Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

PHILIPPINE NATIONAL BANK, Petitioner,	**G.R. No. 194014**
	Present:
- versus -	VELASCO, JR., *J.*, Chairperson, PERALTA, ABAD, PEREZ,* and MENDOZA, *JJ.*
SPOUSES ALEJANDRO and MYRNA REBLANDO, Respondents.	
	Promulgated:
	12 September 2012 .

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DECISION

VELASCO, JR., *J.*:

The Case

Before Us is a Petition for Review of the Decision of the Court of Appeals (CA) dated June 24, 2010, as effectively reiterated in its Resolution of August 24, 2010, both rendered in CA-G.R. CV No. 79987. The CA Decision dismissed the appeal of petitioner Philippine National Bank (PNB) from the Decision dated October 8, 2001 of the Regional Trial Court (RTC), Branch 22 in General Santos City, in Civil Case No. 6771 entitled *The Spouses Alejandro and Myrna Reblando v. Philippine National Bank, Deputy Sheriff Cyr M. Perlas and the Assessor of General Santos City*.

* Additional member per Special Order No. 1299 dated August 28, 2012.

The Facts

On January 28, 1992, respondents, spouses Alejandro and Myrna Reblando (collectively, the Reblandos), obtained a one hundred and fifty thousand-peso (PhP 150,000) loan from PNB. To secure the payment of the loan, the Reblandos executed a real estate mortgage[1] (REM) over two (2) parcels of land located in General Santos City, the first covered by Transfer Certificate of Title (TCT) No. T-40839 and the second by Tax Declaration (TD) No. 59006 and designated as Cadastral Lot No. 10 (Lot No. 10). The pro forma REM contract consisted of two (2) pages plus a duly-signed supplemental page,[2] providing a description of Lot No. 10, thus:

> A parcel of land with cadastral Lot No. 10, Bounded on the North by Lot 9; on the [S]outh by Lot 11, on the East by a Road and on the West by road, situated on the Bo. of Calumpang, City of General Santos, Island of Mindanao, [c]ontaining an area of THREE HUNDRED NINETY SEVEN POINT NINETY FIVE (397.95) square meters, more or less.[3]

TD No. 38950, formerly in the name of the Ministry of Human Settlements, was cancelled and replaced with TD No. 59006[4] in Alejandro Reblando's (Alejandro's) name on September 12, 1990. Improvements on the lot consisted of a residential house and a store shed.[5]

TCT No. T-40839 was then registered in the name of Letecia Reblando-Bartolome, who earlier executed a Special Power of Attorney,[6] authorizing Alejandro, her brother, to utilize the lot covered by the title as collateral to secure a loan not exeeeding PhP 150,000.

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[1] Records, pp. 16-19.
[2] *Rollo*, pp. 50-54.
[3] Records, p. 31, Notice of Extrajudicial Foreclosure.
[4] Id. at 47.
[5] *Rollo*, p. 65.
[6] Id. at 10. The Special Power of Attorney reads in part: "1. To apply for, borrow or secure any industrial, commercial or agricultural loan or credit accommodation from the [PNB] in such sum or sums as he shall think fit or advisable, the principal of which shall not exceed the amount of x x x (P150,000.00) PESOS, Philippine Currency, plus any interest that may be agreed upon with the said Bank, and subject to the usual conditions of the said Bank in loans or credit accommodation of the same kind and to such further terms and conditions as may, upon granting the said loan, be imposed by the said Bank, in which there may be included the appointment of the Mortgagee as attorney-in-fact of the Mortgagor and, without any further formality, in case of any violation of any terms and conditions of the mortgage contract."

A few years later, the parties agreed to up the loan value from PhP 150,000 to PhP 260,000. They then executed an "Amendment to Real Estate Mortgage" on January 4, 1995,[7] reflecting the increase in the loan accommodation. The amended contract provides in part:

> WHEREAS, in order to secure the payment of certain loans and obligations of the Mortgagor with the Mortgagee, the former has executed on 1-28-92 in favor of the latter a Real Estate Mortgage conveying by way of mortgage that TWO (2) parcel[s] of land, with an aggregate area of SIX HUNDRED SEVENTY (670) sqm. More or less, located at [blank], covered by TCT-T-40839 and TD# 59006 of the land records of the City of General Santos / Province of South Cotabato, registered in the name of the Mortgagor x x x.

