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implementation. The Superintendent is directed to report the action taken hereon to this Court within five (5) days from receipt.

SO ORDERED.

Jardeleza, Gesmundo, Carandang, and *Inting, JJ.,* concur.

EN BANC

[G.R. No. 212938. July 30, 2019]

THE HEIRS OF ALFREDO CULLADO,[*] namely LOLITA CULLADO, DOMINADOR CULLADO, ROMEO CULLADO, NOEL CULLADO, REBECCA LAMBINICIO, MARY JANE BAUTISTA and JIMMY CULLADO, *petitioners, vs.* **DOMINIC V. GUTIERREZ,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; ANNULMENT OF JUDGMENT; A REMEDY GRANTED ONLY UNDER EXCEPTIONAL CIRCUMSTANCES WHERE A PARTY, WITHOUT FAULT ON HIS PART, HAD FAILED TO AVAIL OF THE ORDINARY OR OTHER APPROPRIATE REMEDIES PROVIDED BY LAW.— Section 1, Rule 47 of the Rules of Court provides that the remedy of annulment by the CA of judgments or final orders and resolutions in civil actions of the Regional Trial Courts can only be availed of where the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. Thus, a petition for annulment of judgment under Rule 47 is a remedy granted only under exceptional circumstances where a

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[*] Also stated as "Collado" in most parts of the *rollo*.

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party, without fault on his part, had failed to avail of the ordinary or other appropriate remedies provided by law; and such action is never resorted to as a substitute for a party's own neglect in not promptly availing of the ordinary or other appropriate remedies.

2. **ID.; ID.; ID.; IF BASED ON EXTRINSIC FRAUD, THE PETITION MUST BE FILED WITHIN FOUR YEARS FROM ITS DISCOVERY AND IF BASED ON LACK OF JURISDICTION, BEFORE IT IS BARRED BY LACHES OR ESTOPPEL.—** The applicable period for filing the petition for annulment of judgment depends upon the ground. If based on extrinsic fraud, the petition must be filed within four years from its discovery and if based on lack of jurisdiction, before it is barred by laches or estoppel.

3. **ID.; ACTIONS; ACTIONS TO RECOVER POSSESSION OF REAL PROPERTY; EXPLAINED.—** [T]he three usual actions to recover possession of real property are: 1. *Accion interdictal* or a summary ejectment proceeding, which may be either for forcible entry *(detentacion)* or unlawful detainer *(desahucio*), for the recovery of physical or material possession (possession *de facto)* where the dispossession has not lasted for more than one year, and should be brought in the proper inferior court; 2. *Accion publiciana* or the plenary action to recover the better right of possession (possession *de jure),* which should be brought in the proper inferior court or Regional Trial Court (depending upon the value of the property) when the dispossession has lasted for more than one year (or for less than a year in cases other than those mentioned in Rule 70 of the Rules of Court); and 3. *Accion reivindicatoria* or *accion de reivindicacion* or reivindicatory action, which is an action for recovery of ownership which must be brought in the proper inferior court or Regional Trial Court (depending upon the value of the property).

4. **ID.; CIVIL PROCEDURE; SPECIAL CIVIL ACTIONS; FORCIBLE ENTRY AND UNLAWFUL DETAINER; THE JUDGMENT RENDERED IN AN ACTION FOR FORCIBLE ENTRY OR UNLAWFUL DETAINER IS CONCLUSIVE WITH RESPECT TO POSSESSION ONLY.—** Forcible entry and unlawful detainer cases are governed by the rules on summary procedure. The judgment rendered in an action for forcible entry or unlawful

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detainer is conclusive with respect to the possession only, will not bind the title or affect the ownership of the land or building, and will not bar an action between the same parties respecting title to the land or building. When the issue of ownership is raised by the defendant in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

5. **ID.; ID.; ID.; ID.; THE ISSUE OF WHETHER THE ATTACK ON A TORRENS TITLE IS COLLATERAL OR DIRECT IS IMMATERIAL IN FORCIBLE ENTRY AND UNLAWFUL DETAINER CASES BECAUSE THE RESOLUTION OF THE ISSUE OF OWNERSHIP IS ALLOWED ON A PROVISIONAL BASIS ONLY.—** When the ejectment court thus resolves the issue of ownership based on a certificate of title to determine the issue of possession, the question is posed: is this a situation where the Torrens title is being subjected to a collateral attack proscribed by Section 48 of Presidential Decree No. (PD) 1529 or the Property Registration Decree, *viz.:* "A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law." The answer to this is "No" because there is no real attack, whether direct or collateral, on the certificate of title in question for the simple reason that the resolution by the ejectment court cannot alter, modify, or cancel the certificate of title. Thus, the issue of whether the attack on a Torrens title is collateral or direct is immaterial in forcible entry and unlawful detainer cases because the resolution of the issue of ownership is allowed by the Rules of Court on a provisional basis only. To repeat: when the issue of ownership is raised by the defendant in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved **only to determine the issue of possession.**

6. **ID.; ACTIONS; *ACCION REIVINDICATORIA*; THE CAUSE OF ACTION OF THE PLAINTIFF IS TO RECOVER POSSESSION BY VIRTUE OF HIS OWNERSHIP OF THE LAND SUBJECT OF THE DISPUTE.—** In an *accion reivindicatoria,* the cause of action of the plaintiff is to recover possession **by virtue of his ownership of the land** subject of the dispute. This follows that universe of rights conferred to the owner of property, or

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more commonly known as the attributes of ownership. In classical Roman law terms, they are: 1. *Jus possidendi* or the right to possess; 2. *Jus utendi* or the right to use and enjoy; 3. *Jus fruendi* or the right to the fruits; 4. *Jus accessionis* or right to accessories; 5. *Jus abutendi* or the right to consume the thing by its use; 6. *Jus disponendi* or the right to dispose or alienate; and 7. *Jus vindicandi* or the right to vindicate or recover. *Jus vindicandi* is expressly recognized in paragraph 2 of Article 428, Civil Code, *viz.:* "The owner has also a right of action against the holder and possessor of the thing in order to recover it."

7. **ID.; ID.; ID.; WHERE THE TORRENS TITLE OR CERTIFICATE OF TITLE IS THE BASIS OF THE COMPLAINANT'S CAUSE OF ACTION, THERE IS ALWAYS A DIRECT ATTACK ON THE CERTIFICATE OF TITLE THE MOMENT THE DEFENDANT DISPUTES ITS VALIDITY IN A COUNTERCLAIM OR A NEGATIVE DEFENSE.—** If the plaintiff's claim of ownership (and necessarily, possession or *jus possidendi)* is based on his Torrens title and the defendant disputes the validity of this Torrens title, then the issue of whether there is a direct *or* collateral attack on the plaintiff's title is also irrelevant. This is because the court where the reivindicatory or reconveyance suit is filed has the requisite jurisdiction to rule definitively or with finality on the issue of ownership — it can pass upon the validity of the plaintiff's certificate of title. In this connection, the court's jurisdiction to determine the validity of the Torrens title in question is limited by Section 32 of PD 1529 x x x. In turn, the imprescriptible right to evict ostensibly proceeds from paragraph 2 of Article 1126 of the Civil Code in relation to Section 47 of PD 1529 x x x. In an ordinary ejectment suit, the certificate of title is never imperiled because the decision of the ejectment court on the issue of ownership is merely provisional. On the other hand, in a reivindicatory suit, where the Torrens title or certificate of title is the basis of the complaint's cause of action, there is always a direct attack on the certificate of title the moment the defendant disputes its validity in a counterclaim or a negative defense.

