THIRD DIVISION

[G.R. No. 256924. June 14, 2023]

SPOUSES FORTUNATO G. VELOSO[*] AND ADELINE C. VELOSO, *Petitioners*, *v.* **BANCO DE ORO UNIBANK, INC., CLERK OF COURT AND EX-OFFICIO SHERIFF and JOHN DOE,** *Respondents*.

D E C I S I O N

INTING, *J.*:

Before the Court is a Petition[1] for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision[2] dated November 16, 2020, and the Resolution[3] dated June 16, 2021, of the Court of Appeals (CA) in CA-G.R. CV No. 113846. The CA affirmed the Resolution[4] dated March 18, 2019, and the Order[5] dated July 29, 2019, of Branch 97, Regional Trial Court (RTC), Quezon City in Civil Case No. 13-01126 which dismissed for lack of jurisdiction the Complaint[6] filed by petitioners Spouses Fortunato and Adeline Veloso (petitioner-spouses) against respondent Banco De Oro Unibank, Inc. (respondent BDO).

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[*] Referred to as "Fortunato D. Veloso" and "Fortunato G. Veloso" in some parts of the *rollo*.

[1] *Rollo*, pp. 11–33.

[2] Id. at 35–44. Penned by Associate Justice Marie Christine Azcarraga-Jacob and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Florencio Mallanao Mamauag, Jr.

[3] Id. at 46–48.

[4] Id. at 150–158. Penned by Acting Presiding Judge Marilou D. Runes-Tamang.

[5] Id. at 159–162.

[6] See Complaint for Declaration of Nullity of: Real Estate Mortgage; Extrajudicial Foreclosure of Real Estate Mortgage; Certificate of Sale; Registration of Certificate of Sale; and All Related Entries. Moral Damages, Exemplary Damages, Litigation Expenses, and Attorney's Fees with Application for Temporary Restraining Order and Writ of Preliminary Injunction. Id. at 49–69.

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The Antecedents

Petitioner-spouses had several transactions with respondent BDO involving credit card obligations, as well as real estate loan and auto loan transactions secured by a real estate mortgage and a chattel mortgage.[7]

On June 25, 2010, petitioner-spouses executed a *Mortgage Loan Agreement*[8] in favor of respondent BDO to secure the payment of a ₱5,184,900.00 real estate loan obtained with the bank; and they constituted a real estate mortgage over their real properties covered by Condominium Certificates of Title (CCT) Nos. N-57600, N-57476, N-57475, and N-57490 recorded with the Registry of Deeds (RD) of Quezon City (the mortgaged properties).[9]

After petitioner-spouses defaulted in their obligations, respondent BDO filed before the Clerk of Court (COC) of the RTC of Quezon City a petition for extrajudicial foreclosure of mortgage on October 10, 2012; the petition was docketed as FRE No. 9302.[10]

On November 23, 2012, petitioner-spouses filed before Branch 147, RTC, Makati City a Complaint[11] for Accounting, Judicial Determination or Fixing of Obligations, Legal Compensation or Set-off, and Damages against respondent BDO, docketed as Civil Case No. 12-1148. Petitioner-spouses alleged in the complaint that the stipulations in the promissory notes and related documents executed by petitioner-spouses in favor of respondent BDO were void for being unconscionable and illegal.[12]

In the meantime, at the public auction of the mortgaged properties held on November 27, 2012, respondent BDO emerged

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[7] Id. at 36, 51, 75.

[8] Id. at 70–73.

[9] Id. at 51, 81.

[10] Id. at 55, 76, 83.

[11] Id. at 121–149.

[12] Id. at 132–134. See also id. at 36, 51–52, 76.

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as the highest bidder. The COC accordingly issued to respondent BDO a certificate of sale, which the RD subsequently annotated on the CCTs of the mortgaged properties on December 27, 2012.[13]

On May 30, 2013, respondent BDO furnished petitioner-spouses with a *Notice to Redeem* informing them of the date of the registration of the *Certificate of Sale* with the RD and reminding them of their right to redeem the mortgaged properties.[14]

On June 19, 2013, petitioner-spouses filed the instant Complaint[15] against respondent BDO for "*Declaration of Nullity of Real Estate Mortgage, Extrajudicial Foreclosure of Real Estate Mortgage, Certificate of Sale, Registration of Certificate of Sale, and All Related Entries.*" They asserted that the stipulations in the parties' mortgage agreement are null and void for being unconscionable and illegal;[16] hence, the extrajudicial foreclosure and all proceedings subsequently made pursuant thereto are likewise a nullity and produce no legal effect whatsoever.[17]