Stated and made to appear as collaterals in the amended REM are the following properties:

TCT No. T-40839, Lot 5326-B, Psd-11-022402	TD# 47097 – Land
TD No. 59006, Lot 10	TD# 59006 – Land
	TD# 46828 – Bldg.

Barely two weeks after, or on January 26, 1995, the parties again agreed to another increase, this time to PhP 312,000 and executed for the purpose a second "Amendment to Real Estate Mortgage."[8]

Meanwhile, on July 24, 1995, Alejandro and the Bliss Development Corporation (BDC), a subsidiary of the Home Insurance and Guaranty Corporation, which in turn was under the then Ministry of Human Settlements, entered into a Contract to Sell over a dwelling unit (Unit No. 10) in the Rural Bliss 1 Project located at Calumpang, Gen. Santos City with an area of 36 square meters.

Later developments saw the Reblandos defaulting in the payment of their loan obligation, prompting the PNB to commence extra-judicial foreclosure of the mortgage. On May 12, 1997, the Reblandos received a Notice of Extra-Judicial Foreclosure of Lot No. 10 and the lot covered by

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[7] Id. at 55-56.
[8] Id. at 57-58.

TCT No. T-40839.[9] At the foreclosure sale, the PNB, as lone bidder, was awarded the lots for its bid of PhP 439,990.62 and was issued on July 11, 1997 a Certificate of Extra-Judicial Sale covering both collaterals.[10] This certificate was duly registered with the Registry of Deeds of General Santos City on September 2, 1997.

Following the lapse of the redemption period without the Reblandos redeeming the properties, PNB consolidated its ownership over the subject parcels of land.[11] Thereafter, PNB secured a new title over the property covered by TCT No. T-40839. A new tax declaration[12] under its name was issued also for Lot No. 10 and the improvements.

Subsequently, the RTC, acting on PNB's *ex parte* petition, issued an Order[13] granting a writ of possession.

On May 10, 2000, the Reblandos filed a complaint before the RTC, seeking, as their main prayer, the declaration of nullity of the mortgage over Lot No. 10 allegedly constituted on **January 13, 1995** when PNB and the Reblandos executed the "Amendment to Real Estate Mortgage." According to them, they could not have validly created a mortgage over Lot No. 10, not being the owner when the mortgage was constituted, citing in this regard *Development Bank of the Philippines* (*DBP*) *v. Court of Appeals*.[14] What, they added, impelled them to include Lot No. 10 in the mortgage package, albeit it did not belong to them, was the PNB's "require[ment] [for them] to post [Lot No. 10] as additional collateral."[15]

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[9] With the following description: "A parcel of land with cadastral Lot No. 10, Bounded on the North by Lot 9; on the [S]outh by Lot 11, on the East by a Road and on the West by road, situated on the Bo. of Calumpang, City of General Santos, Island of Mindanao, [c]ontaining an area of 397.95 square meters, more or less." Records, p. 31.

[10] *Rollo*, p. 61.

[11] Id. at 62, via an affidavit of consolidation dated September 28, 1998.

[12] TD No. 94015 over the lot; TD No. 94016 over the improvement.

[13] Penned by Acting Presiding Judge Monico G. Gabales.

[14] G.R. No. 109946, February 9, 1996, 253 SCRA 414.

[15] Records, p. 4.

PNB countered and contended that, on February (should be January) 28, 1992, the Reblandos, via a contract of REM of even date, already conveyed by way of mortgage Lot No. 10 covered by TD No. 59006, inclusive of the Reblandos' possessory and other rights. And together with the lot covered by TCT No. T-40839, Lot No. 10 is listed as mortgaged property. Appended to PNB's Answer was the supplemental page of the covering mortgage deed which page, so the bank claimed, the Reblandos deliberately omitted to attach in their basic complaint in an attempt to mislead the court and conceal the simultaneous constitution of the mortgage over Lot No. 10 and the titled lot. Also, PNB belied the Reblandos' assertion on having been required to post Lot No. 10 as additional security, noting that the very same lot, which was then in the latter's physical possession, was already an existing collateral.

As an affirmative defense, PNB raised the issue of estoppel.

