



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**SECOND DIVISION**

SPS. LINO REBAMONTE,  
 substituted by his compulsory heirs  
 namely: LUZVIMINDA R.  
 PANISA, TERYLI M.  
 REBAMONTE, NAIDA R.  
 CERVANTES, JOEREL M.  
 REBAMONTE, and heirs of  
 JEMUEL M. REBAMONTE,  
 represented by JUDITH ANN O.  
 REBAMONTE, and TERESITA M.  
 REBAMONTE,

G.R. No. 237812

Present:

CARPIO, J., *Chairperson*,  
 CAGUIOA,  
 J. REYES, JR.,  
 LAZARO-JAVIER, and  
 ZALAMEDA, JJ.

Petitioners,

Promulgated:

- versus -

102 OCT 2019

SPS. GUILLERMO LUCERO and  
 GENOVEVA S. LUCERO,  
 Respondents.

x -----x

**DECISION**

**CAGUIOA, J.:**

Because of the elementary rule that jurisdiction over the subject matter is conferred by law, jurisdiction cannot be bargained away by the litigant-parties. Otherwise stated, as a general rule, a party cannot be estopped in raising the ground of lack of jurisdiction. And such ground may be raised at any stage of the proceedings, whether during trial or on appeal. Nevertheless, it is well-established in our jurisprudence that, upon the existence of certain exceptional circumstances, a party is deemed to have waived his or her right to raise the ground of lack of jurisdiction. In the instant case, it is only before this Court, after almost three long decades of active and participative litigation, that the issue on lack of jurisdiction was raised. The Court shall thus examine whether the doctrine of estoppel by laches finds application.

## The Case

Before the Court is an appeal via a Petition for Review on *Certiorari*<sup>1</sup> (Petition) under Rule 45 of the Rules of Court filed by petitioners Spouses Lino Rebamonte (petitioner Lino) and Teresita M. Rebamonte (petitioner Teresita) (collectively referred to as the petitioners Sps. Rebamonte) assailing the Decision<sup>2</sup> dated November 17, 2017 (assailed Decision) and Resolution<sup>3</sup> dated February 20, 2018 (assailed Resolution) of the Court of Appeals, Cagayan de Oro City (CA) in CA-G.R. CV No. 04428-MIN.

### The Essential Facts and Antecedent Proceedings

As culled from the recital of facts in the assailed Decision, the essential facts of the instant case are as follows:

At the center of the instant case are two portions of land (subject portions), consisting of one hectare each, which are parts of a bigger lot, *i.e.*, Lot No. 1305-A. The said lot contains an area of 47,817 square meters, situated at Mamali II, Lambayong, Province of Cotabato (now Sultan Kudarat) and covered by Transfer Certificate of Title (TCT) No. T-17712 registered in the name of respondent Guillermo Lucero (Guillermo). The lot, previously covered by TCT No. T-26792, was previously owned by and registered in the name of respondent Guillermo's parents, Marcos Lucero (Marcos) and Tomasa Rebamonte (Tomasa).

Previously, on June 30, 1970, respondent Guillermo's parents, Marcos and Tomasa, obtained a loan from the Rehabilitation Finance Corporation, now the Development Bank of the Philippines (DBP). As security for the loan, Lot No. 1305-A was mortgaged. For their failure to pay the loan obligation, DBP extrajudicially foreclosed the lot, wherein DBP, as the lone bidder, purchased the lot in the public auction conducted. The period of redemption then lapsed without Marcos and Tomasa redeeming the lot. Hence, ownership over the lot was consolidated in favor of DBP.

Nonetheless, before TCT No. T-26792 was to be cancelled and a new TCT was to be registered in the name of DBP, DBP entered into a repurchase agreement with Marcos and Tomasa. The latter were able to repurchase the lot from DBP and regained ownership over the lot.

Afterwards, on November 14, 1980, Marcos and Tomasa sold Lot No. 1305-A to respondent Guillermo. The sale was evidenced by a Deed of Absolute Sale dated November 14, 1980. Thereafter, TCT No. T-26792 was

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<sup>1</sup> *Rollo*, pp. 10-66.

<sup>2</sup> *Id.* at 67-77. Penned by Associate Justice Ruben Reynaldo G. Roxas, with Associate Justices Romulo V. Borja and Oscar V. Badelles concurring.

