



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**MAE FLOR GALIDO,**  
 Petitioner,

**G.R. No. 206584**

-versus-

Present:

**NELSON P. MAGRARE,**  
**EVANGELINE M. PALCAT,**  
**RODOLFO BAYOMBONG, and**  
**REGISTER OF DEEDS OF ANTIQUE,**  
 San Jose, Antique,

CARPIO, J., Chairperson,  
 BRION,  
 DEL CASTILLO,  
 MENDOZA, and  
 LEONEN, JJ.

Respondents.

Promulgated:

**11 JAN 2016**

x-----  
*[Handwritten signature]*

**DECISION**

**CARPIO, J.:**

**The Case**

Before the Court is a petition for review<sup>1</sup> assailing the Decision<sup>2</sup> dated 29 February 2012 and Resolution<sup>3</sup> dated 28 February 2013 of the Court of Appeals in CA-G.R. CEB CV No. 02306, affirming the Order<sup>4</sup> dated 2 October 2007 of the Regional Trial Court (RTC), Branch 12, San Jose, Antique in RTC Cad. Case No. 2004-819, Cad. Record No. 936.

**The Antecedent Facts**

On 19 August 2004, Mae Flor Galido (petitioner) filed before the RTC of San Jose, Antique a petition<sup>5</sup> to cancel all entries appearing on Transfer

<sup>1</sup> Under Rule 45 of the Revised Rules of Civil Procedure.

<sup>2</sup> *Rollo*, pp. 24-39. Penned by Associate Justice Pampio A. Abarintos with Associate Justices Eduardo B. Peralta, Jr. and Gabriel T. Ingles.

<sup>3</sup> *Id.* at 50-51.

<sup>4</sup> *Id.* at 157-167.

<sup>5</sup> *Id.* at 52-56.

*[Handwritten mark]*

Certificate of Title (TCT) Nos. T-22374, T-22375 and T-22376, all in the name of Isagani Andigan (Andigan), and to annul TCT No. T-24815 and all other TCTs issued pursuant to the Order dated 18 October 2011 of RTC Branch 11, San Jose, Antique (Branch 11) in RTC Civil Case No. 2001-2-3230. The petition was raffled to RTC Branch 12, San Jose, Antique (trial court) and docketed as RTC Cad. Case No. 2004-819 Cad. Record No. 936.

The controversy revolves around three parcels of land, designated as Lot 1052-A-1, Lot 1052-A-2 and Lot 1052-A-3, all of the San Jose, Antique Cadastre. These parcels of land were, prior to subdivision in 1999, part of Lot 1052-A which was covered by TCT No. T-21405 in the name of Andigan.

On 28 December 1998, Andigan sold undivided portions of Lot 1052-A to Nelson P. Magrare (Magrare), Evangeline M. Palcat (Palcat) and Rodolfo Bayombong (Bayombong). To Magrare was sold an undivided portion with an area of 700 square meters, more or less; to Palcat, 1,000 square meters, more or less; and to Bayombong, 500 square meters, more or less.

Andigan caused the subdivision of Lot 1052-A into five lots, namely: Lot 1052-A-1, Lot 1052-A-2, Lot 1052-A-3, Lot 1052-A-4 and Lot 1052-A-5. On 18 October 1999, TCT No. T-21405 was cancelled and new certificates were issued for the subdivided portions. Pertinent to the case are TCT No. T-22374 which was issued for Lot 1052-A-1, TCT No. T-22375 for Lot 1052-A-2 and TCT No. T-22376 for Lot 1052-A-3, all in the name of Andigan. Andigan did not turn over the new TCTs to Magrare, Palcat and Bayombong, and the latter were unaware of the subdivision.

On 8 May 2000, Andigan mortgaged the same three lots to petitioner and the latter came into possession of the owner's duplicate copies of TCT Nos. T-22374, T-22375 and T-22376.