8. **ID.; ID.; *ACCION PUBLICIANA*; REFERS TO AN ORDINARY CIVIL PROCEEDING TO DETERMINE THE BETTER RIGHT OF POSSESSION OF REAL PROPERTY INDEPENDENTLY**

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OF TITLE, AND IT IS FILED AFTER THE EXPIRATION OF ONE YEAR FROM THE ACCRUAL OF THE CAUSE OF ACTION OR FROM THE UNLAWFUL WITHHOLDING OF POSSESSION OF THE REAL PROPERTY.— As to *accion publiciana,* this is an ordinary civil proceeding to determine the better right of possession of real property independently of title. It also refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the real property. However, it should be noted that, unlike forcible entry and unlawful detainer which are procedurally acknowledged, *accion publiciana* is not. Indeed, there was even a doubt as to whether it continued to exist after the passage of the old Civil Code. x x x Article 555 of the new Civil Code recognizes that a possessor may lose his possession *de facto* by the possession of another when the latter's possession has lasted longer than one year. However, his real right of possession is not lost until after the lapse of 10 years. This same Article 555 thus recognizes the registered owner's remedy to institute an *accion publiciana* within the said 10-year period. Thus, the doubt expressed in *The Bishop of Cebu* [*v. Mangaron*] was resolved in favor of the subsistence of *accion publiciana.* The issue in an *accion publiciana* is the "better right of possession" of real property independently of title. This "better right of possession" may or may not proceed from a Torrens title. Thus, a lessee, by virtue of a registered lease contract or an unregistered lease contract with a term longer than one year, can file, as against the owner or intruder, an *accion publiciana* if he has been dispossessed for more than one year. In the same manner, a registered owner or one with a Torrens title can likewise file an *accion publiciana* to recover possession if the one-year prescriptive period for forcible entry and unlawful detainer has already passed.

9. ID.; ID.; ID.; THE DEFENSE OF OWNERSHIP WILL NOT TRIGGER A COLLATERAL ATTACK ON THE PLAINTIFF'S TORRENS OR CERTIFICATE OF TITLE BECAUSE THE RESOLUTION OF THE ISSUE OF OWNERSHIP IS DONE ONLY TO DETERMINE THE ISSUE OF POSSESSION.— While there is no express grant in the Rules of Court that the court wherein an *accion publiciana* is lodged can provisionally resolve the issue of ownership, unlike an ordinary ejectment

court which is expressly conferred such authority (albeit in a limited or provisional manner only, *i.e.,* for purposes of resolving the issue of possession), there is ample jurisprudential support for upholding the power of a court hearing an *accion publiciana* to also rule on the issue of ownership. x x x [I]n an *accion publiciana,* the defense of ownership *(i.e.,* that the defendant, and not the plaintiff, is the rightful owner) will **not** trigger a collateral attack on the plaintiff's Torrens or certificate of title because the resolution of the issue of ownership is done only to determine the issue of possession.

10. ID.; ID.; ID.; APPROACHES IN DEALING WITH THE CLAIM OF OWNERSHIP RAISED IN THE DEFENDANT'S ANSWER IN *ACCION PUBLICIANA*.— It is observed that the Court has recognized two approaches in dealing with the claim of ownership raised in the defendant's answer in an *accion publiciana,* namely: (1) to allow the provisional resolution of the issue of ownership to determine the "better right of possession," or (2) not to allow its resolution because the *accion publiciana* court is bereft of jurisdiction to rule with finality on the issue of ownership and the attack on a certificate of title is deemed a collateral one that is therefore proscribed.

11. CIVIL LAW; LAND REGISTRATION; TORRENS SYSTEM; REGISTRATION UNDER THE TORRENS SYSTEM IS NOT ONE OF THE MODES OF ACQUIRING OWNERSHIP AND DOES NOT CREATE OR VEST TITLE OR OWNERSHIP, AS IT IS JUST AN EVIDENCE OF OWNERSHIP OR TITLE IN THE REALTY TECHNICALLY DESCRIBED THEREIN.— Indeed, the bedrock of the Torrens system is the indefeasibility and incontrovertibility of a land title where there can be full faith reliance thereon. Verily, the Government has adopted the Torrens system due to its being the most effective measure to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized. To the registered owner, the Torrens system gives him complete peace of mind, in order that he will be secured in his ownership as long as he has not voluntarily disposed of any right over the covered land. On the part of a person transacting with a registered land, like a purchaser, he can rely on the registered owner's title and he should not run the risk of being told later that his acquisition or transaction was ineffectual after all, which will not only be unfair to him, but

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will also erode public confidence in the system and will force land transactions to be attended by complicated and not necessarily conclusive investigations and proof of ownership. However, registration under the Torrens system is not one of the modes of acquiring ownership and does not create or vest title or ownership. The Torrens certificate of title is just an evidence of ownership or title in the realty technically described therein. Thus, the issuance of the Torrens or certificate of title does not preclude the possibility that persons not named in the certificate may be co-owners with the person named therein, or that the registered owner may be holding the property in trust for another person.

12. REMEDIAL LAW; ACTIONS; ACTION FOR REVERSION; THE STATE MAY BRING AN ACTION FOR THE REVERSION TO THE PUBLIC DOMAIN OF LAND WHICH HAS BEEN FRAUDULENTLY GRANTED TO PRIVATE INDIVIDUALS AND SUCH IS NOT BARRED BY PRESCRIPTION.— The State may still bring an action under Section 101 of C.A. 141 for the reversion to the public domain of land which has been fraudulently granted to private individuals and such action is not barred by prescription. The basis of the action for reversion is Section 91 of C.A. 141, which provides: "The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall *ipso facto* produce the cancellation of the concession, title, or permit granted. x x x"

13. ID.; ID.; ACTION FOR RECONVEYANCE OR *ACCION REIVINDICATORIA*; THE FREE PATENT AND THE TORRENS OR CERTIFICATE OF TITLE ARE RESPECTED AS INCONTROVERTIBLE AND WHAT IS SOUGHT IS THE TRANSFER OF THE PROPERTY WHICH HAS BEEN WRONGFULLY OR ERRONEOUSLY REGISTERED IN THE DEFENDANT'S NAME.— It is settled that in an action for reconveyance or *accion reivindicatoria,* the free patent and the Torrens or certificate of title are respected as incontrovertible and what is sought instead is the transfer of the property which has been wrongfully or erroneously registered in the defendant's

name. All that the plaintiff must allege in the complaint are two facts which, admitting them to be true, would entitle the plaintiff to recover title to the disputed land, namely, (1) that the plaintiff was the owner of the land, and (2) that the defendant had illegally dispossessed him of the same. The action for reconveyance can be based on implied trust where the defendant acquires the disputed property through mistake or fraud so that he would be bound to hold the property for the benefit of the person who is truly entitled to it and reconvey it to him.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioners.
Alafriz Domingo Bartolome Lachica & Agpaoa Law Office for respondent.