On June 5, 2018, respondent BDO filed a *Motion to Dismiss*[18] on the ground that the RTC had no jurisdiction over the case. Respondent BDO asserted that the complaint involves title to or possession of real property or interest therein; being a real action, the jurisdiction of the court is determined by the assessed value of the property which petitioner-spouses failed to allege in their complaint.[19]

In their *Opposition*[20] to the motion, petitioner-spouses argued that their complaint partakes of the nature of a personal action being based on privity of contract; the primary relief sought is

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13 Id. at 57, 76, 83.

14 Id. at 57, 76.

15 Id. at 49–69.

16 Id. at 54–55.

17 Id. at 56–57.

18 Id. at 109–115.

19 Id. at 37, 109, 111.

20 Id. at 116–118.

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the nullification of their mortgage contract with respondent BDO and not the recovery of possession of the mortgaged properties because they are still in possession thereof. [21]

Ruling of the RTC

In a Resolution[22] dated March 18, 2019, the RTC dismissed the complaint of petitioner-spouses on the ground of lack of jurisdiction. It ruled:

> In this case, the main objective of the plaintiffs [Spouses Veloso] is to declare as null and [void] the subject real estate mortgage, extrajudicial foreclosure of real estate mortgage, certificate of sale[,] registration of certificate of sale, notwithstanding the prayer for damages. According to the plaintiffs, the instant case is not a real action; it is a personal action wherein the objective is for the nullification of certain documents. The plaintiffs are not asking to recover possession because at the moment, they are still in the possession of the subject property.
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> x x x [T]he law does not speak only of recovery of possession of real property to be considered within the ambit of real action, it also include[s] *'title to or any interest therein.'* To ask the court to declare as null and [void] the subject real estate mortgage, extrajudicial foreclosure of real estate mortgage, certificate of sale, registration of certificate of sale constitute[s] title to any interest in the subject properties. Thus, real action. Now, for failure of the plaintiffs to allege the assessed value of the subject properties, the court cannot acquire jurisdiction.[23] (Italics in the original)

Petitioner-spouses moved for reconsideration, but the RTC denied it in its Order[24] dated July 29, 2019.

Aggrieved, petitioner-spouses elevated the matter to the CA *via* a petition for review under Rule 41 of the Rules of Court.[25]

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[21] Id. at 116–117.

[22] Id. at 150–158.

[23] Id. at 156–157.

[24] Id. at 159–162.

[25] See id. at 15.

Ruling of the CA

On November 16, 2020, the CA promulgated its Decision[26] affirming *in toto* the Resolution and Order of the RTC. The CA likewise denied the motion for reconsideration filed by petitioner-spouses in its Resolution[27] dated June 16, 2021.

Hence, the petition.[28]

Petitioner-spouses asseverate that the RTC and the CA erroneously classified the instant action as a real action notwithstanding the clear averments in the complaint. They argue that the primary relief sought therein negates the recovery of ownership or possession of the mortgaged properties; instead, it pertains to the declaration of the nullity of the parties' mortgage contract that gave respondent BDO the corollary right to foreclose in case of default in the obligations secured thereby. Petitioner-spouses assert that the action for the declaration of the nullity of a contract is an action beyond pecuniary estimation; hence, it is within the jurisdiction of the RTC.[29] They posit that in the alternative, assuming that their complaint is a real action, the courts *a quo* erred in dismissing it on the ground of lack of jurisdiction because the assessed value of the mortgaged properties can be clearly inferred from the attachments to the complaint,[30] consistent with the Court's ruling in *Agarrado v. Librando-Agarrado*[31] and *Foronda-Crystal v. Son*.[32]

On the other hand, respondent BDO in its Comment[33] asserts that the action for annulment of mortgage and foreclosure of mortgage, *inter alia*, filed by petitioner-spouses in the RTC is a real action considering that it involves title to or interest in real

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[26] Id. at 35–44.

[27] Id. at 46–48.

[28] Id. at 11–33.

[29] Id. at 20, 24–25.

[30] Id. at 25–28.

[31] 832 Phil. 513 (2018).

