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WHEREFORE, the petition is hereby *DENIED*.

Treble costs, to be imposed solidarily, against petitioners and their counsel, Atty. Emelie P. Bangot, Jr.

SO ORDERED.

Velasco, Jr., Leonardo-de Castro,[*] *Peralta,* and *Del Castillo,*[**] *JJ.,* concur.

FIRST DIVISION

[G.R. No. 173533. December 14, 2009]

VICENTE N. LUNA, JR., *petitioner, vs.* **NARIO CABALES, OSCAR PABALAN, JEREMIAS JUARBAL and REMEDIOS ROSIL,** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; THE TAX DECLARATIONS, COUPLED WITH THE ACTUAL POSSESSION OF THE PROPERTY, PROVIDE INCONTROVERTIBLE PROOF OF POSSESSION IN THE CONCEPT OF AN OWNER; CASE AT BAR.— The Court appreciates no cogent reasons to disturb the findings of the appellate court that respondent is the lawful possessor of the lot in question and that petitioner was not a buyer in good faith. Remedios has established that her grandmother Martina was the owner and possessor of the *northwestern* portion of the entire property as early as 1946 as evidenced by Tax Declaration Nos. 7161, 5900 and 175. These tax declarations mention the name of Eustaquia, the predecessor-in-interest of Ciriaco,

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[*] Per Special Order No. 809 dated December 9, 2009.

[**] Per Special Order No. 805 dated December 4, 2009.

as the owner and possessor of the *southern* portion of the entire property adjoining the *northwestern* portion thereof. Such documentary evidence, coupled with the actual possession of Remedios, provides incontrovertible proof of possession in the concept of an owner which strengthens her *bona fide* claim of acquisition of ownership. On the other hand, the testimony of petitioner's witness attorney-in-fact Martinez to the effect that he did not see any occupants in the subject lot merits scant consideration. As the appellate court observed, the witness could not even cite dates of the events he was testifying on, and even gave conflicting statements on material points. Petitioner, who was noted by the appellate court to be "the proper person to prove that he is a buyer in good faith and an innocent purchaser for value," chose not to take the witness stand.

2. ID.; ID.; ID.; ONE WHO DELIBERATELY IGNORES A SIGNIFICANT FACT WHICH WOULD NATURALLY GENERATE WARINESS IS NOT AN INNOCENT PURCHASER FOR VALUE.— While every person dealing with registered land can safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go beyond the certificate to determine the condition of the property, one will not be permitted to benefit from this general rule if there exist important facts which create suspicion to call for an investigation of the real condition of the land. One who deliberately ignores a significant fact which would naturally generate wariness is not an innocent purchaser for value.

3. ID.; ID.; CERTIFICATE OF TITLE; COUNTER CLAIM IS CONSIDERED AN ORIGINAL COMPLAINT AND, AS SUCH, THE ATTACK ON THE TITLE IN A CASE ORIGINALLY FOR RECOVERY OF POSSESSION IS A DIRECT NOT A COLLATERAL ATTACK ON THE TITLE.— [R]emedios filed her Answer to the Amended Complaint with Counterclaim. A counterclaim is considered an original complaint and, as such, the attack on the title in a case originally for recovery of possession is not considered as a collateral attack on the title. *Development Bank of the Philippines v. Court of Appeals* enlightens: Nor is there any obstacle to the determination of the validity of TCT No. 10101.

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It is true that the indefeasibility of [T]orrens title cannot be collaterally attacked. In the instant case, the original complaint is for recovery of possession filed by petitioner against private respondent, not an original action filed by the latter to question the validity of TCT No. 10101 on which petitioner bases its right. To rule on the issue of validity in a case for recovery of possession is tantamount to a collateral attack. However, it should not [b]e overlooked that private respondent filed a counterclaim against petitioner, **claiming ownership** over the land and seeking damages. Hence, we could rule on the question of the validity of TCT No. 10101 for **the counterclaim can be considered a direct attack on the same**. 'A counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff . . . It stands on the same footing and is to be tested by the same rules as if it were an independent action.' x x x.

