

NOV 27 2018



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

HEIRS OF JOSEFINA GABRIEL,  
Petitioners,

G.R. No. 222737

Present:

- versus -

PERALTA, J., Chairperson,  
LEONEN,  
GISMUNDO,\*  
REYES, J.C., JR., and  
HERNANDO,\* JJ.

SECUNDINA CEBRERO, CELSO  
LAVIÑA, and MANUEL C. CHUA,  
Respondents.

Promulgated:

November 12, 2018

X-----*Wilfredo V. Lapitan*-----X

DECISION

PERALTA, J.:

For resolution of this Court is the petition for review on *certiorari* filed by herein petitioners Heirs of Josefina Gabriel (*petitioners*) assailing the Decision<sup>1</sup> dated October 20, 2015 and the Resolution<sup>2</sup> dated January 29, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 102204, reversing the Decision<sup>3</sup> dated September 26, 2013 of the Regional Trial Court (RTC) of Manila, Branch 52.

The facts follow.

On January 24, 1991, Segundina<sup>4</sup> Cebrero (*Cebrero*), through her attorney-in-fact Remedios Muyot, executed a real estate mortgage over the

\* On wellness leave.

<sup>1</sup> Penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Andres B. Reyes, Jr. (now a member of this Court) and Romeo F. Barza (now Presiding Justice), concurring; *rollo*, pp. 36-47.

<sup>2</sup> *Id.* at 30-32.

<sup>3</sup> Penned by Acting Presiding Judge Ruben Reynaldo G. Roxas, CA *rollo*, pp. 62-71.

<sup>4</sup> Also referred to as "Secundina."

subject property located in Sampaloc, Manila with an area of two thousand two hundred eighty-one square meters (2,281 sq. m.) covered by TCT No. 158305 registered under the name of Cebrero's late husband Virgilio Cebrero (*Virgilio*) as security for the payment of the amount of Eight Million Pesos (₱8,000,000.00), pursuant to an amicable settlement dated January 11, 1991 entered into by the parties in the case of annulment of revocation of donation in Civil Case No. 83-21629.<sup>5</sup> In the said settlement, Josefina Gabriel (*Gabriel*) recognized Cebrero's absolute ownership of the subject property and relinquished all her claims over the property in consideration of the payment of the said ₱8,000,000.00.<sup>6</sup>

Upon Cebrero's failure to pay the amount within the period of extension until December 31, 1991, Gabriel filed in 1993 an action for foreclosure of the real estate mortgage docketed as Civil Case No. 92-62638. In a Decision<sup>7</sup> dated December 15, 1993, the RTC of Manila, Branch 23 ruled in Gabriel's favor and ordered Cebrero to pay the ₱8,000,000.00 and interest, or the subject property shall be sold at public auction in default of payment. The dispositive portion reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff ordering the defendant as follows:

1. To pay to the Court the sum of ₱8,000,000.00;
2. To pay interest to the Court on the ₱8,000,000.00 liability beginning July 1, 1991 until fully paid pursuant to the terms agreed upon in the amendment to the Real Estate Mortgage;
3. To pay attorneys (*sic*) fees equivalent to 10% (ten percent) of the total liability due under and as stipulated in the Real Estate Mortgage in Exh. G;
4. And in the alternative, in default of payment under the award appearing in paragraph 1, 2, and 3 above, after 90 days from date of service hereof, pursuant to Rule 68, Sec. 2 of the Rules of Court, the said property was covered by the Real Estate Mortgage, particularly plaintiff's (*sic*) undivided share or interest in the property consisting of her 1/2 conjugal share plus her inheritance consisting of 1/9 of 1/2 of the property covered by the mortgage, shall be sold at public auction to realize the mortgage, debts and costs and the sheriff is ordered to turn over to plaintiff from the proceeds of the sale, the amount of ₱8,000,000.00 representing the principal sum due under the mortgage plus 18% interest thereon *per annum* from July 1, 1991 and attorney's fees equivalent to 10% (ten percent) of the total liability of defendant plus costs of suit and expenses of litigation. The sheriff is likewise directed to deliver to the

<sup>5</sup> *Josefina Gabriel v. Estate of the Deceased Maria Carmen P. Gabriel, Remedios M. Muyot, Secundina M. Vda. de Cebrero, et al.*

<sup>6</sup> Records, Vol. I, pp. 94-95.

