

VICTOR BENIN, ET AL., PLAINTIFFS-APPELLEES, VS. MARIANO SEVERO TUASON Y DE LA PAZ, ET AL., DEFENDANTS, J. M. TUASON & CO., INC., DEFENDANT-APPELLANT.

G.R. No. L-26127. June 28, 1974

Ponente: ZALDIVAR, J.

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ZALDIVAR, J.:

Appeal from the decision, dated January 18, 1965, of the Court of First Instance of Rizal, the Hon. Judge Eulogio Mencias, presiding, in Civil Cases Nos. 3621, 3622, and 3623.[1]

On May 19, 1955 three sets of plaintiffs filed three separate complaints containing substantially the same allegations.[2]

In Civil Case No. 3621, the plaintiffs alleged that they were the owners and possessors of three parcels of agricultural lands, described in paragraph V of the complaint, located in the barrio of La Loma (now barrio of San Jose) in the municipality (now city) of Caloocan, province of Rizal, having an aggregate area of approximately 278,928 square meters; that they inherited said parcels of land from their ancestor Sixto Benin, who in turn inherited the same from his father, Eugenio Benin; that they and their predecessors in interest had possessed these three parcels of land openly, adversely, and peacefully, cultivated the same and exclusively enjoyed the fruits harvested therefrom; that Eugenio Benin, plaintiffs' grandfather, had said parcels of land surveyed on March 4, and 6, 1894; that during the cadastral survey by the Bureau of Lands of the lands in barrio San Jose in 1933 Sixto Benin and herein plaintiffs registered their claims of ownership over said parcels of land; that they declared said lands for taxation purposes in 1940 under Tax Declaration No. 2429; that after the outbreak of the last World War, or sometime in 1942 and subsequently thereafter, evacuees from Manila and other places, after having secured the permission of plaintiffs, constructed their houses thereon and paid monthly rentals to plaintiffs.

In Civil Case No. 3622 the plaintiffs alleged that they were the owners and possessors of two parcels of agricultural land, described in Paragraph V of the complaint, located in the Barrio of La Loma (now Barrio San Jose) in the municipality of Caloocan, province of Rizal, having an aggregate area of approximately 148,118 square meters; that these parcels of land were inherited by them from their deceased father Bonoso Alcantara, who in turn inherited the same from his father, Juan Alcantara; that plaintiffs Juan Alcantara and Jose Alcantara were the children of Bonoso Alcantara; that these two brothers inherited the land from their father, and they and their predecessors in interest had been in open, adverse and continuous possession of the same, planting therein palay and other agricultural products and exclusively enjoying said products; that on March 28, 1894 plaintiffs' grandfather, Juan Alcantara, had said lands surveyed; that during the cadastral survey by the Bureau of Lands of the lands in Barrio San Jose in 1933 Bonoso Alcantara and the plaintiffs filed and registered their claims of ownership over said lands; that plaintiffs had said lands declared for taxation purposes under Tax Declaration No. 2390, of Quezon City; that after the outbreak of the last World War, or sometime in 1942 and subsequently thereafter, evacuees from Manila and other places, after having secured permission from plaintiffs, settled and

constructed their houses on said lands and plaintiffs collected monthly rentals from them.

In Civil Case No. 3623, plaintiffs alleged that they are the owners and possessors of a parcel of agricultural land located in the Barrio of La Loma (now San Jose), municipality of Caloocan, province of Rizal, having an area of approximately 62,481 square meters; that this parcel of land was inherited by plaintiffs from their ancestor Candido Pili who in turn inherited the same from his parents; that Candido Pili and his predecessors in interest owned, possessed, occupied and cultivated the said parcel of land from time immemorial; that upon the death of Candido Pili his children Luisa Pili, Pascual Pili, Diego Pili and Manuel Pili succeeded to the ownership and possession and cultivation of said land; that plaintiffs and their predecessors in interest, as owners and possessors of said land, had openly, adversely and continuously cultivated the land, planting thereon palay and other agricultural products and enjoying exclusively the products harvested therefrom; that during his lifetime, Candido Pili ordered the survey of said land sometime on March 11, 1894, and when the cadastral survey of said land was conducted by the Bureau of Lands in 1933 Candido Pili and plaintiffs filed and registered their claim of ownership over the said parcel of land; that plaintiffs had the land declared for taxation purposes under Tax Declaration No. 2597, Quezon City, Philippines; that after the outbreak of the last World War, or sometime in 1942 and subsequently thereafter, evacuees from Manila and other places, after securing permission from plaintiffs, settled and constructed their houses in said land and plaintiffs collected monthly rentals from their lessees or tenants.