4. ID.; ID.; ID.; THE REGISTRATION OF A PROPERTY IN ONE'S NAME, WHETHER BY MISTAKE OR FRAUD, THE REAL OWNER BEING ANOTHER, IMPRESSES UPON THE TITLE SO ACQUIRED THE CHARACTER OF A CONSTRUCTIVE TRUST FOR THE REAL OWNER; CASE AT BAR.— The registration of a property in one's name, whether by mistake or fraud, the real owner being another, impresses upon the title so acquired the character of a *constructive trust* for the real owner. The person in whose name the land is registered holds it as a mere trustee, and the real owner is entitled to file an action for reconveyance of the property. The Torrens system does not protect a usurper from the true owner. Respondent Remedios having established that she has a better right to subject lot, petitioner must, by virtue of constructive trust, reconvey it to her.

APPEARANCES OF COUNSEL

Elpidio I. Digaum for petitioner.

D E C I S I O N

CARPIO MORALES, *J.*:

After the death of the Spouses Pablo Martinez and Gregoria Acevedo, owners of a three-hectare parcel of land situated in Tandag, Surigao del Sur, their two heirs-daughters Eustaquia Martinez (Eustaquia) and Martina Martinez (Martina) partitioned the property. To Eustaquia was allotted the *southwestern* portion, and to Martina the *northwestern* portion.[1]

Since 1946, Martina declared her share of the property in her name for taxation purposes.[2] After her death, her share was adjudicated to her daughter Petronila de Dios who resided there until her death on May 7, 1959 upon which her daughter–herein respondent Maria Remedios Rosil (Remedios) took over.[3]

Meanwhile, Eustaquia got married and bore three children, namely Ciriaco, Damaso and Valentina. Ciriaco filed an application for a free patent over his mother's (Eustaquia's) share of the property as well as that of Martina's which was granted, hence, he was issued on May 9, 1968, Original Certificate of Title (TCT) No. 5028 (OCT No. 5028) covering 2.9751 hectares.[4]

It appears that in 1971, Ciriaco started gathering the coconuts planted on Martina's share of the property, drawing Martina's granddaughter-herein respondent Remedios to file a complaint for recovery of possession against Ciriaco. The complaint was dismissed, however, for failure to state a cause of action.[5]

Upon Ciriaco's death, his heirs subdivided in 1974 the entire property into eight lots and caused the cancellation of OCT

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[1] Records, p. 87.

[2] *Id.* at 388-390; Exhibits "3", "4" and "5".

[3] *Id.* at 87-88.

[4] *Id.* at 203-204.

[5] *Id.* at 171; Exhibit "K"; Transcript of Stenographic Notes (TSN), August 13, 1996, pp. 5-6.

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No. 5028 upon which a new TCT No. T-2364 was on May 21, 1975[6] issued in their names.

Ciriaco's heirs sold to Vicente Luna, Jr. (petitioner) one of the lots, said to contain 480 sq.m., to "be taken from the northern part southward" via Deed of Absolute Sale of May 13, 1975[7] reading:

x x x x x x x x x

Portion of that land covered by Property Tax Declaration No. 16971, Original Certificate of Title No. 5208, Free Patent No. 401395, issued in the name of the deceased Ciriaco Quiñonez, father of the herein vendors. Which land according to [OCT No. 5208] contains an area of 29,751 square meters and according to Tax Declaration No. 16971 it contains an area of 37,700 square meters. **The portion of the abovementioned property which is the subject of this sale is only *four hundred eighty (480) square meters***. The entire above-mentioned land is more particularly described as follows:

North : Telaje river and Ignacio Falscon
East : Capitol road, Juanita Cañedo, Marcos Juarbal
South : Maria Luna and Galo Suarez
West : Miguel Dayao, Tandag river and fish pond

x x x x x x x x x

The portion subject of this sale shall be taken from the northern part southward with a measurement of forty (40) meters in length and twelve (12) meters in width. This sale includes all kinds of improvements or buildings found on the land and any other existing objects. x x x.

x x x (italics, emphasis and underscoring supplied)

It bears recalling that the *northwestern* portion of the entire property was, following its partition, allotted to Martina.

