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FIRST DIVISION

[G.R. No. 112905. February 3, 2000]

THE HEIRS OF PEDRO LOPEZ, EUGENIO LOPEZ DE LEON, PASCUAL LOPEZ DE LEON, ANTONIO GUICO LOPEZ, FORTUNATO GUICO LOPEZ, MIGUEL GUICO LOPEZ, ERLINDA LOCERO LOPEZ, TING LOPEZ DE LEON, RUFINA LAYAO LOPEZ, LUISITA LOPEZ DE LEON, MACARIO LOPEZ DE LEON, FELISA LOPEZ DE LEON, PRINTIS L. DE LEON, FLOVIANA LOPEZ VELASCO, LOURDES LOPEZ DE LEON, LAGRIMAS LOPEZ DE LEON, ROSARIO LOPEZ DE LEON, RESURRECCION LOPEZ DE LEON and RICARDA LOPEZ DE LEON, *petitioners, vs.* **HONESTO C. DE CASTRO, MARIA SOCORRO DE CASTRO married to ANTONIO PERIGRINA, FRANCISCO DE CASTRO, FAUSTINO DE CASTRO, EPIFANIA C.** ***VDA. DE*** **CASTRO, and their successors-in-interest,** *respondents.*

SYNOPSIS

This is a petition for review on *certiorari* filed by petitioners assailing the Decision of the Court of Appeals dismissing their appeal. Petitioners contended that the Court of Appeals erred in not holding that they are rightfully and legally entitled to the lots in question.

Petitioners alleged that upon the filing of their application for registration with the CFI of Cavite, Branch III, Cavite City, said court acquired jurisdiction over the *res* because land registration proceedings are *in rem* and, therefore, the CFI of Cavite, Branch IV at Tagaytay City could not have acquired jurisdiction over the same *res* by virtue of respondents' application for registration. Contending that the decision of the CFI of Cavite, Branch III, on April 19, 1971 declaring that title to the land belonged to petitioners had become final and executory on June 18, 1980, they asserted that they were the lawful owners of the land. They claimed that the said decision,

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while promulgated subsequent to the issuance of the certificate of title in the names of the respondents, should be executed and that the certificate of title issued to the latter should be nullified.

The private respondents interposed the defenses of prescription, laches and/or estoppel and failure to state a cause of action.

A proceeding *in rem*, such as land registration proceedings, requires constructive seizure of the land as against all persons, including the state, who have rights to or interests in the property. Constructive seizure of the land for registration is effected through publication of the application for registration and service of notice to affected parties. Consequently, when private respondents filed their own application for registration of the same parcel of land, strictly speaking, the Tagaytay City branch could no longer entertain the application for registration as the *res* involved had been constructively seized by the Cavite City branch of the same court. The Court was not persuaded that the registration proceedings instituted by private respondents should be nullified by reason of the fact that the Cavity City branch of the same court was already proceeding with another registration case for the same piece of land.

In land registration proceedings, all interested parties are obliged to take care of their interests and to zealously pursue their objective of registration on account of the rule that whoever first acquires title to a piece of land shall prevail. Hence, even though an applicant precedes another, he may not be deemed to have priority of right to register title. As such, while his application is being processed, an applicant is duty-bound to observe vigilance and to take care that his right or interest is duly protected. Petitioners failed to exercise the due diligence required of them as applicants for land registration.

The Court found petitioners guilty of laches. They let almost seven (7) years to pass from discovery that the land was already registered in the name of private respondents before they acted to revive what already was a dormant judgment. The Court, therefore, dismissed the petition.

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SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; VENUE; PROCEDURAL AND MAY BE WAIVED.—** Venue is procedural, not jurisdictional, and hence may be waived. It is meant to provide convenience to the parties, rather than restrict their access to the courts as it relates to the place of trial. Thus, the last paragraph of Section 51 of Rep. Act No. 296 provided that in land registration cases, the Secretary of Justice, who was then tasked with the administration and supervision of all courts, may transfer land registration courts "to any other place more convenient to the parties." This implied that Land Registration Case No. 299 could be retained in the Cavite City branch of the CFI if it would be convenient to the applicants who had been used to transacting business with that branch; the case did not have to be transferred to Tagaytay City. Parenthetically, Circular No. 46 dated July 3, 1963 that then Secretary of Justice Juan R. Liwag addressed to all CFI judges and clerks of court in line with the enforcement of Rep. Act No. 3947, merely quotes Section 6 thereof. Said circular does not elucidate on whether cases should be transferred to the branches that had territorial jurisdiction over them.

2. **ID.; ID.; FACTUAL ISSUES MAY NO LONGER BE RAISED BEFORE THE SUPREME COURT.—** We take note of petitioners' allegation in their reply memorandum that in the registration proceedings filed by private respondents, "what was published in the Official Gazette was the description of a bigger tract of land that includes the smaller lot actually applied for by respondents." That factual allegation could have had its impact before the trial court in an action for reconveyance on the ground of fraud in the acquisition of title but not before this Court where factual issues may no longer be raised.

3. **CIVIL LAW; LAND REGISTRATION PROCEEDINGS; REQUIRES CONSTRUCTIVE SEIZURE OF LAND AGAINST ALL PERSONS WHO HAVE RIGHTS TO OR INTEREST IN PROPERTY; CONSTRUCTIVE SEIZURE OF LAND; HOW EFFECTED.—** Compliance with the requirement of notice and publication had the effect of notifying all persons interested in the proceedings including the herein private respondents. As this Court said in *Aguilar v. Caoagdan*: x x x it is true that appellants were not personally notified of

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the pendency of the present registration case even if they were actually occupying, as they claim, portions of the land, but such procedural defect cannot affect the jurisdiction of the court because registration proceedings have the nature of actions *in rem*. x x x. A proceeding *in rem*, such as land registration proceedings, requires constructive seizure of the land as against all persons, including the state, who have rights to or interests in the property. Constructive seizure of the land for registration is effected through publication of the application for registration and service of notice to affected parties. Consequently, when private respondents filed their own application for registration of the same parcel of land, strictly speaking, the Tagaytay City branch could no longer entertain the application for registration as the *res* involved had been constructively seized by the Cavite City branch of the same court. In hindsight, this complication of two applications for registration having been filed for one and the same tract of land could have been avoided had Land Registration Case No. 299 been transferred to the Tagaytay City branch of the same court where it rightfully belonged, upon the effectivity of Rep. Act No. 3947. Be that as it may, the Court is not persuaded that the registration proceedings instituted by private respondents should be nullified by reason of the fact that the Cavite City branch of the same court was already proceeding with another registration case for the same piece of land.

