



Republic of the Philippines  
**Supreme Court**  
 Manila

FIRST DIVISION

**LUZ V. FALLARME,**  
 Petitioner,

**G.R. No. 247229**

**Present:**

PERALTA, C.J., *Chairperson,*  
 CAGUIOA, ,  
 REYES, J. JR.,  
 LAZARO-JAVIER, and  
 LOPEZ, JJ.

- versus -

**Promulgated:**

**ROMEO PAGEDPED,**  
 Respondent.

**SEP 03 2020**

x ----- x

**DECISION**

**REYES, J. JR., J.:**

Before the Court is a petition for review on *certiorari* seeking the reversal of the Decision<sup>1</sup> dated May 2, 2018 and the Resolution<sup>2</sup> dated February 14, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 108155 which granted the appeal and reversed the ruling of the Regional Trial Court (RTC) in Civil Case No.7821-R.

***Property claimed by Pagedped***

The subject matter of this case is a 1,862-square meter land in Baguio City, formerly covered by Transfer Certificate of Title (TCT) No. T-61200 issued in the name of Spouses Rudy and Nena Avila (Avilas).

On May 2, 1999, the Avilas obtained a ₱200,000.00 loan from Romeo Pagedped (Pagedped) secured by a real estate mortgage (REM) over the

<sup>1</sup> Penned by Associate Justice Mariflor Punzalan-Castillo and concurred in by Associate Justices Danton Q. Bueser and Henri Jean Paul B. Inting (now a member of this Court); *rollo*, pp. 20-33.

<sup>2</sup> *Id.* at 34-35.

Y

property. The Avilas delivered to Pagedped the owner's duplicate copy of TCT No. T-61200, and the REM was annotated on the title, as Entry No. 257381-29-86 on June 1, 1999.

Upon the failure of the Avilas to settle their obligation despite repeated demands, Pagedped judicially foreclosed the REM and the property was sold at a public auction on October 5, 2005 with Pagedped emerging as the highest bidder. The Sheriff's Certificate of Sale was registered and entered with the Register of Deeds on November 22, 2005 and annotated on TCT No. T-61200, as Entry No. 6809-36-178.

After a year from the time the Sheriff's Certificate of Sale was recorded, Pagedped consolidated his ownership over the parcel of land and was issued TCT No. T-91349 over the same on November 24, 2006, thereby cancelling TCT No. T-61200. All the annotations on TCT No. T-61200 were carried over to TCT No. T-91349.

According to Pagedped, it was only then that he discovered that several annotations were made on TCT No. T-61200 in the name of Fallarme.<sup>3</sup>

### *Fallarme's claim to ½ of the property*

Luz V. Fallarme (Fallarme) instituted a case before the RTC, docketed as Civil Case No. 5045-R, against the Avilas. A Notice of Attachment dated April 4, 2003 and later a Notice of Levy upon Realty dated May 20, 2005, were issued by the court involving one-half (½) portion of the subject parcel of land. The notices were annotated on TCT No. T-61200 as Entry Nos. 14015-33-118 and 590-36-16, respectively.

Subsequently, Fallarme caused the sale at public auction of the ½ portion on July 12, 2005. At the public auction, Fallarme emerged as the highest bidder, for ₱528,000.00, for which reason, she was issued a Sheriff's Certificate of Sale. The Sheriff's Certificate of Sale was annotated on TCT No. T-61200, on June 9, 2006, as Entry No. 13687-37-108.<sup>4</sup>

### **RTC, Baguio City, Branch 6 LRC Adm. Case No. 1967-R**

On May 26, 2010, Pagedped filed a petition for the cancellation of all annotations appearing on TCT No. T-91349, docketed as LRC Adm. Case No. 1967-R, before the RTC of Baguio City, Branch 6. Fallarme was joined as a respondent in the case.

---

<sup>3</sup> Id. at 22, 38-39.

<sup>4</sup> Id. at 21.

