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THIRD DIVISION

[G.R. No. 138201. September 12, 2000]

FRANCISCO BAYOCA, NONITO DICHOSO and SPOUSES PIO DICHOSO and DOLORES DICHOSO and ERWIN BAYOCA, *petitioners, vs.* **GAUDIOSO NOGALES represented by HENRY NOGALES,** *respondent.*

SYNOPSIS

Here in issue is the superiority of right to a parcel of land sold to different buyers at different times by its former owners. According to the records, respondent Nogales was the first to buy the subject property from Julia Deocareza, who in turn bought the same from the Canino siblings. Petitioners, however, relied on the fact that they were the first to register the sales of the different portions of the property resulting in the issuance of new titles in their names. And as far as petitioners Francisco and Nonito are concerned, they declared the properties they acquired respectively for taxation purposes.

Art. 1544 of the Civil Code governs the preferential rights of vendees in cases of multiple sales. Under the second paragraph of said law, ownership of an immovable property shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property. The undisputed fact is that respondent Nogales had the Deed of Absolute Sale executed in his favor registered with the Registry of Deeds under Act No. 3344 long before the sale of portions of the property to petitioners. This constitutes constructive notice of the sale to the whole world and hence, can defeat the right of the second buyer in good faith. Thus, the Court ruled in favor of respondent Nogales.

SYLLABUS

1. CIVIL LAW; SPECIAL CONTRACTS; SALES; DOOUBLE SALE; RULE IN CASE OF MULTIPLE SALES OF IMMOVABLE PROPERTY. — Article 1544 of the Civil Code governs the preferential rights of vendees in cases of multiple sales... [I]n

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the double sales of immovables, ownership is transferred in the order hereunder stated to – (a) the first registrant in good faith; (b) the first in possession in good faith; and (c) the buyer who presents the oldest title in good faith. Based on the foregoing, to merit protection under Article 1544, second paragraph, of the Civil Code, the second buyer must act in good faith in registering the deed. Thus, it has been held that in cases of double sale of immovables, what finds relevance and materiality is not whether or not the second buyer was a buyer in good faith but whether or not said second buyer register such second sale in good faith, that is, without knowledge of any defect in the title of the property sold.

2. ID.; ID.; ID.; ID.; REGISTRATION BY FIRST BUYER UNDER ACT NO. 3344 CAN HAVE THE EFFECT OF CONSTRUCTIVE NOTICE TO THE SECOND BUYER. — [A]s stated in the *Santiago* case, registration by the first buyer under Act No. 3344 can have the effect of constructive notice to the second buyer that can defeat his right as such buyer. On account of the undisputed fact of registration under Act No. 3344 by respondent Nogales as the first buyer, necessarily, there is absent good faith in the registration of the sale by the petitioners Erwin Bayoca and the spouses Pio and Lourdes Dichoso for which they had been issued certificates of title in their names. It follows that their title to the land cannot be upheld. As for petitioners Francisco Bayoca and Nonito Dichoso, they failed to register the portions of the property sold to them, and merely rely on the fact that they declared the same in their name for taxation purposes. Suffice it to state that such fact, does not, by itself, constitute evidence of ownership, and cannot likewise prevail over the title of respondent Nogales.

3. ID.; CERTIFICATES OF TITLE; FUNCTION. — [W]hile the certificates of title in the names of Erwin Bayoca and the spouses Pio and Lourdes Dichoso are indefeasible, unassailable and binding against the whole world, including the government itself, they do not create or vest title. They merely confirm or record title already existing and vested. They cannot be used to protect a usurper from the true owner, nor can they be used as a shield for the commission of fraud; neither do they permit one to enrich himself at the expense of others. The Torrens System is intended to guarantee the integrity and conclusiveness of the certificate of registration but it cannot be used for the

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perpetration of fraud against the real owner of the registered land.

4. REMEDIAL LAW; REGIONAL TRIAL COURT; JURISDICTION; WHEN PROPERTY DIVESTED FROM PUBLIC DOMAIN. — [P]etitioner's argument that the subject property is a public agricutural land over which the Regional Trial Court has no jurisdiction over is clearly untenable. The prior grant of a free patent in favor of petitioners Erwin Bayoca and the spouses Pio and Dolores Dichoso removed or segregated the property subject thereof from the mass of the public domain. So too, respondent Nogales had already registered the entire property under Act No. 3344. Indeed, registration with the Register of Deeds of a parcel of land divests the government of title to the land.