4. ID.; ID.; WHOEVER FIRST ACQUIRES TITLE TO THE LAND SHALL PREVAIL; RULE REFERS TO DATE OF CERTIFICATION OF TITLE AND NOT DATE OF FILING OF APPLICATION FOR REGISTRATION OF TITLE.— In land registration proceedings, all interested parties are obliged to take care of their interests and to zealously pursue their objective of registration on account of the rule that whoever first acquires title to a piece of land shall prevail. To illustrate, where more than one certificate of title is issued over the land, the person holding a prior certificate is entitled to the land as against a person who relies on a subsequent certificate. It should be stressed that said rule refers to *the date of the certificate of title* and not to *the date of filing of the application for registration of title*. Hence, even though an applicant precedes another, he may not be deemed to have priority of right to register title. As such, while his application is being processed, an applicant is

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duty-bound to observe vigilance and to take care that his right or interest is duly protected.

5. **ID.; ID.; APPLICANTS FOR LAND REGISTRATION MUST EXERCISE DUE DILIGENCE TO PROTECT THEIR RIGHTS.—** Petitioners failed to exercise the due diligence required of them as applicants for land registration. In the same way that publication of their application for registration was supposed to have rendered private respondents on constructive notice of such application, the publication of notice in the land registration proceedings initiated by private respondents had the same effect of notice upon petitioners. Petitioners were thus presumed to have been notified of the land registration proceedings filed by private respondents in the Tagaytay City branch of the Cavite CFI thereby providing them with the opportunity to file an opposition thereto. The fact that an interlocutory matter in Land Registration Case No. 299 had to be resolved by both the Court of Appeals and this Court did not in any way mean that petitioners should no longer exercise due diligence to protect their right or interest in the said proceedings. On the contrary, they were bound to exercise such diligence with vigor especially because as early as April 19, 1971, they already had a judgment in their favor. The record does not show why petitioners did not have actual knowledge of the registration proceedings instituted by private respondents. However, the lack of such knowledge in fact raises a doubt as to the veracity of their claim that they were in possession of the land. If indeed they possessed the property, even if through an administrator, as diligent owners, the threat to their ownership could not have escaped them considering that the property is in a rural community where news travels fast.

6. **ID.; LACHES.; PETITIONERS WERE GUILTY THEREOF IN CASE AT BAR.—** Even granting that petitioners did not really have *actual* knowledge of private respondents' application for registration, yet after discovering that the land was already registered in the name of private respondents, petitioners should have immediately sought recourse in law to protect their rights. As it turned out, they let almost seven (7) years to pass from such discovery before they acted to revive what already was a dormant judgment. Hence, they filed the separate action "for execution of judgment and cancellation of titles" of private respondents because more than five (5) years had elapsed since

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the promulgation of the decision directing the issuance of a decree of registration. Under these circumstances, the inevitable conclusion is that petitioners neglected for an unreasonable and unexplained length of time to do that which, by exercising due diligence, they could or should have done earlier. They neglected or omitted to assert a right within a reasonable time, warranting the presumption that they either had abandoned or declined to assert it. In short, they were guilty of laches.

7. **ID.; ID.; REMEDIES OF AGGRIEVED APPLICANT WHERE LAND WAS WRONGFULLY AND ERRONEOUSLY REGISTERED IN ANOTHER NAME; REMEDIES ARE DESIGNED TO MAKE UP FOR FAILURE OF APPLICANT TO REGISTER HIS TITLE TO PROPERTY, NOT NECESSARILY TO RESTORE OWNERSHIP THAT HE HAD ALLOWED BY INACTION TO BE VESTED IN ANOTHER PERSON.—** The doctrine of stale demands or laches is based on grounds of public policy which requires, for the peace of society, the discouragement of stale claims and is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted. Land registration proceedings entails a race against time and non-observance of time constraints imposed by law exposes an applicant to the loss of registration rights if not to the deleterious effects of the application of the doctrine of laches. An applicant for registration has but a one-year period from the issuance of the decree of registration in favor of another applicant, within which to question the validity of the certificate of title issued pursuant to such decree. Once the one-year period has lapsed, the title to the land becomes indefeasible. While the law grants the aggrieved applicant certain remedial measures, these are designed to make up for his failure to register his title to the property and not necessarily to restore ownership and/or title that he had allowed by inaction to be vested in another person.

8. **ID.; ID.; A COMPLAINT WITH PROPER ALLEGATION OF FRAUD COUPLED WITH PROOF THEREOF COULD CAUSE THE INDEFEASIBILITY OF PERSON'S TITLE TO PROPERTY.—** The wrong appellation of petitioners' complaint shall not mislead this Court as, in the determination of the nature of a complaint, its averments rather than its title, are the proper gauges. A reading of the allegations of the complaint in Civil Case No. TG-1028 betrays petitioners' true

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intention in filing the case. In paragraph 15 of the complaint, petitioners alleged that they were "unduly deprived of their ownership and lawful possession of the land x x x due to the wrongful registration of the subject land in the name of the defendants *by means of fraud and misrepresentations.*" Except for this general statement, the issue of fraud or misrepresentation is not alleged with particularity in the complaint. This is unfortunate because, if filed within the time set by law, a complaint with the proper allegation of fraud coupled with proof thereof could cause the loss of the indefeasibility of private respondents' title to the property. It is established that if fraud attended the acquisition of title under the Torrens System, such title cannot be used as a means to perpetuate fraud against the rightful owner of real property.

9. **ID.; ID.; AGGRIEVED APPLICANTS FOR LAND REGISTRATION CANNOT SEEK PROTECTION UNDER PROVISIONS OF THE RULES OF COURT WHICH ARE MERELY SUPPLETORY TO SPECIAL LAWS GOVERNING THE SAME.—** The inevitable conclusion is that petitioners were cognizant all the while of the futility of their attempt to cancel the title of private respondents under the law. Hence, they indirectly and collaterally attacked the land title duly issued to private respondents on the theory that the revival of the dormant judgment in their favor could result in the realization of their objective of nullifying such title. However, aggrieved applicants for land registration cannot seek protection under the provisions of the Rules of Court which are merely suppletory to special laws governing land registration proceedings.