On 6 February 2001, at 11:00 a.m., Magrare, Palcat and Bayombong registered their respective adverse claims on TCT Nos. T-22374, T-22375 and T-22376. On the same day, at 3:00 p.m., petitioner also registered her mortgage on the same TCTs, such that the certificates in the custody of the Register of Deeds were annotated thus:

TCT No. T-22374

Entry No. 246290 – Adverse Claim – executed by Nelson Magrare, covering the parcel of land described herein subject to the conditions embodied in the instrument on file in this office.

Date of Instrument: February 6, 2001.

Date of Inscription: February 6, 2001.

A:M 11:00

Entry No. 246303 – Real Estate Mortgage – executed by Isagani Andigan in favor of Mae Flor Galido, covering the parcel of land described herein for the sum of SIXTY THOUSAND PESOS (₱60,000.00), subject to the conditions embodied in the instrument acknowledged before Notary Public Mariano R. Pefianco of San Jose, Antique as Doc. No. 302 Page No. 61; Book No. 61, Series of 2000.

Date of Instrument: May 8, 2000.

Date of Inscription: February 6, 2001.

P:M 3:00<sup>6</sup>

TCT No. T-22375

Entry No. 246300 – Adverse Claim – executed by Evangeline M. Palcat, covering the parcel of land described herein subject to the conditions embodied in the instrument on file in this office.

Date of Instrument: February 6, 2001.

Date of Inscription: February 6, 2001.

A:M 11:00

Entry No. 246305 – Real Estate Mortgage – executed by Isagani Andigan in favor of Mae Flor Galido, covering the parcel of land described herein for the sum of TEN THOUSAND PESOS (₱10,000.00), subject to the conditions embodied in the instrument acknowledged before Notary Public Mariano R. Pefianco of San Jose, Antique as Doc. No. 226; Page No. 46; Book No. IV, Series of 2000.

Date of Instrument: May 8, 2000.

Date of Inscription: February 6, 2001.

P:M 3:00<sup>7</sup>

TCT No. T-22376

Entry No. 246299 – Adverse Claim – executed by Rodolfo Bayombong, covering the parcel of land described herein subject to the conditions embodied in the instrument on file in this office.

Date of Instrument: February 6, 2001.

Date of Inscription: February 6, 2001.

A:M 11:00

Entry No. 246304 – Real Estate Mortgage – executed by Isagani Andigan in favor of Mae Flor Galido, covering the parcel of land described herein for the sum of SIXTY THOUSAND PESOS (₱60,000.00), subject to the conditions embodied in the instrument acknowledged before Notary Public Mariano R. Pefianco of San Jose, Antique as Doc. No. 219; Page No. 44; Book No. IV, Series of 2000.

Date of Instrument: May 5, 2000.

Date of Inscription: February 6, 2001.

P:M 3:00<sup>8</sup>

On 22 February 2001, Magrara, Palcat and Bayombong filed before the RTC of San Jose, Antique a Petition to Compel the Surrender to the Register of Deeds of Antique the Owner's Duplicate Copies of TCT No. T-

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<sup>6</sup> Records, p. 38.

<sup>7</sup> Id. at 40.

<sup>8</sup> Id. at 42.

22374 Issued for Lot 1052-A-1; TCT No. T-22375 Issued for Lot 1052-A-2; and TCT No. T-22376 Issued for Lot 1052-A-3, all of the San Jose Cadastre against the Spouses Isagani and Merle Andigan.<sup>9</sup> The case, raffled to Branch 11 and docketed as Civil Case No. 2001-2-3230, was tried and decided on its merits.

Civil Case No. 2001-2-3230 (RTC Branch 11)

According to Magrare, Palcat and Bayombong, even prior to the subdivision, they had made oral demands on Andigan to secure TCT No. T-21405 in order that they may take the appropriate steps to register the affected lots in their names.<sup>10</sup> That Andigan had proceeded with the subdivision and registration of the subdivided lots was unknown to them. They registered their adverse claims upon discovery of the subdivision. Neither were they aware that Andigan had mortgaged the lots he sold to them. They only discovered the mortgage when they requested certified true copies of TCT Nos. T-22374, T-22375 and T-22376, in preparation for filing a petition to compel delivery.