5. ID.; APPEAL; JURISDICTIONAL ISSUES MAY BE RAISED ANYTIME EXCEPT WHEN ESTOPPEL HAS SUPERVENED. — Petitioners, who raised [the] issue [of jurisdiction] only before this Court, are now estopped from claiming that the subject property is a public agricultural land, considering that petitioners have actively participated in the proceedings before the lower and appellate courts with their principal defense consisting of the certificates of titles in their names. While it is a rule that jurisdictional questions may be raised at any time, an exception arises where estoppel has supervened, as in the instant case.

APPEARANCES OF COUNSEL

Atty. Arnulfo L. Perete for petitioners.
Atty. Henry D. Diesta for respondent.

D E C I S I O N

GONZAGA-REYES, *J.*:

Before us is a petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the December 24, 1998 Decision of the Court of Appeals,[1] which disposed as follows:

[1] Penned by J. Romeo J. Callejo, Jr., with the concurrence of JJ. Fermin A. Martin, Jr. and Mariano M. Umali.

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"IN THE LIGHT OF ALL THE FOREGOING, Appellants' appeal is DISMISSED. The Decision appealed from is AFFIRMED. With costs against the Appellants.

SO ORDERED."[2]

The decretal portion of the decision of the trial court affirmed by the Court of Appeals, reads:

"ACCORDINGLY, judgment is hereby rendered:

(1) Declaring the plaintiff the absolute owner and entitled to the peaceful possession of the land in question described in Paragraph 2 of the Amended Complaint, and for the defendants to refrain from disturbing the plaintiff in his peaceful possession thereof;

(2) Ordering defendants Francisco Bayoca and Nonito Dichoso to remove their respective houses from the premises in question within ten (10) days after the Decision becomes final and executory;

(3) Ordering defendant Erwin Bayoca to reconvey to the plaintiff TCT No. T-27220, and defendant Nonito Dichoso, who substituted defendants Spouses Pio Dichoso and Lourdes Domasig as party-defendants, to reconvey OCT No. P-11918 to the plaintiff within fifteen (15) days after the Decision becomes final and executory, failing in which, the Clerk of Court is ordered to execute the Deed of Reconveyance in favor of the plaintiff;

(4) Ordering the defendants to proportionally reimburse plaintiff the produce of the property in question, at 400 kilos of copra every 45 days, or its equivalent in money, from 1992, until they have surrendered or turned over the possession of the land in question to the plaintiff;

(5) Ordering the defendants jointly and severally to pay plaintiff the amount of ₱8,000.00 as attorney's fees, and the further sum of ₱3,000.00 as incidental litigation expenses, and

(6) To pay the costs.

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[2] CA Decision, p 19; *Rollo*, p. 40.

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SO ORDERED."[3]

Also assailed by petitioners is the April 8, 1999 Resolution of the Court of Appeals, which denied their Motion for Reconsideration.[4]

In essence, the petition poses a challenge against the appellate court's conclusion that the first sale of a parcel of land to respondent Gaudioso Nogales prevails over the second sale of the said property to petitioners Francisco Bayoca, Nonito Dichoso and spouses Pio and Dolores Dichoso. As such, there is no dispute as to the following facts found by the Court of Appeals:

"When the Spouses Juan Canino and Brigida Domasig died intestate, before 1947, they were survived by their legitimate children, namely, Preciosa Canino, married to Emilio Deocareza, Consolacion Canino, Dolores Canino, Isidra Canino and Tomas Canino who inherited, from their father, a parcel of land, located in Prieto-Diaz, Sorsogon covered by Tax Declaration No. 9659, in an assessed value of ₱500.00, with the following boundary owners abutting the same:

North	— Vicente Dino;
West	— Genaro Menor and Roman Bayle
East	— Pedro Vargas and Fely Detablan
South	— Bartolome Domalaon

Each of the heirs, therefore, had a *pro indiviso* share of the property, Tomas Canino, being then still a minor at 17 years of age, was under the care and custody of his sister, Preciosa Canino Deocareza. She and her husband, Emilio Deocareza, and Tomas Canino stayed in the said property.

On December 15, 1947, Preciosa Canino executed an *unnotarized "Deed of Sale of Real Property with Right of Repurchase"* over a portion of the above property, with an area of 5,000 square meters, in favor of her sister-in-law, Julia Deocareza, the sister of her husband, Emilio Deocareza, for the price of ₱200.00 *(Exhibit "K")*. Preciosa Canino reserved her right to repurchase the said property, within five (5) years from the execution of the said deed. Dolores and Maria Canino affixed the imprints of their thumbmarks on the deed (Exhibits

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[3] RTC Decision, p. 10; *Rollo*, p. 89.