[32] 821 Phil. 1033 (2017).

[33] *Rollo*, pp. 172–186.

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property. Respondent BDO points out that their primary objective in filing the action is to recover the ownership of the subject property from respondent BDO, which acquired the mortgaged properties as the highest bidder in the auction sale.[34] The failure of petitioner-spouses to allege the assessed value of the mortgaged properties in their complaint was thus fatal to their action. Corollarily, both the RTC and the CA did not err in ordering the dismissal of the complaint on the ground of lack of jurisdiction.[35]

The Issue

The sole issue for this Court's resolution is whether the RTC acquired jurisdiction over the subject matter of the action.

Our Ruling

The Court resolves to deny the petition.

The instant case is a real action affecting title to or possession of the subject real property.

Jurisdiction is defined as "the power and authority of a court to hear, try, and decide a case."[36] For the court to have the power to adjudicate or dispose of the case on the merits, it must acquire jurisdiction over the subject matter, among others,[37] because "[j]urisdiction over the subject matter of a case is conferred by law."[38]

Section 19 of *Batas Pambansa Bilang* (BP) 129,[39] as amended by Republic Act No. (RA) 7691,[40] provides that the RTC shall exercise exclusive original jurisdiction in the following actions:

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[34] Id. at 173–178.

[35] Id. at 182–183.

[36] *Cruz v. CA*, G.R. No. 238640, July 1, 2020.

[37] Id.

[38] *City of Iloilo v. Philippine Ports Authority*, G.R. No. 233861, January 12, 2021.

[39] Entitled "An Act Reorganizing the Judiciary, Appropriating Funds Therefor, and for Other Purposes," approved on August 14, 1981.

[40] "AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL

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Sec. 19. *Jurisdiction in civil cases*. — Regional Trial Courts shall exercise exclusive original jurisdiction.

(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation;

(2) In all civil actions which involve the title to, or possession of, real property, or any interest therein, where the assessed value of the property involved exceeds Twenty thousand pesos (₱20,000.00) or, for civil actions in Metro Manila, where such value exceeds Fifty thousand pesos (₱50,000.00) except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts;

x x x x

Meanwhile, Section 33 of the same law provides for the exclusive original jurisdiction of the first level courts, *viz.*:

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

x x x x

(3) Exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property, or any interest therein

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CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 129, OTHERWISE KNOWN AS THE 'JUDICIARY REORGANIZATION ACT OF 1980'" which took effect on April 15, 1994. RA 11576, or *"An Act Further Expanding the Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purposes Batas Pambansa Blg. 129, Otherwise Known as 'The Judiciary Reorganization Act of 1980,' as Amended," which took effect on August 21, 2021*, amended Sections 19 and 33 of BP 129 (as amended by RA 7691) by increasing the jurisdictional amount cognizable by the Regional Trial Courts — and accordingly setting the ceiling for that cognizable by first level courts — in all civil actions which involve the title to, or possession of, real property, or any interest therein, from the previous amount of ₱20,000 (₱50,000 in Metro Manila) to ₱400,000, except for forcible entry into and unlawful detainer of lands and buildings, original jurisdiction over which remains with the first-level courts.

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> 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.

The well settled rule is that "the nature of the action and which court has original and exclusive jurisdiction over the same is determined by the material allegations of the complaint, the type of relief prayed for by the plaintiff and the law in effect when the action is filed, irrespective of whether the plaintiffs are entitled to some or all of the claims asserted therein."[41] In this respect, the Court has held:

> To determine the nature of an action, whether or not its subject matter is capable or incapable of pecuniary estimation, the nature of the principal action or relief sought must be ascertained. If the principal relief is for the recovery of a sum of money or real property, then the action is capable of pecuniary estimation. However, if the principal relief sought is not for the recovery of sum of money or real property, even if a claim over a sum of money or real property results as a consequence of the principal relief, the action is incapable of pecuniary estimation.[42]

Relatedly, Section 1, Rule 4 of the Rules of Court, in relation to Section 2 thereof, defines a real action as one "affecting title to or possession of real property or interest therein"; all other actions are personal actions. "A real action must be filed in the proper court which has jurisdiction over the subject real property, while a personal action may be filed where the plaintiff or defendant resides, or if the defendant is a non-resident, where he may be found, at the election of the plaintiff."[43]

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[41] *Heirs of Sps. Ramiro v. Sps. Bacaron*, 846 SCRA 410, 418 (2019).

