 in 1994, the jurisdiction of the first level courts has been expanded to include jurisdiction over other real actions where the assessed value does not exceed ₱20,000.00, ₱50,000.00 where the action is filed in Metro Manila. Accordingly, the **jurisdictional element is the assessed value of the property**. A perusal of the complaint readily shows that Cabrera failed to state the assessed value of the disputed land x x x. Indeed, nowhere in the complaint was the assessed value of the subject property ever mentioned. On its face, there is no showing that the RTC has jurisdiction exclusive of the MTC. Absent any allegation in the complaint of the assessed value of the property, it cannot readily be determined which court had original and exclusive jurisdiction over the case at bar. The courts cannot take judicial notice of the assessed or market value of the land.

2. ID.; ID.; APPEALS; A COURT'S JURISDICTION MAY BE RAISED AT ANY STAGE OF THE PROCEEDINGS, EVEN ON APPEAL FOR THE SAME IS CONFERRED BY LAW, AND LACK OF IT AFFECTS THE VERY AUTHORITY OF THE COURT TO TAKE COGNIZANCE OF AND TO RENDER JUDGMENT ON THE ACTION, EXCEPT WHERE A PARTY IS BARRED BY LACHES.— It is axiomatic that the nature of an action and the jurisdiction of a tribunal are determined by the material allegations of the complaint and the law at the time the action was commenced. A court's jurisdiction may be raised at any stage of the proceedings, even on appeal for the same is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action. It applies even if the issue on jurisdiction was raised for the first time on appeal or even after final judgment. The exception to the basic rule mentioned operates on the principle of estoppel by laches

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— whereby a party may be barred by laches from invoking the lack of jurisdiction at a late hour for the purpose of annulling everything done in the case with the active participation of said party invoking the plea.

3. **ID.; ID.; ID; ID.; JURISDICTION BY ESTOPPEL; WHEN APPLICABLE.—** In the case of *La Naval Drug Corporation v. Court of Appeals*, We illustrated the rule as to when jurisdiction by estoppel applies and when it does not, as follows: x x x. In *People vs. Casiano* , this Court, on the issue or estoppel, held: The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not. **If it had no jurisdiction, but the case was tried and decided upon the theory that it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction, for the same 'must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel.'** However, **if the lower court had jurisdiction, and the case was heard and decided upon a given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position — that the lower court had jurisdiction. Here, the principle of estoppel applies**. The rule that jurisdiction is conferred by law, and does not depend upon the will of the parties, has no bearing thereon. x x x. Guided by the abovementioned jurisprudence, this Court rules that respondents are **not estopped** from assailing the jurisdiction of the RTC over the subject civil case. Records reveal that even before filing their Answer, respondents assailed the jurisdiction of the RTC through a motion to dismiss as there was no mention of the assessed value of the property in the complaint.

4. **ID.; ID.; EVIDENCE; OFFER AND OBJECTION; OFFER OF EVIDENCE; THE COURT SHALL CONSIDER NO EVIDENCE WHICH HAS NOT BEEN FORMALLY OFFERED, AS A FORMAL OFFER IS NECESSARY BECAUSE JUDGES ARE MANDATED TO REST THEIR FINDINGS OF FACTS AND THEIR JUDGMENT ONLY AND STRICTLY UPON THE EVIDENCE OFFERED BY THE PARTIES AT THE TRIAL, EXCEPT WHEN THE EVIDENCE HAVE BEEN DULY IDENTIFIED BY TESTIMONY DULY RECORDED AND, THE SAME HAVE**

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BEEN INCORPORATED IN THE RECORDS OF THE CASE.— The Rules of Court provides that the court shall consider no evidence which has not been formally offered. A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. Conversely, this allows opposing parties to examine the evidence and object to its admissibility. Moreover, **it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court**. We relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court provided the following requirements are present, *viz*.: *first*, the same must have been duly identified by testimony duly recorded and, *second*, the same must have been incorporated in the records of the case.