D E C I S I O N

CAGUIOA, *J.*:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] of the Court of Appeals[3] (CA) dated December 6, 2013 in CA-G.R. SP No. 121737 and the Resolution[4] dated May 27, 2014 denying the Motion for Reconsideration filed by petitioners, the heirs of Alfredo Cullado.

Facts

The Decision of the CA dated December 6, 2013 states the facts as follows:[5]

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[1] *Rollo*, pp. 12-30, excluding Annexes.

[2] *Id.* at 224-230. Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Marlene Gonzales-Sison and Samuel H. Gaerlan concurring.

[3] Former Special Former Eighth Division.

[4] *Rollo*, pp. 243-245. Rendered by the Former Special Former Eighth Division.

[5] *Id*. at 224-226.

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The evidence on record shows that on May 10, 1995, *Katibayan ng Orihinal na Titulo Blg.* [(OCT No.)] P-61499 which covered a parcel of land measuring 18,280 m^2 located at Aneg, Delfin Albano, Isabela, was issued in [Dominic Gutierrez[6]]'s favor.

On May 5, 1997, [Dominic]'s father, Dominador L. Gutierrez, representing [Dominic] who was then still a minor, filed [before the Regional Trial Court, Branch 22 of Cabagan, Isabela (RTC)] an action[7] for recovery of ownership,[8] possession with damages with prayer for preliminary mandatory injunction and temporary restraining order against Alfredo C[u]llado (C[u]llado).

In the action for recovery of ownership, [Dominic] maintained that C[u]llado had been squatting on the parcel of land covered by OCT No. P-61499 as early as 1977, and that despite repeated demands, C[u]llado refused to vacate the said lot.

C[u]llado, in his Answer with Motion to Dismiss[,] interposed the special and affirmative defenses of his actual possession and cultivation of the subject parcel of land in an open, adverse and continuous manner. He likewise asked for the reconveyance of the property, considering that [Dominic] and his father fraudulently had the subject property titled in [Dominic]'s name. [As his counterclaim, he wanted to recover "incidental litigation expenses in the amount to be determined during the trial."[9]]

C[u]llado died during the course of the trial and was substituted by his heirs, [composed of his wife Lolita Cullado and their children, Dominador Cullado, Romeo Cullado, Noel Cullado, Rebecca Lambinicio, Mary Jane Bautista, and Jimmy Cullado[10]].

[Dominic]'s counsel repeatedly failed to attend the scheduled hearings, and as a consequence, [the heirs of Cullado] were eventually allowed to present their evidence after [Dominic] was deemed to have

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[6] Hereinafter referred to as "Dominic".

[7] Docketed as Civil Case No. 22-805.

[8] While the Complaint is captioned as an action "For: OWNERSHIP, POSSESSION WITH DAMAGES, etc.," the allegations and prayer of the Complaint do **not** include recovery of ownership. ***Thus, the Complaint is essentially one for recovery of possession.***

[9] *Rollo*, p. 14.

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waived his right to cross-examine [the] witness [of the heirs of Cullado].

On May 18, 2010, the RTC rendered [a] *Decision*, the dispositive portion of which reads, as follows:

> WHEREFORE, premises considered, the Court hereby renders judgment in favor of the [heirs of Cullado] and against [Dominic], as follows:
>
> 1. Ordering the dismissal of the complaint.
>
> 2. Ordering x x x Dominic Gutierrez to reconvey in favor of the Heirs of Alfredo C[u]llado the land covered and embraced by Katibayan ng Orihinal na Titulo Blg. P-61499.
>
> SO DECIDED.

On March 18, 2011, [Dominic] filed a Petition for Relief from Judgment wherein he alleged, among others, that his counsel's negligence in handling his case prevented him from participating therein and from filing his appeal. However, the same was denied by the RTC for having been filed out of time.

On October 18, 2011, [Dominic] filed with [the CA a] petition for annulment of judgment on the ground of extrinsic fraud and lack of jurisdiction. [The CA] initially dismissed[11] the petition but reinstated the same upon [Dominic]'s motion for reconsideration and gave it due course in [the CA] October 23, 2012 Resolution.[12]

The CA granted the petition on the following grounds:

In the action for recovery of possession filed by [Dominic], [the heirs of Cullado] in their Answer [raised as affirmative defense and

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[10] *Id*. at 13. Lolita Cullado and her children are hereinafter referred to as "the heirs of Cullado."

[11] Resolution dated November 21, 2011 of the CA, Eighth Division in CA-G.R. SP No. 121737, penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Marlene Gonzales-Sison and Leoncia R. Dimagiba concurring; *rollo*, pp. 121-123.

[12] Resolution dated October 23, 2012 of the CA, Special Former Eighth Division in CA-G.R. SP No. 121737, penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Marlene Gonzales-Sison and Samuel H. Gaerlan concurring; *id*. at 147-150.

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not as a counterclaim, and] asked for[,] the reconveyance of the lot in issue as the same was supposedly fraudulently titled in [Dominic]'s name, considering that neither [Dominic] nor his father actually possessed or cultivated the same. **These allegations constitute a collateral attack against [Dominic]'s title, which cannot be allowed in an *accion publiciana*. In sum, the defenses and grounds raised by [the heirs of Cullado] ascribe errors in [Dominic]'s title that would require a review of the registration decree made in [Dominic]'s favor.**

x x x x x x x x x

Clearly then, the court *a quo* had no jurisdiction to resolve the twin issues of reconveyance and fraudulence raised by [the heirs of Cullado] before the trial court.[13] (Emphasis supplied)

The dispositive portion of the CA Decision states:

WHEREFORE, the petition is **GRANTED**. The assailed *Decision* dated May 18, 2010 of the Regional Trial Court (RTC), Branch 22, Cabagan, Isabela in Civil Case No. 22-805 is **REVERSED** and **SET ASIDE**.

SO ORDERED.[14]

The heirs of Cullado filed a Motion for Reconsideration[15] and Dominic filed a Comment/Opposition (To Private Respondents' Motion for Reconsideration).[16]

The CA denied the Motion for Reconsideration in its Resolution[17] dated May 27, 2014.

Hence, this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court.

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[13] *Rollo*, pp. 229-230.

[14] *Id*. at 230.

[15] *Id*. at 231-236.

[16] *Id*. at 237-241.

[17] *Id*. at 243-245.

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Issue

Whether the CA erred in reversing the Decision of the RTC and in granting Dominic's petition for annulment of judgment.