[42] *First Sarmiento Property Holdings, Inc. v. Philippine Bank of Communications*, 833 Phil. 400, 406–407 (2018).

[43] *Heirs of Rosa Pamaran v. Bank of Commerce*, 789 Phil. 42, 54 (2016).

Petitioner-spouses contend that their complaint for the annulment of their real estate mortgage contract with respondent BDO has a subject incapable of pecuniary estimation because it was not intended to recover ownership and/or possession of the mortgaged properties sold to respondent BDO during the auction sale.[44]

Respondent BDO counters that, as evident from the complaint, the primary purpose of the causes of action of petitioner-spouses involves title to or possession of real property; and that the complaint seeks to allow petitioner-spouses to exercise their right to redeem the mortgaged properties and maintain their peaceful and undisturbed possession of the same, among others. Respondent BDO thus posits that the complaint, being in the nature of a real action, should have been filed with the court having jurisdiction based on the assessed value of the property. It adds that there was no effort on the part of petitioner-spouses to allege the assessed value of the property.[45]

The Court agrees with respondent BDO.

Pertinent portions of the assertions in petitioner-spouses' complaint evince the fact that the underlying thrust of their action is not the mere nullification of their mortgage contract with respondent BDO but, indeed, the eventual recovery of ownership and possession of the mortgaged properties, *viz.*:

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

x x x x

11. To secure payment of the promissory note mentioned in the preceding paragraph, plaintiffs executed in favor of defendant BDO a Real Estate Mortgage x x x over three (3) residential condominium units and one (1) parking area at the Residencia de Regina Condominium, 94 Xavierville Avenue, Loyola Heights, Quezon City covered by the condominium certificates of title x x x.

x x x x

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[44] *Rollo*, p. 20.

[45] Id. at 182–183.

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FIRST CAUSE OF ACTION:
FOR DECLARATION OF NULLITY OF REAL ESTATE MORTGAGE

x x x x

16. The Real Estate Mortgage x x x is null and void *ab initio* because, among other reasons, the said document contains stipulations which are unconscionable and/or which are contrary to law, morals, good customs and public policy and/or which were never voluntarily agreed upon by the parties.

17. The said Real Estate Mortgage x x x must be declared null and void or nullified or annulled.

x x x x

SECOND CAUSE OF ACTION:
FOR DECLARATION OF NULLITY OF EXTRAJUDICIAL FORECLOSURE AND CERTIFICATE OF SALE

x x x x

19. Defendant BDO initiated proceedings against plaintiffs to extrajudicially foreclose the Real Estate Mortgage x x x in a petition which was docketed as FRE No. 9302 in the office of defendant COC. The public auction of the properties subject of the Real Estate Mortgage x x x was scheduled on November 27, 2012.

20. Defendant BDO and defendant COC were promptly informed of the filing by plaintiffs on the complaint in the abovementioned Civil Case No. 12-1148 in the Regional Trial Court of Makati City.

x x x x

22. *In the extrajudicial foreclosure proceedings (FRE No. 9302) filed by defendant BDO against plaintiffs, defendant COC auctioned the condominium units of plaintiffs to defendant BDO as the highest bidder* even if the issue of whether or not the promissory note and related documents executed by the plaintiffs in favor of defendant BDO and secured by the Real Estate Mortgage x x x and the issue of whether or not plaintiffs are liable to defendant BDO for any amount as well as the corollary issue of how much, if any, is the amount of plaintiffs' liability to defendant BDO, were still the subject of adjudication by the Regional Trial Court of Makati City as of the date when the complaint was filed in 2012, and until this time, the said issues are still pending adjudication by the said court.

23. *Defendant COC also issued to defendant BDO in the extrajudicial foreclosure proceedings a Certificate of Sale* x x x over the condominium units of plaintiffs even if the issue of whether or not the promissory note and related documents executed by the plaintiffs in favor of defendant BDO and secured by the Real Estate Mortgage x x x and the issue of whether or not plaintiffs are liable to defendant BDO for any amount as well as the corollary issue of how much, if any, is the amount of plaintiffs' liability to defendant BDO, were still the subject of adjudication by the Regional Trial Court of Makati City as of the date when the complaint was filed in 2012, and until this time, the said issues are still pending adjudication by the said court.