<sup>7</sup> *Id.* at 9-15.

defendant the excess, if any, of the proceeds of the sale after deducting the foregoing amounts.

SO ORDERED.<sup>8</sup>

The sheriff initiated the necessary proceedings for the public auction sale when no appeal was filed and the decision became final. On July 12, 1994, Gabriel, being the sole bidder, purchased Cebrero's undivided share of one-half (1/2) conjugal share, plus her inheritance consisting of one-ninth (1/9) of the subject property in the amount of ₱13,690,574.00.<sup>9</sup> On November 16, 1995, the sheriff issued the Final Deed of Sale when Cebrero failed to redeem the property.<sup>10</sup>

However, Gabriel had not registered the Final Deed of Sale since she disputed the Bureau of Internal Revenue's estate tax assessment on the subject property considering that she claimed only a portion thereof. It was also during this time that she discovered the registration of a Deed of Absolute Sale<sup>11</sup> dated September 27, 1994 executed by respondent Celso Laviña (*Laviña*), Cebrero's attorney-in-fact, purportedly conveying the entire property in favor of Progressive Trade & Services Enterprises (*Progressive*) for and in consideration of Twenty-Seven Million Pesos (₱27,000,000.00).

On November 27, 1996, Eduardo Cañiza (*Cañiza*),<sup>12</sup> allegedly in behalf of Gabriel, instituted a Complaint for declaration of nullity of sale and of the Transfer Certificate of Title (*TCT*) No. 225341 of the subject property registered under Progressive, a single proprietorship represented by its President and Chairman, respondent Manuel C. Chua (*Chua*).<sup>13</sup>

In their Answer, respondents alleged that Gabriel has no legal capacity to sue as she was bedridden and confined at the Makati Medical Center since 1993. The complaint should be dismissed because Cañiza signed the verification and certification of the complaint without proper authority.<sup>14</sup> The December 15, 1993 RTC decision in the foreclosure proceedings was void due to improper service of summons. The Sheriff's Final Deed of Sale was not registered and recorded. Moreover, the bid price was higher than the amount in the compromise agreement. As a mere creditor, Gabriel cannot annul the sale of the subject property to Progressive, especially when there was a judicial consignment of the payment of lien.

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<sup>8</sup> *Id.* at 14-15.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.* at 51-52.

<sup>11</sup> *Id.* at 25-27.

<sup>12</sup> Also referred to as "Caniza."

<sup>13</sup> *Rollo*, p. 36.

<sup>14</sup> *Records*, Vol. I, p. 61.

On October 14, 1997, Gabriel died during the pendency of the case, thus her heirs substituted her.<sup>15</sup>

In the September 26, 2013 Decision,<sup>16</sup> the RTC ruled in favor of Gabriel. It held that Chua cannot be considered the true and lawful owner of the subject property as he was not a purchaser in good faith. At the time of sale on September 27, 1994, the mortgage pertaining to Gabriel remained annotated on the TCT No. 225340 registered in the name of Cebrero. Thus, Chua had notice of Gabriel's existing interest over a portion of the property, which should have prompted him to investigate the status of the mortgage. The dispositive portion of the Decision reads:

WHEREFORE, premised on the foregoing considerations, judgment is hereby rendered declaring the: (1) Deed of Absolute Sale dated September 27, 1994, between Segundina M. Cebrero, represented by her attorney-in-fact Celso D. Laviña, and Progressive Trade and Services Enterprises, a single proprietorship represented by its president and chairman, Manuel C. Chua; and (2) Transfer Certificate of Title No. 225341 registered in the name of Progressive Trade and Services Enterprises, as null and void and of no legal effect. Accordingly, the Registry of Deeds of Manila is hereby directed to cancel TCT No. 225341 and re-issue TCT No. 225340 in the name of Secundina M. Cebrero.