[4] *Rollo*, p. 44.

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"K-1" and "K-2"). On February 2, 1948, Tomas Canino, who was then 17 years of age and Preciosa Canino, who was then taking care of her brother, executed an *unnotarized "Deed of Sale of Real Property with Right of Repurchase"* covering a portion of said property, *with an area of 5,330 square meters*, in favor of Julia Deocareza, for the price of P60.00, with a right to repurchase the said lot for the said amount, within one (1) year from the execution of said *deed (Exhibit "I")*. On August 29, 1948, Preciosa Canino executed another unnotarized *"Deed of Sale of Real Property with Right to Repurchase"* over the entirety of the property, in favor of Julia Deocareza, for the price of ₱270.00, with a right to repurchase the said lot for the same price, within two (2) years from the execution thereof. Consolacion Canino affixed her thumbmark on said deed *(Exhibit "J-1")*. Subsequently, Tax Declaration No. 9659 was cancelled by Tax Declaration No. 189, under the name of Juan Canino.

On January 31, 1951, Preciosa Canino executed a *notarized "Deed of Sale of Real Property with Right to Repurchase"* over the entirety of the aforementioned property, in favor of Julia Deocareza, for the price of ₱800.00, with a right to repurchase the same, for the same amount, within one (1) year from the execution of said deed, *(Exhibit "H")*. The parties covenanted, under said deed, that the property described therein was unencumbered and to register the deed under Act 3344. On the basis of said deed, Tax Declaration No. 3489 was issued over the property, under the name of Julia Deocareza. The latter allowed her brothers, Ambrosio Deocareza, married to Olympia Dichoso, and Emilio Deocareza, the husband of Preciosa Canino, to occupy the said property. However, Preciosa Canino failed to repurchase the property. In the meantime, Gaudioso Nogales, the Appellee in the present recourse, acquired the property abutting the property of Preciosa Canino and her siblings, on the east, and installed a tenant thereon.

On April 29, 1968, Julia Deocareza executed an unnotarized *"Compromise Agreement"*, in the local dialect, in favor of the Appellee, whereby she sold to the Appellee, for the price of P3,500.00, the aforesaid property she earlier purchased from Preciosa Canino, with an area of 21,080 square meters *(Exhibit "L")* with the following boundary owners abutting the property:

"North — Vicente Dino
East — Felix Detablan and Pedro Vargas (now Gaudioso Nogales)
West — Genaro Donor and Roman Balle (now Gaudioso Nogales)

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South — Bartolome Dumalaon
(Exhibit "L")

She promised, in said deed, to have her brothers, Ambrosio and Emilio Deocareza, and their families, vacate the said property. On the same day, Julia Deocareza executed a *"Deed of Absolute Sale of Realty Property"* in favor of the Appellee over the aforesaid parcel of land for the price of ₱3,000.00 *(Exhibit "G")*. The aforesaid deed was registered with the Register of Deeds on May 3, 1968, *(Exhibit "G-1")*. For a time, the Appellee was abroad. However, when the Appellee demanded that Ambrosio and Emilio Deocareza and their families vacate the property, Emilio Deocareza and Preciosa Deocareza refused. The Appellee forthwith filed a complaint, sometime in 1975, with the Regional Trial Court of Sorgoson, against *Emilio Deocareza, and Julia Deocareza for "Recovery of Possession" of property entitled "Gaudioso Nogales versus Emilio Deocareza, et al." Civil Case No. 975." In his Amended Complaint,* the Appellee impleaded Preciosa Canino, as party defendant, Julia Deocareza later filed a cross-claim against Preciosa Canino over the property.

On February 7, 1983, the Regional Trial Court promulgated a Decision, *in Civil Case No. 975* in favor of the Appellee and against Emilio Deocareza, et al., the decretal portion of which reads as follows:

> "ACCORDINGLY, judgment is hereby rendered (1) ordering the defendants Julia Deocareza and the spouses Emilio Deocareza and Preciosa Canino to deliver possession of the land to plaintiff Gaudioso Nogales; (2) ordering the defendants spouses Emilio Deocareza and Preciosa Canino to pay the plaintiff the sum of ₱1,500.00 every 45 days as actual damages from the filing of the second amended complaint on November 12, 1976 until possession of the land is delivered to the plaintiff and to pay attorney's fees to the plaintiff in the sum of ₱500.00.
>
> Costs against the defendants spouses Emilio Deocareza and Preciosa Canino.
>
> SO ORDERED." *(Exhibit "B")*