24. *The Certificate of Sale* x x x *is also null and void ab initio* and not registrable because the respective prices paid by defendant BDO in the foreclosure sale for each of the condominium units and parking area of plaintiffs subject of the real estate mortgage, were not specifically indicated thereby depriving the plaintiffs of their right to redeem one, two, three or all of the three (3) condominium units and parking area subject of the Real Estate Mortgage x x x.

25. Given the fact that the four (4) properties subject of the Real Estate Mortgage x x x are distinct and covered by separate titles, it is contrary to law, morals, good custom and public policy and unconstitutional *to deprive plaintiffs of their right to redeem any and all of the four (4) properties subject of the Real Estate Mortgage* x x x.

THIRD CAUSE OF ACTION:
FOR DECLARATION OF NULLITY OF THE REGISTRATION AND ANNOTATION OF THE CERTIFICATE OF SALE

x x x x

27. By way of a letter dated May 30, 2013 x x x, defendant BDO: *(a) specifically informed plaintiffs that the Certificate of Sale* x x x *were annotated on December 27, 2012 in the office of defendant RD; and (b) gave notice upon plaintiffs to redeem if not it will obtain a writ of possession over the subject properties.*

28. The registration in the office of defendant RD of the Certificate of Sale x x x which is null and void *ab initio* and all entries made in the office of defendant RD relating thereto are likewise null and void *ab initio*.

29. *The said registration and all entries in the records of the office of defendant RD must be recalled and/or cancelled and/or nullified.*

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FOURTH CAUSE OF ACTION:
FOR PERMANENT INJUNCTION

x x x x

31. The extrajudicial foreclosure (FRE No. 9302) and all proceedings made therein are null and void and produced no legal effect whatsoever.

32. Defendant BDO is legally barred and prohibited from enforcing any and all purported rights on the basis of or emanating from the extrajudicial foreclosure (FRE No. 9302) which is null and void *ab initio* including but not limited to *the alleged right to require redemption, take possession of the properties subject of the Real Estate Mortgage* x x x, *transfer or sell the same and disturb the peaceful possession thereof by plaintiffs*.

33. The plaintiffs are legally entitled to have defendant BDO permanently prohibited or perpetually barred or indefinitely stopped from using anywhere in any manner and for any purpose any and all documents, proceedings, records, entries, registrations, annotations and any and all other processes emanating from the extrajudicial foreclosure (FRE No. 9302).

x x x x

APPLICATION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

x x x x

49. There is a necessity for the Honorable Court to issue a temporary restraining order and thereafter a writ of preliminary injunction to restrain, enjoin and stop the defendants from the commission or continuance of: (a) any and all acts of enforcing or exercising any and all purported rights on the basis of or emanating from the extrajudicial foreclosure (FRE No. 9302) which is null and void *ab initio including but not limited to the purported right to require redemption, take possession of the properties subject of the Real Estate Mortgage* x x x, *transfer or sell the same and disturb the peaceful possession thereof by plaintiffs*; and (b) any and all acts of using anywhere in any manner and for any purpose any and all documents, proceedings, records, entries, registrations, annotations and any other processes emanating from the extrajudicial foreclosure (FRE No. 9302), during the pendency of this case.[46] (Italics supplied)

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[46] Id. at 51–61.

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The following are the reliefs sought by petitioner-spouses in their complaint:

PRAYER

WHEREFORE, i[n] the light of the foregoing, it is most respectfully prayed of the Honorable Court:

x x x x

ON THE FIRST CAUSE OF ACTION:
FOR DECLARATION OF NULLITY OF REAL ESTATE MORTGAGE –

5. That the Real Estate Mortgage x x x be declared as null and void *ab initio* or be nullified or be annulled.

[ON] SECOND CAUSE OF ACTION:
FOR DECLARATION OF NULLITY OF EXTRAJUDICIAL FORECLOSURE AND CERTIFICATE OF SALE –

6. *That the extrajudicial foreclosure proceedings (FRE No. 9302), auction sale, and all proceedings held therein including but not limited to the issuance and delivery of the Certificate of Sale* x x x *be declared as null and void ab initio and of no force and effect and/or be nullified and/or be annulled.*