On the other hand, Andigan insisted that he made demands on Magrare, Palcat and Bayombong to pay for the costs of subdividing Lot 1052-A and registering the subdivided lots. Their failure to pay the costs was his motivation in withholding the TCTs from them. In other words, Andigan did not dispute that the undivided portions of Lot 1052-A he sold them were indeed Lot 1052-A-1 covered by TCT No. T-22374, Lot 1052-A-2 covered by TCT No. T-22375 and Lot 1052-A-3 covered by TCT No. T-22376.<sup>11</sup>

On 18 October 2001, RTC Branch 11 issued an Order granting the petition, to wit:

WHEREFORE, premises considered, the PETITION dated February 16, 2001 is hereby granted and, in consequence, the respondent spouses ISAGANI ANDIGAN and MERL[E] ANDIGAN are hereby directed to surrender or deliver to the Register of Deeds for Antique the owner's duplicate copies of Transfer Certificates of Title Nos. T-22374, T-22375 and T-22376.

If for any reason the outstanding owner's duplicate copies of the subject certificates of title cannot be so surrendered or delivered, the Register of Deeds for Antique is hereby ordered to annul the same, issue new certificates of title in lieu thereof which shall contain a memorandum of the annulment of the outstanding owner's duplicate copies.

SO ORDERED.<sup>12</sup>

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<sup>9</sup> *Rollo*, pp. 116-120.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 131-133.

<sup>12</sup> *Records*, p. 188.

Spouses Andigan through counsel filed a Notice of Appeal. The appeal was docketed as CA G.R. CV 73363. However, they failed to timely file their appellants' brief, and the appeal was dismissed in a Resolution dated 15 October 2002.<sup>13</sup> The 15 October 2002 Resolution became final and executory on 22 December 2002 and was recorded in the Book of Entries of Judgments.<sup>14</sup>

Upon Motion for Execution, RTC Branch 11 issued the Writ of Execution directing the Provincial Sheriff of Antique to cause the satisfaction of the Order dated 18 October 2001.<sup>15</sup> For failure to gain satisfaction of the order from the Spouses Andigan, the Register of Deeds was notified and commanded to annul the duplicate copies of TCT Nos. T-22374, T-22375 and T-22376 and new ones were issued in lieu thereof.<sup>16</sup>

The records bare that petitioner filed a Third Party Claimant's Affidavit dated 3 March 2004<sup>17</sup> before the RTC Branch 11 after learning of the Notification and Writ of Execution.

The following were also inscribed on TCT Nos. T-22374, T-22375, and T-22376:

- (1) Notice of Lis Pendens of CA G.R. CV-No. 73363, on 16 July 2002;
- (2) Order issued by RTC Branch 11 directing the Register of Deeds for Antique to annul the subject certificates and issue new ones in lieu thereof, on 21 April 2004;
- (3) Resolution by the Court of Appeals dismissing the appeal from the RTC Branch 11 decision in Civil Case No. 2001-2-3230, on 21 April 2004;
- (4) Writ of Execution issued by RTC Branch 11, on 21 April 2004; and
- (5) Notification issued by the Sheriff to cancel the owner's duplicate copies, on 21 April 2004.<sup>18</sup>

#### Civil Case No. 3345 (RTC Branch 10)

Meanwhile, petitioner also filed with the RTC a case for foreclosure of mortgage against the heirs of Isagani Andigan, entitled *Mae Flor Galido v. Heirs of Isagani Andigan*.<sup>19</sup> The case was raffled to Branch 10 and docketed as Civil Case No. 3345.

It appears that petitioner prevailed in Civil Case No. 3345. As a result, the Sheriff issued a Certificate of Sale<sup>20</sup> in favor of petitioner of the

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<sup>13</sup> Id. at 189-190.

<sup>14</sup> *Rollo*, p. 81.