Following a pre-trial conference, the RTC, by Order of October 11, 2000, narrowed the core issue to the question of the validity of the mortgage in question.[16]

RTC Ruling

Issues having been joined and on the bases of the pleadings and memoranda filed, the RTC rendered judgment in favor of the Reblandos, as plaintiffs *a quo*, on the strength of the following main premises: (1) Under Article 2085 of the Civil Code, it is an essential requisite for the validity of a mortgage that the mortgagor be the absolute owner of the property thus mortgaged, a requirement not met in the case, as Lot No. 10 was still owned by the then Ministry of Human Settlements at the time of the constitution of the mortgage; (2) *DBP*[17] holds that "[a] mortgage constituted over a public land before the issuance of the sales patent to the mortgagor is void and

[16] *Rollo*, pp. 96, 132.
[17] Supra note 14.

ineffective"; and (3) Lot No. 10, with its improvements, was what was mortgaged,[18] not the possessory rights of the Reblandos, as PNB claimed.

The dispositive portion of the RTC's October 8, 2001 Decision reads:

> WHEREFORE, premises considered[,] judgement is hereby rendered in favor of the plaintiffs and against the defendants. The Real Estate Mortgage constituted on Lot No. 10 (the house and lot at the Bliss Project at Calumpang, General Santos City) is hereby declared null and void. Consequently, the foreclosure sale that ensued and the writ of possession thus issued are also declared null and void and of no effect. The defendants are permanently enjoined from implementing the writ of possession. Defendant Philippine National Bank is hereby ordered to pay the cost of the suit to the plaintiffs.
>
> SO ORDERED.[19]

Petitioner sought but was denied reconsideration per the RTC's Order of January 27, 2003.

PNB then appealed to the CA. In the main, PNB faulted the RTC for declaring the mortgage over Lot No. 10 null and void, for finding *DBP* applicable and, lastly, for not appreciating the principle of estoppel against respondents.

CA Ruling

By Decision dated June 24, 2010,[20] the CA affirmed the appealed Decision of the RTC. The appellate court rejected PNB's assertion that the Reblandos had deceived the bank by misrepresenting themselves as the true and absolute owners of Lot No. 10, declaring instead that "[PNB] is a banking institution and, as such, is expected to exercise extraordinary

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[18] REM, records, pp. 16-19. According to the RTC, the mortgage contract expressly provided the following: "x x x the MORTGAGOR does hereby transfer and convey by way of mortgage unto the mortgagee, its successors or assigns, the parcels of land which is/are described in the list attached hereto, together with all the buildings and improvements now existing or which may hereafter be erected or constructed thereon x x x." (Id. at 122.)

[19] Id. at 120. Penned by Presiding Judge Antonio C. Lubao.

[20] Penned by Associate Justice Romulo V. Borja and concurred in by Associate Justices Edgardo T. Lloren and Ramon Paul L. Hernando.

diligence in entering into mortgage contracts."[21] To the appellate court, TD No. 59006 in the name of Alejandro or the Reblandos' possession of Lot No. 10 is not determinative of their ownership. The CA noted in this regard that PNB no less admitted that it was only in 1995, or three years after the constitution of the mortgage over Lot No. 10, that Alejandro bought the property from BDC through the Contract to Sell covering "**Unit No. 10**."[22] To the CA, the Contract to Sell is an additional argument belying the Reblandos' ownership over Lot No. 10 at the time of the constitution of the REM.

The CA also rejected the PNB's posture on estoppel. Inasmuch as PNB knew from the very beginning that the Reblandos were not the absolute owners of Lot No. 10, it cannot, according to the appellate court, set up the defense of estoppel against them.

PNB's motion for reconsideration was denied per the CA's Resolution of August 24, 2010.

The Issues

Hence this recourse, on the stated issues that the CA, as well as the RTC, erred:

> A. [IN HOLDING THE APPLICABILITY OF *DBP V. COURT OF APPEALS*] (ENUNCIATING THAT THE MORTGAGEE BANK DID NOT ACQUIRE VALID TITLE OVER THE LAND IN DISPUTE BECAUSE IT WAS PUBLIC LAND WHEN MORTGAGED) TO THE INSTANT CASE.
>
> B. X X X IN FAILING TO RECOGNIZE THAT THE MORTGAGORS ALSO MORTGAGED ALL OTHER REAL RIGHTS BELONGING TO THEM ATTACHED TO PROPERTY OR MAY THEREAFTER BE VESTED IN THEM.
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> C. X X X IN FAILING TO APPLY THE PRINCIPLE OF *ESTOPPEL* BY DEED AGAINST THE RESPONDENTS.[23]

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[21] *Rollo*, p. 135.
[22] Id. at 17.
[23] Id. at 37.