ON THE THIRD CAUSE OF ACTION:
FOR DECLARATION OF NULLITY OF THE REGISTRATION AND ANNOTATION OF THE CERTIFICATE OF SALE –

7. *That the registration in the office of defendant RD of the Certificate of Sale* x x x *and all entries relating thereto in the office of defendant RD be declared as null and void ab initio and/or be recalled and/or be cancelled and/or be nullified and/or be annulled.*

ON THE FOURTH CAUSE OF ACTION:
FOR PERMANENT INJUNCTION –

8. That defendant BDO be legally barred and prohibited, permanently and in perpetuity, from enforcing any and all purported rights on the basis of or emanating from the extrajudicial foreclosure (FRE No. 9302) *including but not limited to the alleged right to require redemption, take possession of the properties subject of the Real Estate Mortgage* x x x, *transfer the properties or sell the same and disturb the peaceful possession thereof by plaintiffs*; and further, that defendant BDO be permanently prohibited or perpetually barred or indefinitely stopped

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from using anywhere in any manner and for any purpose any and all documents, proceedings, records, entries, registrations, annotations and any other process emanating from the extrajudicial foreclosure (FRE No. 9302).

x x x x

AS AN ALTERNATIVE REMEDY WITH RESPECT TO THE FIRST, SECOND AND THIRD CAUSES OF ACTION:

13. As an alternative remedy with respect to the matters prayed for in relation to the first, second and third causes of action above, in the very remote possibility that the Real Estate Mortgage x x x, foreclosure proceedings (FRE No. 9302), Certificate of Sale x x x and registration and annotation of the said Certificate of Sale x x x in the office of defendant RD are declared by the Honorable Court as valid and effective, it is most respectfully prayed of the Honorable Court:

> 13.1. That the plaintiffs be granted the right *to legally redeem the properties subject of the Real Estate Mortgage* x x x within a reasonable period of not less than one (1) year from the time when the amount of plaintiffs' obligation to defendant BDO, if any there be, shall have been fixed with finality in Civil Case No. 12-1148; and
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> 13.2. That the plaintiffs be allowed *to redeem one, two, three or all of the four (4) distinct properties subject of the Real Estate Mortgage* x x x and that for this purpose, the Honorable Court fix the redemption amount for each of the four (4) distinct properties subject of the Real Estate Mortgage x x x as a proportion or percentage of the amount of plaintiffs' obligation to defendant BDO, if any there be, as fixed with finality in Civil Case No. 12-1148.[47] (Italics supplied)

From the foregoing allegations, it becomes apparent that while petitioner-spouses assert that their complaint does not directly seek the recovery of title or possession of the mortgaged properties, the relief sought in the action for annulment of real estate mortgage, extrajudicial foreclosure of real estate mortgage, certificate of sale, registration of certificate of sale, and all related entries in favor of the mortgagee-creditor (who later became the buyer as the highest bidder in the auction sale) is closely intertwined with the issue of

[47] Id. at 64–68.

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the ownership of the mortgaged properties, the recovery of which is petitioner-spouses' primary objective. Indubitably, the instant case is in reality a real action, affecting as it does to the title to or possession of real property.[48]

Petitioner-spouses, however, attempt to justify the conclusion that their primary objective is *not* the recovery of possession of the mortgaged properties by their averment that they are currently in possession thereof.[49] It bears to note, however, that while petitioner-spouses are still in physical possession of the mortgaged properties, the ownership thereof had already been transferred to respondent BDO when the latter emerged as the highest bidder in the foreclosure sale; the mortgaged properties are already in the name of respondent BDO as reflected in the CCTs thereof.[50] In fact, as correctly pointed out by respondent BDO, the admission of possession by petitioner-spouses only shows their adamant refusal to surrender possession of the mortgaged properties despite the lapse of a considerable length of time from the expiration of the one-year redemption period, counted from the registration of the certificate of sale issued in favor of respondent BDO. As it stands now, the declaration of the nullity or validity of the extrajudicial foreclosure sale will definitely affect the title of petitioner-spouses and respondent BDO to the mortgaged properties.

Notably, it is a mandatory requirement for the certificate of sale issued by the sheriff after an extrajudicial sale to be registered. "[I]f the certificate of sale is not registered with the Registry of Deeds, the property sold at auction is not conveyed to the new owner and the period of redemption does not begin to run."[51] It stands to reason that when the complaint was filed, although petitioner-spouses were still in physical possession of the mortgaged properties, its ownership and consequent right to possession were already conveyed to respondent BDO. This supports the claim of respondent BDO that the primary purpose

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[48] Sec. 1, Rule 4, Rules of Court.