K

In his petition, Pagedped alleged that he was surprised to discover that a Notice of Attachment dated April 4, 2003 and a Notice of Levy upon Realty dated May 20, 2005 by Sheriff Oliver N. Landingin involving the case of Fallarme were annotated at the back of his TCT No. T-91349, and that thereafter a Sheriff's Certificate of Sale dated July 12, 2005 issued by Sheriff Landingin in favor of Fallarme was also registered and entered with the Office of the Register of Deeds on June 9, 2006, and annotated on the same title. Pagedped was neither notified nor impleaded as a party to the foreclosure proceedings initiated by Fallarme, even though the Deed of REM executed in his favor was entered and annotated earlier than Fallarme's. He alleged that Fallarme knew of the encumbrance in his favor as appearing in the title, yet she failed to notify him of her foreclosure to his damage and prejudice.<sup>5</sup>

### **RTC Ruling in LRC Adm. Case No. 1967-R**

On January 10, 2013, the RTC granted Pagedped's petition and the Register of Deeds of Baguio City was directed to cancel all entries mentioned therein.<sup>6</sup>

The *fallo* reads:

WHEREFORE, the instant petition is granted. The Register of Deeds, Baguio City, is directed to cancel Entry No. 14015-33-118 (Notice of Attachment), Entry No. 590-36-16 (Notice of Levy upon realty) and Entry No. 13687-37-108 (Sheriff's Certificate of Sale) in the Transfer Certificate of Title No. T-91349 of the Registry of Deeds of Baguio City in the name of Romeo Pagedped.

SO ORDERED.<sup>7</sup>

Fallarme filed a notice of appeal on January 31, 2013, and the case was elevated to the Court of Appeals, docketed as CA-G.R. CV No. 100279.

### **CA-G.R. CV No. 100279**

On November 24, 2017, the appellate court<sup>8</sup> ruled:

WHEREFORE, the appeal is GRANTED. The decision of the Regional Trial Court of Baguio City, Branch 6 dated January 10, 2013 in LRC Case No. 1967-R is REVERSED and SET ASIDE. A new

---

<sup>5</sup> Id. at 22-23.

<sup>6</sup> Id. at 23.

<sup>7</sup> Id. at 45.

<sup>8</sup> The Decision was penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Ramon A. Cruz and Maria Elisa Sempio Diy; id. at 46-54.

Y

decision is entered DISMISSING the petition for cancellation of encumbrances on Transfer Certificate of Title No. T-91349.

**SO ORDERED.**<sup>9</sup>

The CA, through the Special Sixteenth Division, held that the RTC correctly held that the encumbrances in favor of Fallarme are inferior to that of Pagedped. This is because any subsequent lien annotated at the back of a certificate of title cannot, in any way, prejudice a mortgage previously registered even if the sale took place after the annotation of the subsequent lien or encumbrance. While the subject encumbrances were already existing when the auction sale was held on October 5, 2005, the rights of Pagedped as the original mortgagee and purchaser at the auction sale, takes precedence.

The CA further held, however, that the RTC committed reversible error in ordering the cancellation of the subject encumbrances because the record shows that Fallarme was not impleaded in the judicial foreclosure proceedings initiated by Pagedped. A subsequent lien holder who was not impleaded as a party in the foreclosure suit is not bound by the judgment in favor of the foreclosing mortgagee. Thus, the subsequent lien holder's equity of redemption remains unforeclosed and a separate foreclosure proceeding must be brought to require her to redeem from the party acquiring title. Without the conduct of a separate foreclosure proceeding, Fallarme's equity of redemption remained unforeclosed and Pagedped acquired title to the property subject to the encumbrances annotated at the back of TCT No. T-91349. Thus, the encumbrances cannot be ordered cancelled until it is shown that Fallarme failed to exercise her equity of redemption as provided for by law.<sup>10</sup>

The CA Decision in CA G.R. CV No. 100279 acquired finality on June 30, 2018.<sup>11</sup>

Meanwhile, shortly after she filed her appeal to the CA, above mentioned, Fallarme sent Pagedped a letter on February 21, 2013, through counsel, saying that the judgment in the case to judicially foreclose the REM is ineffective to her since she was not made a party to said case. Also, since she has  $\frac{1}{2}$  interest in the property, ₱100,000.00, (which is half of the ₱200,000.00 for which the property covered by TCT No. T-61200 was sold) should be taken into consideration in the computation of the redemption amount plus the legal rate of interest due thereon, computed from the time of the foreclosure sale up to the date when the property is redeemed.

Pagedped refused the offer to redeem  $\frac{1}{2}$  portion of the property which prompted Fallarme to file on April 18, 2013, a complaint for redemption and

---

<sup>9</sup> Id. at 53.