<sup>15</sup> Records, pp. 193-194.

<sup>16</sup> Id. at 197-200.

<sup>17</sup> Id. at 44-45.

<sup>18</sup> Id. at 38, 40 and 42.

<sup>19</sup> *Rollo*, p. 12.

<sup>20</sup> Id. at 57-58.

properties covered by TCT Nos. T-22374, T-22375 and T-22376.

RTC Cad. Case No. 2004-819, Cad. Record No. 936 (RTC Branch 12)

Hence, petitioner filed a petition seeking to cancel all entries appearing on TCT No. T-22374 for Lot 1052-A-1, TCT No. T-22375 for Lot 1052-A-2, and TCT No. T-22376 for Lot 1052-A-3, and to annul TCT No. T-24815<sup>21</sup> and all other titles issued pursuant to RTC Civil Case No. 2001-2-3230.

Petitioner alleged that she had been a holder in good faith of the following owner's duplicate certificates of title, all of the San Jose Cadastre, in the name of one Andigan:

TCT No. T-22374 for Lot 1052-A-1;  
TCT No. T-22375 for Lot 1052-A-2; and  
TCT No. T-22376 for Lot 1052-A-3.

And that she had prevailed in Civil Case No. 3345 (RTC Branch 10) and was issued a Certificate of Sale by the Sheriff. She also averred that the titles contained adverse claims filed by Magrare, Palcat and Bayombong, and annotations in connection with Civil Case No. 2001-2-3230.

Finding that the case was contentious in nature, the trial court ordered petitioner to amend her petition to implead the following: (1) Magrare, in whose name TCT No. T-24815 was registered and who had earlier registered an adverse claim on TCT No. T-22374; (2) Palcat, who had registered an adverse claim on TCT No. T-22375; and (3) Bayombong, who had registered an adverse claim on TCT No. T-22376.<sup>22</sup>

After petitioner amended her petition, the trial court issued summons to Magrare, Palcat and Bayombong.<sup>23</sup> The summons were duly served on Magrare and Palcat. However, the sheriff reported that Bayombong was not served because he was already dead.<sup>24</sup> Petitioner moved to substitute the heirs of Bayombong, but the trial court ruled that the substitution was without legal basis because Bayombong was not properly impleaded. He died on 13 December 2001 and could not have been made a party to the petition filed on 19 August 2004. Hence, the trial court dismissed the case against Bayombong in an Order dated 22 April 2005.<sup>25</sup>

Petitioner moved to amend her petition for the second time to include the heirs of Bayombong and the Rural Bank of Sibalom (Antique), Inc., whose mortgage was registered on TCT No. T-24815. The trial court ruled

<sup>21</sup> Issued in lieu of TCT No. T-22374 in the name of Magrare.

<sup>22</sup> Order dated 17 January 2005. Records, p. 55.

<sup>23</sup> Id. at 74.

<sup>24</sup> Id. at 75.

<sup>25</sup> Id. at 107-108.

that the names and addresses of all the heirs of Bayombong were not identified, and that there was no showing that the widow of Bayombong represented all the heirs.<sup>26</sup> The trial court also found no legal or factual basis to implead the bank. Hence, the trial court denied petitioner's motion to further amend the petition.<sup>27</sup>

Meanwhile, respondents Magrare and Palcat filed their answer on 4 March 2005,<sup>28</sup> setting forth the following affirmative defenses: (1) petitioner has no cause of action against them; and (2) the present case is barred by the prior ruling in Civil Case No. 2001-2-3230.

Upon motion, the trial court held a summary hearing on the affirmative defenses. Despite due notice, neither petitioner nor her counsel appeared. The trial court allowed respondents' counsel to proceed with the presentation of evidence.<sup>29</sup>

After receiving respondents' evidence in support of their affirmative defenses, the trial court set another hearing to give petitioner a chance to refute the same.<sup>30</sup> However, despite due notice and even a postponement requested by petitioner,<sup>31</sup> she and her counsel failed to appear.<sup>32</sup> The judge took petitioner's absences during the settings for the preliminary hearing as a waiver to present documentary evidence or arguments to refute respondents' evidence.