5. ID.; ID.; COURTS; JURISDICTION OVER REAL ACTION; THE BELATED PRESENTATION OF DOCUMENT PROVING THE ASSESSED VALUE OF THE PROPERTY BEFORE THE APPELLATE COURT WILL NOT CURE THE DEFECT IN THE COMPLAINT, AS THE ASSESSED VALUE IS A JURISDICTIONAL REQUIREMENT.— Based on the petitioner's admission, he presented the Tax Declaration 2006-07016-00394 dated November 13, 2006 purporting to prove the assessed value of the property for the first time on appeal before the CA in his Brief. There was no proof or allegation that he presented the same during the trial or that the court examined such document. Since the tax declaration was never duly identified by testimony during the trial albeit incorporated in the Appellee's Brief, the CA will not be required to review such document that was not previously scrutinized by the RTC. As the assessed value is a jurisdictional requirement, the belated presentation of document proving such value before the appellate court will not cure the glaring defect in the complaint. Thus, jurisdiction was not acquired.

6. ID.; ID.; ID.; ID.; THE LACK OF A COURT'S JURISDICTION IS A NON-WAIVABLE DEFENSE THAT A PARTY CAN RAISE AT ANY STAGE OF THE PROCEEDINGS IN A CASE, EVEN ON APPEAL, AND THE DOCTRINE OF

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ESTOPPEL, BEING THE EXCEPTION TO SUCH NON-WAIVABLE DEFENSE, MUST BE APPLIED WITH GREAT CARE AND THE EQUITY MUST BE STRONG IN ITS FAVOR.— We find Cabrera's application of Section 5, Rule 10 of the Rules of Court to support his claim that failure of the respondents to object to his presentation of the tax declaration before the CA constitutes an implied consent which then treated the issue of assessed value as if it had been raised in the pleadings specious. Such rule contemplates an amendment to conform to or authorize presentation of evidence before the trial court during the trial on the merits of the case. x x x. It bears emphasis that the ruling in *Tijam* establishes an exception which is to be applied only under extraordinary circumstances or to those cases similar to its factual situation. The general rule is that the lack of a court's jurisdiction is a non-waivable defense that a party can raise at any stage of the proceedings in a case, even on appeal; the doctrine of estoppel, being the exception to such non-waivable defense, must be applied with great care and the equity must be strong in its favor.

7. **ID.; ID.; JUDGMENTS; A VOID JUDGMENT FOR WANT OF JURISDICTION IS NO JUDGMENT AT ALL, AND CANNOT BE THE SOURCE OF ANY RIGHT NOR THE CREATOR OF ANY OBLIGATION, AND ALL ACTS PERFORMED PURSUANT TO IT AND ALL CLAIMS EMANATING FROM IT HAVE NO LEGAL EFFECT.—** We find no error on the part of the CA in dismissing the Complaint for lack of jurisdiction and for not reviewing the document belatedly filed. Consequently, all proceedings in the RTC are null and void. Indeed, a void judgment for want of jurisdiction is no judgment at all, and cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect.

APPEARANCES OF COUNSEL

Pangilinan Pangilinan Macalino Tubig & Associates Law Office for petitioner.

Public Attorney's Office for respondents.

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D E C I S I O N

PERALTA, *J.*:

For resolution of this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by petitioner Nestor Cabrera (*Cabrera*) assailing the Decision[1] dated July 25, 2014 and Resolution[2] dated November 21, 2014 of the Court of Appeals (*CA*) in CA-G.R. CV No. 100950, which reversed and set aside the Decision[3] of the Regional Trial Court (*RTC*) of Malolos, Bulacan, Branch 10, in Civil Case No. 752-M-2006.

The facts are as follows:

The instant petition originated from a Complaint[4] for *accion publiciana* with damages filed before the RTC by Cabrera[5] against respondents Arnel Clarin (*Clarin*) and wife, Milagros Barrios (*Barrios*) and husband, Aurora Serafin (*Serafin*) and husband, and Bonifacio Moreno (*Moreno*) and wife.[6] Cabrera alleged that he is the lawful and registered owner of a parcel of agricultural land located at Barangay Maysulao, Calumpit, Bulacan, with a total area of 60,000 square meters (sq. m.) covered by Transfer Certificate of Title (*TCT*) No. T-4439. He was in actual and physical possession of the land until he discovered the encroachment of respondents sometime in December 2005. By means of fraud, strategy and stealth, respondents usurped and occupied portions of the said property, *viz.*: Clarin with 63 sq. m. thereof, Barrios with 41 sq. m. thereof, Serafin with 30 sq. m. thereof, and Moreno with 11 sq. m. thereof.