On March 10, 1993, the heirs of Ciriaco executed an Affidavit of Confirmation of Sale stating that the actual area of the lot sold

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[6] *Id.* at 206; Exhibit "E".

[7] *Id.* at 210; Exhibit "G" and Exhibit "9".

to petitioner was 557 square meters.[8] Eighteen years after the sale on May 13, 1975 of that lot now identified as Lot 3040-F (the subject lot), or on March 22, 1993, TCT No. T-5891 was issued in petitioner's name.[9] Thereafter or on July 27, 1993, petitioner declared the subject lot for taxation purposes.[10]

On October 6, 1993, petitioner, through his administrator and attorney-in-fact Antonio Martinez (Martinez), filed a complaint for recovery of possession against Pedro Belano (Belano) and herein respondents Nario Cabales (Cabales), Oscar Pabalan (Pabalan) and Jeremias Juarbal (Juarbal) before the Regional Trial Court of Surigao del Sur. More than two months later or on December 13, 1993, he amended the complaint to also implead as defendant respondent Remedios,[11] Martina's granddaughter.

Only Remedios filed an answer to the complaint. In her Answer to Amended Complaint with Counterclaim, Remedios asserted that she inherited the subject lot from her predecessors-in-interest on which she and her children were born and raised; and that Belano is her son-in-law while Cabales, Pabalan, and Juarbal are mere tenants.[12] As Counterclaim, Remedios alleged, among other things, the bases of her claim for damages and accordingly prayed for the dismissal of the complaint, award of damages and attorney's fees, and for such other reliefs and remedies as are deemed just and equitable in the premises.

By Decision[13] of September 29, 1997, the trial court rendered judgment in favor of petitioner and ordered Remedios to vacate the subject lot, holding that:

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[8] *Id.* at pp. 373, 442; Plaintiff's Formal Offer of Exhibits mentions an Exhibit "M" as the Affidavit of Confirmation while Defendant's Formal Offer of Exhibits mentions it as Exhibit "12".

[9] *Id.* at 212-213.

[10] *Id.* at 214.

[11] *Id.* at 20-24.

[12] *Id.* at 86-93.

[13] *Id.* at 540-554.

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x x x. To begin with, subject lot is registered in the name of [petitioner] and is covered by [TCT No. T-5891] (Exhibit "A"). It is a portion of a bigger parcel of land denominated as Lot No. 3040, Cad. 392-D, registered as early as July 1, 1968 in the name of Ciriaco Quiñonez who was issued [OCT No. 5028] (Exhibit "B"). x x x. Mother Lot No. 3040, Cad. 392-D was surveyed in the name of Ciriaco Quiñonez as early as August 18, 1966, during the Cadastral Survey of lands in Tandag, Surigao del Sur. On the other hand, Lot No. 3040-F was surveyed on December 3, 1974.

x x x x x x x x x

In the instant case, the Cadastral Survey was conducted in August, 1966 still. If as claimed by [respondent] she had been staying on subject land since birth, all her children were born there, and they never changed residence, in other words, they had continuously and uninterruptively [*sic*] stayed there, it is difficult to believe that she and/or her husband and children had not noticed and had no knowledge of the Cadastral Survey and, specifically, of the fact that the land she was occupying was included in the land surveyed in the name of Ciriaco Quiñonez and/or not to have filed her protest to the survey and/or laid claim over the land during investigation conducted by the Bureau of Lands of the Free Patent Application of said Ciriaco Quiñonez and/or not to have knowledge of the subdivision survey in December, 1974; but she had not, which fact supports [petitioner's] claim that [respondent] and her co-defendants occupied subject land after the same was purchased by petitioner in 1975, even if assuming that they had occupied it earlier than 1984. (underscoring supplied)