The focal issue for this Court's resolution revolves around the validity of the mortgage constituted over Lot No. 10.

The Court's Ruling

The petition is impressed with merit.

On findings of fact of the trial and appellate courts

Before delving into the merits of the case, a circumspect review of certain determinative background facts on record against which the case is cast is most imperative, if only to protect one's right to property. Both the RTC and the CA brushed aside petitioner's insistent contentions, to wit: (a) that the parcels of land covered by TCT No. 40839 and TD No. 59006, as the case may be, were simultaneously mortgaged on January 28, 1992 when petitioner and respondents signed the corresponding mortgage contract; and (b) that what respondents mortgaged included their possessory rights over Lot No. 10. In this regard, both courts made parallel factual findings, as shall be discussed below, upon which they anchored their conclusion as to the nullity of the mortgage over Lot No. 10.

Generally, findings of fact of trial courts are accorded great respect and shall not be disturbed,[24] more so when affirmed by the CA.[25] This rule, however, admits of several exceptions,[26] such as when the findings are manifestly mistaken, unsupported by evidence or the result of a misapprehension of acts, as in this case.

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[24] *Castillo v. Court of Appeals*, G.R. No. 106472, August 7, 1996, 260 SCRA 374, 381.

[25] *De la Cruz v. Court of Appeals*, G.R. No. 105213, December 4, 1996, 265 SCRA 299, 306-307.

[26] *Alba Vda. de Raz v. Court of Appeals*, G.R. No. 120066, September 9, 1999, 314 SCRA 36, 50:

More explicitly, the findings of fact of the Court of Appeals, which are as a general rule deemed conclusive, may be reviewed by this Court in the following instances:

3.] When the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible;

x x x x

6.] When the judgment of the Court of Appeals is premised on a misapprehension of facts;

x x x x

9.] When the findings of fact are conclusions without citation of specific evidence on which they are based.

x x x x

From the evidence adduced, both the trial and appellate courts deduced the following set of facts:

(1) That on February 28, 1992, respondents mortgaged the lot covered by TCT No. T-40839 to secure a PhP 150,000 loan from petitioner.

(2) Subsequently, the parties amended the REM by executing an "Amendment to Real Estate Mortgage" on January 13, 1995 to cover the increase in the loanable amount as well as the posting of the additional security allegedly demanded by PNB. This added collateral is Lot No. 10.

(3) A few years later, or on July 24 1995, Alejandro and BDC executed a Contract to Sell over a 36-square meter dwelling unit referred to as Unit No. 10, with Alejandro as the buyer.

Both parcels of land were mortgaged simultaneously

In a bid to convince the RTC that they executed the mortgage over Lot No. 10 only on January 13, 1995 when they sought and obtained approval of the increase of their loan, respondents appended to their complaint, as Annex "B," the underlying REM contract executed on January 28, 1992, and the "Amendment to Real Estate Mortgage." Annex "B" came without the supplemental page,[27] albeit it formed an integral part of the original contract of mortgage. The PNB, in its Answer to the complaint, faulted respondents for omitting to attach in said Annex "B" the supplemental page of the REM which, as PNB pointed in the Answer, made reference to and contained the description of Lot No. 10. The PNB drew the RTC and subsequently the CA's attention to this aberration, distinctly pointing out that the REM was executed in January 1992, not February 1992, as stated by both courts. On these two points, We agree with the PNB.

[27] *Rollo*, p. 54.

First, on its face, the REM[28] shows that it was executed on January 28, 1992, not February, 28, 1992 as written by the RTC and the CA.[29] *Second*, the January 28, 1992 REM contract specifically covered, as collaterals, two parcels of land, albeit the second collateral was reflected in the supplemental page of the contract, which page respondents neglected or indeed omitted to attach to their basic complaint, whether purposely or not.[30] That respondents did not include said supplemental page is buttressed by a simple annotation[31] at the bottom of the last page of their Annex "A" (pertaining to the REM), reading: "- ADDITIONAL COLLATERAL AT THE SUPPLEMENTAL PAGE -."