### **The Ruling of the Trial Court**

On 2 October 2007, the trial court ruled in favor of respondents, dismissing the case, thus:

On the basis of the foregoing findings and observations, this court finds meritorious the affirmative defenses put up by the respondents/adverse claimants, that, the petitioner Mae Flor Galido has no cause of action against them and, that, this case is already barred by prior judgment rendered in Civil Case No. 2001-2-3230. In *Nicasio I. Alacantara, et al. vs. Vicente C. Ponce, et al.*, G.R. No. 131547, Dec. 15, 2005, it was ruled that, "Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Court[s] must therefore guard against any scheme calculated to bring about the result. Constituted as they are to put an end to the controversies, courts should frown upon any attempt to prolong them."

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<sup>26</sup> Id. at 124-125.

<sup>27</sup> Id.

<sup>28</sup> Id. at 79-83.

<sup>29</sup> Id. at 270-271.

<sup>30</sup> Id.

<sup>31</sup> Id. at 307-309.

<sup>32</sup> Id. at 312-313.

PREMISES CONSIDERED, the petition in this case is hereby DENIED and, this case dismissed for the reasons aforestated.<sup>33</sup>

The trial court found petitioner's prayer for cancellation of entries concerning the adverse claims of respondents moot and academic because the same were already cancelled.<sup>34</sup> Further, the decision in Civil Case No. 2001-2-3230 had already become final and in fact was executed.<sup>35</sup> The trial court also ruled that since Andigan had already sold Lots 1052-A-1 and 1052-A-2 to respondents when he mortgaged the same to her, it was as if nothing was mortgaged at all.<sup>36</sup>

Petitioner filed an appeal before the Court of Appeals with the following assignment of errors:

1. THE LOWER COURT ERRED IN FAILING TO GIVE NOTICES TO ALL PARTIES IN INTEREST;
2. THE LOWER COURT ERRED IN REQUIRING THE APPELLANT TO AMEND HER PETITION TO IMPLEAD THE ADVERSE CLAIMANTS-APPELLEES;
3. THE LOWER COURT ERRED IN REFUSING TO ADMIT AMENDED PETITION THAT COMPLIED WITH HIS LIKINGS;
4. THE LOWER COURT ERRED IN REFUSING TO CONDUCT PRE-TRIAL CONFERENCE IN THE INSTANT CASE;
5. THE TRIAL COURT ERRED IN ALLOWING THE HEARING OF ADVERSE CLAIMANTS-APPELLEES' AFFIRMATIVE DEFENSES;
6. THE TRIAL COURT ERRED IN REFUSING TO CONSIDER THE EVIDENCE OF THE APPELLANT IN ITS DECISION; [AND]
7. THE LOWER COURT ERRED IN DISMISSING THE PETITION FILED IN THE INSTANT CASE.<sup>37</sup>

### **The Ruling of the Court of Appeals**

The Court of Appeals denied petitioner's appeal in a Decision<sup>38</sup> dated 29 February 2012, the dispositive portion of which reads:

WHEREFORE, premises considered, and finding no reversible error in the order appealed from, the appeal is DENIED and the Order dated October 2, 2007 of the Regional Trial Court, Branch 12 in San Jose, Antique denying and dismissing the petition, is AFFIRMED.<sup>39</sup>

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<sup>33</sup> CA *rollo*, pp. 50-51.

<sup>34</sup> Id. at 48.

<sup>35</sup> Id. at 49.

<sup>36</sup> Id. at 50.

<sup>37</sup> Id. at 26.

<sup>38</sup> *Rollo*, pp. 24-39.

<sup>39</sup> Id. at 38-39.



For lack of merit, the Court of Appeals denied petitioner's motion for reconsideration in a Resolution<sup>40</sup> dated 28 February 2013.