<sup>3</sup> *Id.* at 78-79.



consequently cancelled and TCT No. T-17712 was issued in the name of respondent Guillermo.<sup>4</sup>

However, prior to the sale that occurred on November 14, 1980, three separate *unregistered* sales in favor of Tomasa's cousin, petitioner Lino, allegedly took place covering certain portions of Lot No. 1305-A spanning an area of three hectares:

1. On February 5, 1976, Tomasa sold a one-hectare portion of Lot No. 1305-A to petitioner Lino. The sale was evidenced by a private receipt.
2. On May 29, 1976, respondent Guillermo's sister, Josefina Lucero-Oprecio (Josefina), executed a Deed of Absolute Sale conveying another one-hectare portion of Lot No. 1305-A in favor of petitioner Lino.
3. On June 17, 1980, another sister of respondent Guillermo, Agripina Lucero-Reyes (Agripina), executed a Deed of Absolute Sale conveying another one-hectare portion of Lot No. 1305-A in favor of petitioner Lino.<sup>5</sup>

As petitioner Lino took possession of the aforementioned portions of Lot No. 1305-A, respondent Guillermo was unable to possess the entire lot. Respondent Guillermo repeatedly made demands for petitioner Lino to vacate the aforementioned portions of the lot, but petitioner Lino refused to do so.

Determined to recover possession of the portions of the lot occupied by petitioner Lino, respondent Guillermo, together with his wife Genoveva Lucero (respondents Sps. Lucero), instituted a Complaint<sup>6</sup> for Recovery of Real Estate Property, Recovery of Possession, Quieting of Title, Damages, and Attorney's Fees against the petitioners Sps. Rebamonte. The case was filed before the Regional Trial Court of Tacurong City, Branch 20 (RTC) and was docketed as Civil Case No. 241.

The petitioners Sps. Rebamonte filed their Answer<sup>7</sup> dated April 24, 1990. The respondents Sps. Lucero filed an Amended Complaint<sup>8</sup> dated September 17, 1990. The petitioners Sps. Rebamonte then filed their Amended Answer<sup>9</sup> dated September 24, 1990. In response, the respondents Sps. Lucero filed their Reply and Answer to Counterclaim<sup>10</sup> dated October 1, 1990.

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<sup>4</sup> Id. at 68-69.

<sup>5</sup> Id. at 69-70.

<sup>6</sup> Id. at 80-86.

<sup>7</sup> Id. at 106-111.

<sup>8</sup> Id. at 122-128.

<sup>9</sup> Id. at 129-135.

<sup>10</sup> Id. at 136-138.



The respondents Sps. Lucero alleged that the Deeds of Absolute Sale dated May 29, 1976 and June 17, 1980 are invalid and have no legal effect considering that respondent Guillermo's sisters Josefina and Agripina had no right to convey any portion of the subject lot. It was emphasized that respondent Guillermo's parents, Marcos and Tomasa, who were the undisputed owners of the subject lot, were still alive at the time of the conveyance. They never bestowed any right in favor of Josefina and Agripina to transfer the subject lot to any other person. And because the Deeds of Absolute Sale were invalid, petitioner Lino did not acquire any valid title to the questioned portions of Lot No. 1305-A. As to the one hectare sold to petitioner Lino by his mother Tomasa, respondent Guillermo averred that the private receipt lacked the formalities and requisites of a valid contract, thus, there was no legal transfer of ownership to the petitioners Sps. Rebamonte.<sup>11</sup>

For their part, the petitioners Sps. Rebamonte argued that Tomasa had already granted the sisters of respondent Guillermo, *i.e.*, Josefina and Agripina, rights over the two portions of the subject lot with an area of one hectare each as their advance inheritance as is the practice among Ilocanos. Thus, the petitioners Sps. Rebamonte asserted that the sales of the two portions undertaken by Josefina and Agripina in favor of petitioner Lino were valid and that, consequently, they are the absolute and lawful owners of the subject portions of the subject lot.<sup>12</sup>

### The Ruling of the RTC

On February 3, 2012, the RTC rendered a Judgment<sup>13</sup> voiding the two Deeds of Absolute Sale dated May 29, 1976 and June 17, 1980 entered into by petitioner Lino and respondent Guillermo's sisters Josefina and Agripina, respectively.