<sup>10</sup> Id. at 51-53.

<sup>11</sup> Id. at 54.

T

consignation before the RTC of Baguio City, Branch 7 docketed as Civil Case No. 7821-R.

**RTC Baguio City, Branch 7  
Civil Case No. 7821-R**

In her complaint, Fallarme alleged that since she was not made a party in the case for judicial foreclosure of the real estate mortgage constituted over the subject parcel of land filed by Pagedped, her supposed equity of redemption remained valid and subsisting.

Pagedped, in his Answer, meanwhile maintained that the publication of the notice of foreclosure sale was a notice to the whole world, and since no redemption was made within one year from the registration of the foreclosure sale to him, redemption was no longer possible notwithstanding the consignation of the redemption price.

At the pre-trial, Pagedped and Fallarme stipulated on the following: (1) that Fallarme is the subsequent lien holder of  $\frac{1}{2}$  portion of the property covered by TCT No. T-91349; (2) that prior to the filing of Pagedped's judicial foreclosure of real estate mortgage constituted on the subject real property, Fallarme already caused the annotation of a notice of attachment and a notice of levy, but Pagedped learned of these annotations only after the release of the title in his favor; (3) that Fallarme was not joined as a party to the foreclosure action over the subject real property which Pagedped instituted against the Avilas because the latter never knew of the transaction between the Avilas and Fallarme and he was not a party to their contract; (5) that there was an offer from Fallarme for the redemption of the  $\frac{1}{2}$  portion of the subject property; (6) that Pagedped was informed of Fallarme's intention to consign the redemption price and the actual consignation of the redemption price; (7) that Pagedped refused Fallarme's offer to redeem the  $\frac{1}{2}$  portion of the subject real property; (8) that the owner's copy of TCT No. T-61200 had always been with Pagedped; (9) that in Civil Case No. 5045-R, Pagedped was never impleaded with the qualification that said case is a personal action by Fallarme against the Avilas; and (10) that the subject lot is now registered in the name of Pagedped under TCT No. T-91349.<sup>12</sup>

**RTC Branch 7 Ruling in Civil Case No. 7821-R**

On November 4, 2016, the RTC of Baguio City, Branch 7 held:

**WHEREFORE**, as prayed for, plaintiff Luz Fallarme is hereby declared to be entitled to redeem  $\frac{1}{2}$  portion of the property registered under Transfer Certificate of Title No. T-91349 of the Register of Deeds of Baguio

---

<sup>12</sup> Id. at 26.

Y

City from defendant Romeo Pagedped who is hereby given thirty (30) days from notice to claim the consigned redemption price of Php188,000.00 from the Office of the Executive Judge through the RTC Clerk of Court and immediately thereafter, surrender the Owner's Duplicate Certificate of the said title to the Register of Deeds of Baguio City for cancellation and for the issuance in lieu thereof, of another title registered in the names of Luz Fallarme and Romeo Pagedped as co-owners of the lot covered by the said title.

**SO ORDERED.**<sup>13</sup>

The RTC, in ruling for Fallarme, held that since she was not joined as a party in the case instituted by Pagedped for the judicial foreclosure of real estate mortgage constituted upon the subject land, her right to redeem the ½ portion thereof as a subordinate lien holder remained unforeclosed and unaffected. The RTC then fixed the redemption price at ₱188,000.00, representing ½ of the purchase price plus 12% annual interest computed from the registration of the foreclosure sale to Romeo on November 22, 2005 to the filing of the instant case on April 18, 2013.

Pagedped filed an appeal with the CA docketed as CA-G.R. CV No. 108155 arguing that he was not notified of the notices of attachment and levy annotated on the copy of TCT No. T-61200 on file with the Office of the Register of Deeds, thus, such annotations were not binding on him. This also justifies why Fallarme was not impleaded in the judicial foreclosure of real estate mortgage which he instituted against the Avilas. In addition, Fallarme cannot demand for equity of redemption as she was neither the mortgagor nor a transferee of such mortgagor. She also failed to exercise her equity of redemption within a reasonable time.<sup>14</sup>

**CA Ruling in CA-GR CV No. 108155**

On May 2, 2018, the CA, this time through Ninth Division, granted the appeal and reversed and set aside RTC Branch 7 in Civil Case No. 7821-R:

WHEREFORE, the instant appeal is GRANTED. The assailed Decision of the Regional Trial Court of Baguio City, Branch 7, in Civil Case No. 7821-R, is REVERSED and SET ASIDE. Judgment is rendered dismissing the case.