Defendants are ordered to pay cost of suit. On the other hand, plaintiffs' prayer for the award of attorney's fees is denied.

SO ORDERED.<sup>17</sup>

On appeal, the CA reversed and set aside the Decision of the RTC. There was no Special Power of Attorney (*SPA*) attached to the complaint to substantiate Cañiza's authority to sign the complaint and its verification and certification of non-forum shopping. As the awardee of the foreclosure proceedings, Gabriel is the real party-in-interest in the case. Since the trial court never acquired jurisdiction over the complaint, all proceedings subsequent thereto are considered null and void, and can never attain finality. The *fallo* of the Decision provides:

WHEREFORE, in view of the foregoing, this Court resolves as follows:

- (1) Plaintiffs-appellants' *Motion for Reconsideration* is **DENIED**.
- (2) Defendant-appellant's Appeal is **GRANTED**. The Decision, dated September 26, 2013, rendered by the Regional Trial Court of Manila, Branch 52 in Civil Case

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<sup>15</sup> *Id.* at 329.

<sup>16</sup> *CA rollo*, pp. 62-71.

<sup>17</sup> *Id.* at 70-71.

No. 97-81420 is **REVERSED AND SET ASIDE** as to the validity of the sale and TCT No. 225341. The same are declared to be **VALID**. The Complaint, dated November 27, 1996, is **DISMISSED**.

(3) Plaintiffs-appellants' Appeal with regard to attorney's fees is **DENIED**.

**SO ORDERED.**<sup>18</sup>

Upon denial of their Motion for Reconsideration, petitioners are now before this Court raising the sole issue:

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW, WHEN IT REVERSED AND SET ASIDE THE DECISION, DATED SEPTEMBER 26, 2013, RENDERED BY THE REGIONAL TRIAL COURT OF MANILA, BRANCH 52 IN CIVIL CASE NO. 97-81420 AS TO THE VALIDITY OF THE SALE OF TCT NO. 225341 AND DISMISSED THE COMPLAINT DATED NOVEMBER 27, 1996 ON THE SOLE BASIS OF MERE TECHNICALITY THAT THE VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING WAS NOT SUPPORTED WITH THE SPECIAL POWER OF ATTORNEY OF EDUARDO CAÑIZA.<sup>19</sup>

The instant petition is without merit.

Petitioners allege that the Order<sup>20</sup> dated June 13, 2007 of the RTC denying Laviña's motion to set a preliminary hearing on the affirmative defenses has long attained finality since respondents did not appeal the same. Respondents are now estopped from raising the issue on appeal.

Section 1, Rule 41 of the Rules of Court provides:

Section 1. *Subject of appeal.* — An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

- (a) An order denying a motion for new trial or reconsideration;
- (b) An order denying a petition for relief or any similar motion seeking relief from judgment;
- (c) **An interlocutory order;**
- (d) An order disallowing or dismissing an appeal;
- (e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of

<sup>18</sup> Rollo p. 46. (Citation omitted; emphasis in the original).

<sup>19</sup> *Id.* at 11.

<sup>20</sup> Records, pp. 292-294.

- fraud, mistake or duress, or any other ground vitiating consent;
- (f) An order of execution;
  - (g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
  - (h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.<sup>21</sup>

A final judgment or order is one that finally disposes of a case, leaving nothing more to be done by the Court in respect thereto, *e.g.*, an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right; or a judgment or order that dismisses an action on the ground, for instance, of *res judicata* or prescription. Conversely, an order that does not finally dispose of the case, and does not end the Court's task of adjudicating the parties' contentions and determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is "interlocutory," *e.g.*, an order denying a motion to dismiss under Rule 16 of the Rules. Unlike a "final" judgment or order, which is appealable, an "interlocutory" order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.<sup>22</sup>

The RTC Order dated June 13, 2007 denying the motion to set hearing on special and affirmative defenses is no doubt interlocutory for it did not finally dispose of the case but will proceed with the pre-trial. As such, the said Order is not appealable, but may be questioned as part of an appeal that may eventually be taken from the final judgment rendered. Here, respondents had consistently raised in their Answer and in the appeal before the CA the issue of Cañiza's authority to file the case on behalf of Gabriel.