The RTC held that during the time that these deeds were executed, Josefina and Agripina had absolutely no right to convey the subject portions as the lot was owned by their parents, Marcos and Tomasa. Josefina and Agripina were never owners of the lot. Marcos and Tomasa never authorized Josefina and Agripina to sell any portion of the lot. Hence, the RTC ordered the petitioners Sps. Rebamonte to vacate the subject portions. However, the RTC declared that the sale by Tomasa to petitioner Lino of the one-hectare portion on February 5, 1976 was valid and binding.

The dispositive portion of the RTC's Judgment reads:

WHEREFORE, upon the foregoing considerations, the court hereby renders judgment:

1. Ordering The Registrar of Deeds for the Province of Sultan Kudarat to annotate the sale made by the late Tomasa Lucero in

<sup>11</sup> Id. at 70-71.

<sup>12</sup> Id. at 132.

<sup>13</sup> Id. at 149-183. Penned by Presiding Judge Milanio M. Guerrero.



- favor of the defendants of the one (1) hectare portion of Lot 1305-A, now covered by Transfer Certificate of Title No. 17712 in the name of the plaintiffs.
2. Declaring the Deed of Absolute Sale dated May 29, 1976 and Deed of Absolute Sale dated June 17, 1980 as Null and Void.
  3. Declaring the plaintiffs Spouses Guillermo and Genoveva Lucero as the absolute and lawful owners of Lot 1305-A, less the one (1) hectare portion thereof which was validly sold to herein defendants by Tomasa Lucero during her lifetime.
  4. Ordering the defendants and all others who are acting on their behalf and stead to vacate the two (2) hectare portion of Lot 1305-A and to peacefully turn over possession thereof to the plaintiffs and to relocate at their expense all improvements they introduced thereon.
  5. Ordering the defendants to give plaintiffs per year reckoned from the filing of this case on March 27, 1990 30 cavans of palay at 50 kilos each or its cash equivalent as the latter's share on the produce of the two (2) hectare portion which the former till and occupy, including interests thereon computed from finality of this judgment and until full payment thereof;
  6. Ordering the defendants to pay plaintiffs P5,000.00 as and by way of Moral [damages] and P5,000.00 as and by way of Exemplary damages; and
  7. Ordering the defendants to pay plaintiffs P20,000.00 as attorney's fees and litigation expenses and to the costs.

IT IS SO ORDERED.<sup>14</sup>

The petitioners Sps. Rebamonte filed a Motion for Reconsideration, which was denied by the RTC in its Omnibus Order<sup>15</sup> dated November 3, 2015. In the Omnibus Order, the substitution of petitioner Lino by his heirs was approved by the RTC on account of petitioner Lino's death.

Feeling aggrieved, the petitioners Sps. Rebamonte, as represented by the heirs of petitioner Lino, appealed before the CA.

### **The Ruling of the CA**

In the assailed Decision,<sup>16</sup> the CA denied the petitioners Sps. Rebamonte's appeal for lack of merit.

The dispositive portion of the assailed Decision reads:

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<sup>14</sup> Id. at 181-183.

<sup>15</sup> Id. at 185-186.

<sup>16</sup> Supra note 2.



WHEREFORE, premises considered, the instant appeal is DENIED. The Decision dated 03 February 2012 by the Regional Trial Court, Branch 20, Tacurong City is AFFIRMED *in toto*.

SO ORDERED.<sup>17</sup>

The petitioners Sps. Rebamonte filed their Motion for Reconsideration dated December 13, 2017, which was denied by the CA in the assailed Resolution.<sup>18</sup>

Hence, the instant appeal before the Court.

The respondents Sps. Lucero filed their Comments to Petition for Review<sup>19</sup> dated February 2, 2019, to which the petitioners Sps. Rebamonte filed their Reply [To the Comment of Respondents]<sup>20</sup> dated July 26, 2019.

### Issues

While invoking the same arguments raised in their previous pleadings before the RTC and CA that the two Deeds of Absolute Sale are not null and void, which they raised at the tail end of the instant Petition, the petitioners Sps. Rebamonte have completely modified the theory of their case and are now primarily relying on *three new arguments* that are invoked *for the first time* on appeal before the Court:

1. Whether the RTC has jurisdiction over the Complaint filed by the respondents Sps. Lucero, considering that the assessed value of the subject portions establish that the jurisdiction of the Complaint falls within the Municipal Trial Court of Tacurong City (MTC) and not the RTC;
2. Whether there was defective service of summons and, consequently, whether all the proceedings conducted by the RTC are considered null and void; and
3. Whether the failure to effect substitution for the death of respondent Guillermo in 2000 violated Rule 3, Section 16 of the Rules of Court.<sup>21</sup>

### The Court's Ruling

The instant Petition is *unmeritorious*.