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[1] Penned by Associate Justice Ramon R. Garcia, with Associate Justices Remedios A. Salazar- Fernando and Danton Q. Bueser, concurring; *rollo*, pp. 32-41.

[2] *Id.* at 43-44.

[3] Penned by Judge Basilio R. Gabo, Jr.; *id.* at 87-88.

[4] *Id.* at 45-48.

[5] Cabrera was joined by his wife in the complaint filed before the RTC.

[6] *Rollo,* p. 33.

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He made numerous oral and written demands to vacate the premises but the respondents refused to heed. They also failed to settle amicably when the case was brought before the barangay for conciliation.

In their Motion to Dismiss,[7] respondents claimed that the complaint failed to state the assessed value of the property which is needed in determining the correct amount of docket fees to be paid. Also, Cabrera did not fulfill an essential condition prior to the filing of the complaint which was submission of a government approved technical survey plan to prove the alleged encroachment. Cabrera anchors his claim of ownership in the certificate of title registered in his and his father Ciriaco Cabrera's name. Cabrera did not aver that it was his portion of property that respondents have intruded as there was no proof of partition of the property since his father who was an American citizen died in the United States of America.[8]

In an Order dated June 19, 2007, the RTC denied respondents' motion, and directed them to file their Answer.[9] The RTC cited the case of *Aguilon v. Bohol*[10] in ruling that based on the allegations in the complaint, the case is the plenary action of *accion publiciana* which clearly falls within its jurisdiction. The trial court, in an Order[11] dated October 19, 2007, declared respondents in default upon failing to file their Answer, and allowed Cabrera to present his evidence *ex parte*. On February 5, 2009, respondents filed an Omnibus Motion[12] to set aside the order of default, to admit Answer, and to set the hearing for the presentation of their evidence.

In a Decision dated May 30, 2012, the RTC ruled in favor of Cabrera. The dispositive portion reads:

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[7] *Id.* at 55-57.

[8] *Id.* at 56.

[9] Penned by Presiding Judge Victoria Villalon-Pornillos; *id.* at 34.

[10] 169 Phil. 473, 476 (1977).

[11] *Rollo,* p. 67.

[12] *Id.* at 73-77.

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WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the [petitioner]:

1. ORDERING the [respondents] and all other persons claiming rights under them to vacate the subject portions of [the] land and surrender possession thereof to the plaintiff;

2. ORDERING the [respondents] to pay attorney's fees in the amount of Fifty Thousand Pesos ([₱]50,000.00) and Ten Thousand Pesos ([₱]10,000.00) litigation expenses.

SO ORDERED.[13]

Aggrieved, respondents elevated the case before the CA which then reversed and set aside the decision of the RTC in a Decision dated July 25, 2014. The *fallo* of the decision reads:

WHEREFORE, the appeal is hereby GRANTED. The Decision dated May 30, 2012 of the Regional Trial Court, Branch 10, Malolos, Bulacan is REVERSED and SET ASIDE. In lieu thereof, the complaint for *accion publiciana with damages* filed by [petitioner] Nestor Cabrera is DISMISSED without prejudice for lack of jurisdiction.

SO ORDERED.[14]

Finding no cogent reason to deviate from its previous ruling, the CA denied the Motion for Reconsideration filed by Cabrera.

Hence, the instant petition raising the following issues:

A. The Honorable Court of Appeals committed a reversible error when it held that "since [petitioner] failed to allege the assessed value of the subject property, the court *a quo* has not acquired jurisdiction over the action and all proceedings thereat are null and void," as such conclusion is contradictory to the doctrine of estoppel.