On appeal, the appellate court, by Decision[14] of March 28, 2006, *reversed and set aside* the decision of the trial court, it finding that OCT No. 5028 was procured by fraud and petitioner was not an innocent purchaser for value. Thus the appellate court expounded:

The records clearly show that the first title-holder Ciriaco Quiñones inherited the property from his mother, Eustaquia Quiñones. Eustaquia, together with her sister, Martina, inherited it from their father Pablo Martinez who was the original owner thereof. When Pablo Martinez died, Eustaquia and Martina partitioned the property equally, with

[14] Penned by Justice Teresita Dy-Liacco Flores with the concurrence of Justices Rodrigo F. Lim, Jr. and Ramon R. Garcia; CA *rollo*, pp. 169-192.

the northern half as Martina's share and the southern half as Eustaquia's share. Pursuant to said partition, **Martina declared her property for tax purposes in 1946 and regularly paid the land taxes thereof**. Surprisingly, Ciriaco, Eustaquia's son, had the entire property, including Martina's share, titled in his name. There is no way for Ciriaco to be deemed innocent about the equal sharing of the property between his mother and his aunt. Neither can he claim ignorance of his aunt's family's presence and actual possession under claim of ownership of the one-half northern portion. **In addition, that claim is documented by Martina's tax declaration.** The inclusion of his aunt's share when he caused the survey of the property was not accidental or innocent. Instead, it was deliberate and willful. Knowing that his mother's share of the property is only one half of it, then when he included his aunt's share of the property when he applied for his free patent title, the same was fraudulently done.

x x x x x x x x x

[Petitioner] cannot be considered an innocent purchaser for value because if indeed a survey was conducted when [petitioner] bought the subject property, as [petitioner's] witnesses claim, it would be **inconceivable for him not to have seen the houses** which [respondent] and her children had built on the subject property. [Respondent's] house on the area sold should have provoked [petitioner's] curiosity. The house had been there for a long time. If [petitioner] inspected the area before the sale, as every prudent buyer is wont to do, then he could not have missed seeing [respondent's] house which had been there all along. x x x. (emphasis and underscoring supplied)

The appellate court, noting that Remedios filed a Counterclaim, thus ordered the reconveyance of the subject lot by petitioner to respondent Remedios.

Although the initiatory complaint is denominated as one for "recovery of possession", a perusal of [respondent]'s answer shows that it interposes a counterclaim against [petitioner]. A **counterclaim** partakes of the nature of a complaint and/or cause of action against a plaintiff in a case such that the counterclaimant is the plaintiff in his counterclaim.

x x x x x x x x x

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While [respondent] does not specifically ask for the remedy of reconveyance but the above-quoted assertions coupled with **her prayer for "such other reliefs and remedies** prayed for as are deemed just and equitable in the premises," sufficiently empowers this Court, **acting a court of law and a court of equity, to order reconveyance** of title to [respondent] to forestall any further conflict in the future over the subject lot in question. The title of Luna, unless disabled, may eventually land in mischievous hands and start a new round of conflict in the future. To order the title to be reconveyed to [respondent] will put an effective block to such possible event.

x x x. (emphasis and underscoring supplied)

Thus the appellate court disposed:

WHEREFORE, premises considered, the instant Appeal is GRANTED. The assailed Decision of the court a quo is REVERSED. The ownership and possession of Remedios Rosil over the Lot No. 3040-F is upheld. The Register of Deeds of Tandag, Surigao del Sur is DIRECTED to **cancel TCT No. 5891 in the name of Atty. Vicente Luna [Jr.] and** in lieu thereof, to **issue a new transfer certificate of title over the subject lot in the name of Remedios Rosil**. (emphasis and underscoring supplied)

His motion for reconsideration having been denied, petitioner filed the present petition for review, faulting the appellate court for rendering a decision "not in accord with law and jurisprudence."[15]

To petitioner, the Torrens title issued in his name must prevail over the verbal claim of respondent Remedios that she acquired the subject lot through inheritance. He asserts that the tax declarations and tax receipts presented by Remedios are not conclusive proof of ownership, the best evidence being the Torrens title in his name.[16]

Moreover, petitioner disputes the appellate court's findings that he was not an innocent purchaser for value; that Remedios

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[15] *Rollo*, pp. 5-6.