To be sure, respondents have not offered any explanation for what this annotation referred to. They cannot plausibly deny, however, that it referred to Lot No. 10. The "Amendment to Real Estate Mortgage," executed and signed by the parties on January 26, 1995, made a cross-reference to the January 28, 1992 REM contract and the properties mortgaged. The perambulatory clause adverted to provides:

> WHEREAS, in order to secure the payment of certain loans and obligations of the Mortgagor with the Mortgagee, the former has **executed on 1-28-92** in favor of the latter a Real Estate Mortgage conveying by way of mortgage that **TWO (2) parcel[s] of land**, with an aggregate area of SIX HUNDRED SEVENTY (670) sqm. More or less, located at [blank], **covered by TCT-T-40839 and TD# 59006** of the land records of the City of General Santos / Province of South Cotabato, registered in the name of the Mortgagor x x x.[32] (Emphasis ours.)

And lest it be overlooked, the mortgage over Lot No. 10 is reflected in the "Declaration of Real Property filed under Presidential Decree No. 464" (referring to TD No. 59006) filed by Alejandro for tax purposes, through an annotation by stamp-mark, signed by City Assessor Angel S. Daproza, dated January 29, 1992, the day after the execution of the REM contract. The annotation states that the "PROPERTY DESCRIBED X X X

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[28] Records, p. 19.
[29] *Rollo*, pp. 10, 96.
[30] Records, p. 19.
[31] Id.
[32] *Rollo*, p. 55.

ASSESSMENT TD NO 47097 & 59006 IS MORTGAGED TO THE [PNB] FOR P150,000.00 PESOS. 1-29-92 [date].”[33]

When the terms of an agreement have been reduced into writing, as in this case, it is, under the rules on evidence, considered as containing all the terms agreed upon.[34] Respondents have not presented evidence, other than their bare denial, to contradict the stipulations in the contract and to show that the REM or the amendment to it, as couched, does not reflect their real agreement with petitioner PNB.

The REM, it bears to stress, having been notarized, is a public document, thus accorded the benefit of certain presumptions. The Court held:

> Being a public document, it enjoys the presumption of regularity. It is a ***prima facie*** **evidence of the truth of the facts stated therein** and a conclusive presumption of its existence and due execution. To overcome this presumption, there must be clear and convincing evidence. Absent such evidence, as in this case, the presumption must be upheld.[35] (Emphasis added.)

The due execution of this above annotation by the City Assessor stands undisputed. Its correctness must, perforce, stand.

Given the above perspective, the Court accords full credence to the proposition, as insisted by PNB at every turn, that both parcels of land in question were simultaneously mortgaged on January 28, 1992. The finding to the contrary of both the RTC and the CA has simply nothing to support itself.

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[33] Records, p. 47.

[34] RULES OF COURT, Rule 130, Sec. 9. *Evidence of written agreements.*—When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.

However, a party may present evidence to modify, explain or add to the terms of the written agreement if he puts in issue in his pleading:

x x x x

b. The failure of the written agreement to express the true intent and agreement of the parties thereto.

[35] *Chua v. Westmont Bank*, G.R. No. 182650, February 27, 2012.

On the validity of the mortgage

Now, to the meat of the controversy.

Article 2085 of the Civil Code provides that a mortgage contract, to be valid, must have the following requisites: (a) that it be constituted to secure the fulfilment of a principal obligation; (b) that the mortgagor be the absolute owner of the thing mortgaged; and (c) that the persons constituting the mortgage have free disposal of their property, and in the absence of free disposal, that they be legally authorized for the purpose. The presence of the second requisite—absolute ownership—is the contentious determinative issue.

Respondents assert that the mortgagor's absolute ownership over the property intended to be mortgaged is necessary for the mortgage to be valid. To disprove allegations of their absolute ownership of Lot No. 10 and necessarily to prove the nullity of the mortgage contract, respondents point to the Contract to Sell[36] which Alejandro entered into with BDC three years after the purported constitution of the mortgage over Lot No. 10. Said contract covers Unit No. 10, a dwelling structure with an area of 36 square meters located in Calumpang, General Santos City.

The CA agreed with respondents as to the implication of the aforesaid contract to sell on the issue of ownership of Lot No. 10 as a requisite element that goes into the validity of mortgage. The appellate court, thus, stated the observation that the fact that the Contract to Sell over Unit No. 10 was executed three years after the constitution of the mortgage "bolsters the thesis that [respondents] were ***not*** the owners of Lot No. 10 ***at the time of the constitution of the [REM]***."[37]

We do not agree.

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[36] Records, pp. 20-24.
[37] *Rollo*, p. 18.