The Court's Ruling

Before delving into the sole substantive issue raised before the Court by the heirs of Cullado, the preliminary question that needs to be addressed is whether Dominic's availment of the exceptional remedy of annulment of judgment before the CA was proper.

Section 1, Rule 47 of the Rules of Court provides that the remedy of annulment by the CA of judgments or final orders and resolutions in civil actions of the Regional Trial Courts can only be availed of where the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner. Thus, a petition for annulment of judgment under Rule 47 is a remedy granted only under exceptional circumstances where a party, without fault on his part, had failed to avail of the ordinary or other appropriate remedies provided by law; and such action is never resorted to as a substitute for a party's own neglect in not promptly availing of the ordinary or other appropriate remedies.[18]

As to the grounds, Section 2, Rule 47 of the Rules of Court states that:

> SEC. 2. *Grounds for annulment*. — The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.
>
> Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

The applicable period for filing the petition for annulment of judgment depends upon the ground. If based on extrinsic fraud,

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[18] *Republic v. Spouses De Castro*, 656 Phil. 601, 605 (2011), citing *Lazaro v. Rural Bank of Francisco Balagtas (Bulacan), Inc.*, 456 Phil. 414, 421-422 (2003).

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the petition must be filed within four years from its discovery and if based on lack of jurisdiction, before it is barred by laches or estoppel.[19]

As to the remedy of annulment of judgment, the CA correctly ruled: "considering that [Dominic] had already availed himself of the remedy of a petition for relief from judgment under Rule 38, raising the issue of extrinsic fraud with the trial court, he is effectively barred from raising the same issue via [his petition for annulment of judgment]."[20] The CA, however, further ruled: "[h]owever, the same cannot be said for the ground of lack of jurisdiction. x x x [C]onsidering that [Dominic] immediately resorted to court action — *i.e*. a petition for relief from judgment and the x x x petition for annulment of judgment — upon learning of the unfavorable *Decision* dated May 18, 2010 of the [trial court], he cannot be deemed guilty of laches nor placed in estoppel. Thus, if [Dominic] is able to prove that the trial court indeed went beyond its jurisdiction in issuing its *Decision*, nothing prevents him from asking for its annulment."[21]

The Court agrees with the CA that the RTC, as will be explained, was bereft of jurisdiction to rule with finality on the issue of ownership and consequently was without the power to order the reconveyance of the subject land to the heirs of Cullado given the fact that the original complaint was only an *accion publiciana*.[22] Accordingly, the CA was correct in upholding the remedy of a petition for annulment of judgment.

Proceeding now to the main issue, it may be recalled that the three usual actions to recover possession of real property are:

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[19] RULES OF COURT, Rule 47, Sec. 3.

[20] Resolution dated November 21, 2011 of the CA, Eighth Division in CA-G.R. SP No. 121737, *rollo*, p. 122.

[21] Resolution dated October 23, 2012 of the CA, Special Former Eighth Division in CA-G.R. SP No. 121737, *id*. at 148-149.

[22] See *rollo*, p. 150.

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1. *Accion interdictal* or a summary ejectment proceeding, which may be either for forcible entry (*detentacion*) or unlawful detainer (*desahucio*), for the recovery of physical or material possession (possession *de facto*) where the dispossession has not lasted for more than one year, and should be brought in the proper inferior court;[23]

2. *Accion publiciana* or the plenary action to recover the better right of possession (possession *de jure*), which should be brought in the proper inferior court or Regional Trial Court (depending upon the value of the property)[24] when the

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[23] Section 33, Batas Pambansa Blg. 129 as amended by Republic Act No. 7691, March 25, 1994 (BP 129) provides:

SEC. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases.* — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

x x x x x x x x x

(2) Exclusive original jurisdiction over cases of forcible entry and unlawful detainer: *Provided*, That when, in such cases, the defendant raises the question of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession[.]

[24] Sections 19 and 33, BP 129 provide:

SEC. 19. *Jurisdiction in Civil Cases*. — Regional Trial Courts shall exercise exclusive original jurisdiction:

x x x x x x x x x

(2) In all civil actions which involve the **title to, or possession of, real property, or any interest therein,** where the **assessed value** of the property involved **exceeds Twenty thousand pesos (₱20,000.00)** or for civil actions **in Metro Manila**, where **such value exceeds Fifty thousand pesos (₱50,000.00)** except actions for forcible entry into and unlawful detainer of lands or buildings, original jurisdiction over which is conferred upon the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts[.]

x x x x x x x x x

SEC. 33. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases*. — Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

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dispossession has lasted for more than one year (or for less than a year in cases other than those mentioned in Rule 70 of the Rules of Court)[25]; and

3. *Accion reivindicatoria* or *accion de reivindicacion* or reivindicatory action, which is an action for recovery of ownership which must be brought in the proper inferior court or Regional Trial Court (depending upon the value of the property).[26]

Cases of forcible entry and unlawful detainer are governed by Rule 70 of the Rules of Court. Under Section 1 of Rule 70, "a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs."

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x x x x x x x x x

(3) Exclusive original jurisdiction in all civil actions which involve **title to, or possession of, real property, or any interest therein** where the **assessed value** of the property or interest therein does **not exceed Twenty thousand pesos (₱20,000.00)** or, in civil actions **in Metro Manila**, where such **assessed value does not exceed Fifty thousand pesos (₱50,000.00) exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses and costs**: *Provided*, That in cases of land not declared for taxation purposes, the value of such property shall be determined by the assessed value of the adjacent lots. (Emphasis supplied)

[25] See *Gumiran v. Gumiran*, 21 Phil. 174, 179 (1912), citations omitted. Rule 70 of the Rules of Court was formerly Section 80 of the Code of Procedure in Civil Actions, as amended by Act No. 1778.

[26] See II Paras, *CIVIL CODE OF THE PHILIPPINES ANNOTATED* (17th ed., 2013), pp. 91-136; *Encarnacion v. Amigo*, 533 Phil. 466, 472 (2006).

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Forcible entry and unlawful detainer cases are governed by the rules on summary procedure.[27] The judgment rendered in an action for forcible entry or unlawful detainer is conclusive with respect to the possession only, will not bind the title or affect the ownership of the land or building, and will not bar an action between the same parties respecting title to the land or building.[28] When the issue of ownership is raised by the defendant in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.[29]

When the ejectment court thus resolves the issue of ownership based on a certificate of title to determine the issue of possession, the question is posed: is this a situation where the Torrens title is being subjected to a collateral attack proscribed by Section 48 of Presidential Decree No. (PD) 1529[30] or the Property Registration Decree, *viz.*: "A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law." The answer to this is "No" because there is no real attack, whether direct or collateral, on the certificate of title in question for the simple reason that the resolution by the ejectment court cannot alter, modify, or cancel the certificate of title. Thus, the issue of whether the attack on a Torrens title is collateral or direct is immaterial in forcible entry and unlawful detainer cases because the resolution of the issue of ownership is allowed by the Rules of Court on a provisional basis only. To repeat: when the issue of ownership is raised by the defendant in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved **only to determine the issue of possession**.[31]

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[27] RULES OF COURT, Rule 70, Sec. 3.