**SO ORDERED.**<sup>15</sup>

The CA held that since what was involved in this case was a judicial foreclosure of mortgage, there is only equity of redemption in accordance with Rule 68 of the Rules of Court. When Fallarme purchased the ½ portion of the subject parcel of land at the execution sale held on July 12, 2006, she

<sup>13</sup> See CA Decision, id. at 20-21.

<sup>14</sup> Id. at 28.

<sup>15</sup> Id. at 33.

T

acquired the same subject to the encumbrance (real estate mortgage constituted in favor of Pagedped) annotated on TCT No. T-61200 on June 1, 1999. The equity of redemption which Fallarme acquired over the ½ portion of the subject land subsequent to the real estate mortgage in favor of Pagedped may be divested or barred only by making Fallarme a party to the proceedings to foreclose.<sup>16</sup>

Still, the CA ruled that it was reversible error on the part of the RTC in allowing Fallarme to redeem ½ portion of the subject parcel of land. The CA noted that while she was not impleaded as a defendant in the judicial foreclosure of the real estate mortgage instituted by Pagedped, she was, however, joined as a respondent in the subsequent case for cancellation of encumbrances, docketed as LRC Adm. Case No. 167-R, filed in 2010 before RTC Baguio City, Branch 6. In said case, while Fallarme initially filed an Opposition, she later withdrew the same giving both Pagedped and the RTC the impression that there was no legal impediment to the cancellation of the annotations sought and that she was abandoning or waiving whatever rights she might have acquired in connection therewith.<sup>17</sup>

It was only after the January 10, 2013 Decision of the RTC that Fallarme, through a letter, informed Pagedped that she intended to redeem the ½ portion of the subject property. When Pagedped rejected her offer, it was only then that she filed the case before the RTC. The CA held that for failure of Fallarme to seasonably invoke her equity of redemption, she is precluded from doing so by reason of estoppel.<sup>18</sup>

Fallarme filed a Motion for Reconsideration which the CA denied on February 14, 2019.<sup>19</sup>

Hence, the present petition.

### Issues

#### I

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT RULED THAT PETITIONER FAILED TO INVOKE HER EQUITY OF REDEMPTION SEASONABLY AND IS PRECLUDED FROM DOING SO BECAUSE SHE WITHDREW HER OPPOSITION TO THE PETITION OF RESPONDENT FOR THE CANCELLATION OF HER NOTICES OF LEVY AND ATTACHMENT

#### II

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT RULED THAT PETITIONER IS ESTOPPED FROM INVOKING HER EQUITY OF REDEMPTION DESPITE THE ABSENCE OF ANY LEGAL

---

<sup>16</sup> Id. at 29-30.

<sup>17</sup> Id. at 28-32.

<sup>18</sup> Id. at 28-31.

<sup>19</sup> Id. at 34-35.

Y

AND FACTUAL BASIS AND DESPITE THE FACT THAT SUCH ISSUE ON ESTOPPEL WAS NOT RAISED BY THE RESPONDENT BEFORE THE TRIAL COURT AND EVEN ON APPEAL.<sup>20</sup>

Fallarme argues that, contrary to the findings of the CA, she did not withdraw her Opposition to the petition filed by Pagedped, docketed as LRC Adm. Case No. 1967-R. Nowhere in the RTC Decision of Branch 6 did the trial court rule that she waived or abandoned any of her rights which she might have acquired in connection with the encumbrances annotated on the certificate of title issued in Pagedped's name.

Consistent with her claim over the ½ portion of the property, she appealed the Decision of RTC Branch 6, arguing among others that since her equity of redemption is unforeclosed, the encumbrances in her favor should not be cancelled yet.

The appeal she filed in LRC Adm. Case No. 1967-R was docketed as CA G.R. CV No. 100279 and was decided in her favor.<sup>21</sup> It ruled that without the conduct of a separate foreclosure proceeding, Fallarme's equity of redemption remains unforeclosed and Pagedped acquired title to the property subject to the encumbrances annotated at the back of TCT No. T-91349. Thus, the encumbrances cannot be ordered cancelled until it is shown that she failed to exercise her equity of redemption as provided for by law. The said decision became final and executory on June 30, 2018.