Hence, the instant petition.

### **The Issues**

Petitioner raises the following issues:

1. WHETHER OR NOT NOTICES TO ALL PARTIES IN INTEREST ARE REQUIRED IN THIS CASE;
2. WHETHER OR NOT THE LOWER COURT COULD ORDER PETITIONER TO AMEND HER PETITION TO IMPLEAD THE ADVERSE CLAIMANTS-APPELLEES;
3. WHETHER OR NOT THE LOWER COURT COULD REFUSE ADMISSION OF AMENDED PETITION THAT INCLUDED HEIRS OF THE DECEASED RODOLFO BAYOMBONG;
4. WHETHER OR NOT THE LOWER COURT COULD REFUSE HOLDING PRE-TRIAL CONFERENCE IN THE INSTANT CASE;
5. WHETHER OR NOT THE TRIAL COURT WAS CORRECT IN ALLOWING THE HEARING OF ADVERSE CLAIMANTS-APPELLEES' AFFIRMATIVE DEFENSES;
6. WHETHER OR NOT THE TRIAL COURT WAS CORRECT IN REFUSING TO CONSIDER THE EVIDENCE OF THE PETITIONER IN ITS DECISION; [AND]
7. WHETHER OR NOT THE LOWER COURT WAS CORRECT IN DISMISSING THE PETITION FILED IN THE INSTANT CASE.<sup>41</sup>

### **The Court's Ruling**

We grant the petition in part.

At the crux is the question of who has a better right to the properties concerned: petitioner on the one hand, and Magrare, Palcat and Bayombong on the other?

#### *No Valid Mortgage in Favor of Petitioner*

Petitioner derives her title from Andigan, as mortgagor. However, at the time Andigan mortgaged the lots to petitioner he had already sold the same to Magrare, Palcat and Bayombong. Indeed, petitioner's case is negated by Civil Case No. 2001-2-3230. There, Andigan admitted that Lot Nos. 1052-A-1, 1052-A-2 and 1052-A-3 were the parcels of land he sold to

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<sup>40</sup> Id. at 50-51.

<sup>41</sup> Id. at 11.

Magrare, Palcat and Bayombong, respectively, on 28 December 1998.<sup>42</sup> Hence, when Andigan mortgaged the lots to petitioner on 8 May 2000, he no longer had any right to do so. We quote with approval the discussion of the trial court:

Finally, when the spouses Andigan mortgaged to the herein petitioner Galido Lot Nos. 1052-A-1 and 1052-A-2, the said lots were already sold to the respondents Palcat and Magrare. It is therefore as if nothing was mortgaged to her because Isagani Andigan was no longer the owner of the mortgaged real property. Under Art. 2085 of the Civil Code, two of the prescribed requisites for a valid mortgage are, that, the mortgagor be the absolute owner of the thing mortgaged and, that, he has the free disposal thereof. These requisites are absent when Isagani Andigan and his wife mortgaged the lots alluded to above to the herein petitioner.<sup>43</sup>

A spring cannot rise higher than its source. Since Andigan no longer had any interest in the subject properties at the time he mortgaged them to her, petitioner had nothing to foreclose.

#### *Prior Registered Adverse Claims Prevail*

The parcels of land involved in this case are registered under the Torrens system. One who deals with property registered under the Torrens system need not go beyond the certificate of title, but only has to rely on the certificate of title.<sup>44</sup> Every subsequent purchaser of registered land taking a certificate of title for value and in good faith shall hold the same free from all encumbrances except those noted on said certificate and any of the encumbrances provided by law.<sup>45</sup>

The Property Registration Decree<sup>46</sup> provides:

Section 51. *Conveyance and other dealings by registered owner.* An owner of registered land may convey, mortgage, lease, charge or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instruments as are sufficient in law. But no deed, mortgage, lease, or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the office of the Register of Deeds for the province or city where the land lies.

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<sup>42</sup> Records, pp. 186-188.

<sup>43</sup> Id. at 325.