[28] *Id.*, Rule 70, Sec. 18.

[29] *Id.*, Rule 70, Sec. 16.

[30] AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES.

[31] RULES OF COURT, Rule 70, Sec. 16.

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In an *accion reivindicatoria*, the cause of action of the plaintiff is to recover possession **by virtue of his ownership of the land** subject of the dispute. This follows that universe of rights conferred to the owner of property, or more commonly known as the attributes of ownership.[32] In classical Roman law terms, they are:

1. *Jus possidendi* or the right to possess;
2. *Jus utendi* or the right to use and enjoy;
3. *Jus fruendi* or the right to the fruits;
4. *Jus accessionis* or right to accessories;
5. *Jus abutendi* or the right to consume the thing by its use;
6. *Jus disponendi* or the right to dispose or alienate; and
7. *Jus vindicandi* or the right to vindicate or recover.[33]

Jus vindicandi is expressly recognized in paragraph 2 of Article 428, Civil Code, *viz.*: "The owner has also a right of action against the holder and possessor of the thing in order to recover it."

If the plaintiff's claim of ownership (and necessarily, possession or *jus possidendi*) is based on his Torrens title and the defendant disputes the validity of this Torrens title, then the issue of whether there is a direct *or* collateral attack on the plaintiffs title is also irrelevant. This is because the court where the reivindicatory or reconveyance suit is filed has the requisite jurisdiction to rule definitively or with finality on the issue of ownership — it can pass upon the validity of the plaintiff's certificate of title.

In this connection, the court's jurisdiction to determine the validity of the Torrens title in question is limited by Section 32 of PD 1529, which provides:

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[32] De Leon and De Leon, Jr., COMMENTS AND CASES ON PROPERTY (5th ed., 2011), pp. 77, 78.

[33] *Id*. at 77.

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SEC. 32. *Review of decree of registration; Innocent purchaser for value.* — The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. x x x

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud.

In the consolidated cases of *Catindig v. Vda. de Meneses*[34] (*Catindig*) and *Roxas, Sr. v. Court of Appeals,*[35] the Court reiterated that:

x x x [I]t is a fundamental principle in land registration that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. It is conclusive evidence with respect to the ownership of the land described therein. Moreover, the age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof.

In addition, as the registered owner, [the] right to evict any person illegally occupying [the] property is imprescriptible. In the recent case of *Gaudencio Labrador, represented by Lulu Labrador Uson, as Attorney-in-fact v. Sps. Ildefonso Perlas and Pacencia Perlas and Sps. Rogelio Pobre and Melinda Fogata Pobre*, the Court held that:

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[34] G.R. No. 165851, 656 Phil. 361 (2011).

[35] G.R. No. 168875, *id*.

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As a registered owner, petitioner has a right to eject any person illegally occupying his property. **This right is imprescriptible** and can never be barred by laches. In *Bishop v. Court of Appeals*, we held, thus:

> As registered owners of the lots in question, the private respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioners' occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.[36]

In turn, the imprescriptible right to evict ostensibly proceeds from paragraph 2 of Article 1126[37] of the Civil Code in relation to Section 47 of PD 1529, which provides:

SEC. 47. *Registered land not subject to prescription.* — No title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession.

Section 47 of PD 1529 retains most of the wordings of its predecessor Section 46[38] of Act No. 496[39] or the Land Registration Act of 1902.

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[36] *Id*. at 373-374; citations omitted.

[37] Article 1126 of the Civil Code states:

ART. 1126. Against a title recorded in the Registry of Property, ordinary prescription of ownership or real rights shall not take place to the prejudice of a third person, except in virtue of another title also recorded; and the time shall begin to run from the recording of the latter.

As to lands registered under the Land Registration Act, the provisions of that special law shall govern. (Emphasis supplied)

[38] Section 46 of Act No. 496 provides that "[n]o title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession."

[39] AN ACT TO PROVIDE FOR THE ADJUDICATION AND REGISTRATION OF TITLES TO LANDS IN THE PHILIPPINE ISLANDS.

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In an ordinary ejectment suit, the certificate of title is never imperiled because the decision of the ejectment court on the issue of ownership is merely provisional. On the other hand, in a reivindicatory suit, where the Torrens title or certificate of title is the basis of the complaint's cause of action, there is always a direct attack on the certificate of title the moment the defendant disputes its validity in a counterclaim or a negative defense.

As to *accion publiciana*, this is an ordinary civil proceeding to determine the better right of possession of real property independently of title. It also refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the real property.[40]

However, it should be noted that, unlike forcible entry and unlawful detainer which are procedurally acknowledged,[41] *accion publiciana* is not. Indeed, there was even a doubt as to whether it continued to exist after the passage of the old Civil Code. In the 1906 case of *The Bishop of Cebu v. Mangaron*[42] (*The Bishop of Cebu*) the Court observed:

> But the doubt which now exists is whether, after the promulgation of the Civil Code, the *accion publiciana* continued to exist.
>
> The doubt arises from the provisions of Article 460 of the Civil Code, which reads as follows:
>
> "The possessor may lose his possession—
>
> "1. By the abandonment of the thing.
>
> "2. By transfer to another for a good or valuable consideration.
>
> "3. By the destruction or total loss of the thing or by the thing becoming unmarketable.

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[40] *Encarnacion v. Amigo*, *supra* note 26, at 474, citing *Lopez v. David, Jr.*, 470 Phil. 386, 396 (2004).

[41] RULES OF COURT, Rule 70.

[42] 6 Phil. 286 (1906).

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"4. By the possession of another, even against the will of the former possessor, if the new possession has lasted more than one year."

The last provision of this article has given rise to the doubt whether possession which is lost by the occupation of another against the will of the former possessor is merely possession *de facto* or possession *de jure*.

The most powerful reason why it is thought that it refers to possession both *de facto* and *de jure* is that, whereas the two are equally lost in the manner indicated in the first three provisions of this article, it would be rather strange that the fourth provision should only refer to possession *de facto*.[43]

Article 460 of the old Civil Code was amended and became Article 555 of the new Civil Code, to wit:

ART. 555. A possessor may lose his possession:

(1) By the abandonment of the thing;

(2) By an assignment made to another either by onerous or gratuitous title;

(3) By the destruction or total loss of the thing, or because it goes out of commerce;

(4) By the possession of another, subject to the provisions of Article 537, if the new possession has lasted longer than one year. But the real right of possession is not lost till after the lapse often years.

Article 555 of the new Civil Code recognizes that a possessor may lose his possession *de facto* by the possession of another when the latter's possession has lasted longer than one year. However, his real right of possession is not lost until after the lapse of 10 years. This same Article 555 thus recognizes the registered owner's remedy to institute an *accion publiciana* within the said 10-year period. Thus, the doubt expressed in *The Bishop of Cebu* was resolved in favor of the subsistence of *accion publiciana*.