Fallarme further asserts that estoppel is not applicable in this case as it was not made an issue in the lower court or even on appeal by Pagedped.<sup>22</sup>

Pagedped for his part asserts in his Comment that Fallarme was well aware of the prior mortgage which can result at any time to a foreclosure, yet she did nothing to notify him. Worse, when LRC Adm. Case No. 1967-R was filed on May 26, 2010, where she was impleaded, she never offered to redeem one-half of the property. She waited for the decision in LRC Adm. Case No. 1967-R to be issued which decision was adverse to her and even appealed the same to the CA before she filed with the RTC a case for redemption and consignation. Equity of redemption must be exercised within the 90-day period after the judgment becomes final or after the foreclosure sale but prior to its confirmation. The sale in Pagedped's favor was long confirmed. To allow Fallarme to exercise her equity of redemption this late would be stretching too much the redemption laws to his damage and prejudice. It took Fallarme almost three years from the time she was aware of the consolidation of the title in the name of Pagedped to offer to redeem.<sup>23</sup>

---

<sup>20</sup> Id. at 10-11.

<sup>21</sup> Id. at 53.

<sup>22</sup> Id. at 12-15.

<sup>23</sup> Id. at 76-77.

Y

### The Court's Ruling

We find merit in the petition.

While redemption is looked upon with favor, it is equally true that the right to redeem properties remains to be a statutory privilege. Redemption is by force of law, and the purchaser at the public auction is bound to accept it. The right to redeem property sold as security for the satisfaction of an unpaid obligation does not exist preternaturally; neither is it predicated on proprietary right, which after the sale of the property on execution, leaves the judgment debtor and vests in the purchaser. It is a bare statutory privilege to be exercised only by the persons named in the statute. A valid redemption of property must be appropriately based on the law which is the very source of this substantive right. It is, therefore, necessary that compliance with the rules set forth by law and jurisprudence should be shown in order to render validity to the exercise of this right.<sup>24</sup>

Section 1, Rule 68 of the Rules of Court provides:

**Section 1.** *Complaint in action for foreclosure.* — In an action for the foreclosure of a mortgage or other encumbrance upon real estate, the complaint shall set forth the date and due execution of the mortgage; its assignments, if any; the names and residences of the mortgagor and the mortgagee; a description of the mortgaged property; a statement of the date of the note or other documentary evidence of the obligation secured by the mortgage, the amount claimed to be unpaid thereon; and the names and residences of all persons having or claiming an interest in the property subordinate in right to that of the holder of the mortgage, all of whom shall be made defendants in the action. (1a)

The rules require that all persons having or claiming an interest in the premises subordinate in right to that of the holder of the mortgage should be made defendants in the action for foreclosure. Such requirement for joinder of the person claiming an interest subordinate to the mortgage sought to be foreclosed, however, is not mandatory in character but merely directory, such that failure to comply therewith will not invalidate the foreclosure proceedings.<sup>25</sup>

As correctly held by the CA, in both CA-G.R. CV No. 108155 and CA-G.R. CV No. 100279, the effect of the failure of the mortgagee to make the subordinate lien holder a defendant is that the decree entered in the foreclosure proceeding would not deprive the subordinate lien holder of his right of redemption. A decree of foreclosure in a suit to which the holders of

---

<sup>24</sup> *White Marketing Development Corp. v. Grandwood Furniture & Woodwork, Inc.*, 800 Phil. 845-859 (2016).

<sup>25</sup> *Looyuko v. Court of Appeals*, 413 Phil. 445, 468 (2001).

f

a second lien are not parties leaves the equity of redemption in favor of the lien holders unforeclosed and unaffected.<sup>26</sup>

Here, since Fallarme was not impleaded as a defendant in the foreclosure proceedings initiated by Pagedped in 2005, as subordinate lienholder, however, she acquired an equity of redemption.