B. The Honorable Court of Appeals committed a reversible error when it failed to take into consideration the tax declaration annexed to the Appellee's Brief which provided the assessed value of the property subject matter of the case.

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[13] *Id.* at 88. (Emphasis omitted).

[14] *Id.* at 40. (Emphasis omitted).

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The instant petition lacks merit.

In essence, the issue presented before this Court is whether or not estoppel bars respondents from raising the issue of lack of jurisdiction.

Batas Pambansa Bilang 129, (the Judiciary Reorganization Act of 1980), as amended by Republic Act (*R.A.*) No. 7691 provides:

x x x x x x x x x

Section 19. *Jurisdiction in civil cases*. "Regional Trial Courts shall exercise exclusive original jurisdiction.

(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;

x x x x x x x x x

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:

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

x x x x x x x x x[15]

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[15] Emphasis and underscoring supplied.

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Before the amendments, the plenary action of *accion publiciana* was to be brought before the RTC regardless of the value of the property. With the modifications introduced by R.A. No. 7691 in 1994, the jurisdiction of the first level courts has been expanded to include jurisdiction over other real actions where the assessed value does not exceed ₱20,000.00, ₱50,000.00 where the action is filed in Metro Manila. Accordingly, the **jurisdictional element is the assessed value of the property**.[16]

A perusal of the complaint readily shows that Cabrera failed to state the assessed value of the disputed land, thus:

x x x x x x x x x

[T]he plaintiffs are the lawful and the registered owner of a parcel of agricultural land and more particularly described under Transfer Certificate of Title No. T-4439, a copy of which is hereto attached and marked as Annex "A" and made an integral part hereof;

[T]he defendants had illegally encroached the property of the plaintiff by means of fraud and stealth and with force and intimidation. Defendant Arnel Clarin had encroached an approximate area of SIXTY THREE (63) SQUARE METERS, while defendant Milagros Barrios had encroached an approximate area of FORTY-ONE (41) SQUARE METERS, defendant Aurora Serafin had encroached an approximate area of THIRTY (30) SQUARE METERS while defendant Bonifacio Moreno had encroached an approximate area of ELEVEN (11) SQUARE METERS, copy of the relocation plan is hereto attached and marked as Annex "B" and made an integral part of this complaint;

The plaintiffs had already informed the defendants of the illegal encroachment but the defendants refused to heed the call of the plaintiffs to vacate the land in question and threaten plaintiff with bodily harm;

That prior to the discovery of the encroachment on or about December 2005, plaintiff was in actual and physical possession of the premises.

That this matter was referred to the attention of the Office of the Barangay Chairman of Barangay Maysulao, Calumpit, Bulacan and

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[16] *Vda. de Barrera v. Heirs of Legaspi,* 586 Phil. 750, 756 (2008). (Emphasis supplied).

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a Lupong Tagapamayapa was constituted but no conciliation was reached and the Lupon issued a Certificate to File Action, copy of the Certificate to File Action is hereto attached and marked as Annex "C" and made an integral part hereof;

That notwithstanding numerous and persistent demands, both oral and written, extended upon the defendants to vacate the subject parcel of land, they failed and refused and still fail and refuse to vacate and surrender possession of the subject parcel of land to the lawful owner who is plaintiff in this case. Copy of the last formal demand dated January 18, 2006 is hereto attached and marked as "Annex" and the registry receipt as well as the registry return card as "D" Annexes "D-1," and "D-2," respectively;

That because of this unjustifiable refusal of the defendants to vacate the premises in question which they now unlawfully occupy, plaintiffs [were] constrained to engage the services of counsel in an agreed amount of FIFTY THOUSAND PESOS ([₱]50,000.00) Philippine Currency, as acceptance fee and THREE THOUSAND PESOS ([₱]3,000.00) Philippine Currency, per day of Court appearance, which amount the defendants should jointly and solidarily pay the plaintiffs, copy of the retaining contract is hereto attached and marked as Annex "E" and made an integral part of this complaint;

That in order to protect the rights and interest of the plaintiffs, litigation expenses will be incurred in an amount no less than TEN THOUSAND PESOS ([₱]10,000.00), which amount the defendants should jointly and solidarily pay the plaintiffs;