10. **ID.; ID.; INDEFEASIBILITY OF PERSON'S TITLE OVER THE PROPERTY SHOULD NOT GET IN THE WAY OF AN ADMINISTRATIVE INVESTIGATION OF POSSIBLE OMISSION OR NEGLECT OF OFFICIAL DUTY.—** There is a need for an explanation why the officials of the then Land Registration Commission caused the publication of the notice of hearing in private respondents' application for registration notwithstanding that the same office had already published the notice of hearing as regards petitioners' application for registration of the same parcel of land. It is within the power of these officials to determine whether or not the same parcel of land is the subject of two applications for registration. The

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indefeasibility of private respondents' title over the property should not get in the way of an administrative investigation of possible omission or neglect of official duty. This Court cannot let such malfeasance or misfeasance in office pass unnoticed lest the integrity of the Torrens System of land registration be undermined.

APPEARANCES OF COUNSEL

Valdez, Domondon & Associates for petitioners.
Augusto F. del Rosario for private respondents.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

In this case, the two applications for registration of the same parcel of land were filed twelve years apart in different branches of the same Court of First Instance, but a certificate of title was issued in one case while the other is still pending appeal.

The applicants in the earlier case are now before this Court on a petition for review on *certiorari*. They assert that the decision ordering the issuance of a decree of registration in their favor, while promulgated subsequent to the issuance of the certificate of title in the names of the second applicants, should be "executed" and that the certificate of title issued to the latter should be nullified.

The facts of the case are as follows:

On July 25, 1956, Pedro Lopez, *et al.* filed an application for the registration of a 69-hectare parcel of land in Tagaytay City with the Court of First Instance of Cavite, Branch III under Land Registration Case No. 299 and LRC Record No. 11617. On January 29, 1957, the court issued an order of general default, excepting only the Director of Lands.

On June 24, 1957, Assistant Fiscal Jose M. Legaspi, representing the Municipality of Silang, Cavite, filed a motion to lift the order of general default and submitted an opposition on behalf of the municipality. The opposition was later amended

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on September 16, 1966 alleging that a portion of the land applied for which the municipality had leased to private persons had been its patrimonial property since 1930 or earlier. The municipality further alleged that in a registration case entitled "*Mariano Lopez de Leon v. Municipality of Silang*" (CA-G.R. No. 8161-R), the Court of Appeals found that the applicants had never been in possession of the land sought to be registered.

In its answer to the amended opposition, the applicants claimed that a part of the whole tract of land they sought to register was their inheritance, which includes Lot No. 2 of plan PSU-51901 with an area of 119 hectares. However, it had to be excluded in the application for registration of the 69-hectare land in Cavite upon the recommendation of the Chief Surveyor of the General Land Registration Office because it is located in the province of Laguna. Similarly, Lot No. 1 of PSU-51901 that lies within Tagaytay City had been excluded from the registration proceedings under G.L.R.O. Rec. No. 53498 or Land Registration Case No. 2201 in the Court of First Instance of Laguna.[1]

Nevertheless, the municipality filed a motion to dismiss the application for original registration of Lot No. 1 on the ground of *res judicata.* The applicants, on the other hand, contended that the principle of *res judicata* is not applicable because the subject matter of CA-G.R. No. 8161-R (*Mariano Lopez de Leon v. Municipality of Silang*) was Lot No. 2 or the portion of the land in Laguna.

On February 7, 1969, the lower court issued an order denying the motion to dismiss for lack of merit on the ground that the oppositor municipality had no personality to intervene considering that Lot No. 1 was outside of its territorial limits. The lower court held:

"x x x. Even if said land was communal property of the Municipality of Silang, by virtue of its incorporation into (the) city of Tagaytay it became the property of the latter. Hence, the Municipality of Silang has no personality to appear in this (sic) proceedings. If any right of

[1] *Rollo*, p. 67.

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action exists, it accrues in favor of the City of Tagaytay and the same should be pursued by the said city."[2]

The oppositor municipality filed a motion for reconsideration of the said order. On July 23, 1970, the court issued an order stating that "in order not to impede whatever action the movant" might take against the order of February 7, 1969, said motion should be denied. On January 12, 1971, the applicants filed a motion praying that the clerk of court be commissioned to receive evidence for them it appearing that the order of July 23, 1970 had become final and executory "by virtue of which the Municipality of Silang no longer ha(d) any personality to appear in these proceedings."[3] The court granted said motion and directed the clerk of court to submit a report on the matter.

In his report dated April 15, 1971, Clerk of Court Rolando D. Diaz stated that since time immemorial, Micaela, Fernando, Ciriaco and Catalino, all surnamed De los Reyes, owned and possessed the parcel of land in question. On November 3, 1870, they sold the land to Ambrocio Carrillo Trinidad and Francisco Dimaranan. On September 15, 1892, the property passed in ownership to Pedro Lopez de Leon, Sr. and Maxima Carrillo Trinidad, the daughter and sole heir of Ambrocio Carrillo Trinidad. Pedro and Maxima remained in possession of the property until their death when their children, applicants Pedro Lopez, Mariano Lopez de Leon, Pastor Lopez de Leon, Eulogio Lopez, Clara Lopez, Ricarda Lopez and Rosario Lopez took over ownership and possession thereof. Upon their death, their respective heirs succeeded over the property and, on February 25, 1971, they partitioned it. The agricultural property was under the supervision of Domingo Opeña who planted portions thereof to rice and other agricultural products.

The clerk of court thus recommended that the court confirm its order of general default, approve his report, and register the

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[2] *Ibid.*, p. 68.

[3] Decision in CA-G.R. No. 49053-R, p. 4; *Rollo* of G.R. No. 51054 (*Municipality of Silang v. Court of Appeals*), p. 52.