In *Looyuko v. Court of Appeals*,<sup>27</sup> citing the earlier case of *Limpin v. Intermediate Appellate Court*, we explained:

Section 2, Rule 68 provides that —

“ . . . If upon the trial . . . the court shall find the facts set forth in the complaint to be true, it shall ascertain the amount due to the plaintiff upon the mortgage debt or obligation, including interest and costs, and shall render judgment to be paid into court within a period of not less than *ninety (90) days from the date of the service of such order*, and that in default of such payment the property be sold to realize the mortgage debt and costs.”

This is the **mortgagor's equity (not right) of redemption** which, as above stated, may be exercised by him even beyond the 90-day period "from the date of service of the order," and even after the foreclosure sale itself, provided it be before the order of confirmation of the sale. After such order of confirmation, no redemption can be effected any longer.

*It is this same equity of redemption that is conferred by law on the mortgagor's successors-in-interest, or third persons acquiring right over the mortgaged property subsequent, and therefore subordinate to the mortgagee's lien [e.g., by second mortgage or subsequent attachment or judgment]. If these subsequent or junior lien-holders be not joined in the foreclosure action, the judgment in the mortgagor's favor is ineffective as to them, of course. In that case, they retain what is known as the "unforeclosed equity of redemption," and a separate foreclosure proceeding should be brought to require them to redeem from the first mortgagee, or the party acquiring title to the mortgaged property at the foreclosure sale, within 90 days, [the period fixed in Section 2, Rule 68 for the mortgagor himself to redeem], under penalty of losing that prerogative to redeem. x x x (Emphasis supplied)*

Clearly, failure of the mortgagee to join a subordinate lien holder as defendant in the foreclosure proceeding does not nullify the foreclosure proceeding, but kept alive the equity of redemption acquired by said junior lien-holder.

The equity of redemption also does not constitute as a bar to the registration of the property in the name of the mortgagee. Registration may be granted in the name of the mortgagee but subject to the subordinate lien holders' equity of redemption, which should be exercised within 90 days

---

<sup>26</sup> Id.

<sup>27</sup> 413 Phil. 445 (2001).

V

from the date the decision becomes final. Such registration is but a necessary consequence of the execution of the final deed of sale in the foreclosure proceedings.<sup>28</sup>

In this case, Pagedped judicially foreclosed the REM and the subject property was sold at public auction on October 5, 2005, with Pagedped emerging as the highest bidder. The Sheriff's Certificate of Sale was registered and entered with the RD on November 22, 2005. A year later, TCT No. T-61200 was cancelled and TCT No. T-91349 was issued in Pagedped's name.

On May 26, 2010, Pagedped filed a petition for the cancellation of all annotations on TCT No. T-91349 before the trial court, where Fallarme was joined as a respondent. According to the appellate court in CA G.R. CV No. 108155, while Fallarme initially filed an Opposition, she later withdrew the same giving the RTC and Pagedped the impression that she was abandoning or waiving her rights.

Fallarme denies this before this Court and maintains that she did not withdraw her Opposition to Pagedped's petition.

A reading of the RTC decision would reveal that it did not categorically specify that it was Fallarme who moved for the withdrawal of the Opposition. To quote:

Further, Oppositors Spouses Romeo, Cadias and Victoria Cadias, Oliver Awal, Spouses Julio Labnas, Jr. and Dolores Labnas, Spouses Christopher Caput and Shirdellah Caput, Spouses Ligon Aguinaldo and Brenda Aguinaldo, Spouses Clarito Pacot and Josephine Pacot, Spouses Renato Tapay and Mary Tapay, Spouses Ernesto Wabe and Judith Wabe, Spouses Diego Bilar and Jennelyn Bilar, and Spouses Anton Awal and Laurena Awal filed their opposition on September 27, 2010. The said oppositors acquired through purchase one-half (1/2) portion of the subject property from respondent Luz Fallarme. x x x

On October 15, 2010 petitioner filed a Reply to the Opposition of Private Respondent and the Oppositors. In a hearing dated October 26, 2010, the oppositors and the petitioner manifested to settle the matter between them amicably. The parties were given ample time to reach a compromise agreement. Thus, in an Order dated February 7, 2012, on motion of oppositor's counsel, the Opposition was withdrawn.<sup>29</sup> (Emphasis supplied)

In any event, what is clear is that Pagedped has not yet filed a separate foreclosure proceeding to require Fallarme, as subsequent lien holder to redeem from him contested property. What Pagedped filed before RTC Branch 6 in 2010 was a petition for the cancellation of all annotations on his title, TCT No. T-91349.