Contrary to the findings of the courts *a quo*, the evidence on record reveals that, at the time the subject mortgage was created, respondent Alejandro was the declared owner of Lot No. 10. His ownership is reflected in TD No. 59006 issued on September 12, 1990[38] or a little less than two years prior to the constitution of the mortgage on Lot No. 10 in January 1992. The fact of being in actual possession of the property is another indication of such ownership.

Respondents parlayed and the CA acquiesced with the argument that the BDC owned Lot No. 10 when mortgaged to the PNB, and that they were mere applicants out to buy the lot. The records, however, are bereft of evidence, other than respondents' bare and self-serving assertion, to support their contention about being mere applicants in a social housing project at the time and that Lot No. 10 was, indeed, government property. And as may be noted, TD No. 38950 over Lot No. 10—in the name of the Ministry of Human Settlements, which should otherwise lend proof to the Ministry ownership of the lot—had, as of 1990, already been cancelled; and in lieu of it, TD No. 59006[39] was issued in Alejandro's name, two (2) years prior to the constitution of the REM. Well-settled is the rule that "[b]are and unsubstantiated allegations do not constitute substantial evidence and have no probative value."[40]

Much has been made on the evidentiary value of the Contract to Sell of Unit No. 10 as to the ownership of Lot No. 10. However, a perusal of the Contract to Sell shows that it contemplates a different object. The contract, to stress, is one for the sale of Unit No. 10 in the Rural Bliss I Project, having an area of 36 square meters, as indicated in the technical description. Too, its Clause IV[41] specifically refers to the unit being sold as a "dwelling

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[38] Records, p. 47, dorsal portion of the Declaration of Real Property, TD No. 59006.

[39] Id. The dorsal portion of TD No. 59006 states, "This Declaration cancels Tax Nos. 38950-E x x x."

[40] *LNS International Manpower Services v. Padua, Jr.*, G.R. No. 179792, March 5, 2010, 614 SCRA 322, 323.

[41] Records, p. 21.

unit," that is, a house, which the buyer is even required to insure against fire and is deemed to have conditionally accepted the unit in good order.

In fine, the sale of Unit No. 10 to the Reblandos, is not, without more, proof that respondents did not own Lot No. 10 at the time of the constitution of the mortgage. The Contract to Sell of Unit No. 10 presented by respondents has nothing to do with this case, as it is not in any way related to the mortgage contract. And as between the Contract to Sell and TD No. 59006, categorically stating that respondent Alejandro is the owner of Lot No. 10 since the time of its issuance on September 12, 1990, the latter ought to be the superior evidence as to who owns Lot No. 10. What the Court said in *Cequeña v. Bolante*[42] is instructive:

> Tax receipts and declarations are *prima facie* proofs of ownership or possession of the property for which such taxes have been paid. Coupled with proof of actual possession of the property, they may become the basis of a claim for ownership. x x x

In this case, not only was the tax declaration in Alejandro's name, but also, respondents admittedly possessed the property mortgaged, their residence being constructed on it.[43] It is for this very reason that they prayed for injunction before the RTC when the writ of possession was issued against them.[44] There is, therefore, a *prima facie* proof of ownership in this case which respondents failed to rebut. Consequently, the power of Alejandro to subject Lot No. 10 as collateral to the loan stands.

In sum, respondents failed to prove and the trial and appellate courts erred in ruling that the Contract to Sell, supposedly the proof that Lot No. 10 was owned by the government at the time of the mortgage, covers Lot No. 10, a parcel of land, when in fact it covers Unit No. 10, a dwelling unit under the BLISS Development Project. The pieces of evidence, consisting of the tax declarations and the annotations, as well as the amendments to the REM executed and signed by respondents, show that Lot No. 10 was already

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[42] G.R. No. 137944, April 6, 2000, 330 SCRA 216, 218.
[43] TSN, August 22, 2000, pp. 3, 12.
[44] Id. at 13.

owned by Alejandro at the time of the mortgage. The latter being the owner of the lot, he then could validly encumber said property by way of mortgage. Therefore, the REM constituted is valid, contrary to respondents' insistence that the contract is void for lack of authority on the part of the mortgagor to encumber the property used as collateral for the loan.

It is unfortunate that both the RTC and the CA heavily relied on the Contract to Sell of Unit No. 10 when it is readily apparent that the Contract to Sell, on which their decisions in favor of the nullity of the mortgage were anchored, covers a different subject matter. Also, it is but proper for Us to warn parties against this practice of attempting to mislead courts into believing their cause and, worse, subsequently ruling in their favor, by making it appear that their evidence supports their position when, in fact, it is not in any way related to the case or by omitting to attach a material part of their evidence to support their false theory on the case.