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[43] *Id*. at 292.

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The issue in an *accion publiciana* is the "better right of possession" of real property independently of title. This "better right of possession" may or may not proceed from a Torrens title. Thus, a lessee, by virtue of a registered lease contract or an unregistered lease contract with a term longer than one year, can file, as against the owner or intruder, an *accion publiciana* if he has been dispossessed for more than one year. In the same manner, a registered owner or one with a Torrens title can likewise file an *accion publiciana* to recover possession if the one-year prescriptive period for forcible entry and unlawful detainer has already passed.

While there is no express grant in the Rules of Court that the court wherein an *accion publiciana* is lodged can provisionally resolve the issue of ownership, unlike an ordinary ejectment court which is expressly conferred[44] such authority (albeit in a limited or provisional manner only, *i.e.*, for purposes of resolving the issue of possession), there is ample jurisprudential support for upholding the power of a court hearing an *accion publiciana* to also rule on the issue of ownership.

In *Supapo v. Sps. de Jesus*[45] (*Supapo*), the Court stated:

> In the present case, the Spouses Supapo filed an action for the recovery of possession of the subject lot but they based their better right of possession on a claim of ownership [based on Transfer Certificate of Title No. C-28441 registered and titled under the Spouses Supapo's names[46]].

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[44] RULES OF COURT, Rule 70, Sec. 16 provides:

> SEC. 16. *Resolving defense of ownership*. — When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

[45] 758 Phil. 444 (2015). It must be noted that while *accion publiciana* was the remedy sought by Spouses Supapo, the Court, through Justice Brion, ruled that their position that their cause of action was imprescriptible since the subject property was registered and titled under the Torrens system was legally correct. *Id*. at 460.

[46] *Id*. at 449-450.

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This Court has held that the objective of the plaintiffs in *accion publiciana* is to recover possession only, not ownership. However, where the parties raise the issue of ownership, the courts may pass upon the issue to determine who between the parties has the right to possess the property.

This adjudication is not a final determination of the issue of ownership; it is only for the purpose of resolving the issue of possession, where the issue of ownership is inseparably linked to the issue of possession. The adjudication of the issue of ownership, being provisional, is not a bar to an action between the same parties involving title to the property. The adjudication, in short, is not conclusive on the issue of ownership.[47]

The Court, recognizing the nature of *accion publiciana* as enunciated above, did not dwell on whether the attack on Spouses Supapo's title was direct or collateral. It simply, and rightly, proceeded to resolve the conflicting claims of ownership. The Court's pronouncement in *Supapo* upholding the indefeasibility and imprescriptibility of Spouses Supapo's title was, however, subject to a Final Note that emphasized that even this resolution on the question of ownership was not a final and binding determination of ownership, but merely provisional:

Final Note

As a final note, we stress that our ruling in this case is limited only to the issue of determining who between the parties has a better right to possession. This adjudication is not a final and binding determination of the issue of ownership. As such, this is not a bar for the parties or even third persons to file an action for the determination of the issue of ownership.[48]

From the foregoing, the Court thus clarifies here that in an *accion publiciana*, the defense of ownership (*i.e.*, that the defendant, and not the plaintiff, is the rightful owner) will **not** trigger a collateral attack on the plaintiffs Torrens or certificate of title because the resolution of the issue of ownership is done only to determine the issue of possession.

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[47] *Id*. at 456; citations omitted.

[48] *Id*. at 467.

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In the present case, the Answer[49] of Cullado raised, as "special and affirmative defenses" to Dominic's *accion publiciana*,[50] the issue of fraud in obtaining Dominic's certificate of title on the ground that "neither he nor his father [had] been in actual possession and cultivation of the [subject parcel of land]" and that Dominic was not qualified as he was then a minor.[51]

In this regard, there is no dispute that Dominic was awarded a patent (no. 023118 95 10606) on May 10, 1995 and Original Certificate of Title[52] No. (OCT) P-61499 was issued in his name pursuant to the said patent on May 17, 1995.[53] Cullado's Answer, filed on August 18, 1997, questioned the OCT issued in Dominic's name. At that time, Dominic's OCT had already become incontrovertible upon the lapse of the one-year period to question it by reason of actual fraud as provided in Section 32 of PD 1529, *viz.*:

SEC. 32. *Review of decree of registration; Innocent purchaser for value*. — The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such

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[49] Answer with Motion to Dismiss, *rollo*, pp. 73-75.

[50] Although the Complaint filed by respondent is "For: OWNERSHIP, POSSESSION WITH DAMAGES AND PRAYER x x x FOR PRELIMINARY MANDATORY INJUNCTION and TEMPORARY RESTRAINING ORDER," it is essentially an *accion publiciana*, considering the allegation therein that: "as early as 1977, the defendant squatted on the x x x property without the prior notice and consent of the plaintiff x x x[.]" *Rollo*, pp. 60, 61.

[51] *Rollo*, p. 74.

[52] *Katibayan ng Orihinal na Titulo.*

[53] *Rollo*, p. 72.

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petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud.

In *Wee v. Mardo*[54] (*Wee*) the Court reiterated that: "A public land patent, when registered in the corresponding Register of Deeds, is a veritable Torrens title, and becomes as indefeasible upon the expiration of one (1) year from the date of issuance thereof. Said title, like one issued pursuant to a judicial decree, is subject to review within one (1) year from the date of the issuance of the patent. This rule is embodied in Section 103 of PD 1529,"[55] *viz.*:

SEC. 103. *Certificates of title pursuant to patents*. — Whenever public land is by the Government alienated, granted or conveyed to any person, the same shall be brought forthwith under the operation of this Decree. It shall be the duty of the official issuing the instrument of alienation, grant, patent or conveyance in behalf of the Government to cause such instrument to be filed with the Register of Deeds of the province or city where the land lies, and to be there registered like other deeds and conveyance, whereupon a certificate of title shall be entered as in other cases of registered land, and an owner's duplicate issued to the grantee. The deed, grant, patent or instrument of conveyance from the Government to the grantee shall not take effect as a conveyance or bind the land but shall operate only as a contract between the Government and the grantee and as evidence of authority to the Register of Deeds to make registration. It is the act of registration that shall be the operative act to effect and convey the land, and in all cases under this Decree, registration shall be

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[54] 735 Phil. 420 (2014).

[55] *Id*. at 429; citation omitted.

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made in the office of the Register of Deeds of the province or city where the land lies. The fees for registration shall be paid by the grantee. After due registration and issuance of the certificate of title, such land shall be deemed to be registered land to all intents and purposes under this Decree.

The Court further stated in *Wee* that the issue as to whether title was procured by falsification or fraud can only be raised in an action expressly instituted for the purpose and a Torrens title can be attacked only for fraud within one year after the date of the issuance of the decree of registration.[56]

Since the period of one year had already lapsed when Cullado questioned the OCT's validity on the ground of fraud (*i.e.*, counted from the issuance on May 17, 1995 of the OCT in the name of Dominic), via his Answer filed on August 18, 1997, then Dominic's OCT had already become indefeasible and, until cancelled in an appropriate direct proceeding, remains to be valid.