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property in the names of the applicants in accordance with the extrajudicial partition of the property.[4]

On April 19, 1971, the court[5] accordingly rendered a decision approving the report of the clerk of court and ordering that once the decision becomes final, the corresponding decree of registration of title be issued in favor of the applicants.[6]

The oppositor Municipality of Silang interposed an appeal from the said decision of the land registration court to the Court of Appeals. On May 2, 1979, the Court of Appeals rendered a Decision[7] dismissing the appeal "for lack of personality of the oppositor-appellant Municipality of Silang to interfere in the registration proceedings below."[8] Undaunted, the oppositor municipality filed with this Court a petition for review on *certiorari* docketed as G.R. No. 51054 (*Municipality of Silang v. Court of Appeals*) which was denied on September 19, 1979. The municipality's motion for reconsideration was likewise denied with finality for lack of merit on October 24, 1979.[9] On November 9, 1979, judgment was entered in the said case.[10]

Meanwhile, in the course of examining the records for the purpose of issuing the decree of registration in favor of Pedro Lopez, *et al.*, the Land Registration Commission discovered that Lot No. 1, plan Psu-51901 had been decreed in favor of private respondents Honesto de Castro, *et al.*[11]

Further investigation revealed that sometime in 1967,[12] Honesto de Castro, *et al.* filed before the Court of First Instance

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[4] Record, pp. 20-21.

[5] Presided by Judge Alfredo Catolico.

[6] *Rollo*, pp. 74-80.

[7] Penned by Associate Justice Milagros A. German and concurred in by Associate Justices B.S. de la Fuente and Pedro D. Cenzon.

[8] *Rollo*, pp. 66-71.

[9] *Ibid.*, p. 73.

[10] *Rollo* of G.R. No. 51054, p. 102.

[11] *Rollo*, p. 19.

[12] Record, p. 83.

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of Cavite, Branch IV in Tagaytay City, an application for the registration of the same parcel of land under Land Registration Case No. TG-95 and LRC Rec. No. N-33292. The case was called for hearing on March 18, 1968. Eight (8) days later or on March 26, 1968, the court[13] promulgated a decision adjudicating the land located at Barrio Iruhin, Tagaytay City, more particularly described as Plan Psu-51901-Amd., in favor of said applicants and directing that upon the finality of the decision, the corresponding decree of registration be issued.[14] The ruling of the court was based on its finding that one Hermogenes Orte, who originally owned the land sought to be registered, sold it in 1932 to Marciano de Castro. The deed evidencing said sale was destroyed during the Japanese occupation. De Castro continued possession of the land until his death on April 26, 1940. His wife Epifania and their children named Maria Socorro, Francisco, Honesto, Romualdo, Felicitacion, Faustino and Felixberto continued possession of the property who declared the land for assessment and taxation purposes in Cabuyao, Laguna. However, upon learning that the property lies in Tagaytay City, the applicants declared it in their names in said city.

The cause of the conflicting claims over the same land was never explained because the head of the geodetic engineers of the Land Registration Commission did not appear in court in Land Registration Case No. 299. Hence, on August 19, 1981, the CFI of Cavite, Branch III[15] issued an order declaring that the court had lost jurisdiction to hear the case, without, however, dismissing the case.

Seven (7) years later, or on June 28, 1988, the heirs of Pedro Lopez, *et al.* filed a complaint "for execution of judgment and cancellation of land titles of the defendants and their successors-in-interest" before the Regional Trial Court of Cavite, Branch 18, at Tagaytay City. Docketed as Civil-Case No. TG-1028,

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[13] Presided by Judge Jose C. Colayco.

[14] *Rollo*, pp. 82-84.

[15] Presided by Judge Hector C. Fule.

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the complaint named as defendants Honesto C. de Castro, Maria Socorro de Castro married to Antonio Perigrina, Francisco de Castro "widow," Faustino de Castro, Felixberto de Castro, Epifania C. *Vda. de* Castro and their successors-in-interest.

The complaint alleged the facts pertinent to enforce the judgment of April 19, 1971. The plaintiffs, petitioners herein, alleged further that, upon the filing of their application for registration with the CFI of Cavite, Branch III at Cavite City, said court acquired jurisdiction over the *res* because land registration proceedings are *in rem* and therefore, the CFI of Cavite, Branch IV at Tagaytay City could not have acquired jurisdiction over the same *res* by virtue of De Castros' application for registration. They claimed that no less than this Court had recognized the jurisdiction of Branch III in Cavite City when it passed upon the correctness of the lower court's ruling in favor of Pedro Lopez, *et al.* Contending that the decision of Branch III on April 19, 1971 declaring that title to the land belonged to Pedro Lopez, *et al.* had become final and executory on June 18, 1980, they asserted that they were the lawful owners of the land. However, they had been unduly deprived ownership and possession thereof on account of its "wrongful registration" in the name of the defendants "by means of fraud and misrepresentation." As a result of their undue deprivation of ownership, possession and enjoyment of the property notwithstanding that the question of ownership had been settled in their favor, plaintiffs claimed that they suffered actual and moral damages. Claiming that the judgment sought to be executed had not been barred by the statute of limitations, they prayed as follows:

WHEREFORE, plaintiffs pray for the judgment to effect:

1. Execution of judgment of the decision of the then Court of First Instance (CFI) Branch III, Cavite, dated April 19, 1971 by the Hon. Judge Alfredo Catolico which became final on June 18, 1980;

2. Ordering the National Land Titles and Deeds Registration Administration and the Register of Deeds of Tagaytay City to cancel the titles of the land in question under the names of

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the defendants and their successors in interest and that new title to the same parcel of land be issued to plaintiffs;

3. Ordering all the occupants of the questioned land to vacate the premises and deliver possession thereof to the plaintiffs;

4. Ordering the defendants and/or their successors in interest to pay plaintiffs or its (sic) heirs and/or successors in interest actual damages (in) the amount of ₱200,000.00 or the amount that may be proven during the hearing and trial of this case;

5. Ordering the defendants and/or their successors in interest to pay plaintiffs the sum of ₱200,000.00 for and as attorney's fees;

6. To pay plaintiffs exemplary damages in the amount of ₱100,000.00 or the sum that may be proven during the trial;

7. Ordering the defendants to pay the costs of suit.

Plaintiffs further pray for such other reliefs just and proper under the premises.[16]

In their answer with compulsory counterclaim, the defendants interposed the defenses of prescription, laches and/or estoppel and failure to state a cause of action. They averred that they were no longer the owners of the property as it had been sold "absolutely and unconditionally to innocent third parties for valuable consideration and in good faith." They contended that in view of the indefeasibility of their title to the property, even the title of their successors-in-interest can not be subject to collateral attack. They claimed that Branch III of the CFI in Cavite should have "remanded" the records of LRC Case No. 299 or LRC Record No. 11617 to the same CFI branch in Tagaytay City to which the "legal and proper jurisdiction to hear and decide that particular case belonged." They asserted that the complaint should have been directed by the plaintiffs against the Assurance Fund under the provisions of P.D. No. 1529. Alleging that the "very precipitate and wrongful suit" caused them mental anguish, serious anxiety, social humiliation and similar injury, they claimed moral damages of ₱500,000.00,

[16] *Rollo*, pp. 64-65.