Petitioners allege that the verification and certification of the complaint conforms with the rules since Cañiza, as Gabriel's attorney-in-fact, signed it. Besides, any defect was cured when he, being one of the heirs, substituted Gabriel when she died during the pendency of the case before the trial court.

Every action must be presented in the name of the real party-in-interest. Section 2, Rule 3 of the 1997 Rules of Court provides:

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<sup>21</sup> Emphasis supplied.

<sup>22</sup> *Heirs of Dimaampao v. Atty. Alug, et al.*, 754 Phil. 236, 244 (2015), citing *Denso (Phils.), Inc. v. Intermediate Appellate Court*, 232 Phil. 256, 264 (1987).



Sec. 2. *Parties in interest.* — A real party-in-interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless, otherwise, authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party-in-interest.

Here, Gabriel emerged as the highest bidder when a portion of the subject property was sold on a public auction sale on July 12, 1994 after she foreclosed the real estate mortgage over the said property. As the one claiming ownership of the said property, she is the real party-in-interest in the instant case.

As to the verification and certification of non-forum shopping, the Court, in *Altres, et al. v. Empleo, et al.*,<sup>23</sup> laid down the following guidelines:

For the guidance of the bench and bar, the Court restates in capsule form the jurisprudential pronouncements already reflected above respecting non-compliance with the requirements on, or submission of defective, verification and certification against forum shopping:

1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.

2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.

3) Verification is deemed *substantially complied* with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

4) **As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons".**

5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.

**6) Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.<sup>24</sup>**

Section 5,<sup>25</sup> Rule 7 of the Rules of Court provides that the certification against forum shopping must be executed by the plaintiff or principal party. The reason for this is that the plaintiff or the principal knows better than anyone, whether a petition has previously been filed involving the same case or substantially the same issues.<sup>26</sup> If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized.<sup>27</sup>

The complaint filed before the RTC was filed in the name of Gabriel, however, it was Cañiza who executed the verification and certification of forum shopping, alleging that he was Gabriel's attorney-in-fact. The verification and certification of non-forum shopping reads:

I, EDUARDO T. CANIZA (*sic*), Filipino, of legal age and with address at No. 15 Olongapo St., Alabang Hills, Muntinlupa City, having been first duly sworn in accordance with law, depose and say:

1. That I am the attorney-in-fact of plaintiff in the above complaint;
2. That I caused the preparation of the foregoing Complaint; I have read the contents thereof, and I hereby affirm that the facts stated therein are true and correct;
3. That I certify that I have not commenced any action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal, or agency; that to the best of my knowledge no such action or proceeding is pending

<sup>24</sup> *Id.* at 261-262. (Citations omitted; emphases supplied).

<sup>25</sup> Sec. 5. *Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should, thereafter, learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

<sup>26</sup> *Tamondong v. Court of Appeals*, 486 Phil. 729, 741 (2004).

<sup>27</sup> *Fuentebella v. Castro*, 526 Phil. 668, 675 (2006), citing *Eslaban, Jr. v. Vda. de Onorio*, 412 Phil. 667, 674-675 (2001).



before the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency except the case of "Josefina Gabriel vs. Segundina Cebrero[.]" Civil Case No. 92-62638, Regional Trial Court of Manila, Branch 23, which has long been [decided] with finality by said court.

4. That should there be any such case filed or pending, I undertake to promptly inform the aforesaid Honorable Court and such other tribunal or agency of the fact within five (5) days therefrom.