On estoppel by deed

Petitioner faults the RTC and the CA for not applying the principle that a mortgagor is estopped from claiming that he is not bound by the ancillary mortgage agreement after he has benefited from the principal contract of loan.

To support its allegation that respondents are estopped from denying the validity of the REM, PNB forwards the view that Rule 131 of the Rules of Court applies to this case.

We find merit in petitioner's position.

Rule 131, Section 2(a) of the Rules of Court, enunciating the principle of estoppel,[45] states, "Whenever a party has, by his own declaration, act or omission, intentionally and deliberately led another to

[45] *Toledo v. Hyden*, G.R. No. 172139, December 8, 2010, 637 SCRA 540, 550.

believe a particular thing to be true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act or omission, be permitted to falsify it." At point is *Toledo v. Hyden*,[46] where the Court held that "[a] party to a contract cannot deny the validity thereof after enjoying its benefits without outrage to one's sense of justice and fairness."

Respondents' act of entering into the mortgage contract with petitioner, benefiting through the receipt of the loaned amount, defaulting in payment of the loan, letting the property be foreclosed, failing to redeem the property within the redemption period, and thereafter insisting that the mortgage is void, cannot be countenanced. We agree with PNB that respondents are estopped from contesting the validity of the mortgage, absent any proof that PNB coerced or fraudulently induced respondents into posting Lot No. 10 as collateral.

Even if We assume, for the sake of argument, that respondents did not intend to deceive petitioner when they used Lot No. 10 as collateral, still We cannot allow respondents to arbitrarily reverse their position to the damage and prejudice of the bank absent any showing that the latter accepted the mortgage over Lot No. 10 in bad faith. Pertinently:

> [A] party may be estopped to deny representations made when he had no knowledge of their falsity, or which he made without any intent to deceive the party now setting up the estoppel. [T]he fraud consists in the inconsistent position subsequently taken, rather than in the original conduct. It is the subsequent inconsistent position, and not the original conduct that operates to the injury of the other party.[47]

The practice of obtaining loans, defaulting in payment, and thereafter contesting the validity of the mortgage after the collateral has been foreclosed without any meritorious ground should be deterred. Actions of this kind, bearing a hint of fraud on the part of mortgagors, should not be tolerated, for they go against the basic principle that no person shall unjustly

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[46] Id. at 551; citing *Lim v. Queensland Tokyo Commodities, Inc.*, 424 Phil. 35, 45 (2002).

[47] See *Sullivan v. Buckhorn Ranch Partnership BH*, No. 100,618, June 14, 2005; *Hamilton v. Hamilton*, 296 N.C. 574, 576-77, 251 S.E.2d 441, 443 (1979).

enrich himself or herself at the expense of another and that parties in a juridical relation must act with justice, honesty, and good faith in dealing with one another.[48] What is worse, respondents even attempted, not just once, to deceive the courts into believing their position by manipulating their evidence in such a way that it will support a concocted theory. Respondents, by omitting a part of the REM contract as annex to the complaint, concealed the simultaneity of the constitution of the mortgage over both properties. Not only that, respondents even submitted in evidence a document, the Contract to Sell, to support their theory that at the time of the constitution of the mortgage, Alejandro did not own the property, thus rendering the mortgage over Lot No. 10 void. This theory, however, is nothing more than a mere fabrication, a product of one's ingenuity crafted to deceive the courts into acquiescing and ruling in their favor, a fraudulent practice which We shall not countenance.

In light of the foregoing disquisition, the Court need not belabor the other assigned errors.

WHEREFORE, premises considered, the instant petition is **GRANTED**. Accordingly, the appealed Decision and Resolution dated June 24, 2010 and August 24, 2010, respectively, in CA-G.R. CV No. 79987 are **REVERSED** and **SET ASIDE**. The Real Estate Mortgage constituted over Lot No. 10 is hereby declared **VALID**. Respondents are **ORDERED** to immediately vacate the property and to surrender its possession to petitioner PNB.

No pronouncement as to costs.

SO ORDERED.

PRESBITERO J. VELASCO, JR.
Associate Justice

[48] *Bricktown Dev't. Corp. v. Amor Tierra Dev't. Corp.*, G.R. No. 112182, December 12, 1994, 239 SCRA 126, 128.

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice

ROBERTO A. ABAD
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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