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nominal damages of ₱100,000.00 and attorney's fees of ₱300,000.00.

On May 21, 1990, the RTC of Cavite, Branch 18 in Tagaytay City[17] rendered the decision in Civil Case No. TG-1028 dismissing the complaint for being "improper and premature." The court likewise dismissed the defendants' counterclaims for "their dearth of sufficient legal, factual and evidentiary support."[18]

The lower court held that the decision of Branch III that became final on June 18, 1980, could not be enforced against defendants considering that they were not parties in LRC Record No. 11617. Neither could it order the cancellation of the titles issued to defendants because the LRC and/or the Register of Deeds of Tagaytay City had not been impleaded as parties to the case and therefore the court did not acquire jurisdiction over them.

The lower court held further that because the case was covered by Act No. 496 and/or P.D. No. 1529 which are special laws, Section 6, Rule 39 of the Rules of Court on execution of judgment by independent action cannot be invoked. The court also ruled that:

> Treating the second issue raised by plaintiffs, the then Court of First Instance of Cavite, Branch IV, or this Court, validly acquired jurisdiction over the case filed by defendants Honesto de Castro, *et al.*, in LRC Case No. TG-95. The records show that herein defendants as petitioner(s) in that case, complied with all the jurisdictional requirements of law, conferring jurisdiction upon this Court to try that case and lent validly (sic) upon its proceedings. As admitted by the plaintiffs themselves, this Court was not aware of the existence of LRC Record No. 11617, pending before the other Branch of this Court, in the same manner that they, or the plaintiffs themselves, did not also know the existence of LRC Case No. TG-95 before this Court. This Court is assured that good faith pervaded among the parties concerned, in the conduct of its proceedings, all procedural requirements having been punctiliously complied with and no

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[17] Presided by Judge Julieto P. Tabiolo.

[18] *Rollo*, pp. 89-94.

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irregularity or breach of law having been committed. So that the decision rendered by this Court in that case is valid and subsisting, for all intents and purposes and can be nullified only under circumstances and through procedures mandated by law. Hence, the corresponding decree of registration issued in TG-95 and the original certificates of titles issued to defendants in consequence thereof, are all valid and binding until declared otherwise, in a case directly assailing their validity, and of course, by a competent court. And by express provision of law, the same are insulated from any collateral attack.[19]

The court concluded that the complaint was in the nature of a collateral attack on the validity of the certificate of title issued in favor of the defendants and their successors-in-interest because, "(b)y its caption and averments, the validity of the title in question, is not directly assailed."

Petitioners filed a motion for reconsideration of said decision, which was denied on May 29, 1991. It reiterated that the plaintiffs' failure to implead the Administrator of the NLRDRA, the Register of Deeds of Tagaytay City and the possessors of the property in question was a fatal procedural error because they were indispensable parties over which the court should acquire jurisdiction. Their inclusion as defendants in the case was necessary in order that their title to the property could be directly attacked. Petitioners should have availed of the remedy provided by Section 32 of P.D. No. 1529 and their failure to observe that law was a "colossal error" because once issued, a certificate of title becomes indefeasible, "completely insulated from any form of collateral attack assailing its validity."[20]

Petitioners sought recourse before the Court of Appeals, which dismissed the appeal on November 29, 1993.[21] Stressing the indefeasibility of title under the Torrens System of land registration, the Court of Appeals echoed the lower court's ruling

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[19] *Ibid.*, p. 93.

[20] *Ibid.*, pp. 95-97.

[21] The Decision was penned by Associate Justice Quirino D. Abad Santos, Jr. and concurred in by Associate Justices Emeterio C. Cui and Alfredo J. Lagamon.

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that the decree of registration in favor of respondents cannot be reopened or set aside in a "collateral proceeding such as the one in the case at bar which has for its objective the execution of a judgment which apparently has become dormant, thus appellants' insistence that it be revived." Citing Article 1544 of the Civil Code on sale of property to different vendees which it opined had a "persuasive influence" in the resolution of the appeal, it held that "in case land has been registered in the name of two different persons, the earlier in date (of registration) shall prevail." Nonetheless, emphasizing that the land in question has been transferred to a third person, the Court of Appeals ruled that the title issued in favor of respondents should be "maintained in their *status quo,* until the proper court shall have determined their priorities, and the equities resulting therefrom."[22]

Consequently, petitioners filed the instant petition for review on *certiorari* under Rule 45 of the Rules of Court, raising the following assignment of errors:

1. THE RESPONDENT COURT OF APPEALS COMMITTED A SERIOUS REVERSIBLE ERROR WHEN IT FAILED TO RULE ON THE VITAL AND PIVOTAL ISSUE THAT THE TRIAL COURT (CFI TAGAYTAY CITY, BRANCH IV), HAS NO JURISDICTION OVER THE SUBSEQUENT LAND REGISTRATION CASE FILED BY THE APPLICANTS BELOW, PRIVATE RESPONDENTS HEREIN, AND IN DECREEING THE REGISTRATION OF TITLE OVER THE SAID LOTS WHICH WERE ALREADY PREVIOUSLY THE SUBJECT OF REGISTRATION PROCEEDINGS BY ANOTHER COURT (CFI CAVITE, BRANCH III) IN A PREVIOUS LAND REGISTRATION CASE IN FAVOR OF THE PETITIONERS HEREIN WHICH WAS SUSTAINED BY THE COURT OF APPEALS AND EVEN BY THIS HONORABLE COURT.
2. THE RESPONDENT COURT OF APPEALS COMMITTED A GRAVE REVERSIBLE ERROR WHEN IT LIKEWISE FAILED TO RESOLVE THE ISSUE OF THE PROPRIETY

[22] *Rollo*, pp. 105-106.