Makati City, for Manila, November 29, 1996.

(Sgd.)  
EDUARDO T. CANIZA  
Affiant

x x x<sup>28</sup>

It was held that when an SPA was constituted precisely to authorize the agent to file and prosecute suits on behalf of the principal, then it is such agent who has actual and personal knowledge whether he or she has initiated similar actions or proceedings before various courts on the same issue on the principal's behalf, thus, satisfying the requirements for a valid certification against forum shopping. The rationale behind the rule that it must be the "petitioner or principal party himself" who should sign such certification does not apply. Thus, the rule on the certification against forum shopping has been properly complied with when it is the agent or attorney-in-fact who initiated the action on the principal's behalf and who signed the certification against forum shopping.<sup>29</sup>

However, there was no duly executed SPA appended to the complaint to prove Cañiza's supposed authority to file and prosecute suits on behalf of Gabriel. The Court cannot consider the mere mention in the December 15, 1993 Decision that he was Gabriel's attorney-in-fact as evidence that he was indeed authorized and empowered to initiate the instant action against respondents. There was also no evidence of substantial compliance with the rules or even an attempt to submit an SPA after filing of the complaint.

We note that an Order<sup>30</sup> dated August 6, 1997 of the RTC of Pasig City declaring Gabriel as incompetent and granting motions filed by several individuals, including Cañiza, to be considered in the appointment as her guardian *ad litem*, was included in the records of this case. Gabriel's attending physician confirmed, on June 5, 1997, that she was confined at the Makati Medical Center since 1993, and was not able to walk and communicate since her confinement. Given the circumstances, the SPA would have supported Cañiza's contention that he was the authorized agent

<sup>28</sup> Records, Vol. I, p. 8.

<sup>29</sup> *Bandillion, et al. v. La Filipina Uygongco Corp. (LFUC)*, 769 Phil. 806,823 (2015), citing *Spouses Wee v. Galvez*, 479 Phil. 737, 751-752 (2004).

<sup>30</sup> Records, Vol. 1, pp. 167-169.

who has actual and personal knowledge whether he initiated similar actions or proceedings before various courts on the same issue on the principal's behalf instead of merely alleging that he was her attorney-in-fact. The basic rule is that mere allegation is not evidence and is not equivalent to proof.<sup>31</sup>

This Court expounded that the complaint filed for and in behalf of the plaintiff by one who is unauthorized to do so is not deemed filed. An unauthorized complaint does not produce any legal effect. Hence, the court should dismiss the complaint on the ground that it has no jurisdiction over the complaint and the plaintiff.<sup>32</sup>

In *Palmiano-Salvador v. Rosales*,<sup>33</sup> the complaint was filed in the name of respondent Constantino Rosales (*Rosales*), but one Rosauro Diaz (*Diaz*) executed the verification and certification alleging that he was Rosales' attorney-in-fact when there was no document attached in the complaint to prove his allegation of authority. The Court held that since no valid complaint was filed, the Metropolitan Trial Court of Manila did not acquire jurisdiction over the case.

For the court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter and the parties. Courts acquire jurisdiction over the plaintiffs upon the filing of the complaint, and to be bound by a decision, a party should first be subjected to the court's jurisdiction.<sup>34</sup>

The substitution of heirs in a case ensures that the deceased party would continue to be properly represented in the suit through the duly appointed legal representative of his estate.<sup>35</sup> The purpose behind the rule on substitution is to apprise the heir or the substitute that he is being brought to the jurisdiction of the court in lieu of the deceased party by operation of law.<sup>36</sup> It is for the protection of the right of every party to due process. Proper substitution of heirs is effected for the trial court to acquire jurisdiction over their persons and to obviate any future claim by any heir that he or she was not apprised of the litigation.<sup>37</sup> From the foregoing, Cañiza's subsequent substitution as one of Gabriel's heirs did not cure the defect in the complaint, *i.e.*, when he signed the verification and certification against forum shopping without apparent authority. To reiterate, the trial court acquires jurisdiction over the plaintiff upon the filing of the complaint. Besides, the substitution merely ensured that Gabriel's interest would be

<sup>31</sup> *Dr. De Jesus v. Guerrero III, et al.*, 614 Phil. 520, 529 (2009).