The plaintiffs in these three civil cases uniformly alleged, in their respective complaint, that sometime in the year 1951 while they were enjoying the peaceful possession of their lands, the defendants, particularly the defendant J.M. Tuason and Co. Inc., through their agents and representatives, with the aid of armed men, by force and intimidation, using bulldozers and other demolishing equipment, illegally entered and started defacing, demolishing and destroying the dwellings and construction of plaintiffs' lessees, as well as the improvements consisting of rice paddies (pilapiles), bamboos and fruit trees, and permanent improvements such as old roads, old bridges and other permanent landmarks within and outside the lands in question, disregarding the objections of plaintiffs, and as a result plaintiffs were deprived of the rentals received from their lessees; that plaintiffs made inquiries regarding the probable claim of defendants, and in 1953 they discovered for the first time that their lands, as described in their respective complaint, had either been fraudulently or erroneously included, by direct or constructive fraud, in what appears as Parcel No. 1 (known as Santa Mesa Estate) in Original Certificate of Title No. 735 of the Land Records of the province of Rizal in the names of the original applicants for registration, now defendants, Mariano Severno Tuason y de la Paz, Teresa Eriberta Tuason y de la Paz, Juan Jose Tuason y de la Paz, Demetrio Asuncion Tuason y de la Paz, and Augusto Huberto Tuason y de la Paz.

The plaintiffs in each of the three complaints also alleged that the registered owners mentioned in Original Certificate of Title No. 735 had applied for the registration of two parcels of land (known as the Santa Mesa Estate and the Diliman Estate), located in the municipalities of Caloocan and San Juan del Monte, province of Rizal, of which parcel No. 1 (Santa Mesa Estate) contained an area of 8,798,617 square meters; that the registration proceedings were docketed as LRC No. 7681 of the Court of Land Registration; that the application for registration in LRC No. 7681, containing the boundaries, technical descriptions and areas of parcel No. 1 (Santa Mesa Estate) and parcel No. 2 (Diliman Estate) was published in the Official Gazette; that before the decision was handed down in LRC No. 7681, the area, boundaries and technical descriptions of parcel No. 1 were altered and amended; that the amendments and alterations, which were made after the publication of the original application, were never published; that on March 7, 1914 a decision was rendered in LRC No. 7681 based on the amended plan; that pursuant to the decision of March 7, 1914 a decree of registration was issued on July 6, 1914, known as Decree No. 17431, decreeing the registration in the names of the applicants of the two parcels of land (Santa Mesa Estate and Diliman Estate); that the decision dated March 7, 1914 in LRC No. 7681 is null and void

because the Land Registration Court had no jurisdiction to render the decision for lack of publication; that Decree No. 17431 issued pursuant to the decision of March 7, 1914 in LRC No. 7681 is likewise null and void from the beginning, because it was issued pursuant to a void decision and because the boundaries, technical descriptions and areas appearing in the decree are different and not identical with the boundaries, technical descriptions and areas in the application for registration as published in the Official Gazette; that the area of parcel No. 1 as mentioned in Decree No. 17431 is bigger than the area of parcel No. 1 appearing in the application for registration as published in the Official Gazette; that Original Certificate of Title No. 735, referring to parcel 1 (Santa Mesa Estate), is also null and void from the beginning because it was issued pursuant to a void decree of registration; that the area, boundaries and technical description of Parcel No. 1 appearing in Decree of Registration No. 17431 and in the Original Certificate of Title No. 735 are different from the area, boundaries and technical description appearing in the application for registration as published in the Official Gazette; that the plaintiffs had not been notified of the proceedings in LRC No. 7681 although the applicants knew, or could have known, by the exercise of necessary diligence, the names and addresses of the plaintiffs and their predecessors in interest who were then, and up to the time the complaints were filed, in possession and were cultivating the lands described in paragraph V of their respective complaint; and that during, before, and even after the issuance of Original Certificate of Title No. 735 the defendants had tacitly recognized the ownership of the plaintiffs over their respective lands because said defendants had never disturbed the possession and cultivation of the lands by the plaintiffs until the year 1951; and that all transfer certificates of title issued subsequently, based on Original Certificate of Title No. 735, are also null and void.[3]