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OF THE INSTANT ACTION FILED BY THE PETITIONERS FOR EXECUTION OF JUDGMENT OF CFI BRANCH III, WHICH IS EQUIVALENT TO A REVIVAL OF THE JUDGMENT.

3. THE RESPONDENT COURT OF APPEALS COMMITTED A GRAVE REVERSIBLE ERROR IN MERELY RELYING ON THE DOCTRINE OF INDEFEASIBILITY OF TITLE, COLLATERAL ATTACK ON THE RESPONDENTS' TITLES, AND PRIORITY IN THE REGISTRATION AND ISSUANCE OF THE TITLES IN FAVOR OF THE RESPONDENTS, WHICH RELIANCE ARE MISPLACED AND UNAVAILING IN VIEW OF THE LACK OF JURISDICTION OF THE LOWER COURT TO TAKE COGNIZANCE OF THE LAND REGISTRATION CASE FILED BY THE PRIVATE RESPONDENTS AND TO ISSUE THE DECREE OF REGISTRATION.
4. THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT THE PETITIONERS CANNOT DIVEST PRIVATE RESPONDENTS OF THE DISPUTED LOTS BY FILING THE INSTANT ACTION FOR EXECUTION OF JUDGMENT AND ASSAILING THE VALIDITY OF RESPONDENTS' TITLES.
5. THE RESPONDENT COURT OF APPEALS SERIOUSLY ERRED IN NOT HOLDING THAT THE PETITIONERS ARE RIGHTFULLY AND LEGALLY ENTITLED TO THE LOTS IN QUESTION.

In all cases where the authority to proceed is conferred by a statute and the manner of obtaining jurisdiction is mandatory, the same must be strictly complied with, or the proceedings will be utterly void.[23]

When petitioners applied for the registration of Lot No. 1 before the CFI in Cavite City in 1956, the governing law then as regards the matter of jurisdiction was the Judiciary Act of 1948 or Republic Act No. 296. Section 52 of that law providing for the permanent stations of district judges or judges of Courts of First Instance stated that for the Seventh Judicial District

[23] *Dordas v. Court of Appeals,* 337 Phil. 59, 67 (1997).

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that included the province of Cavite, there would be two judges in Cavite City.[24] The law did not create other branches of the CFI in the province of Cavite outside of the City of Cavite.

It was on June 22, 1963 when Republic Act No. 3749 took effect that a CFI branch in Tagaytay City was set up.[25] That amendment to Republic Act No. 296 provided that four judges would preside "over the Courts of First Instance of the Province of Cavite and the Cities of Cavite, Tagaytay and Trece Martires" who would be "judges of the first, second, third and fourth branches" of that court. Because the rule has always been that the court having territorial jurisdiction over the property should take cognizance of its registration,[26] upon the creation of the Tagaytay City branch, petitioners' application for registration should have been transferred to that court inasmuch as the property involved is located in that city.

It appears, however, that the Cavite City branch remained the venue of petitioners' application for registration, apparently on account of the following provision of Rep. Act No. 3749:

> SEC.6. Wherever an additional branch or branches of the Court of First Instance is or are established in this Act in the same place where there is an existing court or courts of first instance, all cases already filed in the latter court or courts shall be heard, tried and decided by such latter court or courts.

Notably, the law is not clear on whether or not the phrase "in the same place" refers to the judicial district/province or the place where a branch of the court is stationed. Hence, considering the general rule that once a court acquires jurisdiction over a case it remains with that court until its full termination,[27] the phrase "in the same place" should be interpreted as referring to the province of Cavite. The Cavite City branch of the CFI of Cavite thus correctly retained jurisdiction over the application

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[24] 44 O.G. 4757, 4775.

[25] 59 O.G. 8553.

[26] *Aguilar v. Caoagdan*, 105 Phil. 661, 665 (1959).

[27] *Secretary of Health v. Court of Appeals*, 311 Phil. 803, 812 (1995).

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for registration because there was no jurisdictional question involved in the proceedings in Land Registration Case No. 299. What was in question was whether the Cavite City branch of the Cavite CFI was the proper *venue* for said case upon the creation of the Tagaytay City branch. As this Court once said:

> Venue and jurisdiction are entirely distinct matters. Jurisdiction may not be conferred by consent or waiver upon a court which otherwise would have no jurisdiction over the subject-matter of an action; but the venue of an action as fixed by statute may be changed by the consent of the parties and an objection that the plaintiff brought his suit in the wrong county may be waived by the failure of the defendant to make a timely objection. In either case, the court may render a valid judgment. Rules as to jurisdiction can never be left to the consent or agreement of the parties, whether or not a prohibition exists against their alteration.[28]

Venue is procedural, not jurisdictional, and hence may be waived. It is meant to provide convenience to the parties, rather than restrict their access to the courts as it relates to the place of trial.[29] Thus, the last paragraph of Section 51 of Rep. Act No. 296 provided that in land registration cases, the Secretary of Justice, who was then tasked with the administration and supervision of all courts, may transfer land registration courts "to any other place more convenient to the parties." This implied that Land Registration Case No. 299 could be retained in the Cavite City branch of the CFI if it would be convenient to the applicants who had been used to transacting business with that branch; the case did not have to be transferred to Tagaytay City. Parenthetically, Circular No. 46 dated July 3, 1963 that then Secretary of Justice Juan R. Liwag addressed to all CFI judges and clerks of court in line with the enforcement of Rep. Act No. 3947, merely quotes Section 6 thereof. Said circular does not elucidate on whether cases should be transferred to the branches that had territorial jurisdiction over them.

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[28] *Santos III v. Northwest Orient Airlines*, G.R. No. 101538, June 23, 1992, 210 SCRA 256, 265-266.

[29] *Philippine Banking Corporation v. Tensuan*, G.R. No. 104649, February 28, 1994, 230 SCRA 413, 416-417.

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Petitioners' claim that this Court had "sustained" the jurisdiction of the Cavite City branch of the CFI over Land Registration Case No. 299 in G.R. No. 51054 is incorrect. To be sure, the principal issue raised in the petition for review on *certiorari* in G.R. No. 51054 was the personality of the Municipality of Silang to file an opposition to the application for land registration. While this Court upheld the lower court's ruling on that issue, such affirmance in no way implied that the issue of jurisdiction was likewise resolved. It is only now that the same issue is brought to light for resolution.