<sup>32</sup> *Tamondong v. Court of Appeals*, *supra* note 26.

<sup>33</sup> 694 Phil. 1, 6 (2012).

<sup>34</sup> *Cosco Philippines Shipping, Inc. v. Kemper Insurance Company*, 686 Phil. 327, 340 (2012).

<sup>35</sup> *Heirs of Bertuldo Hinog v. Hon. Melicor*, 495 Phil. 422, 438-439 (2005).

<sup>36</sup> *Cardenas v. Heirs of the Late Spouses Aguilar*, G.R. No. 191079, March 2, 2016; 782 SCRA 405,

411.

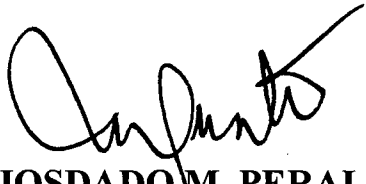
<sup>37</sup> *Heirs of Bertuldo Hinog v. Hon. Melicor*, *supra* note 35, at 439.

properly represented and that her heirs were brought to jurisdiction of the court.

Lastly, the Court notes that the real estate mortgage over a portion of the property was annotated on the transfer certificate of titles. A mortgage is a real right, which follows the property, even after subsequent transfers by the mortgagor. "A registered mortgage lien is considered inseparable from the property inasmuch as it is a right *in rem*." The sale or transfer of the mortgaged property cannot affect or release the mortgage; thus, the purchaser or transferee is necessarily bound to acknowledge and respect the encumbrance.<sup>38</sup> The implication in buying the property, with notice that it was mortgaged, was that Progressive necessarily undertook to allow the subject property to be sold upon failure of Gabriel to obtain payment from Cebrero once the indebtedness matured. Thus, it cannot invoke being a buyer in good faith to exclude the property from being claimed by virtue of foreclosure of the mortgage over the said property. This, however, does not mean that the Court rules in favor of the petitioners. Considering that the complaint was filed by Cañiza, who has failed to prove that he was validly authorized to do so, the complaint does not produce any legal effect. The RTC never validly acquired jurisdiction over the case. Thus, the instant petition must be dismissed.

**WHEREFORE**, the petition for review on *certiorari* filed by herein petitioners Heirs of Josefina Gabriel is hereby **DENIED**. The Decision dated October 20, 2015 and the Resolution dated January 29, 2016 of the Court of Appeals in CA-G.R. CV No. 102204 are **AFFIRMED**. The complaint filed by Josefina Gabriel before the Regional Trial Court is hereby **DISMISSED** without prejudice.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

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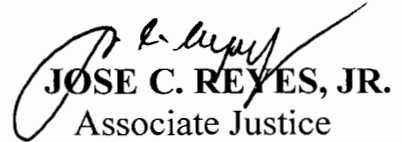
<sup>38</sup> *Garcia v. Villar*, 689 Phil. 363, 375 (2012).

**WE CONCUR:**



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

On wellness leave  
**ALEXANDER G. GESMUNDO**  
Associate Justice




**JOSE C. REYES, JR.**  
Associate Justice

On wellness leave  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**ATTESTATION**

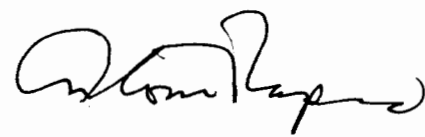
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



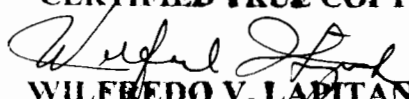
**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson, Third Division

**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.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, Republic Act  
No. 296, The Judiciary Act  
of 1948, as amended)

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LAPIDAN**  
Division Clerk of Court  
Third Division  
NOV 27 2018