---

<sup>28</sup> Id.

<sup>29</sup> *Rollo*, p. 42.

Y

Case law has clarified that if the subsequent or junior lien-holders are not joined in the foreclosure action, the judgment in the mortgagor's favor is ineffective as to them. What they retain is what is known as the "unforeclosed equity of redemption" and a separate foreclosure proceeding should be brought to require them to redeem from the first mortgagee, or the party acquiring title to the mortgaged property at the foreclosure sale, within 90 days, under penalty of losing that prerogative to redeem.<sup>30</sup>

Note should also be taken of the fact that on November 24, 2017, the CA rendered a decision granting Fallarme's appeal which reversed and set aside the ruling of the RTC Baguio City, Branch 6, dated January 10, 2013. The CA dismissed the petition for cancellation of encumbrances on TCT No. T-91349.<sup>31</sup> Pagedped did not file any petition to question said CA ruling. Thus, on June 30, 2018, the Decision in CA G.R. CV No. 100279 became final and executory.<sup>32</sup>

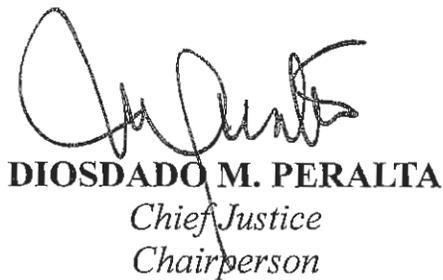
Having acquired finality, Pagedped is bound to abide by said decision.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated May 2, 2018 and the Resolution dated February 14, 2019 of the Court of Appeals in CA-G.R. CV No. 108155 are **REVERSED** and **SET ASIDE**. The Decision of the Regional Trial Court, Branch 7 of Baguio City in Civil Case No. 7821-R is **REINSTATED**.

**SO ORDERED.**

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

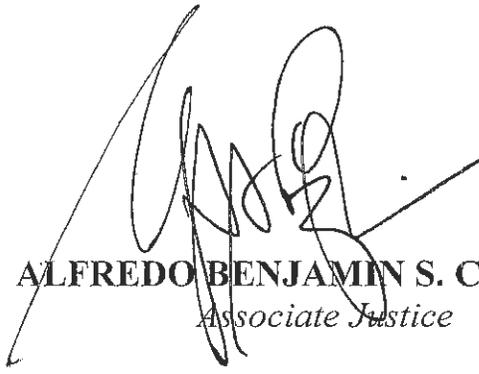
**WE CONCUR:**

  
**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*

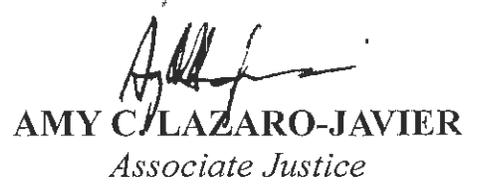
<sup>30</sup> *Looyuko v. Court of Appeals*, 413 Phil. 445-468 (2001).

<sup>31</sup> *Rollo*, p. 54.

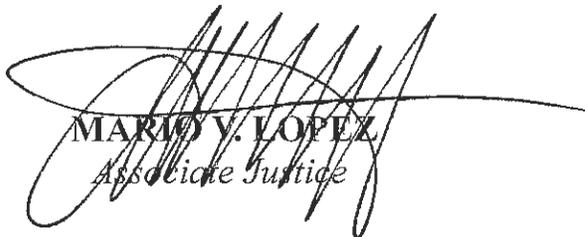
<sup>32</sup> *Id.* at 55.



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*



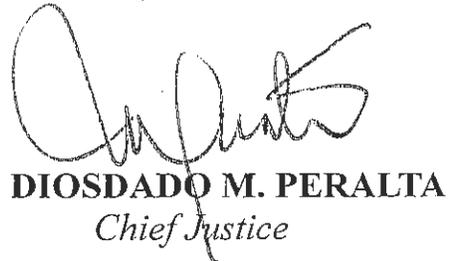
**AMY C. LAZARO-JAVIER**  
*Associate Justice*



**MARIO V. LOPEZ**  
*Associate Justice*

**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.



**DIOSDADO M. PERALTA**  
*Chief Justice*

K