As regards the jurisdiction of the Tagaytay City branch over the land registration proceedings instituted by private respondents, the order of general default issued in Land Registration Case No. 299 is of relevance. When the Cavite City branch of the CFI issued an order of default, it is presumed to have regularly performed its task in accordance with law especially with regard to notice requirements. Act No. 496 provided that after the court shall have set the application for initial hearing the following procedure should be observed:

> SEC. 31. Upon receipt of the order of the court setting the time for initial hearing of the application from the clerk of the Court of First Instance, the Chief of the General Land Registration Office shall cause a notice thereof to be published twice, in successive issues of the *Official Gazette,* in the English language. The notice shall be issued by order of the court, attested by the Chief of the General Land Registration Office, and shall be in form substantially as follows: x x x.[30]

The general order of default of January 29, 1957 stated as follows:

> It appearing from the certificate of the Chief of the General Land Registration Office and the return of the Sheriff, attached to the record of this case, that the notice relative to the application in said case was duly published, posted, and served in accordance with law; and that the time allowed for entering appearance and filing answers expired at 9:30 A.M. on the 29th day of January, 1957, for which date said case was duly set for hearing by the Court;

[30] As amended by Sec. 1 of Rep. Act No. 96 and Rep. Act No. 1151.

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And it further appearing from said record that no person has appeared as respondent in the case filed an answer within the time for that purpose allowed, with the exception of the Director of Lands represented by Asst. Provincial Fiscal Jose M. Legaspi;

All persons, except those herein above named, are hereby declared to be in default in the above-entitled case, and it is ordered that a general default be recorded in said case, and that the application therein be taken as confessed by all the world, except the persons hereinabove named.

It is so ordered.[31]

On January 24, 1957, the Municipality of Silang filed a motion to lift said general order of default and to admit its opposition to the registration.[32] This fact supports the presumption that the officials concerned performed their duties regularly because it implies notice, whether actual or constructive, on the part of said municipality that a land registration proceedings had been filed with respect to Lot No. 1.

Compliance with the requirement of notice and publication had the effect of notifying all persons interested in the proceedings including the herein private respondents. As this Court said in *Aguilar v. Caoagdan*:

x x x it is true that appellants were not personally notified of the pendency of the present registration case even if they were actually occupying, as they claim, portions of the land, but such procedural defect cannot affect the jurisdiction of the court because registration proceedings have the nature of actions *in rem*. x x x.[33]

A proceeding *in rem*, such as land registration proceedings, requires constructive seizure of the land as against all persons, including the state, who have rights to or interests in the property.[34] Constructive seizure of the land for registration is

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[31] Record on Appeal in CA-G.R. No. 49053-R, pp. 10-11; *Rollo* of G.R. No. 51054, p. 76.

[32] *Ibid.*, p. 11; *supra.*

[33] *Supra*, at p. 666.

[34] *Director of Lands v. Court of Appeals*, 342 Phil. 239, 248 (1997).

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effected through publication of the application for registration and service of notice to affected parties.[35] Consequently, when private respondents filed their own application for registration of the same parcel of land, strictly speaking, the Tagaytay City branch could no longer entertain the application for registration as the *res* involved had been constructively seized by the Cavite City branch of the same court. In hindsight, this complication of two applications for registration having been filed for one and the same tract of land could have been avoided had Land Registration Case No. 299 been transferred to the Tagaytay City branch of the same court where it rightfully belonged, upon the effectivity of Rep. Act No. 3947.

Be that as it may, the Court is not persuaded that the registration proceedings instituted by private respondents should be nullified by reason of the fact that the Cavite City branch of the same court was already proceeding with another registration case for the same piece of land.

In land registration proceedings, all interested parties are obliged to take care of their interests and to zealously pursue their objective of registration on account of the rule that whoever first acquires title to a piece of land shall prevail. To illustrate, where more than one certificate of title is issued over the land, the person holding a prior certificate is entitled to the land as against a person who relies on a subsequent certificate.[36] It should be stressed that said rule refers to *the date of the certificate of title* and not to *the date of filing of the application for registration of title.* Hence, even though an applicant precedes another, he may not be deemed to have priority of right to register title. As such, while his application is being processed, an applicant is duty-bound to observe vigilance and to take care that his right or interest is duly protected.

Petitioners failed to exercise the due diligence required of them as applicants for land registration. In the same way that

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[35] *Republic v. Court of Appeals,* 327 Phil. 852, 868 (1996).

[36] *Margolles v. Court of Appeals,* G.R. No. 109490, February 14, 1994, 230 SCRA 97, 114.

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publication of their application for registration was supposed to have rendered private respondents on constructive notice of such application, the publication of notice in the land registration proceedings initiated by private respondents had the same effect of notice upon petitioners. Petitioners were thus presumed to have been notified of the land registration proceedings filed by private respondents in the Tagaytay City branch of the Cavite CFI thereby providing them with the opportunity to file an opposition thereto.

The fact that an interlocutory matter in Land Registration Case No. 299 had to be resolved by both the Court of Appeals and this Court did not in any way mean that petitioners should no longer exercise due diligence to protect their right or interest in the said proceedings. On the contrary, they were bound to exercise such diligence with vigor especially because as early as April 19, 1971, they already had a judgment in their favor. The record does not show why petitioners did not have actual knowledge of the registration proceedings instituted by private respondents. However, the lack of such knowledge in fact raises a doubt as to the veracity of their claim that they were in possession of the land. If indeed they possessed the property, even if through an administrator, as diligent owners, the threat to their ownership could not have escaped them considering that the property is in a rural community where news travels fast.

Even granting that petitioners did not really have *actual* knowledge of private respondents' application for registration, yet after discovering that the land was already registered in the name of private respondents, petitioners should have immediately sought recourse in law to protect their rights. As it turned out, they let almost seven (7) years to pass from such discovery before they acted to revive what already was a dormant judgment. Hence, they filed the separate action "for execution of judgment and cancellation of titles" of private respondents because more than five (5) years had elapsed since the promulgation of the decision directing the issuance of a decree

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of registration.[37] Under these circumstances, the inevitable conclusion is that petitioners neglected for an unreasonable and unexplained length of time to do that which, by exercising due diligence, they could or should have done earlier. They neglected or omitted to assert a right within a reasonable time, warranting the presumption that they either had abandoned or declined to assert it.[38] In short, they were guilty of laches.