Emilio Deocareza, et al., interposed an appeal, from the said Decision, to this Court, which appeal, was docketed as CA-G.R. NO. 15135-CV. However, the Appellants therein belatedly paid the docketing fee for their appeal. On March 23, 1988, this Court promulgated *a Resolution* dismissing the appeal. The Resolution of this Court became final and executory on June 2, 1988 (*Exhibit "C"*)

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After the remand of the records of said case to the Court *a quo,* a *Writ of Execution* was issued by the Court a quo, dated, February 20, 1992 (*Exhibit "D"*). Emilio Deocareza and Preciosa Deocareza vacated the property. The Appellee, through Henry Nogales, executed an "Acknowledgment" acknowledging actual possession of the aforesaid parcel of land from the Sheriff (*Exhibit "F"*). However, the Appellee discovered that Francisco Bayoca, Nonito Dichoso and the Spouses Pio Dichoso and Dolores Dichoso, the Appellants in the present recourse, claimed ownership of portion of the said property. The Appellant Nonito Dichoso had constructed a nipa hut on a portion of the property. The Appellant Francisco Bayoca likewise constructed his house thereon.

In 1958, Tomas Canino, who was then about twenty-eight years old, died intestate, without any issue: His pro-indiviso share in the property was inherited, in equal shares, by his four (4) surviving sisters, namely, Preciosa Canino, Isabel Canino, Consolacion Canino and Dolores Canino who, on June 2, 1971 executed a *"Deed of Partition of Real Property",* declaring that, although, under Tax Declaration No. 9659, the property covering an area of 21,000 square meters that, as early as 1950, they had verbally partitioned the said property, with an area of 29,645 square meters, into five (5) parcels, namely Parcels *"A" to "E"* and adjudicated unto each of them, *in equal shares of 5,090 square meters,* the said parcels as follows:

"Parcel "A" — Consolacion Canino;
Parcel "B" — Isidra Canino;
Parcel "C" — Tomas Canino;
Parcel "D" — Preciosa Canino;
Parcel "E" — Dolores Canino;
(*Exhibit "G"*)

However, neither Julia Deocareza nor the Appellee conformed to the *"Deed of Partition".*

Preciosa Canino and her siblings expressly declared, in said deed, that the property was declared for taxation purposes under the name of Julia Deocareza under Tax Declaration No. 3894 (*Exhibit "16"*).

On the basis of said deed, Isidra Canino declared *"Parcel "B",* for taxation purposes, under her name, with Tax Declaration No. 6094 effective 1972 (*Exhibit "2"*), which cancelled, in part, *Tax Declaration No. 3489,* under the name of Julia Deocareza. On June 21, 1971, Isidra Canino executed a *"Deed of Absolute Sale" over Parcel "D",* with an area of 5,929 square meters, in favor of Pio Dichoso and Lourdes

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Donor, two (2) of the Appellants in the present recourse, for the price of ₱750.00 (*Exhibit "1"*). Isidra Canino showed to the vendees a copy of the *"Deed of Partition of Real Property (Exhibit "6").* The vendees declared the said property, under their names, for taxation purposes, under Tax Declaration No. 05079 (*Exhibit "3"*) and paid the realty taxes due thereon.

In the interim, a cadastral survey was conducted in Prieto Diaz. *Parcel "A",* adjudicated to Consolacion Canino, under the "Deed of Partition" was identified, as *Lot 676,* with an area of more or less 5,929 square meters; *Parcel B,* adjudicated to Isidra Canino, was identified as *Lot 670; Parcel "C",* adjudicated to Tomas Canino, was identified as *Lot 668; Parcel "D"* adjudicated to Preciosa Canino, was identified as *Lot 669* but with an area of 6,550 square meters, covered by Tax Declaration No. 396; and *Parcel "E",* adjudicated to Dolores Canino, was identified as Lot 667.

On July 6, 1971, Isidra Canino, Dolores Canino and Consolacion Canino, executed a *"Deed of Absolute Sale of Real Property"* over a portion of Lot 668 earlier adjudicated to Tomas Canino, under the "Deed of Partition of Real Property", with an area of 3,374 square meters, in favor of Preciosa Canino for the price of ₱500.00 (*Exhibit "13").*

In the meantime, Pio Diochoso and Lourdes Donor applied for the issuance of a *"Free Patent"* over Lot 670, the property they purchased from Isidra Canino. On July 13, 1975, they were issued Free Patent No. V-3-0770, over the property, on the basis of which Original Certificate of Title No. P-11918 was issued, under their names, by the Register of Deeds (*Exhibit "4"*).