[16] *Id.* at 8-10.

and her children were in actual possession of the subject lot; and that no cadastral survey thereof was conducted in 1968. To petitioner, these findings are negated by Remedios' admission that she filed a case against his predecessor-in-interest Ciriaco to recover possession of the subject lot. He adds that the presumption of regularity in the performance of official functions of the surveyor who conducted the cadastral survey was never rebutted during the trial. [17]

Finally, petitioner contends that the appellate court's order for reconveyance does not lie since a decree of registration is no longer open to review or attack after the lapse of one year, even if its issuance was attended by fraud, citing Section 32 of the Property Registration Decree.[18]

Respondent failed to file her comment to the petition despite opportunities given her.[19]

The Court finds the petition bereft of merit.

The Court appreciates no cogent reasons to disturb the findings of the appellate court that respondent is the lawful possessor of the lot in question and that petitioner was not a buyer in good faith.

Remedios has established that her grandmother Martina was the owner and possessor of the *northwestern* portion of the entire property as early as 1946 as evidenced by Tax Declaration Nos. 7161, 5900 and 175.[20] These tax declarations mention the name of Eustaquia, the predecessor-in-interest of Ciriaco, as the owner and possessor of the *southern* portion of the entire

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[17] *Id.* at 11-13.

[18] *Id.* at 13-14.

[19] By Compliance dated August 13, 2007, respondent alleged that her counsel of record Atty. Elias Irizari died and requested for an additional twenty (20) days to file her comment. By Resolution of December 10, 2007, the Court granted her request but respondent failed to file a comment within the extended period. By Resolution of November 10, 2008, the Court resolved that respondent was deemed to have waived the filing of comment.

[20] *Supra* note 2.

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property adjoining the *northwestern* portion thereof.[21] Such documentary evidence, coupled with the actual possession of Remedios, provides incontrovertible proof of possession in the concept of an owner which strengthens her *bona fide* claim of acquisition of ownership.[22]

On the other hand, the testimony of petitioner's witness attorney-in-fact Martinez to the effect that he did not see any occupants in the subject lot merits scant consideration. As the appellate court observed, the witness could not even cite dates of the events he was testifying on, and even gave conflicting statements on material points.[23] Petitioner, who was noted by the appellate court to be "the proper person to prove that he is a buyer in good faith and an innocent purchaser for value," chose not to take the witness stand.

While every person dealing with registered land can safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go beyond the certificate to determine the condition of the property,[24] one will not be permitted to benefit from this general rule if there exist important

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[21] The property is surrounded in the north by the "Telahe [R]iver & E. Falcon; east by a "swamp; and west by "Daniel Martinez."

[22] *Republic v. Candy Maker Inc*., G.R. No. 163766, June 22, 2006, 492 SCRA 272, 296.

[23] The CA enumerated the inconsistencies as follows: "1. He allegedly saw the TCT in the name of the heirs on the date of purchase, 13 May 1975, because he was an instrumental witness thereof. But the TCT itself indicates that it was issued on 21 May 1975. Witness could not explain the discrepancy; 2. He claimed that [petitioner] left a written instruction for him to administer the property in 1977. Upon clarification, he admitted that the instruction was merely verbal[;] 3. Although he was appointed as administrator of the subject property, he failed to perform his duties as such: he rarely visited the property and when he [did], he never entered it and merely checked it from afar; he did not plant nor harvest the fruits [thereon]; he [did] not render an accounting to [petitioner]; he did not even personally realize that [respondent and her children] had 'entered' into the property until a certain Angel reported the same to him; 4. He [claimed] that defendants Nario Cabales, Jeremias Juarbal, and Oscar Pabalan entered the property in 1992 and built their houses therein in but in truth the three were merely renting the houses constructed by [respondent] and her children."