<sup>44</sup> *Casimiro Development Corporation v. Mateo*, 670 Phil. 311, 326-327 (2011).

<sup>45</sup> Sec. 44, Presidential Decree No. 1529, entitled *Amending and Codifying the Laws Relative to Registration of Property and for Other Purposes*, also known as the *Property Registration Decree*.

<sup>46</sup> Presidential Decree No. 1529.

Section 52. *Constructive notice upon registration.* Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing or entering.

The adverse claims were registered on the respective titles on 6 February 2001, at 11:00 in the morning. They were already in existence when petitioner filed her case for foreclosure of mortgage. In fact, when petitioner registered the mortgages on 6 February 2011 at 3:00 in the afternoon, she was charged with the knowledge that the properties subject of the mortgage were encumbered by interests the same as or better than that of the registered owner.

Petitioner does not hide the fact that she was aware of the adverse claim and the proceedings in Civil Case No. 2001-2-3230. In her petition before the Court, she stated that “on March 03, 2004, petitioner had filed a third party claim with the Regional Trial Court, Branch 11 in said Civil Case No. 2001-2-3230.”<sup>47</sup>

Instead, petitioner insists that it was illegal for Magrare, Palcat and Bayombong to file a case compelling the surrender of the owner’s duplicates of TCT Nos. T-22374, T-22375 and T-22376. On the contrary, the law itself provides the recourse they took – registering an adverse claim and filing a petition in court to compel surrender of the owner’s duplicate certificate of title:

Sec. 70. *Adverse claim.* Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may if no other provision is made in this Decree for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, a reference to the number of the certificate of title of the registered owner, the name of the registered owner, and a description of the land which the right or interest is claimed.

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Sec. 107. *Surrender of withheld duplicate certificates.* Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner’s duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if

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<sup>47</sup> *Rollo*, p. 14.

for any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

Further, RTC Branch 11, after trial on the merits of Civil Case No. 2001-2-3230, found for Magrara, Palcat and Bayombong. That decision has attained finality and was entered in the Book of Judgments. The trial court was correct in not touching upon the final and executory decision in that case.

*Petitioner is not a Buyer in Good Faith*

But even assuming that the mortgage was valid, petitioner can hardly be considered a buyer in good faith. A purchaser in good faith and for value is one who buys the property of another without notice that some other person has a right to or interest in such property and pays a full and fair price for the same at the time of such purchase, or before he has notice of the claims or interest of some other person in the property.<sup>48</sup>

As discussed above, petitioner had notice as early as 2001 of the adverse claims of Magrara, Palcat and Bayombong. The decision in Civil Case No. 2001-2-3230 became final and executory before the Certificate of Sale was issued by the Provincial Sheriff on 14 July 2004 in Civil Case No. 3345.

Without speculating as to petitioner's motivations in foreclosing on the mortgage, the law on the matter is clear. Preference is given to the prior registered adverse claim because registration is the operative act that binds or affects the land insofar as third persons are concerned.<sup>49</sup> Thus, upon registration of respondents' adverse claims, notice was given the whole world, including petitioner.

Hence, the trial court's dismissal of the case against Magrara and Palcat is in order. There is no need for us to discuss petitioner's other assignments of error. Besides, the same issues were sufficiently addressed by the Court of Appeals.

*Heirs of Bayombong are Indispensable Parties*

However, we find reversible error on the part of the trial court in not impleading the heirs of Bayombong. Indispensable parties are parties in interest without whom no final determination can be had of an action.<sup>50</sup> Petitioner's action was for the cancellation of titles, including TCT No. T-

<sup>48</sup> *Martinez v. Garcia*, 625 Phil. 377, 392 (2010).

<sup>49</sup> *Spouses Chua v. Judge Gutierrez*, 652 Phil. 84 (2010).

<sup>50</sup> Rules of Court, Rule 3, Sec. 7.