On April 17, 1975, Preciosa Canino applied for and was issued *Free Patent No. V-30829,* over a portion of Lot 668, with an area of 2,800 square meters. On the basis of said Patent, Original Certificate of Title No. P-25402 was issued under the name of Preciosa Canino, on April 17, 1975, by the Register of Deeds.

On June 20, 1979, Preciosa Canino executed a *"Deed of Absolute Sale",* over Lot 669, with an area of 6,550 square meters, in favor of the Appellant Erwin Bayoca, for the price of ₱4,000.00 (*Exhibit "8"*). On the basis of said deed, Tax Declaration No. 05135 was issued, under the name of Erwin Bayoca, over said property (*Exhibit "9"*).

On January 18, 1983, Consolacion Canino executed a "Deed of Absolute Sale", *over Lot 671",* with an area of 5,929 square meters,

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in favor of Nonito Dichoso, one of the Appellants in the present recourse, and a son of the Spouses Pio Dichoso and Lourdes Dichoso, for the price of P1,300.00 (*Exhibit "5"*).

On August 3, 1987, Dolores Canino executed a *"Deed of Absolute Sale of Real Property"*, over Lot 667, with an area of 7,090 square meters, in favor of Appellant Francisco Bayoca, for the price of P5,000 (Exhibit "14"). On the basis of said deed, Francisco Bayoca declared the said property, for taxation purposes, under his name (*Exhibit "15"*).

On October 13, 1989, Preciosa Canino executed a "*Deed of Absolute Sale of Real Property*", over the parcel of lot covered by Original Certificate of Title No. P-25402, in favor of Appellant Erwin Bayoca, the son of the Appellant Francisco Bayoca, for the price of P5,000.00 (*Exhibit "10"*). On the basis of said deed, Original Certificate of Title No. P-25402 was cancelled and Transfer Certificate of Title No. 27220 was issued under the name of Appellant Erwin Bayoca (*Exhibit "11"*). The latter forthwith declared the said property, under his name, for taxation purposes (*Exhibit "12"*).

On September 8, 1992, the Appellee filed a complaint against the Appellants Francisco Bayoca, Nonito Dichoso and the Spouses Pio Dichoso and Dolores Dichoso for *"Accion Reinvindicatoria with Damages"*, with the Regional Trial Court of Sorsogon. On February 15, 1994, Pio Dichoso died and was substituted by his son, the Appellant Nonito Dichoso. With prior leave of Court, the Appellees filed an *Amended Complaint,* impleading Lourdes Dichoso and Erwin Bayoca, as parties defendants, praying that:

> "WHEREFORE, it is most respectfully prayed of the Honorable Court that pending hearing on the merits issue a writ of preliminary injunction, or in the alternative, to appoint a receiver in the premises in question so that the produce be deposited in court to be disposed of after the termination of this case, and that after due hearing, judgment issue:
>
> (a) Making the injunction permanent;
>
> (b) Declaring plaintiff the absolute owner of the land in question and entitled to the peaceful possession thereof;
>
> (c) Ordering the defendants to vacate the premises within 10 days after the decision has become final, and to perpetually refrain from disturbing plaintiff in his peaceful possession thereof;

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(d) Ordering the defendants to pay plaintiff whatever produce they may have gathered from the land in question until they have vacated or turned over the possession to the plaintiff;

(e) Ordering defendants Erwin Bayoca, Pio Dichoso and Lourdes Dichoso to reconvey Transfer Certificate of Title No. T-27220 and Original Certificate of Title No. P-11918 to the plaintiff, and should the said defendants refuse to reconvey the said certificates of title, the Clerk of Court be ordered to execute the deed of reconveyance in favor of the plaintiff within 15 days the decision becomes final and executory;

(f) Ordering defendants jointly and severally to pay plaintiff the amount of ₱12,000.00 as attorney's fees, plus ₱500.00 for every appearance of his lawyer in court, ₱3,000.00 as incidental litigation expenses, and to pay the costs.

