Republic of the Philippines
Supreme Court
Baguio City

SPECIAL SECOND DIVISION

SPOUSES YU HWA PING AND MARY GAW,
Petitioners,

- *versus* -

AYALA LAND, INC.,
Respondent.

x - x

HEIRS OF SPOUSES ANDRES DIAZ AND JOSEFA MIA,
Petitioners,

- *versus* -

AYALA LAND, INC.,
Respondent.

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G.R. No. 173120

G.R. No. 173141

Present:

PERALTA, *J., Chairperson*,
DEL CASTILLO,*
LEONEN,
GESMUNDO, and
HERNANDO, *JJ.*

Promulgated:

10 APR 2019

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RESOLUTION

PERALTA, *J.*:

This resolves respondent Ayala Land, Inc.'s *(ALI)* Second Motion for Reconsideration filed on February 9, 2018 against the July 26, 2017 Decision[1] of the Court, and ALI's supplement to the motion to refer the instant

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* On official leave.

1 Penned by Associate Justice Jose Catral Mendoza, with Associate Justices Antonio T. Carpio, Diosdado M. Peralta, Marvic M.V.F. Leonen and Samuel R. Martires concurring; *Rollo* (G.R. No. 173141), pp. 620-649.

case to the Court *en banc* as mandated by the Constitution, on the ground that the said Decision supposedly modified and reversed doctrines and principles of law (on land registration, prescription and Torrens System) previously laid down by the Court in decisions rendered *en banc* or in Division.

To recall, in the July 26, 2017 Decision, the Court granted the petitions in the instant case, reversed and set aside the June 19, 2006 Decision of the Court of Appeals in CA-G.R. CV Nos. 61593 & 70622, and reinstated the February 8, 2005 Amended Decision of the Court of Appeals. On September 28, 2017, ALI filed a Motion for Reconsideration[2] with motion to refer the case to the Court *en banc*. On December 4, 2017, the Court issued a Minute Resolution[3] unanimously denying with finality the said motions.

ALI then filed on February 14, 2018 the instant Second Motion for Reconsideration[4] and supplement to the motion to refer the case to the Court *en banc*,[5] which were then assigned to Associate Justice Marvic M.V.F. Leonen, in view of the inhibition of Senior Associate Justice Antonio T. Carpio, the Member-in-charge of the first motion for reconsideration, by virtue of a motion for inhibition filed by ALI after the denial of the first motion for reconsideration. By a vote of three (3) to one (1), the undersigned wrote the majority opinion, which was joined by Associate Justices Alexander G. Gesmundo and Ramon Paul L. Hernando, with Associate Justice Leonen dissenting, and Associate Justice Mariano C. Del Castillo on official leave.

The referral of the case to the Court *en banc* and ALI's Second Motion for Reconsideration are hereby denied. As will be discussed below, the July 26, 2017 Decision of the Court neither modified nor reversed a doctrine or principle laid down by the Court *en banc* or by a Division, but merely applied the pertinent law and jurisprudence to the factual findings of the trial court and the appellate court. The Supreme Court, sitting *en banc*, is not an appellate court *vis-a-vis* its Divisions, and it exercises no appellate jurisdiction over the latter.[6] Each division of the Court is considered not a body inferior to the Court *en banc*, and sits veritably as the Court *en banc* itself.[7]

Section 2, Rule 52 of the Rules of Court prohibits a second motion for reconsideration by the same party. Section 3, Rule 15 of the Internal Rules of the Supreme Court echoes the prohibition, providing thusly:

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2 *Rollo* (G.R. No. 173141), pp. 650-748.

3 Resolved by Senior Associate Justice Antonio T. Carpio, as new ponente in view of the retirement of Justice Jose Catral Mendoza, with Associate Justices Diosdado M. Peralta, Marvic M.V.F. Leonen, Samuel R. Martires and Alexander G. Gesmundo concurring; *id.* at 749.

4 *Rollo* (G.R. No. 173141), pp. 802-903.

5 *Id.* at 904-929.

6 *Apo Fruits Corp. v. Court of Appeals,* 576 Phil. 234, 243 (2008).

7 *Id.*

> Section 3. *Second motion for reconsideration.* — The Court shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the higher interest of justice by the Court *en banc* upon a vote of at least two-thirds of its actual membership. There is reconsideration "in the higher interest of justice" when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties. A second motion for reconsideration can only be entertained before the ruling sought to be reconsidered becomes final by operation of law or by the Court's declaration.
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> In the Division, a vote of three Members shall be required to elevate a second motion for reconsideration to the Court *En Banc*.

Public policy frowns upon the piecemeal impugnment of a judgment or final order by the filing of successive motions for reconsideration. This rule is also consistent with the equally important policy that all litigations must come to an end at some point.[8] A second motion for reconsideration, albeit prohibited, may be entertained in the higher interest of justice, such as when the assailed decision is not only legally erroneous but also patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the moving party.[9]

In this case, ALI failed to assert any meritorious reason to allow its second motion for reconsideration. **Glaringly, the arguments raised by ALI are mere reiterations of its previous arguments in its Memorandum and First Motion for Reconsideration.** ALI did not anymore raise any genuine or novel issue that has not been threshed out by the Court. Verily, the Court cannot entertain a second motion for reconsideration that essentially raises the same grounds that have been repeatedly denied.

Assuming *arguendo* that the substantive issues reiterated by ALI shall be entertained by the Court, the second motion for reconsideration still lacks merit.

The titles of ALI are void due to the erroneous technical descriptions sourced from void ab initio surveys

ALI essentially argues that the transfer certificate of titles *(TCTs)* registered under its name cannot be declared void simply because the survey conducted on the subject land was not valid. It emphasizes that the survey of

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8 *Spouses Balanoba v. Madriaga*, 512 Phil. 333, 342 (2005).

9 *Fortune Life Insurance Co., Inc. v. Commission on Audit*, G.R. No. 213525, November 21, 2017.

the subject land is not part and parcel of the TCTs, thus, it is immaterial whether the survey suffered from any defect.

The argument fails.

Although a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein,[10] it is not a conclusive proof of ownership. It is a well-settled rule that ownership is different from a certificate of title. The fact that a person was able to secure a title in his name does not operate to vest ownership upon him of the subject land. Registration of a piece of land under the Torrens System does not create or vest title, because it is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein. It cannot be used to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of others. Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.[11]

One of the distinguishing marks of the Torrens system is the absolute certainty of the identity of a registered land. Consequently, the primary purpose of the requirement that the land must first be surveyed is to fix the exact or definite identity of the land as shown in the **plan and technical description**.[12] It is imperative in an application for original registration that the applicant submit to the court, aside from the original or duplicate copies of the muniments of title, a copy of a duly approved survey plan of the land sought to be registered. The survey plan is indispensable as it provides a reference on the exact identity of the property.[13]

Justice Marvic Mario Victor F. Leonen argues that ALI's titles should have been respected over those of petitioners' because ALI's predecessors-in-interest had their titles issued 20 and 12 years ahead of those of petitioners' predecessors. It appears from such argument that only the date of registration should be considered, while the surveys over the land should be disregarded. The Court must stress, however, that the survey of the land is vital and essential to uphold the validity of a certificate of title.

A survey plan precisely serves to establish the true identity of the land to ensure that it does not overlap a parcel of land or a portion thereof already

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10 *Heirs of Maligaso, Sr. v. Spouses Encinas,* 688 Phil. 516, 523 (2012).
11 *Wee v. Mardo,* 735 Phil. 420, 433 (2014).
12 Agcaoili, Oswaldo D., *Property Registration Decree and Related Laws*, 2011 edition, p. 253.
13 *Republic v. Guinto-Aldana*, 642 Phil. 364, 373 (2010).

covered by a previous land registration, and to forestall the possibility that it will be overlapped by a subsequent registration of any adjoining land.[14] Thus, if the survey plan is evidently erroneous, then the exact and finite identity of the land cannot be reflected in the technical description of the certificate of title.

In *Veterans Federation of the Philippines v. Court of Appeals,*[15] the Court ruled that "it is well-established that errors in the certificate of title that relate to the technical description and location cannot just be disregarded as mere clerical aberrations that are harmless in character, but must be treated seriously so as not to jeopardize the integrity and efficacy of the Torrens system of registration of real rights to property. **Thus, when the technical description appearing in the title is clearly erroneous, the courts have no other recourse but to order its cancellation** and cause the issuance of a new one that would conform to the mutual agreement of the buyer and seller as laid down in the deed of sale."

It was further discussed therein that the simple possession of a certificate of title is not necessarily conclusive of the holder's true ownership of all the property described therein for **said holder does not by virtue of said certificate of title alone become the owner of what has been either illegally or erroneously included.** It has been held by this Court that "if a person or entity obtains a title which includes by mistake or oversight land which cannot be registered under the Torrens system or over which the buyer has no legal right, said buyer does not, by virtue of said certificate alone, become the owner of the land illegally or erroneously included. In fact, when an area is erroneously included in a relocation survey and in the title subsequently issued, the said erroneous inclusion is null and void and of no effect. And on the rare occasion where there is such an error, the courts may decree that the certificate of title be cancelled and a correct one issued to the buyer."[16]

Consequently, the invalidity of the survey affects the technical description of the land, which is found on the title. Glaring and substantial errors in the technical description should not be simply disregarded as trivial or formal errors because these precisely affect the identity of the land. Regrettably, never addressed are the numerous and manifest mistakes in the identity of the purported lands covered by the titles of ALI that will be discussed below.

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14 *SM Prime Holdings, Inc. v. Madayag*, 598 Phil. 371, 381 (2009).
15 399 Phil. 56 (2000). (Emphasis ours)
16 *Id.* at 65.

In *Dizon v. Rodriguez*[17] and *Republic v. Ayala y Cia,*[18] the Court confronted the validity of the surveys conducted on the lands to determine whether the title was properly subdivided. It was ruled therein that "subdivision plan Psd-27941 was erroneous because it was "prepared not in accordance with the technical descriptions in TCT No. T-722 but in disregard of it, supports the conclusion reached by both the lower court and the Court of Appeals that Lots 49 and 1 are actually part of the territorial waters and belong to the State."[19] Accordingly, the sole method for the Court to determine the validity of the title was to dissect the survey upon which it was sourced. As a result, it was discovered that the registered titles therein contained areas which belong to the sea and foreshore lands.

In this case, the TCTs of petitioners originated from Original Transfer Certificate *(OCT)* No. 8510, which was based on survey plan Psu-25909 dated March 17, 1921. On the other hand, the TCTs of ALI originated from OCT No. 242, 244 and 1609, which were based on survey plans Psu-47035 dated October 21, 1925, Psu-80886 dated July 28, 1930, and Psu-80886/SWO-20609 dated March 6, 1931.

As will be thoroughly discussed later, survey plans Psu-47035, Psu-80886, Psu-80886/SWO-20609 contain numerous and glaring irregularities. Consequently, as the surveys were marred with blatant anomalies, the technical descriptions contained in OCT No. 242, 244 and 1609 are also void and erroneous. Verily, these technical descriptions in the said certificate of titles do not refer to a valid and exact portion of the lands. In fact, as noted by the trial court, the lands therein were described to be located in different places. Further, the land surveyed in Psu-47035, Psu-80886, Psu-80886/SWO-20609 patently overlaps with the land surveyed in Psu-25909, even though the latter was issued in an earlier date. Once a land has been surveyed, it is highly irregular to conduct a second survey to overlap with the same parcel of land. Indeed, when the survey of the land is null and void, the technical description of the land is also null and void. As a result, the validity of OCT No. 242, 244 and 1609 cannot be upheld.

There were numerous irregularities in the survey of the land

As threshed out in the decision of the Court, the surveys in OCT No. 242, 244 and 1609 contain numerous irregularities that strikes out the validity of these titles. The said irregularities are as follows:

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17 121 Phil. 681(1965).

18 121 Phil. 1052 (1965).

19 *Dizon v. Rodriguez*, *supra* note 17, at 686.

First, Psu-25909 was conducted by a certain A.N. Feliciano in favor of Andres Diaz and was approved on May 26, 1921. Curiously, the subsequent surveys of Psu-47035 for a certain Dominador Mayuga, Psu-80886 for a certain Guico and Psu-80886/SWO-20609 for a certain Yaptinchay, were also conducted by A.N. Feliciano. It is dubious how the same surveyor or agrimensor conducted Psu-47035, Psu-80886 and Psu-80886/SWO-20609 even though an earlier survey on Psu-25909, which the surveyor should obviously be aware, was already conducted on the same parcel of land. Engr. Pada, witness of the Spouses Yu, also observed this irregularity and stated that this practice is not the standard norm in conducting surveys.

Second, even though a single entity conducted the surveys, the lands therein were *described to be located in different places*. Psu-25909, the earliest dated survey, indicated its location at Sitio Kay Monica, Barrio Pugad Lawin, Las Piñas, Rizal, while Psu-47035 and Psu-80886 stated their locations at Sitio May Kokek, Barrio Almanza, Las Piñas, Rizal, and Barrio Tindig na Mangga, Las Piñas, Rizal, respectively. Again, Engr. Pada observed this peculiarity and pointed out that the subject properties should have had the same address. ALI did not provide an explanation to the discrepancies in the stated addresses. Thus, it led the CA to believe that the same surveyor indicated different locations to prevent the discovery of the questionable surveys over the same parcel of land.

Third, there is a *discrepancy as to who requested the survey of Psu-47035*. The photocopy of Psu-47035, as submitted by ALI, shows that it was done for a certain Estanislao Mayuga. On the other hand, the certified true copy of Psu-47035 depicts that it was made for Dominador Mayuga. Once more, Engr. Pada noticed this discrepancy on the said survey. ALI, however, did not give any justification on the diverging detail, which raises question as to the authenticity and genuineness of Psu-47035.

Fourth, *Psu-80886 does not contain the signature of then Director of Lands, Serafin P. Hidalgo*; rather, the prefix "Sgd." was simply indicated therein. As properly observed by the CA in its February 8, 2005 decision, any person can place the said prefix and it does not show that the Director of Lands actually signed and gave his *imprimatur* to Psu-80886. The absence of the approval of the Director of Lands on Psu-80886 added doubt to its legitimacy. The excuse proffered by ALI - that Psu-80886 is regular and valid simply because land registration proceedings were undertaken - is insufficient to cure the crucial defect in the survey.

In *University of the Philippines v. Rosario,*[20] it was held that "[n]o *plan or survey may be admitted in land registration proceedings until approved by*

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20 407 Phil. 924, 933 (2001).

the Director of Lands. The submission of the plan is a statutory requirement of mandatory character. *Unless a plan and its technical description are duly approved by the Director of Lands, the same are of no value."* Hence, the lack of approval by the Director of Lands of Psu-80886 casts doubt on its legality. It also affects the jurisdictional facts before the land registration courts which relied on Psu-80886 for registration.

In *Del Rosario v. Republic*,[21] the Court emphasized that the submission in evidence of the original tracing cloth plan, **duly approved by the Bureau of Lands,** in cases for application of original registration of land is a mandatory requirement. The reason for this rule is to establish the true identity of the land to ensure that it does not overlap a parcel of land or a portion thereof already covered by a previous land registration, and to forestall the possibility that it will be overlapped by a subsequent registration of any adjoining land.

Fifth, Psu-80886 was *issued* on *July 28, 1930* but it *referred* to a *specific monument* described as B.L.L.M No. 4. According to the LMB-DENR, the *said monument was only established on November 27, 1937*, more than seven years after Psu-80886 was issued.[22] This discrepancy was duly noted in the findings of the verification report and it was affirmed by the testimony of Engr. Pada. Thus, both the RTC of Las Piñas and the CA in its February 8, 2005 decision properly observed that it was highly irregular for Psu-80886 to refer to B.L.L.M No. 4 because the said monument existed seven years later.

The metes and bounds in the technical description of the title are of utmost importance. It is well settled that what defines a piece of titled property is not the numerical data indicated as the area of the land, but the boundaries or "metes and bounds" of the property specified in its technical description as enclosing it and showing its limits.[23] Thus, if there is an erroneous designation of the metes and bounds as indicated in the survey due to a non-existent monument, then such inaccurate data shall also be reflected in the technical description of the certificate of title.

Sixth, *ALI attempted to explain* this anomaly by stating that Psu-80886 was *amended* by Psu-80886/SWO-20609, a Special Work Order, in view of the discrepancies of the former. While Psu-80886/SWO-20609 is dated March 6, 1931, ALI insists that it was actually conducted in 1937 and approved in 1940. However, in its February 8, 2005 decision, the CA noted that said testimony crumbled under cross-examination as ALI's witness, Engr. Felino Cortez *(Cortez), could not reaffirm the said justification for Psu-80886's manifest error of including a latter dated monument.* Also, the Court observed

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21 432 Phil. 824, 834 (2002).
22 TSN, March 24, 2000, pp. 18-20.
23 *Republic v. Court of Appeals,* 361 Phil. 319, 335 (1999).

that ALI's other witness, Engr. Percival Bacani, testified that he does not know why B.L.L.M No. 4 was used in preparing Psu-80886 even though the said monument appears on all the titles.[24] Moreover, the alleged explanation provided by ALI to justify the existence of B.L.L.M No. 4 in Psu-80886 was not indicated at all in the verification report and survey plan they submitted before the RTC of Las Piñas. Accordingly, ALI did not resolve the uncertainty surrounding the reference to B.L.L.M No. 4 by Psu-80886 and it seriously damages the validity of the said survey.

Seventh, ALI explained that Psu-80886/SWO-20609 was undertaken to correct a discrepancy in Psu-80886. Its witness, Engr. Cortez, confirmed that Psu-80886/SWO-20609 was commenced to resolve the mistake in the timeline. He added that the timeline published in the notice of initial hearing in the Official Gazette for Psu-80886 was different from the approved plan in Psu-80886/SWO-20609. He also noted some differences in the area of Psu-80886 compared to Psu-80886/SWO-20609.[25] *These admissions show that Psu-80886 was flawed from the very beginning. Yaptinchay merely requested the conduct of Psu-80886/SWO-20609 in order to resurrect or salvage the erroneous Psu-80886 and to wrongfully acquire OCT No. 242.* It does not, however, erase the fact that Psu-80886, from which ALI's titles originated, is marred with irregularities. This is a badge of fraud that further runs counter to the legitimacy of the surveys that ALI relied upon.

Eight, the RTC of Las Piñas continuously observed the irregularities in Psu-80886. It stated that *"the total area of the property covered by the document bear many erasures, particularly two erasures as to the total area in terms of number and one erasure as to that total area in terms of unit of measurement."*[26] Manifestly, no explanation was provided why it was necessary to make erasures of the crucial data in the survey regarding the total area.

Ninth, the RTC of Las Piñas continued its observations regarding Psu-80886's anomalies. It added that "[a]n examination of the same reveals that the lower right hand corner of the plan, which bears the serial number Psu-80886, is manifestly different from the main document in terms of the intensity of its contrast, and that the change in the intensity of the shading is abrupt as one examines the document starting from the lower right-hand corner to anywhere else in the same document. Also, it is worth observing that the main document, minus the lower right hand corner mentioned, does not indicate anything to even suggest that it pertains to plan Psu-80886. For these reasons, the contention of the plaintiffs that this lower right-hand corner of the plan appears to be a spurious attachment to the main document, to make

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24 TSN, November 24, 2000, pp. 4-9.
25 TSN, February 16, 2001, pp. 40-41.
26 *Rollo* (G.R. No. 173120), p. 712.

the main document look like it is actually plan Psu-80886, has merit."[27] These observations were based on the first-hand examination of the surveys, verification reports, and witnesses by the RTC of Las Piñas.

Tenth, as correctly emphasized by the CA in its February 8, 2005 decision, the Supreme Court had previously noted the defects surrounding Psu-80886 in the case of *Guico v. San Pedro.*[28] The said case involved the application of registration of Guico of a tract of land covered by Psu-80886, subdivided into eleven (11) lots, filed on November 4, 1930 before the Court of First Instance of Rizal *(CFI)*. The said land originated from Pedro Lopez de Leon, covered by Psu-16400. It was transferred to his son, Mariano Lopez de Leon, and then one-third portion thereof was conveyed to Guico. Several oppositors appeared therein to assail Guico's application. On August 19, 1935, the CFI ruled that only Lot Nos. 1, 2, 3, 6, 7 and 10 may be registered in the name of Guico.

On appeal, the CA disposed the case in this wise:

> *Adjudicamos a Eduardo C. Guico los lotes 2 y 3 de su plano y las porciones que quedan de las adjudicadas a él por el Juzgado inferior y que no están comprendidos en los terrenos reclamados por Valeriano Miranda, Nicasio San Pedro, José Dollenton, Gregorio Arciaga, Donato Navarro, León Navarro, Dionisio Dollenton, Basilio Navarro, Bernardo Mellama y Lorenzo Dollenton, debiendo al efecto presentar un plano enmendado debidamente aprobado por el Director de Terrenos, confirmado así la decisión apelada en lo que estuviera conforme, y revocandola en lo que no estuviera.*[29]

When translated, the text reads:

> We adjudicate to Eduardo C. Guico Lots 2 and 3 of his plan and the portions that remain adjudicated to him by the lower court and that are not included in the lands claimed by Valeriano Miranda, Nicasio San Pedro, Jose Dollenton, Gregorio Arciaga, Donato Navarro, Leon Navarro, Dionisio Dollenton, Basilio Navarro, Bernardo Mellama, and Lorenzo Dollenton, **under the obligation to present an amended properly approved plan to the Director of Lands, confirming therefore the appealed decision in what is consistent with this and revoking it on what is not.**[30]

Undeterred, Guico filed an appeal before the Supreme Court alleging that the CA erred in declaring that there was no imperfect title in favor of Pedro Lopez de Leon, his predecessor-in-interest.

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27 *Id.* at 711.
28 72 Phil. 415 (1941).
29 *Guico v. San Pedro, supra*, at 417.
30 *Rollo* (G.R. No. 173120), p. 1418. (Emphasis and underscoring supplied)

In its Decision dated June 20, 1941, the Court dismissed the appeal of Guico and affirmed the CA ruling. It was held that *"la solicitud de Pedro Lopez de Leon composicion con el Estado no fue aprobada porque no pudo hacerse la medicion correspondiente."* Its translation stated that the application of Pedro Lopez de Leon regarding the composition of the estate was not approved because he was not able to submit the corresponding measurements, referring to Psu-16400, from which Psu-80886 was derived.

In addition, the Supreme Court noted that "while abundant proof is offered concerning the filing of the application for composition title by the original possessor, the record nowhere exhibits compliance with the operative requirement of said Section 45(a) of Act. No. 2874, that 'such applicants or grantees and their heirs have occupied and cultivated said lands continuously since the filing of their applications.'"[31]

Consequently, the Court observed *two major irregularities* in the application of Guico under Psu-80886: (1) his predecessor-in-interest *did not submit any valid measurement* of the estate from which Psu-80886 was derived; and (2) that the *applicant or his grantees failed to occupy or cultivate the subject land continuously*. These findings are substantial and significant as these affect the validity of Psu-80886.

ALI insisted that *Guico v. San Pedro* should actually be construed in their favor, because the Court affirmed the ruling of the CA which awarded Lot Nos. 2 and 3 to Guico, hence, Psu-80886 was valid.

The Court is not persuaded.

A reading of the dispositive portion of the CA decision in *Guico v. San Pedro* does not categorically state that Lot Nos. 2 and 3 were absolutely and completely awarded to Guico. The award of the said lots was subject to the vital and primordial condition or obligation to present to the court an amended, properly approved, plan to the Director of Lands. Evidently, the Court was not satisfied with Psu-80886 because it lacked the requisites for a valid survey. Thus, it required Guico to secure an amended and correctly approved plan, signed by the Director of Lands. The purpose of this new plan was to confirm that the appealed decision was consistent with the facts established therein. The records, however, did not show that Guico indeed secured an amended and properly approved plan. Psu-80886/SWO-20609 obviously was not the required amended order because a special work order is different from an amended survey.[32] Moreover, the said special work order

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31 *Guico v. San Pedro, supra* note 28, at 419.

32 See Sections 605 and 579 of DENR-LMB Administrative Order No. 4 or the Manual for Land Survey of the Philippines for the definitions of a special work order and an amended survey.

was initiated by Yaptinchay, and not Guico. The insufficiency of Psu-80886 is evident in this decision.

Thus, as Guico did not subject Psu-80886 to a valid amended approved plan, he was not awarded Lot Nos. 2 and 3 for registration. It can be seen from OCT Nos. 242, 244, and 1609 that Guico never secured their registration because the Court discovered the anomalous Psu-80886. The Court's pronouncement in *Guico v. San Pedro,* although promulgated more than half a century ago, must be respected in accordance with the rule on judicial adherence.

Lastly, the Court also agrees with the finding of the CA in its February 8, 2005 decision that Psu-25909, from which the titles of petitioners were sourced, bears all the hallmarks of verity. It was established that Andres Diaz was the very first claimant of the subject property and was the proponent of Psu-25909. The said survey clearly contained the signatures of the surveyor and the Director of Lands, as can be seen on its face. In stark contrast with Psu-80886, which contained alterations and erasures, Psu-25909 has none. The original of Psu-25909 was, likewise, on file with the Bureau of Lands and a microfilm reproduction was readily obtained from the file of the said office, unlike in Psu-80886 and Psu-47909.

The RTC of Las Piñas shared this examination. It ruled that Psu-25909 was a true copy of an official document on file with the Bureau of Lands. It also gave great weight and appreciation to the said survey because *no irregularity* was demonstrated in the preparation thereof. The trial court added that Engr. Remolar, as the appropriate government custodian and court-appointed commissioner, certified the authenticity of Psu-25909.

Psu-25909 bore all the hallmarks of verity because it contains the signatures of the surveyor and the Director of Lands, and it did not contain any erasure or alterations thereon. Likewise, a duly authenticated copy of Psu-25909 is readily available in the Bureau of Lands.

In contrast, the Court cannot subscribe to the finding of the CA in its June 19, 2006 decision that the numerous defects in Psu-47909, Psu-80886 and Psu-80886/SWO-20609 are "not enough to deprive the assailed decree of registration of its conclusive effect, neither are they sufficient to arrive at the conclusion that the survey was definitely, certainly, [and] conclusively spurious."[33] The Court cannot close its eyes to the blatant defects on the surveys upon which the original titles of ALI were derived, as reflected in their technical descriptions, simply because its titles were registered. To allow these certificates of title in the registration books, even though these were

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33 *Rollo* (G.R. No. 173120), p. 1430.

sourced from invalid surveys and contain erroneous technical descriptions, would tarnish and damage the Torrens system of registration, rather than uphold its integrity.

It is an enshrined principle in this jurisdiction that registration is not a mode of acquiring ownership. A certificate of title merely confirms or records title already existing and vested. The indefeasibility of a Torrens title should not be used as a means to perpetrate fraud against the rightful owner of real property. Good faith must concur with registration because, otherwise, registration would be an exercise in futility. A Torrens title does not furnish a shield for fraud, notwithstanding the long-standing rule that registration is a constructive notice of title binding upon the whole world. The legal principle is that if the registration of the land is fraudulent, the person in whose name the land is registered holds it as a mere trustee.[34]

When a land registration decree is marred by severe irregularity that discredits the integrity of the Torrens system, the Court will not think twice in striking down such illegal title in order to protect the public against scrupulous and illicit land ownership. Thus, due to the numerous, blatant and unjustifiable errors in Psu-47909, Psu-80886, and Psu-80886/SWO-20609, these must be declared void. Likewise, OCT Nos. 242, 244, and 1609, their transfer certificates, and instruments of conveyances that relied on the anomalous surveys, must be absolutely declared void *ab initio*.

When there is an overlapping boundary in the titles, a verification survey must be conducted

Another argument of ALI is that the Court should have applied the rule that, in case of two certificates of title purporting to include the same land, the earlier date prevails.

The argument also fails.

As discussed in the Decision of the Court, the rule that "in case of two certificates of title purporting to include the same land, the earlier date prevails" is not an absolute and conclusive rule; rather, it is merely a general rule. This was first discussed in *Legarda v. Saleeby,*[35] as follows:

> The question, who is the owner of land registered in the name of two different persons, has been presented to the courts in other jurisdictions. In

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34 *Spouses Reyes v. Montemayor, et al.*, 614 Phil. 256, 275 (2009).
35 31 Phil. 590 (1915).

> some jurisdictions, where the "torrens" system has been adopted, the difficulty has been settled by express statutory provision. In others it has been settled by the courts. Hogg, in his excellent discussion of the "Australian Torrens System," at page 823, says: "The general rule is that in the case of two certificates of title, purporting to include the same land, the earlier in date prevails, whether the land comprised in the latter certificate be wholly, or only in part, comprised in the earlier certificate. xxx In successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest; and that person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof x x x.[36]

Justice Leonen asserts that the Decision of the Court went against the doctrine of "*Primus Tempora, Portior Jure,*" or "First in Time, Stronger in Right." This is because the mother title of the Spouses Yu's predecessor-in-interest was issued more than two (2) decades after those issued to ALI's predecessors-in-interest, yet this did not prevent the Court from upholding the later issued title over the earlier issued one.

The rule on superiority, however, is not **absolute**. The same case of *Legarda v. Saleeby* explains the exception to the rule, *viz.*:

> Hogg adds however that, "if it can be clearly ascertained by the ordinary rules of construction relating to written documents, that the **inclusion of the land in the certificate of title of prior date is a mistake**, the mistake may be **rectified** by **holding the latter** of the two certificates of title **to be conclusive**."[37]

Accordingly, if the inclusion of the land in the earlier registered title was a result of a mistake, then the latter registered title will prevail. The *ratio decidendi* of this exception is to prevent a title that was earlier registered, which erroneously contained a parcel of land that should not have been included, from defeating a title that was later registered but is legitimately entitled to the said land. It reinforced the doctrine that "[r]egistering a piece of land under the Torrens System does not create or vest title because registration is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein."[38]

Several jurists or authors on land registration affirm that the general and the exceptional rule in *Legarda v. Saleeby.* In his book, Land Registration and Related Proceedings,[39] Atty. Amado D. Aquino explained

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36 *Id.* at 595-596.

37 *Legarda v. Saleeby, supra* note 35, at 595. (Emphasis supplied)

38 *Heirs of Ermac v. Heirs of Ermac*, 451 Phil. 368, 377 (2003).

39 2007 ed., pp. 140-141.

that the principle of according superiority to a certificate of title earlier in date cannot, however, apply if it was procured through fraud or was otherwise jurisdictionally flawed. Thus, if there is a compelling and genuine reason to set aside the rule on the superiority of earlier registered title, the Court may look into the validity of the title bearing the latter date of registration, taking into consideration the evidence presented by the parties.

Similarly, in his book Property Registration Decree and Related Laws,[40] retired Court of Appeals Justice Oswaldo D. Agcaoili affirmed that the general rule – where two certificates purport to include the same land, the earlier in date prevails – is valid only absent any anomaly or irregularity tainting the process of registration.[41] He further cites the exception in *Legarda v. Saleeby* that where the inclusion of land in the certificate of prior date is a mistake, the mistake may be rectified by holding the latter of the two certificates to be conclusive. Indeed, a certificate of title is not conclusive where it is the product of a faulty or fraudulent registration.[42]

In *Golloy v. Court of Appeals,*[43] there were two conflicting titles with overlapping boundaries. The first title was registered on March 1, 1918, while the second title was registered on August 15, 1919. Despite having been registered at a prior date, the Court did not allow the earlier registered title of the respondents to prevail because of the continuing possession of the petitioners therein and the laches committed by the respondents. Hence, the holder of an earlier registered title does not, in all instances, absolutely triumph over a holder of a latter registered title.

To reiterate, the **general rule** is that in case of two certificates of title purporting to include the same land, the earlier date prevails. The **exception to the rule** is that if the inclusion of the land in the earlier registered title was a result of a mistake, then the latter registered title will prevail.

When there are two registered titles with overlapping or conflicting boundaries, the court must conduct a verification survey

Likewise, to subscribe to the argument of ALI – that the rule on the earlier dated title is absolute – would be absurd. It will limit the court to a mere mechanical arbiter that will simply view the dates of the two registered titles with overlapping boundaries to determine the prevailing title.

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40 *Supra* note 12, at 321.
41 *Id.*, citing *Spouses Mathay v. Court of Appeals*, 356 Phil. 870, 898 (1998).
42 *Id.*, citing *Widows and Orphans Association, Inc. v. Court of Appeals*, 278 Phil. 185, 201 (1991).
43 255 Phil. 26 (1989).

The better approach would be for the court to order the conduct of a verification survey on the titles which have overlapping boundaries. In *Cambridge Realty and Resources Corp. v. Eridanus Development, Inc.*,[44] it was ruled that a case of overlapping of boundaries or encroachment depends on a reliable, if not accurate, verification survey; barring one, no overlapping or encroachment may be proved successfully, for obvious reasons. The first step in the resolution of such cases is for the court to direct the proper government agency concerned to conduct a verification or relocation survey and submit a report to the court, or constitute a panel of commissioners for the purpose. In that case, the Court lamented that the trial court therein did not order the conduct of a verification survey and the appointment of geodetic engineers as commissioners, to wit:

> This is precisely the reason why the trial court should have officially appointed a commissioner or panel of commissioners and not leave the initiative to secure one to the parties: so that a thorough investigation, study and analysis of the parties' titles could be made in order to provide, in a comprehensive report, the necessary information that will guide it in resolving the case completely, and not merely leave the determination of the case to a consideration of the parties' more often than not self-serving evidence.[45]

Similarly, in *Chua, et al. v. B.E. San Diego, Inc.*,[46] the Court ruled that in overlapping boundary disputes, the verification survey must be actually conducted on the very land itself. In that case, the verification survey conducted was merely based on the technical description of the defective titles. The opinion of the surveyor lacked authoritativeness because his verification survey was not made on the land itself.

Indeed, in case there are two registered titles with overlapping boundaries, the more prudent and technical approach would be to conduct a verification survey over the titles. After the verification survey, the court would be given all the necessary and technical analysis and data over the two titles. At that point, the court can judiciously and properly determine whether to apply (1) the **general rule** that in case of two certificates of title purporting to include the same land, the earlier date prevails; (2) the **exception** that if the inclusion of the land in the earlier registered title was a result of a mistake, then the latter registered title will prevail.

In this case, the Court must commend the RTC of Las Piñas for taking the correct procedure in resolving such issue. When faced with the issue of two registered titles with overlapping boundaries based on their surveys and

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44 579 Phil. 375, 398 (2008).
45 *Id.* at 401.
46 708 Phil. 386, 426 (2013).

technical descriptions, it issued an Order[47] dated December 5, 1997, which directed the parties to conduct a verification survey pursuant to the prescribed rules. Engr. Veronica Ardina-Remolar *(Remolar)*, from the Bureau of Lands of the DENR, was the court-appointed commissioner who supervised and coordinated the verification survey. Engrs. Rolando Nathaniel Pada *(Pada)* and Alexander Ocampo *(Ocampo)* were the geodetic engineers for the Spouses Yu; while Engr. Lucal Francisco *(Francisco)* was the geodetic engineer for ALI. They conducted actual verification survey on April 5, 6, 7 and 16, 1998 and June 8, 1998. Afterwards, Engr. Remolar submitted her Report[48] dated November 4, 1998, to the trial court, which stated that there were *overlapping areas* in the contested surveys. Likewise, Engrs. Pada and Francisco submitted their Verification Reports and Survey Plans,[49] which were approved by the DENR. Then, the parties presented their respective witnesses.

The RTC of Las Piñas had a technical and accurate understanding and appreciation of the overlapping surveys of Psu-25909, Psu-47035, Psu-80886, and Psu-80886/SWO-20609. In its Decision dated May 7, 2001, it ruled in favor of the petitioner Spouses Yu and it discussed extensively its observations and findings regarding the overlapping areas, to wit:

> From the evidence on record, it appears that the following plans were made on the dates and by the surveyor specified herein:
>
> Survey No. PSU-25909 March 17, 1921 A.N. Feliciano
> Survey No. PSU-47035 October 21, 1925 A.N. Feliciano
> Survey No. PSU-80886 July 28, 1930 A.N. Feliciano
> Survey No. SWO-20609 March 6, 1931 A.N. Feliciano
>
> Plan PSU-25909 (Exhibit "F") invoked by the plaintiffs and the authenticity of which is certified by appropriate government custodians including Engineer Remolar, the court-designated commissioner, appears to have been prepared on March 17, 1921 for one Andres Diaz and recites the following entries:
>
> "THE ORIGINAL FIELD NOTES, COMPUTATIONS AND PLAN OF THIS SURVEY EXECUTED BY [A.N.] FELICIANO HAVE BEEN CHECKED AND VERIFIED IN THIS OFFICE IN ACCORDANCE WITH SECTIONS 1858 TO 1865, ACT 2711 AND ARE HEREBY APPROVED MAY 26, 1921."
>
> -and-
>
> "This is to certify that this is a true and correct plan of Psu-25909 as traced from the mounted paper of plan Psu-25909 which is on file at T.R.S. Lands Management Sector, N.C.R.

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47 *Rollo* (G.R. No. 173120), pp. 287-293.
48 *Id.* at 294-295.
49 *Id.* at 296-308.

"This a true copy of the plan [as] requested by the Chief, Technical Records Section, as contained in a letter dated February 15, 1989.

TEODORICO C. CALISTERIO
Chief, Topographic 7 Special Maps Section
Traced by: F. SUMAGUE
Checked by: A.O. VENZON (Sgd.) 4/28/89

Thus, the Court holds that plan PSU-25909 (Exhibit "F") is a true copy of an official document on file with the Bureau of Lands and is, therefore, entitled to great weight and appreciation, there being no irregularity demonstrated in the preparation thereof.

On the other hand, an examination of Plan PSU-47035 (Exhibit "G") **invites suspicion** thereto. As observed by Engineer Pada in his verification survey report, the photocopy of plan PSU-47035 submitted by the defendant shows that the plan appears to have been done for one Estanislao Mayuga, while in the certified true copy of the pertinent decree (Exhibit "HH"/Exhibit 20), it appears that the same was done for a certain Dominador Mayuga. Viewing this discrepancy in the light of the fact that the plan for PSU-47035 was undertaken on October 21, 1925, or more than four years after the survey for plan PSU-25909 was done, the same discrepancy leads the Court to conclude that PSU-47035 is spurious and void.

The third plan enumerated above, plan PSU-80886 (Exhibit "II/Exhibit 29), prepared on July 28, 1930, or more than five years since plan PSU-25909 was done for Andres Diaz, also **invites suspicion**. An examination of the same reveals that the lower right-hand corner of the plan, which bears the serial number PSU-80886, is manifestly different from the main document in terms of the intensity of its contrast, and that the change in the intensity of the shading is abrupt as one examines the document starting from the lower right-hand corner to anywhere else in the same document. Also, it is worth observing that the main document, minus the lower right-hand corner mentioned, does not indicate anything to even suggest that it pertains to plan PSU-80886. For these reasons, the contention of the plaintiffs that this lower right hand corner of the plan appears to be a spurious attachment to the main document to make the main document look like it is actually plan PSU-80886, has merit.

Another discrepancy **invites further suspicion** under the circumstances. The main document bears what appears to be the actual signature of the surveyor, Mr. A.N. Feliciano, while the lower right-hand corner of the plan mentions only the name "Serafin P. Hidalgo – Director of Lands" with the prefix "Sgd." But *without any actual signature.* An interesting query arises: Why would the document bear an actual signature of the surveyor without bearing the signature of the Director of Lands which in essence is the more important signature for authentication purposes?

Still another discrepancy is with respect to a monument appearing in PSU-80886 (Exhibit "II"). At the upper off-right portion thereof are entries referring to a monument more specifically described as B.L.L.M. No. 4. According to Engineer Pada, citing a certified document taken from the Land Management Bureau of the Department of Environment and

Natural Resources, this *monument* was established *only on November 27, 1937* (TSN, March 24, 2000, pp. 18-20) which is more than seven years after PSU-80886 was undertaken. *How a monument which was established only in November 1937 can actually exist in a plan made on July 28, 1930 is absolutely incredible.*

In view of the foregoing, the Court finds good reason to consider PSU-80886 (Exhibit "II" and 29), relied upon by the defendant, *spurious* and *void* as well.

The fourth and last plan mentioned is SWO-20609, done on March 6, 1931.

It is admitted by the geodetic engineer of the defendant that a specific work order (SWO) co-exists with a survey plan, and that in particular, SWO-20609 was undertaken in view of alleged errors in plan PSU-80886 (TSN, February 16, 2001, pp. 31-32). Therefore, SWO-20609 must be *evaluated* in relation to plan PSU-80886. From this perspective, the Court also notes that SWO-20609 is attended with *discrepancies* thus rendering it devoid of any credence.

For the record, in PSU-80886 (Exhibit "II"/Exhibits 29 and 30), the land concerned appears to have been surveyed for one Eduardo C. *Guico,* while in PSU-80886/SWO-20609 (Exhibit "H"/Exhibit 35), the same land appears to have been surveyed for one Alberto *Yaptinchay.* In addition, it is evident in PSU-80886 (Exhibits 29 and 30) that vital entries regarding the total area of the property covered by the document bear many erasures, particularly two erasures as to the total area in terms of number and one erasure as to that total area in terms of unit of measurement.

The Court likewise notes with suspicion the fact that all four survey plans were purportedly undertaken by one and the *same surveyor, a Mr. A.N. Feliciano.* It seems extremely unusual why the same A.N. Feliciano, who surveyed the *same property* for Andres Diaz *in 1921*, would do so again *in 1925* with *different results*, and again *in 1930* once more with *different results*, and still one more time *in 1931* with still *different results.* The only reasonable and logical conclusion under these telling circumstances is that the second, third and last surveys corresponding to PSU-47035, PSU-80886 and PSU-80886/SWO-20609 are all *spurious* and *void*, too.

The Court went through the record of the case and no satisfactory explanation has been offered by the defendant regarding these discrepancies. Even the documentary evidence presented by the defendant offers no plausible reason for the Court to reject the contentions of the plaintiffs. This all the more strengthens the view of the Court to effect that PSU-47035, PSU-80886 and PSU-80886/SWO-20609 are spurious and void *ab initio*. This view is also strengthened by the credentials of Engineer Pada whom the Court considers as a very credible witness.

All in all, the Court is convinced that the title of the plaintiffs to the properties in dispute is superior over those invoked by the defendant.[50]

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50 *Id.* at 710-713. (Emphases supplied)

As discussed in the Decision of the Court, the trial court was able to determine that **the exception to the rule is applicable** – if the inclusion of the land in the earlier registered title was a result of a mistake, then the latter registered title will prevail – because the verification survey showed that the survey on the titles of ALI contained numerous anomalies.

The case of Spouses Carpo v. Ayala Land, Inc. does bar the adjudication of this present case

One argument raised for ALI is that the Court could not anymore examine the validity of OCT No. 242 because it was already declared valid in *Spouses Carpo v. Ayala Land, Inc.*[51] *(Spouses Carpo v. ALI).* Justice Leonen agrees that since the Court already resolved the validity of OCT No. 242 and 1609 in the said case and *Realty Sales v. IAC*, then it cannot be questioned.

The argument is unmeritorious.

In *Spouses Carpo v. ALI,* the contested titles were TCT No. 296463, registered under the Spouses Carpo, which was sourced from **OCT No. 8575**; and **TCT No. T-5333**, registered under ALI, which was sourced from **OCT No. 242**. Evidently, OCT No. 242 is a vast tract of land and it borders several other registered parcels of land. The Court ruled therein that insofar as the contested lands are concerned, TCT No. T-5333, which was sourced from OCT No. 242, prevails over TCT No. 296463, which was sourced from OCT No. 8575 because the Spouses Carpo utterly failed to present evidence regarding the irregularity of the issuance and survey of OCT No. 242. Manifestly, the case therein was only decided by the trial court on the basis of a summary judgment. No verification survey was conducted. Thus, insofar as TCT No. 296463 and TCT No. T-5333 are concerned, the latter triumphs. There is nothing therein which prevented any adjudication on the validity of OCT No. 242 with respect to other bordering titles aside from that of OCT No. 8575.

In *Realty Sales v. IAC*, one of the contested titles was TCT No. 2048, which was sourced from OCT No. 1609. Again, these OCT Nos. 1609 and 242 cover a vast tract of land and it borders several other registered parcels of land, thus, it was later on divided into several parcels of land.

On the contrary, in this case, the contested titles are **TCT Nos. 287416, 287411, 287412, 39408 and 64549**, registered under petitioners, which was

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51 *Spouses Carpo v. Ayala Land, Inc.*, 625 Phil. 277 (2010).

sourced from **OCT No. 8510; and TCT Nos. 41325, 41263, 41262 and 41261**, registered under ALI, which was sourced from **OCT No. 1609, 242 and 244.** Accordingly, the contesting titles are different from that of *Spouses Carpo v. ALI* and *Realty Sales v. IAC.* Moreover, the present case only adjudicates the title in favor of petitioners **insofar as they overlap** with the erroneous titles of ALI because the issue involves overlapping boundaries in different registered titles. Thus, the present case does not in any way affect the controversy between TCT No. 296463 and TCT No. T-5333 in *Spouses Carpo v. ALI.*

More importantly, in this case, there was a presentation of evidence and a verification survey was conducted between OCT No. 8510 and OCT Nos. 1609, 242 and 244. After a rigorous study by technical experts, it was determined that OCT Nos. 1609, 242 and 244 suffered from numerous infirmities; while OCT No. 8510 bore the hallmarks of validity.

In fine, there is nothing in *Spouses Carpo v. ALI* and *Realty Sales v. IAC* that would prevent the judgment of the Court in this present case as they pertain to completely different subject matters.

A void title can always be attacked

In its last ditch attempt to overturn the Decision of the Court, ALI reiterates that the Court cannot anymore assail the validity of its titles because the cause of action of petitioners has prescribed.

The argument likewise fails.

As discussed in the Decision, between OCT No. 8510 and OCT Nos. 1609, 242 and 244, latter titles are null and void due to the invalid surveys and technical descriptions. It is a well-settled rule that a void title cannot give rise to a valid title.[52] Further, an action to declare the nullity of a void title does not prescribe and is susceptible to direct, as well as to collateral attack.[53]

In certain instances, even an action for reconveyance involving a void title does not prescribe. *Uy v. Court of Appeals*[54] remarkably explained the prescriptive periods of an action for reconveyance depending on the ground relied upon, to wit:

> The law creates the obligation of the trustee to reconvey the property and its title in favor of the true owner. Correlating Section 53, paragraph 3

52 *Modina v. Court of Appeals*, 376 Phil. 44, 54 (1999).
53 *Mendiola v. Sangalang*, G.R. No. 205283, June 7, 2017, 826 SCRA 483, 491.
54 769 Phil. 705 (2015).

> of PD No. 1529 and Article 1456 of the Civil Code with Article 1144 (2) of the Civil Code, the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the certificate of title. This ten-year prescriptive period begins to run from the date the adverse party repudiates the implied trust, which repudiation takes place when the adverse party registers the land. An exception to this rule is when the party seeking reconveyance based on implied or constructive trust is in actual, continuous and peaceful possession of the property involved. Prescription does not commence to run against him because the action would be in the nature of a suit for quieting of title, an action that is imprescriptible.
>
> The foregoing cases on the prescriptibility of actions for reconveyance apply when the action is based on fraud, or when the contract used as basis for the action is voidable. Under Article 1390 of the Civil Code, a contract is voidable when the consent of one of the contracting parties is vitiated by mistake, violence, intimidation, undue influence or fraud. When the consent is totally absent and not merely vitiated, the contract is void. **An action for reconveyance may also be based on a void contract. When the action for reconveyance is based on a void contract, as when there was no consent on the part of the alleged vendor, the action is imprescriptible.** The property may be reconveyed to the true owner, notwithstanding the TCTs already issued in another's name. The issuance of a certificate of title in the latter's favor could not vest upon him or her ownership of the property; neither could it validate the purchase thereof which is null and void. Registration does not vest title; it is merely the evidence of such title. Our land registration laws do not give the holder any better title than what he actually has. Being null and void, the sale produces no legal effects whatsoever.
>
> Whether an action for reconveyance prescribes or not is therefore determined by the nature of the action, that is, whether it is founded on a claim of the existence of an implied or constructive trust, or one based on the existence of a void or inexistent contract. x x x.[55]

Thus, petitioners may always attack the validity of ALI's void title. Accordingly, in this case, the Spouses Yu sought to reconvey to them once and for all the titles over the subject properties. To prove that they had a superior right, they questioned the validity of the surveys which were the bases of OCT Nos. 242, 244 and 1609, the origin of ALI's TCTs. Moreover, they also sought to recover the possession that was clandestinely taken away from them. Thus, as the subject matter of this case is the ownership and possession of the subject properties, the Spouses Yu's complaint is an action for reconveyance, which is not prohibited by Section 38 of Act No. 496. The title under OCT Nos. 242, 244 and 1609, cannot be transferred or conveyed to any person because it is a void title. Hence, ALI cannot acquire a lawful title because these were sourced from OCT Nos. 242, 244 and 1609, and the said void title can always be attacked, whether directly or collaterally.

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55 *Id.* at 719-721. (Emphasis supplied; citations omitted)

Likewise, it must be noted that the present action involves two consolidated petitions: the petition of the Spouses Yu and the petition of the heirs of the Spouses Diaz. Glaringly, ALI never questioned the timeliness of the petition of the heirs of the Spouses Diaz because the action was filed within the prescriptive period under Section 38 of Act No. 496, as amended.[56] The action of the heirs of the Spouses Diaz originated when the OCT No. 8510 was issued on May 19, 1970. Then, within the one-year period, on May 17, 1971, CPJ Corporation, then owner of the land covered by TCT No. 190713, which originated from OCT No. 242, filed an action for review of the decree of registration against the Spouses Diaz. Accordingly, the RTC and the CA considered the case because it was timely filed. Necessarily, the Court can also adjudicate the merits of the case with respect to OCT No. 8510, issued in the name of the Spouses Diaz.

Justice Leonen posits that there was no notice that should have put ALI on guard of any defect in the title they intended to purchase, and it was not duty-bound to look beyond the face of the title, much more to inspect the documents submitted for the registration of the original title, such as the survey plan.

Unfortunately, ALI cannot be considered an innocent purchaser for value of the subject properties under OCT Nos. 1609, 242 and 244. As discussed by the RTC of Las Piñas, when ALI purchased the subject lots from their predecessors-in-interest in 1988, the *titles bore notices of the pending cases and adverse claims sufficient to place it on guard.* In the TCTs of ALI, the **notices of *lis pendens*** indicated therein were sufficient notice that the ownership of the properties were being disputed. The trial court added that even the certified true copy of Psu-80886 had markings that it had been used in some other cases as early as March 7, 1959.[57] Accordingly, ALI is covered by the present action for reconveyance. As both the cases of petitioners were properly filed and are not barred by prescription, these can be adjudicated by the Court on the merits.

Evidently, ALI cannot invoke mere rules of technicality to hide the inescapable invalidity of their titles, which were sourced from OCT Nos. 1609, 242 and 244 *vis-à-vis* the titles of petitioners, which were sourced from OCT No. 1609.

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[56] SEC. 38. x x x Such decree shall not be opened by reason of absence, infancy, or other disability of any person affected thereby, not by any proceeding in any court for reversing judgments or decrees: subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible. x x x.

[57] *Rollo* (G.R. No. 173120), pp. 973-974.

Justice Leonen further claims that the Spouses Yu and Diaz committed forum shopping. The Court is unconvinced. When Diaz opposed the issuance of OCT No. 242, 244 and 1609, and when CPJ Corporation opposed the issuance of OCT No. 8510, the issue therein involves the issuance of the certificate of title. However, when the Spouses Yu initiated their complaint, they were not questioning the certificate of title, but the ownership of ALI over the lands itself. As there are different subject matters in these cases, there can be no forum shopping to speak of.

To recall, ownership is different from a certificate of title. A certificate of title is merely an evidence of ownership or title over the particular property described therein, and it cannot be used to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of others.[58] Thus, the Court, in its July 26, 2017 Decision, allowed the action of the Spouses Yu because it is an action for reconveyance that attacks the right of ownership of ALI over the land, resulting into void contracts of conveyances. As discussed in the said Decision, between OCT No. 8510 and OCT Nos. 1609, 242 and 244, the latter titles are null and void due to the invalid surveys and technical descriptions. It is settled that a void title cannot give rise to a valid title,[59] and that an action to declare the nullity of a void title does not prescribe and is susceptible to direct, as well as to collateral attack.[60]

The second motion for reconsideration and the motion for referral to the *en banc* of ALI are hereby **DENIED** with finality.

Accordingly, let an Entry of Judgment issue immediately. The Judicial Records Office to report compliance within ten (10) days from notice.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

58 *Wee v. Mardo*, *supra* note 11.
59 *Modina v. Court of Appeals*, *supra* note 52, at 54.
60 *Mendiola v. Sangalang*, *supra* note 53, at 491.

WE CONCUR:

On official leave
MARIANO C. DEL CASTILLO
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ATTESTATION

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

DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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