That the amount of THREE THOUSAND PESOS ([₱]3,000.00) per month should be adjudicated in favor of the plaintiff as against the defendants by way of beneficial use, to be counted from the day the last formal demand until they fully vacate and surrender possession of the premises in question to the plaintiffs. x x x.[17]

In dismissing the case, the CA noted such fact, to wit:

In the case at bench, the complaint for *accion publiciana* filed by [Cabrera] failed to allege the assessed value of the real property subject of the complaint or the interest therein. Not even a tax declaration was presented before the court *a quo* that would show the valuation of the subject property. As such, there is no way to determine which

[17] *Rollo,* pp. 45-46.

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court has jurisdiction over the action or whether the court *a quo* has exclusive jurisdiction over the same. Verily, the court *a quo* erred in denying the motion to dismiss filed by [respondents] and in taking cognizance of the instant case.[18]

Indeed, nowhere in the complaint was the assessed value of the subject property ever mentioned. On its face, there is no showing that the RTC has jurisdiction exclusive of the MTC. Absent any allegation in the complaint of the assessed value of the property, it cannot readily be determined which court had original and exclusive jurisdiction over the case at bar. The courts cannot take judicial notice of the assessed or market value of the land.[19]

We note that Cabrera, in his Comment/Opposition to the Motion to Dismiss,[20] maintained that the *accion publiciana* is an action incapable of pecuniary interest under the exclusive jurisdiction of the RTC.[21] Thereafter, he admitted in his Brief before the CA that the assessed value of the subject property now determines which court has jurisdiction over *accion publiciana* cases. In asserting the trial court's jurisdiction, petitioner averred that his failure to allege the assessed value of the property in his Complaint was merely innocuous and did not affect the jurisdiction of the RTC to decide the case.

Cabrera alleges that the CA erred in concluding that the RTC has not acquired jurisdiction over the action in the instant case being contrary to the doctrine of estoppel as elucidated in *Honorio Bernardo v. Heirs of Villegas*.[22] Estoppel sets in when respondents participated in all stages of the case and voluntarily submitting to its jurisdiction seeking affirmative reliefs in addition to their motion to dismiss due to lack of jurisdiction.

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[18] *Id.* at 37.

[19] *Quinagoran v. Court of Appeals,* 557 Phil. 650, 660-661 (2007).

[20] *Rollo,* pp. 59-60.

[21] *Id.* at 59.

[22] 629 Phil. 450, 459 (2010).

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We are not persuaded. It is axiomatic that the nature of an action and the jurisdiction of a tribunal are determined by the material allegations of the complaint and the law at the time the action was commenced.[23] A court's jurisdiction may be raised at any stage of the proceedings, even on appeal for the same is conferred by law, and lack of it affects the very authority of the court to take cognizance of and to render judgment on the action.[24] It applies even if the issue on jurisdiction was raised for the first time on appeal or even after final judgment.

The exception to the basic rule mentioned operates on the principle of estoppel by laches — whereby a party may be barred by laches from invoking the lack of jurisdiction at a late hour for the purpose of annulling everything done in the case with the active participation of said party invoking the plea. In the oft-cited case of *Tijam v. Sibonghanoy*,[25] the party-surety invoked the jurisdictions of both the trial and appellate courts in order to obtain affirmative relief, and even submitted the case for final adjudication on the merits. It was only after the CA had rendered an adverse decision that the party-surety raised the question of jurisdiction for the first time in a motion to dismiss almost fifteen (15) years later. Hence, the Court adjudicated a party estopped from assailing the court's jurisdiction, to wit:

x x x x x x x x x

[a] party cannot **invoke the jurisdiction of a court to secure affirmative relief** against his opponent and, **after obtaining or failing to obtain such relief**, **repudiate or question that same jurisdiction**. . . ., it was further said that the question whether the court had jurisdiction either of the subject matter of the action or of the parties was not important in such cases because the party is barred from such conduct not because the judgment or order of the court is valid

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[23] *Malana v. Tappa,* 616 Phil. 177, 190 (2009), citing *Laresma v. Abellana,* 484 Phil. 766, 778-779 (2004).