Plaintiff further prays for such other relief just and equitable in the premises." (*at pages 104-105, Records*)

The Appellee alleged, in his complaint, that he purchased the said property, with an area of 21,000 square meters, from Julia Deocareza, under the deed, *Exhibit "G"*, and thus acquired ownership thereof and that the Appellants respectively purchased portions of said property, in bad faith and through fraud, the Appellants knowing of the pendency of *Civil Case No. 975,* before the Regional Trial Court, involving the said property. The Appellee further alleged that the *"Deed of Partition of Real Property"* as well as the deeds of sale executed by Preciosa Canino, Consolacion Canino, Isidra Canino and Dolores Canino in favor of the Appellants respectively, and Free Patent Nos. V-3-0770 and V-30829 in favor of the Spouses Pio Dichoso and Lourdes Dichoso and Preciosa Canino, respectively, were fraudulent and that the said Free Patent and Original Certificates of Title P-25402 and P-11918 issued on the basis thereof and derivative titles therefrom were null and void. The Appellants, in their Answer to the complaint, alleged, *inter alia* that Preciosa Canino and her siblings acquired just title over the property when they executed their *"Deed of Partition of Real Property"* and conveyed titles to the vendees, the Appellants in the present recourse, as buyers in good faith."[5]

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[5] CA Decision, pp. 1-9; *Rollo*, pp. 22-30.

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As mentioned at the outset, after hearing, the trial court ruled against herein petitioners Francisco Bayoca, Nonito Dichoso, Erwin Bayoca, and spouses Pio and Dolores Dichoso. The trial court found and declared, under its Decision dated March 12, 1996, that Gaudioso Nogales had acquired ownership over the property on the basis of the "Compromise Agreement" (Exhibit "I") and the *"Deed of Absolute Sale", (Exhibit "G")* executed by Julia Deocareza, who had previously acquired ownership over the said property on the basis of the deeds, (*Exhibits "H", "I", "J" and "K"*) as confirmed by the trial court under its Decision, *Exhibit "G"*. Hence, the sales of portions of said property by Preciosa Canino, who was no longer the owner thereof, to herein petitioners were null and void. The trial court declared further that petitioners were purchasers in bad faith.

On appeal, the Court of Appeals affirmed in toto the RTC ruling. Hence, this recourse to this Court.

In their Memorandum, petitioners raise the following issues:[6]

"WHETHER OR NOT THE PETITIONERS CLAIM OF OWNERSHIP BY VIRTUE OF THEIR RESPECTIVE TITLE ISSUED AND/OR REGISTRATION WILL PREVAIL OVER THAT OF RESPONDENT?

WHETHER OR NOT THE REGIONAL TRIAL COURT HAS JURISDICTION TO TRY THE SAME CASE WHEN THE SAME LAND SUBJECT OF THE CASE IS A PUBLIC LAND?"

The petition lacks merit.

In fine, the main issue is who has the superior right to the parcel of land sold to different buyers at different times by its former owners.

There is no question from the records that respondent Nogales was the first to buy the subject property from Julia Deocareza, who in turn bought the same from the Canino brothers and sisters. Petitioners, however, rely on the fact that they were the first to register the sales of the different portions of the property, resulting in the issuance of new titles in their names.

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[6] Petitioners' Memorandum, p. 5; *Rollo*, p. 155.

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Petitioners insist that they have a better right over respondent Nogales considering the following circumstances: (1) Pio and Lourdes Dichoso were issued Free Patent No. V-3-0770 over Lot 670, the property they purchased from Isidra Canino on the basis of which Original Certificate of Title No. P-11918 was issued under their names by the Register of Deeds; (2) Erwin Bayoca acquired the property covered by OCT No. P-25402 covering a portion of Lot 668 from Preciosa Canino, on the basis of which TCT No. 27220 was issued in his name. As far as Nonito Dichoso and Francisco Bayoca are concerned they declared the properties they acquired, respectively, from Consolacion Canino and Dolores Canino, for taxation purposes. Petitioners also assail the conclusion of the Court of Appeals that they were purchasers in bad faith of the subject lots.

Article 1544 of the Civil Code governs the preferential rights of vendees in cases of multiple sales, as follows:[7]

"ARTICLE 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

Following the above-quoted law, in the double sales of immovables, ownership is transferred in the order hereunder stated to —

(a) the first registrant in good faith;

(b) the first in possession in good faith; and

(c) the buyer who presents the oldest title in good faith.[8]

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[7] *Tañedo vs. Court of Appeals*, 252 SCRA 80 (1996).

[8] J.C. Vitug, Compendium of Civil Law and Jurisprudence, pp. 604-605.