[24] *Heirs of Tajonera v. Court of Appeals*, 191 Phil. 55, 63 (1981).

facts which create suspicion to call for an investigation of the real condition of the land. One who deliberately ignores a significant fact which would naturally generate wariness is not an innocent purchaser for value.[25]

Recall that the lot was registered in petitioner's name in 1993 or 18 years after its sale in 1975. Yet even before the issuance of a certificate of title in his name, petitioner was made aware by his attorney-in-fact-purported property administrator-witness Martinez that respondent and other persons were in actual possession of the subject lot as early as 1984.

Q. What happened to the land in question in **1984**?

A. Two families entered the land in question.

Q. Who are these two families you mentioned?

A. [Respondent] and Pedro Belano.

Q. Did they ask permission as an administrator of this land?

A. No, sir.

x x x x x x x x x

Q. After Pedro Belano and [respondent] continued or they did not heed your plea not to build a house, what did they do?

A. **I informed [petitioner] that there are persons who entered in [*sic*] the land and erected a house.**

Q. **Where was [petitioner] at that time?**

A. **In Manila, sir.**

Q. Do you recall if [petitioner] made any action after you informed him that there are two people or families who entered in this land and erected a house?

A. I know, sir.

Q. **What did [petitioner] do?**

A. **[He] talked to these people.**

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[25] *Development Bank of the Philippines v. Court of Appeals*, 387 Phil. 283, 303 (2000).

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Q. **What happened after [he] talked to these people?**

A. **They did not heed.**

Q. In 1992, Mr. Martinez, as administrator of the same land, do you recall what happened to the land in question?

x x x x x x x x x

A. In **1992**, there were three families again who entered in the land.

x x x x x x x x x

Q. What did [petitioner], if you know, after you informed him that another group of three families entered and constructed their houses inside his lot?

A. **[Petitioner] called them and told them not to erect a house there** because that is his land.

Q. Did these people heed the advice of [petitioner]?

A. No, sir.[26] (emphasis and underscoring supplied)

As reflected earlier, petitioner did not take the witness stand. Why he never bothered to inquire from Ciriaco's heirs or from respondent herself whatever interest she had in the subject lot, despite the telling circumstances, does not speak well of his cause.

Glaringly noticeable is a lack of showing that petitioner inspected the subject lot before, during and after the sale in 1975. It surfaces that it was only in 1984, when respondent Remedios allegedly entered the subject lot to construct a house thereon, that petitioner, following his witness' account, became aware of Remedios' possession thereof.

Aside from the testimony of Martinez then, which is too simplistic to be believed, petitioner failed to proffer evidence to show that he was a purchaser in good faith. While he presented a tax declaration over the subject lot under his name,[27] he paid

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[26] TSN, February 16, 1996, pp. 12-15.

[27] Records, p. 214; Exhibit "J" and Exhibit "8" as common exhibit for the parties.

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the real property taxes thereon only on July 27, 1993 or 18 years after he bought it.

More. Petitioner amended his complaint to implead Remedios as a defendant.[28] If indeed he had met with her as early as 1984, as testified on by his attorney-in-fact Martinez, he could have, at the time he filed the original complaint on October 6, 1993, readily identified her as one of the occupants of the subject lot and at once named her a defendant. His subsequent amendment of his complaint on December 13, 1993[29] betrays, as it contradicts, Martinez's testimony and reinforces the belief that petitioner had not been to the subject lot.

And the Affidavit of Confirmation of Sale executed in 1993 states that the subject lot contains a total area of 557 square meters, whereas the 1975 Deed of Sale[30] states that it contains 480 square meters. No explanation for the discrepancy was even proffered.