22376. In its Order dated 17 January 2005,<sup>51</sup> the trial court itself recognized that the controversy was contentious in nature, and required the participation of Bayombong, among others. Bayombong, like respondents Magrare and Palcat stood to be benefited or prejudiced by the outcome of the case. Since he was already dead at the time the case was filed by petitioner, the heirs of Bayombong stand in his stead not only as parties in interest, but indispensable parties. Without the heirs of Bayombong to represent the interest of Bayombong, there can be no complete determination of all the issues presented by petitioner, particularly, in regard to TCT No. T-22376.

Failure to implead an indispensable party is not a ground for the dismissal of an action, as the remedy in such case is to implead the party claimed to be indispensable, considering that parties may be added by order of the court, on motion of the party or on its own initiative at any stage of the action.<sup>52</sup>

By denying petitioner's motion to implead the heirs of Bayombong due to technicalities, the trial court in effect deprived petitioner a full adjudication of the action, and the heirs of Bayombong any beneficial effects of the decision. Indeed, the dismissal of the petition as to Magrare and Palcat greatly benefits them as the controversy regarding TCT Nos. T-22374 and T-22375 is finally laid to rest. Not so with the heirs of Bayombong. We note that the trial court's decision discusses TCT Nos. T-22374 and T-22375. The records do not contain any direct refutation of the claim of petitioner as to TCT No. T-22376, as could be expected since there were no parties impleaded to defend such interest. Hence, we cannot, without depriving petitioner due process, extend the trial court's decision to TCT No. T-22376.

Given the Court's authority to order the inclusion of an indispensable party at any stage of the proceedings,<sup>53</sup> the heirs of Bayombong are hereby ordered impleaded as parties-defendants. Since the action has been disposed of as regards Magrare and Palcat, the action is to proceed solely against the heirs of Bayombong, once they are properly impleaded.<sup>54</sup>

We note that the counsel representing Magrare and Palcat is the same counsel that represented Magrare, Palcat and Bayombong in Civil Case No. 2001-2-3230. There is no information on record, apart from petitioner's allegation, whether or not counsel informed the court of the death of Bayombong, in accordance with Section 16, Rule 3 of the Rules of Court. Nevertheless, for expediency, Atty. Alexis C. Salvani is directed to provide the trial court and petitioner the full names and addresses of the heirs of Bayombong to enable the trial court to properly implead them.

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<sup>51</sup> *Supra*, note 22.

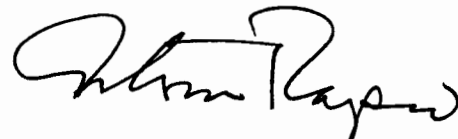
<sup>52</sup> *Living @ Sense, Inc. v. Malayan Insurance Company, Inc.*, 695 Phil. 861, 866-867 (2012).

<sup>53</sup> *Pacaña-Contreras v. Rovila Water Supply, Inc.*, G.R. No. 168979, 2 December 2013, 711 SCRA 219, 245.

<sup>54</sup> Rules of Court, Rule 36, Sec. 4.

**WHEREFORE**, we **GRANT** the petition **IN PART**. The Decision dated 29 February 2012 and Resolution dated 28 February 2013 of the Court of Appeals in CA-G.R. CEB CV No. 02306, affirming the Order dated 2 October 2007 of the Regional Trial Court, Branch 12, San Jose, Antique in RTC Cad. Case No. 2004-819, Cad. Record No. 936, is: (1) **AFFIRMED** insofar as the dismissal of the case with respect to Nelson P. Magrare and Evangeline M. Palcat; and (2) **REVERSED** insofar as the dismissal of the case pertaining to TCT No. T-22376. The heirs of Rodolfo Bayombong are **ORDERED IMPLEADED** as parties-defendants and the trial court is directed to proceed with the case pertaining to TCT No. T-22376. Atty. Alexis C. Salvani is further directed to provide the full names and addresses of the heirs of Bayombong.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

**WE CONCUR:**



**ARTURO D. BRION**  
Associate Justice


  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
Associate Justice


### ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice