SPECIAL SECOND DIVISION

G.R. No. 173120 – SPOUSES YU HWA PING AND MARY GAW, Petitioners, v. **AYALA LAND, INC.,** Respondent.

G.R. NO. 173141 – HEIRS OF SPOUSES ANDRES DIAZ AND JOSEFA MIA, Petitioners, v. **AYALA LAND, INC.,** Respondent.

Promulgated:
10 APR 2019

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DISSENTING OPINION

LEONEN, *J.*:

Any case that overturns or modifies an existing doctrine should be decided by this Court *En Banc*. A second motion for reconsideration may be elevated to the *En Banc* when at least three (3) members of a division vote for its elevation. Nonetheless, a second motion for reconsideration will only be entertained if it is shown that the assailed decision is legally erroneous, patently unjust, and capable of causing unwarranted injury to the parties.

On July 26, 2017, this Court in *Spouses Yu Hwa Ping v. Ayala Land, Inc.*[1] granted the petition of Spouses Yu Hwa Ping and Mary Gaw[2] (Spouses Yu) upheld the validity of their certificate of title over respondent Ayala Land, Inc.'s titles.

In its Motion for Reconsideration with Motion to Refer the Case to the Court En Banc,[3] respondent asserts that *Spouses Yu* altered well-settled and long-settled doctrines when it discarded the "general rule governing the resolution of conflicting titles over the same parcel of land and instead carved out a curious exception thereto based on wholly inapplicable legal authorities or highly questionable justification."[4]

Respondent cautions that *Spouses Yu* may destroy the stability and trust reposed in the Torrens system. With its promulgation, respondent asserts that a buyer could no longer rely on the assurances granted by a

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1 G.R. Nos. 173120 and 173141, July 26, 2017, 832 SCRA 427 [Per J. Mendoza, Second Division].

2 *Rollo* (G.R. No. 173120), pp. 9–128. Spouses Yu Hwa Ping and Mary Gaw substituted the Heirs of Spouses Andres Diaz and Jose Mia as petitioners in G.R. No. 173141. Please see pp. 23–28 of G.R. No. 173141.

3 *Rollo* (G.R. No. 173120), pp. 2215–2310.

4 Id. at 2216.

certificate of title. Instead, he or she must peruse not only the mother title, but also the decree of registration, survey plans, and all other evidence presented in the original land registration proceedings.[5]

Respondent asserts that since *Spouses Yu* attempts to modify or reverse doctrines or principles of law, it was but proper that its Motion for Reconsideration be elevated to En Banc for its deliberation and resolution.[6]

On December 4, 2017, this Court resolved to deny the Motion with finality, ruling that it has already passed upon the basic issues raised.[7]

On February 9, 2018, respondent filed both its Urgent Motion for Leave to File and Admit Attached Second Motion for Reconsideration with Reiterative Motion to Refer the Case to the Court En Banc[8] and Second Motion for Reconsideration.[9] On February 14, 2018, it also moved[10] for the inhibition of Senior Associate Justice Antonio T. Carpio from this case.

Respondent continues to insist that its Motion for Reconsideration should be elevated to the *En Banc* in the interest of substantial justice and stability of jurisprudence.[11] It clarifies that it does not wish to elevate its case to this Court *En Banc* as an appeal, but only to raise the issue of *Spouses Yu* modifying or reversing a doctrine or principle of law, which requires the *En Banc's* participation.[12] It cites Rule 2, Section 3(h) of the Internal Rules of the Supreme Court, which provides:

> SECTION 3. *Court En Banc Matters and Cases.* — The Court *en banc* shall act on the following matters and cases:
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> . . . .
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> (i) cases where a doctrine or principle laid down by the Court *en banc* or by a Division may be modified or reversed[.] (Emphasis in the original)

Respondent stresses that *Spouses Yu:*

> [A]lters or abrogates long-standing doctrines or precedents in land registration cases (i.e., the one-year prescriptive period to review or reopen a decree of registration, the indefeasibility or incontrovertible

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5 Id. at 2217.
6 Id.
7 Id. at 2311.
8 Id. at 2326–2354.
9 Id. at 2355–2458.
10 Id. at 2459–2482.
11 Id. at 2307–2308.
12 Id. at 2338–2346.

> nature of a torrens title after the lapse of such prescriptive period, the superiority of an earlier issued torrens title in case of conflicting claims over the same property, survey plans as not adjudicative of issue of ownership, etc.).[13]

Respondent also points out that the elevation of a second motion for reconsideration to *the En Banc* falls under the recognized exceptions to the rule.[14] Rule 15, Section 3 of the Internal Rules provides:

> 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.* (Emphasis in the original)

The sole issue for this Court's resolution is whether or not the Second Motion for Reconsideration should be elevated to this Court *En Banc*.

The Motion should be granted.

I

Spouses Yu overturned the established precedents on indefeasibility and incontrovertibility of titles protected under the Torrens System, and illegally enlarges the coverage of the remedy of reconveyance.

The established doctrine is that a Torrens title becomes indefeasible after one (1) year from the date of its issuance. This was reiterated in *Francisco v. Rojas*,[15] *Sampaco v. Lantud*,[16] and *Heirs of Labanon v. Heirs of Labanon*, among others.[17]

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13 Id. at 2338–2339.
14 Id. at 2326–2338.
15 734 Phil 122 (2014) [Per J. Peralta, Third Division].
16 669 Phil 304 (2011) [Per J. Peralta, Third Division].
17 556 Phil 750 (2007) [Per J. Velasco, Jr., Second Division].

Here, the petitions directly attacked the validity of Original Certificate of Title Nos. 242,[18] 244,[19] and 1609.[20] However, these certificates of title were issued on May 9, 1950, May 11, 1950, and May 21, 1958, respectively. On the other hand, petitioners Spouses Yu filed their Petition on December 4, 1996. Clearly, the one (1)-year prescriptive period within which a certificate of title may be assailed had long lapsed.

However, *Heirs of Labanon* clarified that the indefeasibility of a title a year after its registration merely precludes the reopening of the registration proceedings. It does not foreclose other remedies for the reconveyance of the property to its rightful owner.[21]

Spouses Yu stated that petitioners' action for reconveyance was imprescriptible, as it was based on a void deed or contract as provided for by Article 1410[22] of the New Civil Code:

> Moreover, a reading of Spouses Yu's complaint reveals that they are seeking to declare void *ab initio* the titles of ALI and their predecessors-in-interest as these were based on spurious, manipulated and void surveys. If successful, the original titles of ALI's predecessors-in-interest shall be declared void and, hence, they had no valid object to convey. It would result to a void contract or deed because the subject properties did not belong to the said predecessors-in-interest. Accordingly, the Yu case involves an action for reconveyance based on a void deed or contract which is imprescriptible under Article 1410 of the New Civil Code.[23]

Original Certificate of Title Nos. 242, 244, and 1609 were awarded to Alberto Yaptinchay (Yaptinchay) and Dominador Mayuga (Mayuga), respondent's predecessors-in-interest, via judicial registration. There was no contract, void or otherwise, that could be the basis of an imprescriptible action. The survey plans that petitioners assail as fraudulent are not contracts.

Spouses Yu erred in implying that since the deed of sale between Ayala Land and its predecessors-in-interest turned out to be void, an action for reconveyance based on that void deed of sale will be imprescriptible even as to third parties to the transfer, such as petitioners.[24]

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18 *Rollo* (G.R. No. 173120), pp. 255–256.
19 Id. at 517–520.
20 Id. at 253–254.
21 556 Phil 750, 759–760 (2007) [Per J. Velasco, Second Division].
22 CIVIL CODE, art. 1410 provides:
ARTICLE 1410. The action or defense for the declaration of the inexistence of a contract does not prescribe.
23 *Yu Hwa Ping v. Ayala Land, Inc.*, G.R. Nos. 173120 and 173141, 832 SCRA 427, 445–446 (2017) [Per J. Mendoza, Second Division].
24 Id. at 444–447.

An imprescriptible action for reconveyance based on a void deed of sale is limited to the parties of the void transfer. To hold otherwise will lead to an absurdity where any person on the street, who is neither a party to the transfer nor can claim any interest in it, can file an action against a certificate of title even decades after its registration because a void contract exists somewhere along the line of transfer.

II

Spouses Yu went against the established doctrine of *primus tempore, portior jure*, or "first in time, stronger in right."

The mother title of petitioners Spouses Yu's predecessors-in-interest was issued more than two (2) decades after respondent's predecessors-in-interest were issued their own certificates of title. This, however, did not prevent this Court in *Spouses Yu* from upholding the later issued title over the one earlier issued, which outright contravenes the first in time, stronger in right doctrine.

Spouses Carpo v. Ayala Land, Inc.,[25] citing *Realty Sales Enterprises, Inc. v. Intermediate Appellate Court*,[26] pointed out that the issue of which between two (2) titles covering the same property deserves priority was not novel:

> Indubitably, in view of the CA's Decision in CA-G.R. SP No. 44243, this controversy has been reduced to the sole substantive issue of which between the two titles, purporting to cover the same property, deserves priority. This is hardly a novel issue. As petitioners themselves are aware, in *Realty*, it was held that:
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> > In this jurisdiction, it is settled that "(t)he general rule is that in the case of two certificates of title, purporting to include the same land, the earlier in date prevails . . . . 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 . . . ." . . .
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> In *Degollacion v. Register of Deeds of Cavite*, we held that "[w]here two certificates of title purport to include the same land, whether wholly or partly, the better approach is to trace the original certificates from which the certificates of title were derived."

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[25] 625 Phil. 277 (2010) [Per J. Leonardo-De Castro, First Division].
[26] 254 Phil. 719 (1989) [Per Curiam, En Banc].

> In all, we find that the CA committed no reversible error when it applied the principle "Primus Tempore, Portior Jure" (First in Time, Stronger in Right) in this case and found that ALI's title was the valid title having been derived from the earlier OCT.[27]

Spouses Laburada v. Land Registration Authority[28] held that a land registration court has no authority to order the registration of land that has already been decreed to another in an earlier case. "A second decree for the same land would be null and void, since the principle behind original registration is to register a parcel of land only once."[29]

Here, although petitioners Spouses Yu's predecessors-in-interest, petitioners Spouses Andres Diaz and Josefa Mia (Spouses Diaz), were the first to submit a survey plan on March 17, 1921, they only filed a petition for registration on February 16, 1968. Original Certificate of Title No. 8510 was then issued in their name on May 19, 1970.[30]

On the other hand, respondent's predecessors-in-interest, Mayuga and Yaptinchay, submitted their survey plans on October 21, 1925 and March 6, 1931, and had their titles issued through judicial declaration in 1950 and 1958.[31]

Respondent's predecessors-in-interest had their titles issued 20 and 12 years ahead those of petitioners.' Hence, it is their titles that should have been recognized over petitioners.'

III

Spouses Yu destroys the reliance on the Torrens System, which is critical in maintaining stability in our registration system.

Spouses Yu held that respondent was not an innocent purchaser for value since it was aware of the notices in its predecessors' titles, as well as the notices of *lis pendens* on its own titles and exhibit markings on survey plan Psu-80886.[32] However, none of the notices on the titles of respondent's predecessors pertained to any claim by petitioners Spouses Yu, since their complaint was filed eight (8) years after respondent purchased the properties

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27 625 Phil 277, 299–300 (2010) [Per J. Leonardo-De Castro, First Division].

28 350 Phil 779 (1998) [Per J. Panganiban, First Division].

29 *Spouses Laburada v. Land Registration Authority,* 350 Phil 779, 790–791 (1998) [Per J. Panganiban, First Division] (citations omitted).

30 *Yu Hwa Ping v. Ayala Land, Inc.*, G.R. Nos. 173120 and 173141, 832 SCRA 427, 431–432 (2017) [Per J. Mendoza, Second Division].

31 Id. at 431–432.

32 Id. at 446.

from Goldenrod, Inc.[33] and Philippine Airlines Employees Savings and Loan Association, Inc.[34] There was no notice that should have put respondent on guard for any defect in the title they intended to purchase.

Furthermore, respondent was not duty bound to look beyond the face of the title, let alone inspect the documents submitted for the original title's registration such as the survey plan. It is well-established that a person dealing with a registered parcel of land only needs to peruse the face of the title.[35] The Torrens title guarantees that "[a] person is only charged with notice of the burdens and claims that are annotated on the title."[36]

Nonetheless, whether there was wrongful registration based on the supposedly fraudulent survey plans, respondent could not have taken part in the allegedly fraudulent act as it was too far removed from the original registrant. It was, after all, the third or fourth transferee in a series of transfers and purchases of the property more than 50 years after the survey plan's execution and submission. Thus, respondent was an innocent purchaser for value.

Rabaja Ranch Development Corporation v. AFP Retirement and Separation Benefits System[37] stated that innocent third persons should be able to rely on the guarantees of the Torrens system to maintain public confidence in our registration system:

> Where innocent third persons, relying on the correctness of the certificate of title thus issued, acquire rights over the property, this Court cannot disregard such rights and order the cancellation of the certificate. The effect of such outright cancellation will be to impair public confidence in the certificate of title. The sanctity of the Torrens system must be preserved; otherwise, everyone dealing with the property registered under the system will have to inquire in every instance as to whether the title had been regularly or irregularly issued, contrary to the evident purpose of the law. Every person dealing with the registered land may safely rely on the correctness of the certificate of title issued therefor, and the law will, in no way, oblige him to go behind the certificate to determine the condition of the property.[38] (Citation omitted)

IV

Spouses Yu condoned the forum shopping done by petitioners Spouses Yu and their predecessors-in-interest, Spouses Diaz.

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33 *Rollo* (G.R. No. 173120), pp. 524–528.
34 Id. at 530–539.
35 *Spouses Peralta v. Heirs of Abalon,* 737 Phil 310, 324 (2014) [Per C.J. Sereno, First Division].
36 Id.
37 609 Phil. 660 (2009) [Per J. Nachura, Third Division].
38 Id. at 677.

Spouses Diaz had earlier opposed the original land registration case of respondent's predecessors-in-interest, but lost. Original Certificate of Title Nos. 242, 244, and 1609 were, thus, issued in favor of Mayuga and Yaptinchay, respondent's predecessors-in-interest.[39]

Notwithstanding, Spouses Diaz filed their own application for land registration on February 16, 1968,[40] even if the parts of the area covered by their application were already in Original Certificate of Title Nos. 242, 244, and 1609 that were all issued to respondent's predecessors-in-interest.

On May 19, 1970, Original Certificate of Title No. 8510 was issued in favor of Spouses Diaz. This, however, was timely contested by CPJ Corporation, Yaptinchay's transferee, before the Regional Trial Court of Pasig on the ground of fraud. It argued that Spouses Diaz did not indicate in their application that CPJ Corporation had an adverse interest over the land subject of the application, being the transferee of Original Certificate of Title Nos. 242 and 244.[41]

On December 13, 1995, the Regional Trial Court of Pasig found that Spouses Diaz committed fraud in applying for original registration of land and, thus, nullified Original Certificate of Title No. 8510.[42]

About a year after, petitioners Spouses Yu filed before the Regional Trial Court of Las Piñas a similar complaint against respondent, assailing Original Certificate of Title Nos. 242, 244, and 1609 for having a defective survey plan.[43]

This time, however, the Regional Trial Court of Las Piñas found that the applications for land registration, which preceded the issuance of Original Certificate of Title Nos. 242, 244, and 1609, were backed by a fraudulent survey plan. Thus, it nullified the certificates of title.[44]

Forum shopping is committed when, as a result of an adverse judgment in one (1) forum, a party gambles by seeking a possibly favorable judgment in another forum.[45] As *Municipality of Taguig v. Court of*

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39 *Rollo* (G.R. No. 173120), pp. 2329 and 2417–2418.

40 *Yu Hwa Ping v. Ayala Land, Inc.*, G.R. Nos. 173120 and 173141, 832 SCRA 427, 432 (2017) [Per J. Mendoza, Second Division].

41 Id.

42 Id. at 434.

43 Id. at 434–435.

44 Id. at 435–436.

45 *Municipality of Taguig v. Court of Appeals*, 506 Phil 567, 575 (2005) [Per J. Austria-Martinez, Second Division].

Appeals[46] instructs, it exists when a party asks different courts or administrative agencies for substantially similar reliefs, creating the possibility of the different forums issuing conflicting decisions on these same issues.[47]

Here, Spouses Diaz submitted an application for original land registration sometime in 1968 despite participating and losing about 20 years earlier in another application for original land registration.

Despite their loss with the issuance of Original Certificate of Title Nos. 242 and 244 in Yaptinchay's favor in 1950, Spouses Diaz filed their own application for original land registration. In so doing, they deliberately omitted that CPJ Corporation, Yaptinchay's transferee, possessed an interest in the land for which they were applying.

Their fraudulent application led to the issuance of Original Certificate of Title No. 8510 in 1970, which overlapped with portions of land covered by Original Certificate of Title Nos. 242, 244, and 1609.

When Original Certificate of Title No. 8510 was canceled, petitioners Spouses Yu, who were by then its transferees, filed before the Regional Trial Court of Las Piñas an action to nullify respondent's titles, which originated from Original Certificate of Title Nos. 242, 244, and 1609.

Petitioners are guilty of forum shopping. Their multiple suits all have the same purpose: that Original Certificate of Title No. 8510 be declared superior over Original Certificate of Title Nos. 242, 244, and 1609, along with their derivatives.

V

Spouses Carpo and *Realty Sales Enterprise, Inc. v. Intermediate Appellate Court*[48] upheld the validity of Original Certificate of Title Nos. 242 and 1609.

Spouses Carpo involved one (1) of the three (3) original certificates of title subject of this case, but with another set of parties against respondent. There, the land area covered by Original Certificate of Title No. 242 of respondent's predecessors was said to have overlapped with the land area

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46 506 Phil 567 (2005) [Per J. Austria-Martinez, Second Division].
47 Id. at 576.
48 254 Phil. 719 (1989) [Per Curiam, En Banc].

covered by Original Certificate of Title No. 8575 of Spouses Carpo's predecessors.[49]

In *Spouses Carpo*, this Court upheld the validity of Original Certificate of Title No. 242. It explained that the presumption of regularity accorded to a certificate of title meant that the trial court's pronouncement—that Original Certificate of Title No. 242 was issued without an approved survey plan—was unwarranted.[50]

Nonetheless, *Spouses Carpo* held that the trial court's finding of a defect in the survey plan for Original Certificate of Title No. 242 lacked basis:

> To begin with, a perusal of the defendant's answer or amended answer would show that, contrary to the trial court's allusions thereto, there is no admission on the part of ALI that OCT No. 242 was issued without a survey plan that was duly approved by the Director of the Bureau of Lands. There is likewise no evidence on record to support the trial court's finding that the survey plan submitted to support the issuance of OCT No. 242 in the 1950 land registration proceedings was approved only by the Land Registration Commissioner and not by the Director of the Bureau of Lands.
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> It would appear the trial court came to the conclusion that OCT No. 242 was issued without a duly approved survey plan simply because the notation "SWO" appeared in the technical description of the said title which was attached to the answer and due to ALI's failure to allege in its pleadings that the survey plan submitted in support of the issuance of OCT No. 242 was approved by the Director of the Bureau of Lands.
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> It is incomprehensible how the trial court could conclude that the survey plan mentioned in OCT No. 242 was unapproved by the appropriate authority all from the notation "SWO" which appeared beside the survey plan number on the face of the title or from a failure to allege on the part of ALI that a duly approved survey plan exists. We quote with approval the discussion of the CA on this point:
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> > Pursuant to the foregoing, the court *a quo* erred when, in ruling that the validity of OCT No. 242 is dubious, it gave emphasis to defendant-appellant's failure to allege that the survey plan of OCT No. 242 was duly approved by the Director of the Bureau of Lands. It is admitted that a survey plan is one of the requirements for the issuance of decrees of registration, but upon the issuance of such decree, it can most certainly be assumed that said requirement was complied with by ALI's original predecessor-in-interest **at the time the latter sought original registration of the subject property.** Moreover, the land registration court must be assumed to have

[49] 625 Phil 277, 289 (2010) [Per J. Leonardo-De Castro, First Division].
[50] Id. at 297–298.