[49] *Rollo*, pp. 116–117.

[50] Id. at 57, 76, 83.

[51] *First Sarmiento Property Holdings, Inc. v. Philippine Bank of Communications*, supra note 42, at 422.

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of petitioner-spouses in the filing of the instant complaint is to recover the ownership and possession of the mortgaged properties.

Jurisprudence holds that in an action "involving title to real property," the cause of action of the plaintiff is based on a claim that he or she owns such property or that he or she has the legal rights to have exclusive control, possession, enjoyment, or disposition of the same. Title has been described as the "legal link between (1) a person who owns property and (2) the property itself."[52]

To be sure, from a perusal of the Complaint, the case filed by petitioner-spouses is not simply a case for the nullification of the mortgage contract, the foreclosure sale, and the certificate of sale issued in favor of respondent BDO. The issue would merely be determined "after a court of competent jurisdiction shall have first resolved the matter of who between the conflicting parties" is the lawful owner of the mortgaged properties and is ultimately entitled to its possession and enjoyment. Thus, the action is about ascertaining which of the parties is the lawful owner of the mortgaged properties.[53]

Accordingly, Civil Case No. 13-01126, being an action seeking the annulment of the sale and titles resulting from the extrajudicial foreclosure by respondent BDO of the mortgaged properties, is classified as a real action.[54]

In real actions, the assessed value of the realty as alleged in the complaint determines the trial court's jurisdiction.

Although an action involving title to real property is also incapable of pecuniary estimation as it is not for recovery of money,[55] the assessed value of the property subject thereof

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[52] *Heirs of Sps. Ramiro v. Sps. Bacaron*, supra note 41, at 422.

[53] *Padlan v. Sps. Dinglasan*, 707 Phil. 83, 92–93 (2013).

[54] See *Paglaum Management & Development Corp. v. Union Bank of the Philippines*, 688 Phil. 157, 164 (2012).

[55] *Roldan v. Sps. Barrios*, 830 Phil. 583, 594 (2018), citing *Russell v. Hon. Vestil*, 364 Phil. 392, 400–401 (1999).

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determines the court's jurisdiction while the location of the property determines the venue.[56]

On this score, the CA did not err in affirming the RTC's dismissal of the case for lack of jurisdiction on the ground of the failure of petitioner-spouses to allege the assessed value of the mortgaged properties subject of their complaint.[57] The failure meant the RTC would lack any basis to determine which court could validly take cognizance of the cause of action.[58]

It bears stressing that under Sections 19 and 33 of BP 129, as amended by RA 7691, both the first-level courts and the second-level courts exercise original jurisdiction over actions involving title to or possession of real property or any interest therein; however, it is the assessed value of the realty involved that points out which court shall acquire exclusive jurisdiction over a real action, as in the case.

The law is explicit that the jurisdiction of the court in real actions is determined by its *assessed value*, which "contemplates a more conservative and stable method of valuation that is based on a standard mechanism (multiplying the fair market value by the assessment level) conducted by the local assessors." The assessed value of the subject property must be averred in the complaint; otherwise, "it cannot be ascertained which trial court shall exercise exclusive jurisdiction over the action."[59]

Petitioner-spouses do not dispute their failure to allege the assessed value of the mortgaged properties in their complaint. However, they assert that the courts *a quo* erred in dismissing the complaint on the ground of lack of jurisdiction because the assessed value of the mortgaged properties can be clearly inferred from a facial examination of the attachments to the complaint,

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[56] Sec. 1 in relation to Sec. 2, Rule 4, Rules of Court. See also *Getigan v. Rodis*, G.R. No. 243065 (Notice), December 4, 2019.

[57] *Rollo*, p. 43.

[58] *Salvador v. Patricia, Inc.*, 799 Phil. 116, 132 (2016). See also *Piramide v. Heirs of Piramide*, G.R. No. 228408 (Notice), June 30, 2020.

[59] *Gabrillo v. Heirs of Pastor*, 921 SCRA 439, 447 (2019).