The plaintiffs in each of the three cases prayed the court: (1) to declare them owners and entitled to the possession of the parcel, or parcels, of land described in their respective complaint, as the case may be; (2) to revoke the decision of the Court of Land Registration, dated March 7, 1914 in LRC No. 7681, and to declare Decree No. 17431, dated July 6, 1914 null and void from the beginning with respect to Parcel No. 1 (Santa Mesa Estate) in Original Certificate of Title No. 735 which include the lands of the plaintiffs; (3) to declare Original Certificate of Title No. 735, particularly as it refers to Parcel No. 1 (Santa Mesa Estate) also null and void; (4) to declare null and void all transfer certificates of titles issued by the Register of Deeds of Rizal and of Quezon City subsequent to, and based on, Original Certificate of Title No. 735; (5) to order the defendants, in the event Original Certificate of Title No. 735 is declared valid, to reconvey and transfer title over the land described in their respective complaint in favor of the plaintiffs in each case, as the case may be; (6) to order the defendants to pay the plaintiffs the market value of the lands in question in case of defendants' inability to reconvey the same; (7) to order the defendants to pay damages to the plaintiffs; (8) to issue a writ of preliminary injunction against the defendants, their lawyers, their agents and representatives from disturbing the ownership and possession of the plaintiffs during the pendency of these cases.

The plaintiffs, in the three cases, were allowed by the trial court to litigate as paupers.

Only defendant J.M. Tuason & Co., Inc. was actually served with summons. The other defendants were ordered summoned by publication in accordance with Sections 16 and 17 of the Rules of Court. Only defendant J.M. Tuason & Co., Inc. appeared. The other defendants were all declared in default.

On June 23, 1955 defendant J.M. Tuason & Co., Inc. filed a motion to dismiss in each of the three cases. This motion to dismiss was denied by the trial court on July 20, 1955.

On July 18, 1955 the trial court issued an order granting the writ of preliminary injunction prayed for by the plaintiffs in their complaints. The preliminary injunction, however, was lifted by order of the trial court on October 3, 1955, upon the posting by defendant J.M. Tuason & Co., Inc. of bonds in the total amount of P14,000.00 pursuant to the order of the court of September 26, 1955.

On August 11, 1955 defendant J.M. Tuason & Co., Inc. filed in the three cases a motion for reconsideration of the order of July 20, 1955 denying the motion to dismiss. This motion for reconsideration was denied by order of the court of September 26, 1955.

On November 29, 1955 defendant J. M. Tuason & Co., Inc. filed an answer in each of the three cases. In its answer, this defendant, among others, specifically denied plaintiffs' claim of ownership of the lands involved in each case. The answer contains special and affirmative defenses, to wit: (1) that the plaintiffs' cause of action is barred by prior judgment and res judicata in view of the judgment of the Court of First Instance of Rizal in its Civil Case No. Q-156 which was subsequently elevated to the Supreme Court as G. R. No. L-4998, in which latter case the Supreme Court affirmed in toto the order of the lower court dismissing the case; (2) that the complaints failed to state facts sufficient to constitute a cause of action against the defendants; (3) that the plaintiffs' action, assuming that their complaints state sufficient cause of action, had prescribed either under Act No. 496 or under statutes governing prescription of action; (4) that defendant J. M. Tuason & Co., Inc. is a buyer in good faith and for valuable consideration of the parcels of land involved in the three cases; (5) that the registration proceedings had in LRC No. 7681 instituted by the defendant's predecessors in interest was in accordance with law, and the requirements for a valid registration of title were complied with. By way of counterclaim the defendant prayed that the plaintiffs be ordered to pay damages as therein specified.

The plaintiffs, amended their complaints in the three cases, by including additional parties as plaintiffs, and the amended complaints were admitted by the trial court. The defendant, J. M. Tuason & Co., Inc., filed a manifestation that it was reproducing and realleging its answers to the original complaints as its answers to the amended complaints in view of the fact that the amendments to the complaints consist merely in the inclusion of additional indispensable as well as necessary parties-plaintiffs.[4]

On June 7, 1962, after the plaintiffs had presented their evidence, defendant J. M. Tuason & Co., Inc. presented a motion to dismiss the cases upon the grounds that (1) the actions were barred by the statute of limitations; (2) that the actions were barred by a prior judgment; and (3) that plaintiffs had not presented any evidence to prove their claim of ownership. The defendant later filed a motion to withdraw the third ground of its motion to dismiss. The plaintiffs filed their opposition to the motion to dismiss, as well as to the motion of defendant to withdraw its third ground to dismiss. The trial court, in an order dated December 3, 1962, granted defendant's motion to withdraw the third ground of its motion to dismiss but denied the motion to dismiss.[5]

After trial, on January 18, 1965, the lower court rendered a decision for the three cases, the dispositive portion of which reads as follows:

"WHEREFORE, IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered in favor of the Plaintiffs and against the Defendants as follows:

"A - Declaring that the decision, the decree and the title issued in LRC No. 7681, are null and void, ab initio, and of no effect whatsoever;

"B - Declaring that Original Certificate of Title No. 735 found on page 136 Vol. A-7 of the Registration Book of Rizal is null and void from the very beginning (and) of no effect whatsoever;