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Based on the foregoing, to merit protection under Article 1544, second paragraph, of the Civil Code, the second buyer must act in good faith in registering the deed.[9] Thus, it has been held that in cases of double sale of immovables, what finds relevance and materiality is not whether or not the second buyer was a buyer in good faith but whether or not said second buyer registers such second sale in good faith, that is, without knowledge of any defect in the title of the property sold.[10]

Good faith on petitioners' part, as the second buyers of the subject property, was not found by the appellate court, thus its decision adverse to them. The Court of appeals ratiocinated thus:

"Appellants' insistence that they were purchasers in good faith is an exercise in futility. What, to our mind, is decisive of the issue of who, between the Appellee, on the one hand, and the Appellants, on the other, is the owner of the property is Article 1544 of the New Civil Code x x x:

xxx xxx xxx

After all, the Regional Trial Court of Sorsogon had already decreed, under its Decision (Exhibit "B") which the appellants did not assail, that the Appellee was the owner of the property under the "Deed of Absolute Sale" (*Exhibit "G"*) executed, by Julia Deocareza, in his favor.

The evidence on record shows that, on January 31, 1951, Preciosa Canino and her siblings sold the property in favor of Julia Deocareza under the *"Deed of Sale with Right to Repurchase"* (*Exhibit "H"*), the culmination of the deeds of sale with right to repurchase (*Exhibits "I", "J" and "K"*). the latter, in turn, sold the said property to the Appellee under the "Deed of Absolute Sale", on April 29, 1968, (*Exhibit "G"*), Julia Deocareza obliging herself to cause the eviction of her brothers, Ambrosio and Emilio Deocareza and their families from the property, who were at the time in possession of the property by her and Appellee's tolerance (*Exhibit "L"*). The appellee had the said *"Deed of Absolute Sale"* (*Exhibit "G"*) registered

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[9] *Esquivas vs. Court of Appeals*, 272 SCRA 803 (1997).

[10] *Coronel vs: Court of Appeals,* 263 SCRA 15 (1996).

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with the Registry of Deeds and entered in the Registry Records as Entry No. 47052, page 51, Volume 14 of the Registry Record under Act 3344 (*Exhibit "G-1"*). The registration of the deed, under Act 3344, constitutes constructive notice of said sale to the whole world:

> "Registration, however, by the first buyer under Act 3344 can have the effect of constructive notice to the second buyer that can defeat his right as such buyer in good faith (see Arts. 708-709, civil Code; see also *Revilla vs. Galindez*, 107 Phil. 480; Taguba vs. Peralta, 132 SCRA 700)."" (*Spouses Honorio Santiago versus Court of Appeals, et al., 247 SCRA 336, at page 346*)

On the other hand, the sales of portions of the property to the Appellants, by Preciosa Canino and her siblings, occurred during the period from June 21, 1971 to October 13, 1989 or long after the Appellee had purchased the property (*Exhibits "1", "13", "8", "5", "14", and "10"*). Inscrutably, too the sale to the Appellee was registered with the Registry of properties much earlier than the registration, if any, of the sales to the Appellants and that the Appellee took possession of the said property much earlier than the Appellants considering that the *"Deed of Sale" (Exhibit "G")* is a public deed. It bears stressing that possession, under Article 1544 of the New Civil Code, *includes symbolic possession:*

> "We are of the opinion that the possession mentioned in article 1473 (for determining who has better right when the same piece of land has been sold several times by the same vendor) includes not only the material but also the *symbolic possession*, which is acquired by the execution of public instrument." (*Narcisa Sanchez versus Roque Ramos, 40 Phil. 614, at page 617, emphasis supplied).*"

Verily, there is absence of prior registration in good faith by petitioners of the second sale in their favor. As stated in the Santiago case, registration by the first buyer under Act No. 3344 can have the effect of constructive notice to the second buyer that can defeat his right as such buyer,[11] On account of the undisputed fact of registration under Act No. 3344 by respondent Nogales as the first buyer, necessarily, there is absent good faith in the

[11] *Supra.*

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registration of the sale by the petitioners Erwin Bayoca and the spouses Pio and Lourdes Dichoso for which they had been issued certificates of title in their names. It follows that their title to the land cannot be upheld. As for petitioners Francisco Bayoca and Nonito Dichoso, they failed to register the portions of the property sold to them, and merely rely on the fact that they declared the same in their name for taxation purposes. Suffice it to state that such fact, does not, by itself, constitute evidence of ownership,[12] and cannot likewise prevail over the title of respondent Nogales.