Applying *Supapo* and *Catindig*, Dominic has a better right of possession because his right is based on ownership recognized by OCT P-61499 registered and titled under his name. The age-old rule that the person who has a Torrens title over the land is entitled to possession thereof squarely applies in his favor.

In view of the foregoing, the RTC was clearly without jurisdiction in ruling that Cullado had become the owner of the land in controversy "through the medium of acquisitive prescription" having been in possession by himself and with his wife for 36 years[57] and that Dominic must reconvey the land in favor of the heirs of C[u]llado.[58] While the RTC could have resolved the issue of ownership provisionally to determine the "better right of possession," which is allowed in an *accion publiciana*, **it was without any power or jurisdiction to**

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[56] *Id*. at 431.

[57] RTC Decision, *rollo*, p. 88.

[58] *Id*. at 90.

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order the reconveyance of the land in dispute because that can be done only upon a definitive ruling on the said issue — something that cannot be done in an *accion publiciana*.

More than that, the RTC's ruling that Cullado had become owner by acquisitive prescription is likewise without basis since the evidence adduced by the heirs of Cullado, as summarized in the trial court's Decision, do not show that "the land which contains an area of more than one hectare"[59] which Cullado was claiming was already private land at the time Cullado started his possession thereof. It must be recalled that the land in dispute was acquired through a free patent, which presupposes that it was initially public agricultural land pursuant to Commonwealth Act No. (C.A.) 141[60] or the Public Land Act. While the RTC's Decision reckoned the year 1974 as the beginning of Cullado's possession, it was conjectural to conclude that Cullado acquired the same by virtue of prescription in the absence of any clear indication as to when the land claimed by him was declared alienable and disposable. To be sure, the land in dispute can be said to have become private land only when Dominic was issued his OCT in May 1995.

Furthermore, the discrepancy in area of the "more than one hectare" land being claimed by Cullado and the almost two hectares or 18,280 square meters land appearing in Dominic's OCT was not satisfactorily reconciled in the RTC's Decision. The metes and bounds of the land being claimed by Cullado being unclear, it could not be determined if it is within the boundaries of the land technically described in Dominic's OCT. As required under Article 434 of the Civil Code, "[i]n an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim." The heirs of Cullado have failed to properly and sufficiently identify the property they are claiming as their own.

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[59] *Id*. at 86.

[60] AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN.

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The Court notes that while the CA did not provisionally rule on the issue of ownership, it nonetheless arrived at the same result, *i.e.*, that the RTC had no jurisdiction to order the reconveyance of the land covered by OCT P-61499 in the name of Dominic to the heirs of Cullado and effectively nullify the said certificate of title. As concluded by the CA, the RTC erred in allowing a collateral attack against Dominic's Torrens or certificate of title because it acted contrary to Section 48 of PD 1529. The CA properly relied on the ruling in *Ybañez v. Intermediate Appellate Court*[61] as it applies squarely to the present case, *viz.*:

> It was erroneous for petitioners to question the Torrens Original Certificate of Title issued to private respondent over Lot No. 986 in Civil Case No. 671, an ordinary civil action for recovery of possession filed by the registered owner of the said lot, by invoking as **affirmative defense** in their answer the Order of the Bureau of Lands, dated July 19, 1978, issued pursuant to the investigatory power of the Director of Lands under Section 91 of Public Land Law (C.A. 141 as amended). **Such a defense partakes of the nature of a collateral attack against a certificate of title** brought under the operation of the Torrens system of registration pursuant to Section 122 of the Land Registration Act, now Section 103 of P.D. 1529. **The case law on the matter does not allow a collateral attack on the Torrens certificate of title on the ground of actual fraud. The rule now finds expression in Section 48 of P.D. 1529 otherwise known as the Property Registration Decree**.[62] (Emphasis in the original)

Since the special and affirmative defenses raised by the heirs of Cullado in the Answer pertain to discrepancies or errors in Dominic's certificate of title, which necessarily entails a review of the decree made in Dominic's favor, the RTC was bereft of any jurisdiction to rule on such defenses in an action for recovery of possession or *accion publiciana* initiated by the registered owner. The RTC even ruled on the issue of the nullity of Dominic's certificate of title on the ground of his minority at the time of the issuance of the free patent in his favor —

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[61] 272 Phil. 586, 594 (1991).

[62] *Rollo*, p. 229.

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an issue that clearly involved a collateral attack on Dominic's Torrens title, which "is beyond the province of this proceeding and not within the jurisdiction of [the trial c]ourt."[63]

Given the nature of an *accion publiciana*, the heirs of Cullado could have only raised the fraud allegedly committed by Dominic and his father and the reconveyance of title as permissive counterclaims[64] because the evidence required to prove them differ from the evidence to establish Dominic's demand for recovery of possession.[65] However, had the heirs of Cullado raised the same as permissive counterclaims, and not as special and affirmative defenses, then they should have fully paid the prescribed docket fee to vest the RTC with jurisdiction.[66] Unfortunately, there is no proof on record that the heirs of Cullado had paid the prescribed docket fee. Given the foregoing, the mere invocation by the heirs of Cullado in their prayer for an order for reconveyance of the subject land in their favor will not be sufficient to vest the RTC with jurisdiction over their belatedly intended counterclaims where the complaint involves an *accion publiciana*.

The predicament on the non-payment of the legal fees regarding permissive counterclaims has been resolved with the express requirement under Section 7(a), Rule 141 of the Rules of Court that they should be assessed by the Clerk of Court "[f]or filing x x x a permissive or compulsory counterclaim x x x and/or in cases involving property [based on] the fair market value of the real property in litigation stated in the current tax declaration

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[63] RTC Resolution dated April 17, 2002, *rollo*, p. 77.

[64] As opposed to a **compulsory counterclaim** which is one that arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim **must be within the jurisdiction of the court** both **as to** the amount and the **nature** thereof. (Emphasis supplied) See RULES OF COURT, Rule 6, Sec. 7.

[65] See *Urieta Vda. De Aguilar v. Spouses Alfaro*, 637 Phil. 131, 146 (2010).

[66] See *id*. at 146.

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or current zonal valuation of the Bureau of Internal Revenue, whichever is higher, or if there is none, the stated value of the property x x x."[67] The payment of "the new rates of the legal fees under Rule 141 x x x [for] Compulsory counterclaims" was, however, suspended effective September 21, 2004 pursuant to A.M. No. 04-2-04-SC.