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<sup>17</sup> *Rollo*, p. 76.

<sup>18</sup> *Supra* note 3.

<sup>19</sup> *Rollo*, pp. 270-291.

<sup>20</sup> *Id.* at 299-337.

<sup>21</sup> *Id.* at 26-27.



The Court shall discuss each and every issue raised by the petitioners Sps. Rebamonte *ad seriatim*.

### *I. The Issue on Jurisdiction*

For the very first time, the petitioners Sps. Rebamonte raise the argument that the RTC's Judgment should be vacated due to lack of jurisdiction.

The petitioners Sps. Rebamonte argue that "[t]he law is clear on the matter. **BP. BLG. 129, as amended**, states that if the assessed value of the real property subject matter of an action involving interest thereto is Php 20,000.00 and more, then the Regional Trial Court can validly take/assume jurisdiction over the case otherwise it is the Metropolitan/Municipal Trial Court."<sup>22</sup> The petitioners Sps. Rebamonte add that in the instant case, "the total assessed value of the agricultural land covering a total of 4.7817 hectares is Php 11,120.00 and out of these 4.7817, only 2 hectares is involved in the subject complaint making the assessed value concerned as Php 4,730.00."<sup>23</sup>

The Complaint filed by the respondents Sps. Lucero before the RTC for "Recovery of Real Estate Property, Recovery of Possession, Quieting of Title, Damages and for Attorney's Fees" is unquestionably an action involving title to or possession of real property, or any interest therein.

According to Section 33(3) of *Batas Pambansa Blg. (BP) 129*, otherwise known as the Judiciary Reorganization Act of 1980, as amended by Republic Act No. (RA) 7691,<sup>24</sup> the MTC has exclusive original jurisdiction in all civil actions which involve title to, or possession of, real property located outside Metro Manila, or any interest therein where the assessed value of the property or interest therein does not exceed ₱20,000.00.

As admitted by the respondents Sps. Lucero in their Complaint, Lot No. 1305-A "has a total market assessed value of ₱11,120.00["<sup>25</sup>

Hence, on the question of jurisdiction, the petitioners Sps. Rebamonte are correct in saying that the RTC had no jurisdiction over the subject matter of the instant case. Considering that the assessed value of the subject property, as alleged by the respondents Sps. Lucero in their Complaint, is well below ₱20,000.00, the MTC has jurisdiction over the Complaint.

While it is true that the Court has held that the jurisdiction of a court may be questioned at any stage of the proceedings, and that lack of jurisdiction is one of those excepted grounds where the court may dismiss a claim or a

<sup>22</sup> Id. at 28; emphasis in the original.

<sup>23</sup> Id.

<sup>24</sup> An Act Expanding the Jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts, Amending for the Purpose *Batas Pambansa Blg. 129*, Otherwise Known as the "Judiciary Reorganization Act of 1980."

<sup>25</sup> *Rollo*, p. 81; underscoring in the original.



case at any time when it appears from the pleadings or the evidence on record that any of those grounds exists, even if they were not raised in the answer or in a motion to dismiss, nevertheless, the Court has likewise pronounced that this general rule is ***not absolute***. It is settled that, upon the existence of certain exceptional circumstances, **a party may be barred from raising lack of subject matter jurisdiction on the ground of estoppel.**

In the seminal case of *Tijam v. Sibonghanoy*<sup>26</sup> (*Tijam*), the Court barred belated objections raised by a party with respect to the lack of jurisdiction of the lower court because the said party raised the objection only when the adverse decision was already rendered by the lower court and that the said party had already sought affirmative relief from the lower court and had actively participated in all the stages of the proceedings. In *Tijam*, the Court ruled that allowing the party to raise the ground of lack of jurisdiction after a long delay of 15 years is unfair to the opposing party. Hence, the party raising the ground of lack of jurisdiction for the first time after such lengthy period is already barred from doing so due to the doctrine of estoppel by laches.