The doctrine of stale demands or laches is based on grounds of public policy which requires, for the peace of society, the discouragement of stale claims and is principally a question of the inequity or unfairness of permitting a right or claim to be enforced or asserted.[39] Land registration proceedings entails a race against time and non-observance of time constraints imposed by law exposes an applicant to the loss of registration rights if not to the deleterious effects of the application of the doctrine of laches. An applicant for registration has but a one-year period from the issuance of the decree of registration in favor of another applicant, within which to question the validity of the certificate of title issued pursuant to such decree. Once the one-year period has lapsed, the title to the land becomes indefeasible. While the law grants the aggrieved applicant certain remedial measures, these are designed to make up for his failure to register his title to the property and not necessarily to restore ownership and/or title that he had allowed by inaction to be vested in another person. In *Javier v. Court of Appeals,*[40] the Court set out these remedies as follows:

> x x x. The basic rule is that after the lapse of one (1) year, a decree of registration is no longer open to review or attack although its issuance is attended with actual fraud. This does not mean however that the aggrieved party is without a remedy at law. If the property has not

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[37] Sec. 6, Rule 39 of the Rules of Court provided for the filing of an action to enforce a judgment after the lapse of the 5-year period.

[38] *Catholic Bishop of Balanga v. Court of Appeals*, 332 Phil. 206, 218 (1996).

[39] *Ibid.*, at pp. 219-220.

[40] G.R. No. 101177, March 28, 1994, 231 SCRA 498, 504.

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yet passed to an innocent purchaser for value, an action for reconveyance is still available. The decree becomes incontrovertible and can no longer be reviewed after one (1) year from the date of the decree so that the only remedy of the landowner whose property has been wrongfully or erroneously registered in another's name is to bring an ordinary action in court for reconveyance, which is an action *in personam* and is always available as long as the property has not passed to an innocent third party for value. If the property has passed into the hands of an innocent purchaser for value, the remedy is an action for damages. x x x

In *Spouses Eduarte v. Court of Appeals*,[41] the Court also said:

x x x it has been held that the proper recourse of the true owner of the property who was prejudiced and fraudulently dispossessed of the same is to bring an action for damages against those who caused or employed the fraud, and if the latter are insolvent, an action against the Treasurer of the Philippines may be filed for recovery of damages against the Assurance Fund.

In filing the action for execution of judgment and cancellation of titles, petitioners must have realized that only the remedy of filing an action for damages was available to them. Otherwise, they could have filed an action for reconveyance of the property. Of course, petitioners cleverly clothed their complaint as one for execution of judgment under the provisions of the Rules of Court. Clearly, such procedural strategy was a bid to revive the decision of the lower court ordering the issuance of a decree of registration in their names. In other words, petitioners availed of procedural remedies provided for by the Rules of Court as it appeared that because of the lapse of time, they would not benefit from remedies prescribed by land registration laws.

The wrong appellation of petitioners' complaint shall not mislead this Court as, in the determination of the nature of a complaint, its averments rather than its title, are the proper gauges.[42] A reading of the allegations of the complaint in Civil Case No. TG-1028 betrays petitioners' true intention in filing

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[41] 323 Phil. 462, 477 (1996).

[42] *Heirs of Jacob v. Court of Appeals*, 347 Phil. 752, 763 (1997).

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the case. In paragraph 15 of the complaint, petitioners alleged that they were "unduly deprived of their ownership and lawful possession of the land x x x due to the wrongful registration of the subject land in the name of the defendants *by means of fraud and misrepresentations.*" Except for this general statement, the issue of fraud or misrepresentation is not alleged with particularity in the complaint.[43] This is unfortunate because, if filed within the time set by law, a complaint with the proper allegation of fraud coupled with proof thereof could cause the loss of the indefeasibility of private respondents' title to the property. It is established that if fraud attended the acquisition of title under the Torrens System, such title cannot be used as a means to perpetuate fraud against the rightful owner of real property.[44]

We take note of petitioners' allegation in their reply memorandum that in the registration proceedings filed by private respondents, "what was published in the Official Gazette was the description of a bigger tract of land that includes the smaller lot actually applied for by respondents."[45] That factual allegation could have had its impact before the trial court in an action for reconveyance on the ground of fraud in the acquisition of title but not before this Court where factual issues may no longer be raised.

The inevitable conclusion therefore is that petitioners were cognizant all the while of the futility of their attempt to cancel the title of private respondents under the law. Hence, they indirectly and collaterally attacked the land title duly issued to private respondents on the theory that the revival of the dormant judgment in their favor could result in the realization of their objective of nullifying such title. However, aggrieved applicants

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[43] In *Heirs of Manuel A. Roxas v. Court of Appeals* (337 Phil. 41, 52 [1997]), the Court held that there is "fraudulent concealment and misrepresentation in the application" for registration where it is alleged that "no other persons had any claim or interest in the said land."

[44] *Bornales v. Intermediate Appellate Court*, G.R. No. 75336, October 18, 1988, 166 SCRA 516, 524-525.

[45] *Rollo*, p. 186.

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for land registration cannot seek protection under the provisions of the Rules of Court which are merely suppletory to special laws governing land registration proceedings.

The resolution of the instant petition cannot be complete without a word on the manner by which officials of the then Land Registration Commission ignored the lower court's order to explain the conflicting claims of ownership over the same property. Particularly, there is a need for an explanation why they caused the publication of the notice of hearing in private respondents' application for registration notwithstanding that the same office had already published the notice of hearing as regards petitioners' application for registration of the same parcel of land. It is within the power of these officials to determine whether or not the same parcel of land is the subject of two applications for registration. The indefeasibility of private respondents' title over the property should not get in the way of an administrative investigation of possible omission or neglect of official duty. This Court cannot let such malfeasance or misfeasance in office pass unnoticed lest the integrity of the Torrens System of land registration be undermined.

WHEREFORE, the instant petition for review is *DENIED*, and the dismissal of Civil Case No. TG-1028 is *AFFIRMED*. Let a copy of this Decision be furnished the Department of Justice so that an investigation against officials who were responsible for the publication of two notices of hearing of an application for registration of the same parcel of land may be conducted and the guilty officials duly sanctioned.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and *Pardo, JJ.*, concur.