Respecting petitioner's assertion that respondent Remedios' filing in 1971 of a complaint to recover possession of subject lot against Ciriaco shows that she was not in actual possession thereof at the time, the same does not impress. For there is no showing that the action involved the same lot as the subject lot. In any event, that action only serves to reinforce Remedios' assertion that she has been the lawful possessor of the subject lot, whether in the concept of owner or holder.

On the issue of whether the appellate court's order of reconveyance is in order, petitioner's disputations are without merit.

As reflected above, Remedios filed her Answer to the Amended Complaint with Counterclaim. A counterclaim is considered an original complaint and, as such, the attack on the title in a case

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[28] *Vide*: Records, pp. 32-36.

[29] *Ibid.*

[30] Neither the Ciriaco heirs as vendors and petitioner as vendee explained such discrepancy.

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originally for recovery of possession is not considered as a collateral attack on the title. *Development Bank of the Philippines v. Court of Appeals*[31] enlightens:

> Nor is there any obstacle to the determination of the validity of TCT No. 10101. It is true that the indefeasibility of [T]orrens title cannot be collaterally attacked. In the instant case, the original complaint is for recovery of possession filed by petitioner against private respondent, not an original action filed by the latter to question the validity of TCT No. 10101 on which petitioner bases its right. To rule on the issue of validity in a case for recovery of possession is tantamount to a collateral attack. However, it should not [b]e overlooked that private respondent filed a counterclaim against petitioner, **claiming ownership** over the land and seeking damages. Hence, we could rule on the question of the validity of TCT No. 10101 for **the counterclaim can be considered a direct attack on the same**. 'A counterclaim is considered a complaint, only this time, it is the original defendant who becomes the plaintiff . . . It stands on the same footing and is to be tested by the same rules as if it were an independent action.' x x x. (emphasis and underscoring supplied)

The registration of a property in one's name, whether by mistake or fraud, the real owner being another, impresses upon the title so acquired the character of a *constructive trust* for the real owner.[32] The person in whose name the land is registered holds it as a mere trustee, and the real owner is entitled to file an action for reconveyance of the property.[33] The Torrens system does not protect a usurper from the true owner.[34]

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[31] *Development Bank of the Phils. v. Court of Appeals*, *supra* note 25 at 300.

[32] Article 1456 of the Civil Code states: "If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes."

[33] *Mendizabel v. Apao*, G.R. No. 143185, 482 SCRA 587, 607 (2006) citing *Bustarga v. Navo II*, 214 Phil. 86, 89 (1984).

[34] *Ringor v. Ringor*, 480 Phil. 141, 161 (2004).

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Respondent Remedios having established that she has a better right to subject lot, petitioner must, by virtue of constructive trust, reconvey it to her.

WHEREFORE, in light of the foregoing discussions, the petition is *DENIED.*

Costs against petitioner.

SO ORDERED.

Puno, C.J. (Chairperson), Leonardo-de Castro, Bersamin, and *Villarama, Jr., JJ.,* concur.

FIRST DIVISION

[G.R. No. 179356. December 14, 2009]

KEPCO PHILIPPINES CORPORATION, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. TAXATION; REVENUE REGULATIONS NO. 7-95; CAPITAL GOODS; PURCHASES OF DOMESTIC GOODS AND SERVICES, WHEN CONSIDERED AS "CAPITAL GOODS OR PROPERTIES"; CASE AT BAR.— For petitioner's purchases of domestic goods and services to be considered as "capital goods or properties," three requisites must concur. *First*, useful life of goods or properties must exceed one year; *second*, said goods or properties are treated as depreciable assets under Section 34 (f) and; *third*, goods or properties must be used directly or indirectly in the production or sale of taxable goods and services. From petitioner's evidence, the account vouchers specifically indicate that the disallowed purchases were recorded under inventory accounts, instead of depreciable