The Court explained that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. The question whether the court has jurisdiction either of the subject matter of the action or of the parties was not important in such case because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice cannot be tolerated — obviously for reasons of public policy.<sup>27</sup>

As held in another case, the Court explained that the active participation of the party against whom the action is brought, coupled with his failure to object to the jurisdiction of the court or administrative body where the action is pending, is tantamount to an invocation of that jurisdiction and a willingness to abide by the resolution of the case and will bar said party from later on impugning the court or body's jurisdiction.<sup>28</sup>

As further nuanced by the Court in the more recent case of *Amoguis v. Ballado*<sup>29</sup> (*Amoguis*), “[t]he edict in *Tijam v. Sibonghanoy* is not an exception to the rule on jurisdiction. A court that does not have jurisdiction over the subject matter of a case will not acquire jurisdiction because of estoppel. Rather, the edict in *Tijam* must be appreciated as a waiver of a party's right to raise jurisdiction based on the doctrine of equity. **It is only when the circumstances in *Tijam* are present that a waiver or an estoppel in questioning jurisdiction is appreciated.**”<sup>30</sup>

<sup>26</sup> 131 Phil. 556 (1968).

<sup>27</sup> Id. at 564.

<sup>28</sup> *Megan Sugar Corp. v. RTC, Br. 68, Dumangas, Iloilo, et al.*, 665 Phil. 245, 260 (2011); citation omitted.

<sup>29</sup> G.R. No. 189626, August 20, 2018.

<sup>30</sup> Id.; emphasis and underscoring supplied, citations omitted.



Therefore, in assessing whether the petitioners Sps. Rebamonte have waived their right to question the jurisdiction of the RTC, the circumstances of the instant case must be compared to the circumstances attendant in *Tijam*.

As summarized by the Court in *Amoguis*, the following exceptional circumstances — the existence of a statutory right in favor of the claimant, the non-invocation of such statutory right, the lapse of an unreasonable length of time before the claimant raised the issue of jurisdiction, and the active participation of the claimant in the case — were all present in *Tijam*:

*x x x first, there was a statutory right in favor of the claimant. Manila Surety had the right to question the Court of First Instance's jurisdiction because it was the inferior courts that had authority to try cases that involved the amount claimed. Second, the statutory right was not invoked. Manila Surety participated in the trial and execution stages. It even sought relief from the Court of Appeals without questioning the Court of First Instance's jurisdiction. Third, an unreasonable length of time had lapsed before the claimant raised the issue of jurisdiction. It was only after the Court of Appeals affirmed the Court of First Instance's order of execution did Manila Surety pursue the issue of jurisdiction. Jurisdiction over collections for the amount involved was already determined by law a month before the case was filed. Fifteen years had lapsed before the surety pointed this out. Fourth, the claimant actively participated in the case and sought affirmative relief from the court without jurisdiction. The unreasonable length of time was, therefore, inexcusable as the claimant was apprised of the prevailing law, as well as all stages of the proceeding.*<sup>31</sup>

In the aforementioned case, the petitioners therein did not question the jurisdiction of the RTC during trial and on appeal. It was only before the Court, 22 long years after the complaint was filed, that the petitioners therein raised the ground of lack of jurisdiction.

Applying the foregoing to the matter at hand, not only are the abovementioned exceptional circumstances in *Tijam* extant in the instant case, the Court finds that the circumstances attendant in the instant case are actually *much more grave* than those present in *Tijam*.

As already explained, the petitioners Sps. Rebamonte had every right to question the jurisdiction of the RTC. Same as in *Tijam*, the petitioners Sps. Rebamonte utterly failed to invoke the ground of lack of jurisdiction despite having *full knowledge* of this ground, considering that the assessed value of the subject lot was plainly indicated in the Complaint, a copy of which was fully furnished to the petitioners. In fact, the petitioners Sps. Rebamonte filed an Answer and an Amended Answer in response to the categorical allegations in the Complaint. Yet, the petitioners Sps. Rebamonte totally ignored the issue on jurisdiction in their responsive pleadings. Not even a whimper on lack of jurisdiction was made.

<sup>31</sup> *Amoguis v. Ballado*, supra note 29; italics in the original.

As well, the petitioners Sps. Rebamonte participated in every stage of the proceedings before the RTC and CA. Aside from filing their Answer and Amended Answer, they even sought affirmative relief before the RTC by filing a counterclaim against the respondents Sps. Lucero. A Motion for Reconsideration was likewise filed by the petitioners Sps. Rebamonte before the RTC. Analogous to the factual circumstances in *Tijam*, the petitioners Sps. Rebamonte were also able to file an appeal and a Motion for Reconsideration before the CA. Yet, even before the CA, the ground of lack of jurisdiction was never invoked.