[24] *Zacarias v. Anacay,* G.R. No. 202354, September 24, 2014, 736 SCRA 508, 522.

[25] 131 Phil. 556, 565 (1968).

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and conclusive as an adjudication, but for the reason that such practice cannot be tolerated — obviously for reasons of public policy.

x x x x x x x x x[26]

However, it was explicated in *Calimlim v. Ramirez*[27] that *Tijam* is an exceptional case because of the presence of laches. Thus:

The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal. This doctrine has been qualified by recent pronouncements which stemmed principally from the ruling in the cited case of *Sibonghanoy*. It is to be regretted, however, that the holding in said case had been applied to situations which were obviously not contemplated therein. The exceptional circumstance involved in *Sibonghanoy* which justified the departure from the accepted concept of non-waivability of objection to jurisdiction has been ignored and, instead a blanket doctrine had been repeatedly upheld that rendered the supposed ruling in Sibonghanoy not as the exception, but rather the general rule, virtually overthrowing altogether the time-honored principle that the issue of jurisdiction is not lost by waiver or by estoppel.

In *Sibonghanoy,* the defense of lack of jurisdiction of the court that rendered the questioned ruling was held to be **barred by estoppel by laches.** It was ruled that the **lack of jurisdiction having been raised for the first time in a motion to dismiss filed almost fifteen (15) years after the questioned ruling had been rendered**, such a plea may no longer be raised for being **barred by laches**. As defined in said case, **laches is "failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert has abandoned it or declined to assert it**.[28]

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[26] *Tijam v. Sibonghanoy, supra,* at 564. (Emphasis ours)

[27] *Calimlim v. Ramirez*, 204 Phil. 25, 35 (1982).

[28] *Id.* (Emphasis supplied)

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In the case of *La Naval Drug Corporation v. Court of Appeals*,[29] We illustrated the rule as to when jurisdiction by estoppel applies and when it does not, as follows:

x x x x x x x x x

Lack of jurisdiction over the subject matter of the suit is yet another matter. Whenever it appears that the court has no jurisdiction over the subject matter, the action shall be dismissed (Section 2, Rule 9, Rules of Court). **This defense may be interposed at any time, during appeal** (*Roxas vs. Rafferty*, 37 Phil. 957) **or even after final judgment** (*Cruzcosa vs. Judge Concepcion, et al.*, 101 Phil. 146). Such is understandable, as this **kind of jurisdiction is conferred by law** and not within the courts, let alone the parties, to themselves determine or conveniently set aside. In *People vs. Casiano* (111 Phil. 73, 93-94), this Court, on the issue of estoppel, held:

> The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not. **If it had no jurisdiction, but the case was tried and decided upon the theory that it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction, for the same 'must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel'** (5 C.J.S., 861-863).
>
> However, **if the lower court had jurisdiction, and the case was heard and decided upon a given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position — that the lower court had jurisdiction**. **Here, the principle of estoppel applies**. The rule that jurisdiction is conferred by law, and does not depend upon the will of the parties, has no bearing thereon. x x x.[30]

Guided by the abovementioned jurisprudence, this Court rules that respondents are **not estopped** from assailing the jurisdiction

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[29] G.R. No. 103200, August 31, 1994, 236 SCRA 78.

[30] *La Naval Drug Corporation v. Court of Appeals, supra,* at 90. (Emphases supplied)

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of the RTC over the subject civil case. Records reveal that even before filing their Answer, respondents assailed the jurisdiction of the RTC through a motion to dismiss as there was no mention of the assessed value of the property in the complaint. We note that the RTC anchored its denial of respondents' motion to dismiss on the doctrine enunciated in a 1977 case — that all cases of recovery of possession or *accion publiciana* lie with the RTC regardless of the value — which no longer holds true. Thereafter, the respondents filed their Answer through an omnibus motion to set aside order of default and to admit Answer.