Enlightening in this regard is the following commentary:

"The governing principle is *prius tempore, potior jure* (first in time, stronger in right). Knowledge by the first buyer of the second sale cannot defeat the first buyer's rights except when the second buyer first registers in good faith the second sale (*Olivares vs. Gonzales*, 159 SCRA 33). Conversely, knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register, since such knowledge taints his registration with bad faith (see also *Astorga vs. Court of Appeals*, G.R. No. 58530, 26 December 1984). In *Cruz vs. Cabaña* (G.R. No. 56232, 22 June 1984; 129 SCRA 656), it was held that it is essential, to merit the protection of Art. 1544, second paragraph, that the second realty buyer must act in good faith in registering his deed of sale) citing *Carbonell vs. Court of Appeals,* 69 SCRA 99, Crisostomo vs. CA, G.R. 95843, 02 September 1992).

xxx xxx xxx

Registration of the second buyer under Act 3344, providing for the registration of all instruments on land neither covered by the Spanish Mortgage Law nor the Torrens System (Act 496), cannot improve his standing since Act 3344 itself expresses that registration thereunder would not prejudice prior rights in good faith (see Carumba vs. Court of Appeals, 31 SCRA 558). Registration, however, by the first buyer under Act 3344 can have the effect of constructive notice to the second buyer that can defeat his right as such buyer in good faith (see Arts. 708-709, Civil Code; see also *Revilla vs. Galindez*, 107 Phil. 480*; Taguba vs. Peralta,* 132 SCRA 700). . ."[13]

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[12] *Rivera vs. Court of Appeals,* 244 SCRA 218 (1995).

[13] J.C. Vitug, *Compendium of Civil Law and Jurisprudence,* pp. 604-605.

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It is worth mentioning that while the certificates of title in the names of Erwin Bayoca and the spouses Pio and Lourdes Dichoso are indefeasible, unassailable and binding against the whole world, including the government itself, they do not create or vest title. They merely confirm or record title already existing and vested. They cannot be used to protect a usurper from the true owner, nor can they be used as a shield for the commission of fraud; neither do they permit one to enrich himself at the expense of others.[14] The Torrens System is intended to guarantee the integrity and conclusiveness of the certificate of registration but it cannot be used for the perpetration of fraud against the real owner of the registered land.[15]

Lastly, petitioners' argument that the subject property is a public agricultural land over which the Regional Trial Court has no jurisdiction over is clearly untenable. The prior grant of a free patent in favor of petitioners Erwin Bayoca and the spouses Pio and Dolores Dichoso removed or segregated the property subject thereof from the mass of the public domain.[16] So too, respondent Nogales had already registered the entire property under Act. No. 3344. Indeed, registration with the Register of Deeds of a parcel of land divests the government of title to the land.[17] We also find that petitioners, who raised this issue only before this Court, are now estopped from claiming that the subject property is a public agricultural land, considering that petitioners have actively participated in the proceedings before the lower and appellate courts with their principal defense consisting of the certificates of titles in their names. While it is a rule that jurisdictional questions may be raised at any time, an exception arises where estoppel has supervened,[18] as in the instant case.

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[14] *Ibid.*

[15] *Balangcad vs. Justices of the Court of Appeals*, 206 SCRA 169 (1992).

[16] *Rural Bank of Compostela vs. Court of Appeals*, 271 SCRA 76 (1997).

[17] *Development Bank of the Philippines vs. Court of Appeals*, 253 SCRA 414 (1996).

[18] *zKorean Airlines, Co., Ltd. vs. Court of Appeals*, 247 SCRA 599 (1995).

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WHEREFORE, the petition is hereby *DENIED* and the assailed *DECISION* of the Court of Appeals is *AFFIRMED. Cost against petitioners.*

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Purisima, JJ.,* concur.

FIRST DIVISION

[G.R. No. 123111. September 13, 2000]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JIMMY DAGAMI *y* MORBOS,** *accused-appellant.*

SYNOPSIS

Appellant here was found guilty of murder. According to witness Paquito, his brother, the victim Ignacio, was just walking towards a waiting motorcycle when appellant suddenly stabbed the victim on the right side of his stomach. As a consequence thereof, Ignacio died in the hospital.

Appellant was positively identified by an eyewitness to the crime. Hence, the Court affirmed the conviction of murder qualified by treachery. He was meted the penalty of *reclusion perpetua*, there being neither aggravating nor mitigating circumstance. Further, appellant was ordered topay the heirs of the victim P50,000.00 as moral damages and P50,000.00 as death indemnity.

SYLLABUS

1. **REMEDIAL LAW; EVIDENCE; WEIGHT AND SUFFICIENCY; PROOF BEYOND REASONABLE DOUBT; ESTABLISHED IN CASE AT BAR.** — We find the evidence sufficient to establish the guilt of accused-appellant beyond reasonable doubt. The