In *Tijam*, the unreasonable delay that warranted the application of the doctrine of estoppel by laches spanned 15 years. In *Amoguis*, the delay lasted for 22 years. In the instant case, reckoned from the date of the receipt of the respondents Sps. Lucero's Complaint in 1990 to the filing of the instant Petition in 2018, which was the first time the ground of lack of jurisdiction was invoked by the petitioners Sps. Rebamonte, an outstandingly long period of 28 years has passed. To make matters worse, the petitioners Sps. Rebamonte fail to make any justification whatsoever explaining why they failed to raise the ground of lack of jurisdiction after almost three decades of litigation.

Therefore, the petitioners Sps. Rebamonte are estopped from invoking the ground of lack of jurisdiction. The Court refuses to reward the petitioners Sps. Rebamonte's lethargy and ineptitude by taking cognizance of their argument on lack of jurisdiction. Equity, fair play, and public policy prevent the Court from doing so.

## *II. The Issue on Service of Summons*

As to the issue on the alleged defective service of summons, the petitioners Sps. Rebamonte argue that "there was defective service of Summons. The court's process server resorted to substituted service without complying with the requirement in connection thereto. Thus, the [RTC] did not acquire jurisdiction over the person of herein petitioner Teresita Rebamonte."<sup>32</sup>

The argument deserves scant consideration. Aside from the petitioners Sps. Rebamonte being estopped from raising the question on lack of jurisdiction as explained above, it must be emphasized that under Rule 14, Section 20 of the Rules of Court, "[t]he defendant's voluntary appearance in the action shall be equivalent to service of summons."<sup>33</sup>

In the instant case, it cannot be seriously disputed that the petitioners Sps. Rebamonte fully and actively participated in the proceedings before the RTC and CA. To repeat, the petitioners Sps. Rebamonte filed their Answer

<sup>32</sup> *Rollo*, p. 37.

<sup>33</sup> Emphasis supplied.

and Amended Answer. They even sought affirmative relief from the RTC by filing a counterclaim against the respondents Sps. Lucero. The petitioners Sps. Rebamonte participated in the pre-trial, during the trial by presenting their witnesses and cross-examining the witnesses of the respondents, and were able to ask for a reconsideration of the RTC's adverse Judgment. In fact, the heirs of the late petitioner Lino even sought to substitute their father as parties in the instant case, which was duly granted by the RTC in its Omnibus Order. They were able to lodge an appeal before the CA.

After very actively participating in the proceedings, and after almost three decades of litigation, the petitioners Sps. Rebamonte cannot now allege for the first time that their right to be heard was transgressed. The petitioners Sps. Rebamonte's insistence that there was a violation of their right to due process due to the alleged defective service of summons is outright nonsense. The argument is clearly unmeritorious.

### *III. The Issue on Failure to Effect Substitution*

With respect to the third novel issue posed by the petitioners Sps. Rebamonte, it is argued that respondent Guillermo passed away in September 2000. "[A]nd yet even up to now the counsel for the respondents have yet to inform the court about such fact of death. x x x The failure to effect substitution renders the Decision of the [RTC] null and void."<sup>34</sup>

Similarly, the argument miserably fails to convince.

The argument could have been raised even when the case was pending before the RTC. Yet, after almost three decades of litigation, the petitioners Sps. Rebamonte raise the issue for the very first time on appeal before the Court.

It is a well-settled principle that issues of fact and arguments not adequately brought to the attention of the lower courts will not be considered by the reviewing courts as they cannot be raised for the first time on appeal. Points of law, theories, issues, and arguments not brought to the attention of the trial court are barred by estoppel and cannot be considered by a reviewing court, as these cannot be raised for the first time on appeal.<sup>35</sup>

In any case, the Court has ruled that "[m]ere failure to substitute a deceased party is not sufficient ground to nullify a trial court's decision. The party alleging nullity must prove that there was an undeniable violation of due process."<sup>36</sup>

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<sup>34</sup> *Rollo*, p. 52.

<sup>35</sup> *Ballesteros v. People*, G.R. No. 235579, January 28, 2019 (Unsigned Resolution).