The circumstances of the present case are different from the *Heirs of Villegas*[31] case. *First*, petitioner Bernardo in the *Heirs of Villegas* case actively participated during the trial by adducing evidence and filing numerous pleadings, none of which mentioned any defect in the jurisdiction of the RTC, while in this case, respondents already raised the issue of lack of jurisdiction in their Motion to Dismiss filed before their Answer. *Second*, it was only on appeal before the CA, after he obtained an adverse judgment in the trial court, that Bernardo, for the first time, came up with the argument that the decision is void because there was no allegation in the complaint about the value of the property; on the other hand, herein respondents raised the issue before there was judgment on the merits in the trial court. Respondents never assumed inconsistent position in their appeal before the CA.

Furthermore, the unfairness and inequity that the application of estoppel seeks to avoid espoused in the *Tijam* case, which the *Heirs of Villegas* adheres to, are not present. The instant case does not involve a situation where a party who, **after obtaining affirmative relief from the court, later on turned around to assail the jurisdiction of the same court that granted such relief by reason of an unfavorable judgment**. Respondents did not obtain affirmative relief from the trial court whose jurisdiction they are assailing, as their motion to dismiss was denied and they eventually lost their case in the proceedings below.

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[31] *Supra* note 22.

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Anent the issue of the CA's failure to consider the tax declaration annexed in the Appellee's Brief, Cabrera insists that its attachment in his Brief without objection from the other party sealed the issue of the RTC's jurisdiction, and cured the defect of failure to allege the assessed value of the property in the complaint as provided in Section 5,[32] Rule 10 of the Rules of Court.

Such averments lack merit. The Rules of Court provides that the court shall consider no evidence which has not been formally offered.[33] A formal offer is necessary because judges are mandated to rest their findings of facts and their judgment only and strictly upon the evidence offered by the parties at the trial. Its function is to enable the trial judge to know the purpose or purposes for which the proponent is presenting the evidence. Conversely, this allows opposing parties to examine the evidence and object to its admissibility. Moreover, **it facilitates review as the appellate court will not be required to review documents not previously scrutinized by the trial court.**[34] We relaxed the foregoing rule and allowed evidence not formally offered to be admitted and considered by the trial court provided

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[32] **Section 5.** *Amendment to conform to or authorize presentation of evidence*. — When issues not raised by the pleadings are tried with the express or implied consent of the parties they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure to amend does not effect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so with liberality if the presentation of the merits of the action and the ends of substantial justice will be subserved thereby. The court may grant a continuance to enable the amendment to be made.

[33] Rule 132, Section 34, *Offer of evidence*. — The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

[34] *Heirs of Saves v. Heirs of Saves,* 646 Phil 536, 544 (2010). (Emphasis supplied).

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the following requirements are present, *viz.*: *first*, the same must have been duly identified by testimony duly recorded and, *second*, the same must have been incorporated in the records of the case.[35]

Based on the petitioner's admission, he presented the Tax Declaration 2006-07016-00394[36] dated November 13, 2006 purporting to prove the assessed value of the property for the first time on appeal before the CA in his Brief.[37] There was no proof or allegation that he presented the same during the trial or that the court examined such document.[38] Since the tax declaration was never duly identified by testimony during the trial albeit incorporated in the Appellee's Brief, the CA will not be required to review such document that was not previously scrutinized by the RTC. As the assessed value is a jurisdictional requirement, the belated presentation of document proving such value before the appellate court will not cure the glaring defect in the complaint. Thus, jurisdiction was not acquired.

We find Cabrera's application of Section 5, Rule 10 of the Rules of Court to support his claim that failure of the respondents to object to his presentation of the tax declaration before the CA constitutes an implied consent which then treated the issue of assessed value as if it had been raised in the pleadings specious. Such rule contemplates an amendment to conform to or authorize presentation of evidence before the trial court during the trial on the merits of the case. As held in *Bernardo, Sr. v. Court of Appeals*,[39] this Court expounded:

> It is settled that even if the **complaint be defective, but the parties go to trial** thereon, and the **plaintiff, without objection, introduces sufficient evidence to constitute the particular cause of action**

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[35] *Id.*, citing *People v. Napat-a,* 258-A Phil. 994, 998 (1989), citing *People v. Mate*. 191 Phil. 72, 82 (1981).