> carefully ascertained the propriety of issuing a decree in favor of ALI's predecessor-in-interest, under the presumption of regularity in the performance of official functions by public officers. The court upon which the law has conferred jurisdiction, is deemed to have all the necessary powers to exercise such jurisdiction, and to have exercised it effectively. This is as it should be, because once a decree of registration is made under the Torrens system, and the time has passed within which that decree may be questioned **the title is perfect and cannot later on be questioned.** There would be no end to litigation if every litigant could, by repeated actions, compel a court to review a decree previously issued by another court forty-five (45) years ago. The very purpose of the Torrens system would be destroyed if the same land may be subsequently brought under a second action for registration, as what the court *a quo* did when it faulted ALI's failure to allege that its predecessor-in-interest submitted a survey plan approved by the Director of the Bureau of Lands in the original land registration case.
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> The Court need not emphasize that it is not for ALI to allege in its pleadings, much less prove, that its predecessor-in-interest complied with the requirements for the original registration of the subject property. A party dealing with a registered land **need not go beyond the Certificate of Title to determine the true owner thereof so as to guard or protect his or her interest.** Hence, ALI was not required to go beyond what appeared in the transfer certificate of title in the name of its **immediate transferor.** It may rely solely, as it did, on the correctness of the certificate of title issued for the subject property and **the law will in no way oblige it to go behind the certificate of title to determine the condition of the property.** This is the fundamental nature of the Torrens System of land registration, to give the public the right to rely upon the face of a Torrens certificate of title and to dispense with the need of inquiring further.[51] (Emphasis in the original, citation omitted)

Spouses Carpo further held that between two (2) titles that purportedly cover the same property, the title earlier issued prevails. Here, Original Certificate of Title No. 242 was issued on May 7, 1950[52] while Original Certificate of Title No. 8575 was issued sometime in 1970.[53]

Spouses Carpo also ruled that the action was barred not only by prescription, but also by laches. This was because the complaint was filed 45 years after the issuance of Original Certificate of Title No. 242.[54]

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51 Id. at 295–297.
52 Id. at 300.
53 Id. at 299–302.
54 Id. at 300–301.

On the other hand, in *Realty Sales Enterprise, Inc.*,[55] two (2) adjacent lots in Almanza, Las Piñas with an aggregate area of 373,868 square meters were covered by three (3) separate transfer certificates of titles:

> 1) TCT No. 20408, issued on May 29, 1975 in the name of Realty Sales Enterprise, Inc., which was derived from OCT No. 1609, issued on May 21, 1958, . . .
> 2) TCT No. 303961 issued on October 13, 1970 in the name of Morris G. Carpo, which was derived from OCT No. 8629, issued on October 13, 1970 . . .
> 3) TCTs Nos. 333982 and 333985, issued on July 27, 1971 in the name of Quezon City Development and Financing Corporation, derived from OCT No. 8931 which was issued on July 27, 1971[.][56]

Realty Sales Enterprise, Inc. ruled that Transfer Certificate of Title No. 2048, which was derived from Original Certificate of Title No. 1609, prevailed over Transfer Certificate of Title No. 303961. The former, it explained, was a derivative of an original title issued earlier:

> Moreover, it is not disputed that the title in the name of Dominador Mayuga, from whom Realty derived its title, was issued in 1958, or twelve years before the issuance of the title in the name of the Baltazars in 1970.
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> In this jurisdiction, it is settled that "(t)he general rule is that in the case of two certificates of title, purporting to include the same land, the earlier in date prevails . . . 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 . . ." . . .
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> TCT No. 20408, derived from OCT 1609, is therefore superior to TCT No. 303961, derived from OCT 8629.[57] (Citation omitted)

ACCORDINGLY, I vote to **GRANT** the Second Motion for Reconsideration. I also vote to **DENY** the petitions and **REINSTATE** the Court of Appeals June 19, 2006 Decision.

MARVIC M.V.F. LEONEN
Associate Justice

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55 238 Phil 317 (1987) [Per J. Cortes, Third Division].
56 Id. at 320–321.
57 Id. at 335–336.