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consistent with the Court's ruling in *Agarrado v. Librando-Agarrado*[60] and *Foronda-Crystal v. Son*.[61] According to petitioner-spouses, the Disclosure Statement on Loan/Credit Transaction attached to the complaint indicates that the loan is in the amount of ₱5,184,900.00. From this, it can be inferred that the assessed value of the condominium units far exceeds the amount of petitioner-spouses' debt—definitely more than the ₱50,000.00 jurisdictional amount—taking into consideration the provisions of the Local Government Code and the General Banking Law on the matter.[62]

The point raised by petitioner-spouses fails to persuade. Courts "cannot simply take judicial notice of the assessed value or market value of a land." This proceeds from the legal dictum that jurisdiction is conferred by law; it "cannot be presumed or conferred on the court's erroneous belief that it had jurisdiction over a case."[63]

In *Gabrillo v. Heirs of Pastor*[64] (*Gabrillo*), the Court affirmed the dismissal of the complaint on account of the failure of the complainant therein to allege the disputed property's assessed value, albeit the market value thereof pegged at ₱50,000.00 was stated. Akin to the case, the complainant in *Gabrillo* failed to state the assessed value of the disputed property; neither did they attach to their complaint annexes which would reflect the assessed value of the property subject of the complaint. While remaining mindful of the liberal application of the rule strictly requiring the allegation of the assessed value of the realty to determine the trial court's jurisdiction in real actions, the Court held that:

> x x x In *Foronda-Crystal v. Son*, it was held that the failure to allege the real property's assessed value in the complaint would not be fatal if, in the documents annexed to the complaint, an allegation of the assessed value could be found. It justified the relaxation of the rule by echoing the Court's pronouncement in *Tumpag v. Tumpag*, *viz.*:

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60 Supra note 31.

61 Supra note 32.

62 *Rollo*, pp. 26–27.

63 *Lagundi v. Bautista*, G.R. No. 207269, July 26, 2021.

64 Supra note 59.

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> Generally, the court should only look into the facts alleged in the complaint to determine whether a suit is within its jurisdiction. There may be instances, however, when a rigid application of this rule may result in defeating substantial justice or in prejudice to a party's substantial right. x x x

Here, not even a single document reflecting the assessed value of the subject property was annexed to petitioner's complaint. The attachment of sworn declaration of real property to the complaint would have triggered the liberal application of the rule since it bears the assessed value of the property at issue. Jurisprudence teaches that "the tax declaration indicating the assessed value of the property enjoys the presumption of regularity as it has been issued by the proper government agency." Petitioner, however, failed to adduce the tax declaration which could have shown that the RTC indeed had jurisdiction over the case.

The market value of the subject property alleged in the complaint cannot be the basis to determine whether the court *a quo* has jurisdiction over the case since it is the assessed value which determines the jurisdiction of the court. *If the lawmakers intended to recognize the market value of the realty as basis in determining the jurisdiction, they could have specified the same in R.A. No. 7691 which amended B.P. Blg. 129. There being no modification of Section 19 (2) and Section 33 (3), the rule stands that the jurisdictional element for real action is the assessed value of the property in question.*[65] (Italics supplied)

Based on the foregoing discussion, petitioner-spouses' allusion to a reasonable inference of the mortgaged properties' appraised or market value, based on the amount of their loan as reflected in the Disclosure Statement on Loan/Credit Transaction[66] annexed to their complaint, just does not hold water.

Consequently, for failure of petitioner-spouses to reflect the assessed value of the mortgage properties in the complaint, or in the annexes thereto, the dismissal of the instant case is in order.

WHEREFORE, the instant Petition for Review is hereby **DENIED**. The Decision dated November 16, 2020, and the

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[65] Id. at 448, citing *Foronda-Crystal v. Son*, supra note 32 and *Tumpag v. Tumpag*, 744 Phil. 423, 430–431 (2014).

[66] *Rollo*, p. 74.

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Resolution dated June 16, 2021, of the Court of Appeals in CA-G.R. CV No. 113846 which affirmed the Resolution dated March 18, 2019, and the Order dated July 29, 2019, of Branch 97 of the Regional Trial Court of Quezon City dismissing the complaint in Civil Case No. 13-01126 are hereby **AFFIRMED.**

SO ORDERED.

Caguioa (Chairperson), Gaerlan, Dimaampao, and *Singh, JJ.*, concur.

APPEARANCES OF COUNSEL

Normal R. Gabriel for petitioners.

Tomas De Lara II for respondents.