[36] *Rollo,* p. 148.

[37] *Id.* at 141.

[38] Formal Offer of Evidence of Petitioner before the RTC; *id.* at 68-69.

[39] 331 Phil. 962 (1996).

which it **intended to allege in the original complaint**, and the defendant voluntarily produces witnesses to meet the cause of action thus established, **an issue is joined as fully and as effectively as if it had been previously joined by the most perfect pleadings.** Likewise, when issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.[40] (Emphases supplied)

It bears emphasis that the ruling in *Tijam* establishes an exception which is to be applied only under extraordinary circumstances or to those cases similar to its factual situation.[41] The general rule is that the lack of a court's jurisdiction is a non-waivable defense that a party can raise at any stage of the proceedings in a case, even on appeal; the doctrine of estoppel, being the exception to such non-waivable defense, must be applied with great care and the equity must be strong in its favor.[42]

All told, We find no error on the part of the CA in dismissing the Complaint for lack of jurisdiction and for not reviewing the document belatedly filed. Consequently, all proceedings in the RTC are null and void. Indeed, a void judgment for want of jurisdiction is no judgment at all, and cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect.[43]

WHEREFORE, petition for review on *certiorari* filed by petitioner Nestor Cabrera is hereby **DENIED**. The assailed Decision dated July 25, 2014 and Resolution dated November 21, 2014 of the Court of Appeals in CA-G.R. CV No. 100950 are hereby **AFFIRMED.**

SO ORDERED.

Velasco, Jr. (Chairperson), Perez, Reyes, and *Jardeleza, JJ.,* concur.

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[40] *Bernardo, Sr. v. Court of Appeals*, *supra*, at 978. (Emphases supplied.)

[41] *Regalado v. Go*, 543 Phil. 578, 598 (2007).

[42] *C & S Fishfarm Corp. v. CA*, 442 Phil. 279, 290-291 (2002).

[43] *Zacarias v. Anacay, supra* note 24.

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THIRD DIVISION

[G.R. No. 215759. November 28, 2016]

HEIRS OF ANDRES NAYA: TERESITA B. NAYA, NORMA N. ORBISO, CARMENCITA N. FERNAN, and NARCISO P. NAYA, *petitioners, vs.* **ORLANDO P. NAYA and SPOUSES HONESIMO C. RUIZ and GLORIA S. RUIZ,** *respondents.*

SYLLABUS

1. **CIVIL LAW; QUIETING OF TITLE; ACTION TO QUIET TITLE; REQUISITES; PRESENT.—** The complaint filed by petitioners is one for quieting of title, reconveyance of ownership, damages, and attorney's fees. To make out an action to quiet title, the initiatory pleading has only to set forth allegations showing that (1) the plaintiff has title to real property or any interest therein and (2) the defendant claims an interest therein adverse to the plaintiffs arising from an instrument, record, claim, encumbrance, or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable. Thus, the averments in petitioners' complaint that: (1) they are the legitimate, compulsory heirs of Spouses Naya, the former registered owners of the property; (2) the property is subject of intestate proceedings before the RTC, Branch 19 of Cebu City; (3) they consented to the occupation of their co-petitioner, Teresita, of the property since the time of death of Spouses Naya; (4) Orlando was able to fraudulently transfer the property in his name; and (5) Spouses Ruiz subsequently purchased the property at an allegedly void sale were sufficient to make out an action to quiet title under Article 476 of the Civil Code.

2. **ID.; LAND REGISTRATION; ACTION FOR RECONVEYANCE; TO CONSTITUTE AN ACTION FOR RECONVEYANCE BASED ON AN IMPLIED TRUST, IT MUST BE ALLEGED IN THE COMPLAINT THAT THE PLAINTIFF WAS THE OWNER OF THE LAND OR POSSESSED THE LAND IN THE CONCEPT OF OWNER, AND THAT THE DEFENDANT HAD ILLEGALLY DISPOSSESSED HIM**