The Court notes that while the heirs of Cullado interposed the fraud purportedly committed by Dominic and his father in the acquisition of Dominic's OCT and pleaded their open, adverse and continuous possession and cultivation of the subject land as "special and affirmative defenses," such allegations are, in reality, not affirmative defenses. As defined, an affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery.[68] Such allegations do not "hypothetically admit" the material allegations of Dominic in his complaint. Rather, such allegations are, in actuality, negative defenses. A negative defense, as defined, is the specific denial of the material fact or facts alleged in the pleading of the claimant essential to his cause or causes of action.[69] Also, "special defenses" are not expressly recognized by the Rules of Court. Section 5, Rule 6 of the Rules of Court provides that defenses may either be negative or positive.

It is observed that the Court has recognized two approaches in dealing with the claim of ownership raised in the defendant's answer in an *accion publiciana*, namely: (1) to allow the provisional resolution of the issue of ownership to determine the "better right of possession," or (2) not to allow its resolution because the *accion publiciana* court is bereft of jurisdiction to rule with finality on the issue of ownership and the attack on a certificate of title is deemed a collateral one that is therefore proscribed.

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[67] Riano, *CIVIL PROCEDURE VOLUME I THE BAR LECTURE SERIES* (2011 Bantam Edition), pp. 340-341, citing *Korea Technologies Co., Ltd. v. Lerma*, 566 Phil. 1, 20 (2008).

[68] RULES OF COURT, Rule 6, Sec. 5(b).

[69] *Id.*, Rule 6, Sec. 5(a).

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While the CA took the second or "collateral attack" approach, and not the first or "provisional determination of ownership" approach, it was correct in reversing and setting aside the Decision[70] dated May 18, 2010 of the Regional Trial Court, Branch 22, Cabagan, Isabela in Civil Case No. 22-805. Accordingly, the heirs of Cullado and all persons claiming under them should be ordered to vacate and surrender the land subject matter of the case to Dominic.

That held, the Court, having taken the first approach, also adopts the Final Note in *Supapo* that the ruling in this case, being one of *accion publiciana*, is limited only to the issue of determining who between the parties has a better right to possession — and this adjudication is not a final and binding determination of the issue of ownership. As such, this is not a bar for the parties or even third persons to file an action for the determination of the issue of ownership.

Indeed, the bedrock of the Torrens system is the indefeasibility and incontrovertibility of a land title where there can be full faith reliance thereon. Verily, the Government has adopted the Torrens system due to its being the most effective measure to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.[71] To the registered owner, the Torrens system gives him complete peace of mind, in order that he will be secured in his ownership as long as he has not voluntarily disposed of any right over the covered land.[72] On the part of a person transacting with a registered land, like a purchaser, he can rely on the registered owner's title and he should not run the risk of being told later that his acquisition or transaction was ineffectual after all, which will not only be unfair to him, but will also erode public confidence in the system and will force land

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[70] *Rollo*, pp. 85-90. Penned by Judge Felipe Jesus Torio II.

[71] *Casimiro Development Corp. v. Mateo*, 670 Phil. 311, 323 (2011).

[72] *Id*. at 323; citations omitted.

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transactions to be attended by complicated and not necessarily conclusive investigations and proof of ownership.[73]

However, registration under the Torrens system is not one of the modes of acquiring ownership and does not create or vest title or ownership. The Torrens certificate of title is just an evidence of ownership or title in the realty technically described therein. Thus, the issuance of the Torrens or certificate of title does not preclude the possibility that persons not named in the certificate may be co-owners with the person named therein, or that the registered owner may be holding the property in trust for another person.[74]

The State may still bring an action under Section 101[75] of C.A. 141 for the reversion to the public domain of land which has been fraudulently granted to private individuals and such action is not barred by prescription.[76] The basis of the action for reversion is Section 91 of C.A. 141, which provides: "The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall *ipso facto* produce the cancellation of the concession, title, or permit granted. x x x"

Section 53 of PD 1529 (formerly Section 55 of Act No. 496) affords a party defrauded in a registration case certain remedies, *viz.*: "In all cases of registration procured by fraud, the owner

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[73] *Id*.; citations omitted.

[74] *Id*. at 324; citations omitted.

[75] SEC. 101. All actions for the reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Commonwealth of the Philippines.

[76] *Heirs of Alcaraz v. Republic*, 502 Phil. 521, 532 (2005), citing *Baguio v. Republic*, 361 Phil. 374, 379-380 (1999), further citing *The Director of Lands v. De Luna*, 110 Phil. 28, 33 (1960).

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may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title."

In *Director of Lands v. Register of Deeds for the Province of Rizal*,[77] the Court stated: "The sole remedy of the land owner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, x x x, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages."[78]

It is settled that in an action for reconveyance or *accion reivindicatoria*, the free patent and the Torrens or certificate of title are respected as incontrovertible and what is sought instead is the transfer of the property which has been wrongfully or erroneously registered in the defendant's name. All that the plaintiff must allege in the complaint are two facts which, admitting them to be true, would entitle the plaintiff to recover title to the disputed land, namely, (1) that the plaintiff was the owner of the land, and (2) that the defendant had illegally dispossessed him of the same.[79] The action for reconveyance can be based on implied trust where the defendant acquires the disputed property through mistake or fraud so that he would be bound to hold the property for the benefit of the person who is truly entitled to it and reconvey it to him.[80]

As a final note, the Court adopts *Supapo*:

As a final note, we stress that our ruling in this case is limited only to the issue of determining who between the parties has a better right to possession. This adjudication is not a final and binding

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[77] 92 Phil. 826 (1953).

[78] *Id*. at 831.

[79] *Spouses Galang v. Spouses Reyes*, 692 Phil. 652, 662 (2012).

[80] *Id*. at 662-663.

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determination of the issue of ownership. As such, this is not a bar for the parties or even third persons to file an action for the determination of the issue of ownership.[81]

WHEREFORE, the Petition is hereby **DENIED** for lack of merit. The Court of Appeals Decision dated December 6, 2013 and Resolution dated May 27, 2014 in CA-G.R. SP No. 121737 are hereby **AFFIRMED**. The petitioners, the heirs of Alfredo Cullado, and all persons claiming under them are **ORDERED** to vacate and surrender the land covered by Original Certificate of Title No. P-61499 to its registered owner, respondent Dominic V. Gutierrez.

SO ORDERED.

Bersamin, C.J., Carpio, Peralta, Perlas-Bernabe, Leonen, Jardeleza, Gesmundo, Reyes, J. Jr., Hernando, Carandang, Lazaro-Javier, and *Inting, JJ.*, concur.

Reyes, A. Jr., J., on official leave.

FIRST DIVISION

[G.R. No. 224301. July 30, 2019]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **BERNIE RAGURO *y* BALINAS, JONATHAN PEREZ *y* DE MATEO, ERIC RAGURO *y* BALINAS, ELMER DE MAKILING, TEODULO PANTI, JR., and LEVIE[*] DE MESA,** *accused*, **BERNIE RAGURO *y* BALINAS, JONATHAN PEREZ *y* DE MATEO, ERIC RAGURO *y* BALINAS, TEODULO PANTI, JR., and LEVIE DE MESA,** *accused-appellants.*

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[81] *Supra* note 45, at 467.

[*] "Levy" in some parts.