<sup>36</sup> *Napere v. Barbarona, et al.*, 567 Phil. 354, 359 (2008); citations omitted.



The Court added that “[t]he essence of due process is the reasonable opportunity to be heard and to submit any evidence available in support of one’s defense. When due process is not violated, as when the right of the representative or heir is recognized and protected, noncompliance or belated formal compliance with the Rules cannot affect the validity of a promulgated decision.”<sup>37</sup>

In the instant case, there is absolutely no allegation that the right to due process of the respondents Sps. Lucero was violated due to the non-substitution of respondent Guillermo after the latter’s death. No one disputes that the respondents Sps. Lucero were fully able to participate and present their evidence during the trial.

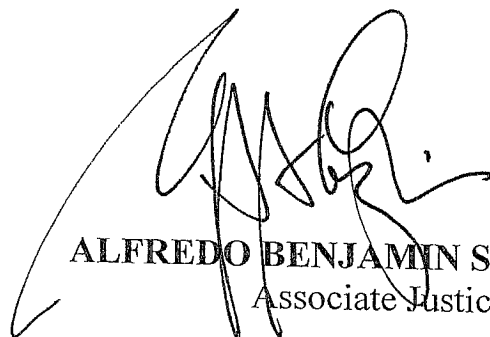
Therefore, the petitioners Sps. Rebamonte’s contention has no merit.

***IV. No Reversible Error on  
the part of the CA***

Lastly, with respect to the petitioners Sps. Rebamonte rehashed arguments on why the CA erred in declaring the two Deeds of Absolute Sale null and void, the Court finds no cogent reason to reverse the factual findings of the RTC that were affirmed by the CA. After appreciation of the evidence presented during the trial, the RTC factually found that the undisputed owners of the subject lot at the time the two Deeds of Absolute Sale were executed, Marcos and Tomasa, had no participation whatsoever in the execution of the said deeds. There was also no documentary evidence presented showing that Marcos and Tomasa authorized Josefina and Agripina to sell the subject portions in favor of Lino. As correctly held by the RTC and CA, Josefina and Agripina did not have any legal capacity to enter and to give consent to the transfer of any portion of Lot No. 1305-A.<sup>38</sup> The said Deeds of Absolute Sale are, beyond question, null and void.

**WHEREFORE**, the instant Petition is **DENIED**. The Decision dated November 17, 2017 and Resolution dated February 20, 2018 of the Court of Appeals in CA-G.R. CV No. 04428-MIN are hereby **AFFIRMED**.

**SO ORDERED.**

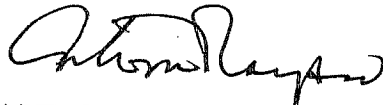


**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

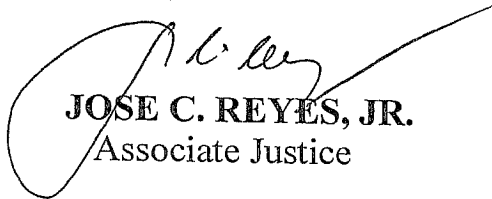
<sup>37</sup> Id. at 360; citations omitted.

<sup>38</sup> *Rollo*, pp. 73-74, 176-177.

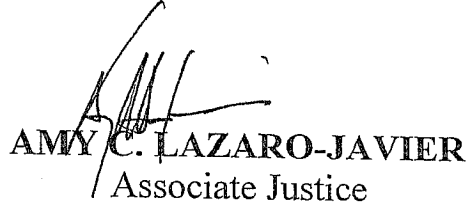
WE CONCUR:



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



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



**AMY C. LAZARO-JAVIER**  
Associate Justice



**RODIL V. ZALAMEDA**  
Associate Justice

**ATTESTATION**

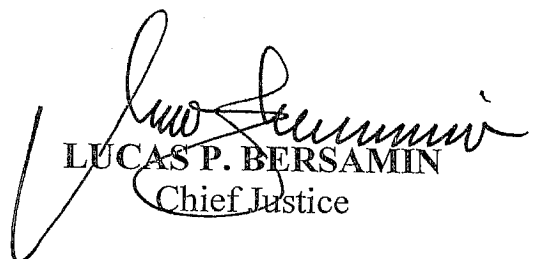
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified 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.



**LUCAS P. BERSAMIN**  
Chief Justice