"C - Declaring that all Transfer Certificates of Title emanating or allegedly derived from Original Certificate of Title No. 735 of the Province of Rizal are likewise null and void;

"D - Declaring that the plaintiffs in Civil Cases Nos. 3621, 3622 and 3623 are the owners and entitled to the possession of the parcels of land claimed and described in paragraph V of their respective complaints;

"E - Ordering the defendants and all persons claiming under them to vacate and restore to the plaintiffs the

possession of the parcels of land described in paragraph V of the complaint in Civil Case No. 3621 and indicated as Parcel A, Parcel B and Parcel C, in SWO-40187 (Exh. "UU" and Exh. "VV");

"F - Ordering the defendants and all persons claiming under them to vacate and restore to the plaintiffs the possession of the parcels of land described in paragraph V of the complaint, in Civil Case No. 3622 and indicated as Parcel D and Parcel F in SWO-40187 (Exh. "UU" and Exh. "VV");

"G - Ordering the Defendants and all persons claiming under them to vacate and restore to the plaintiffs the possession of the parcels of land described in paragraph V of the complaint in Civil Case No. 3623 and indicated as Parcel E, in SWO-491187 (Exh. "UU" and Exh. "VV");

"H - Ordering the defendants to pay to plaintiffs in Civil Case No. 3621 the sum of P600.00 a month as actual damages for uncollected rentals from 1951 until such possession is restored to them;

"I - Ordering the defendants to pay the plaintiffs in Civil Case No. 3622 the sum of P600.00 a month, as actual damages for uncollected rentals from 1951 until such possession is restored to them;

"J - Ordering the defendants to pay the plaintiffs in Civil Case No. 3623 the sum of P150.00 a month as actual damages for uncollected rentals from 1951 until such possession is restored to them;

"K - Ordering the defendants to pay the costs;

"L - The defendants' counterclaim is hereby declared dismissed for lack of merit."[6]

A motion for new trial was filed by defendant J. M. Tuason & Co., Inc. on January 30, 1965. However, before the motion for new trial was resolved by the court, said defendant, on February 11, 1965, filed a notice of appeal to this Court and an appeal bond, and on February 12, 1965 he filed the record on appeal.[7] The record on appeal, after it had been corrected and amended, as ordered and/or authorized by the trial court, was approved on September 29, 1965.[8]

Appellant J. M. Tuason & Co. Inc., in this appeal, contends that the trial court committed the following errors:

I. The lower court erred in holding that the Land Registration Court in GLRO No. 7681 lacked or was without jurisdiction to issue decree No. 17431 for the alleged reason that:

- (1) The amendment to the original plan was not published;
- (2) The description of Parcel 1 in the decree is not identical with the description of Parcel 1 as applied for and as published in the Official Gazette;
- (3) Parcel 1 as decreed is bigger in area than Parcel 1 as applied for;
- (4) A. Bonifacio Road is the only boundary on the West of Parcel 1.

II. The trial court erred in finding that the transcription of the decree No. 17431 was not in accordance with the law and that, therefore, said OCT 735 was a complete nullity and the land remains un-registered.

III. The trial court erred in taking cognizance of these cases despite its lack of jurisdiction to hear and decide the same.

IV. The trial court erred in not dis-missing these cases on the grounds of pres-cription and laches, and in denying the motions to dismiss filed on said grounds.

V. The trial court erred in not dis-missing these cases on the ground of res judicata and in denying the motion to dis-miss filed on said ground.

VI. The trial court erred in declaring null and void all certificates of title emanating from OCT 735.

VII. The trial court erred in holding that J. M. Tuason & Co., Inc. is not a purchaser in good faith and for value.

VIII. The trial court erred in awarding ownership of the lands claimed by, and in awarding damages to, the appellees.

IX. The trial court erred in denying and in dismissing appellant's counterclaim and in sentencing appellant to pay the costs of these suits.

As stated by the trial court in its decision, "These cases involve the validity of the decision and the decree issued in LRC No. 7681 resulting in the issuance of Original Certificate of Title No. 735, and the ownership and possession of several parcels of land, claimed by the plaintiffs in their respective complaints"

The lower court, summarizing its findings, among others, concluded that: (1) the decision and the decree in LRC No. 7681 are null and void ab initio, having been rendered by a court without jurisdiction; (2) Original Certificate of Title No. 735 issued pursuant to the decree in LRC No. 7681 is null and void, having been issued pursuant to a void decree; (3) Original Certificate of Title No. 735 is null and void because the Decree No. 17431 in LRC No. 7681, assuming the decree to be valid, had not been inscribed in accordance with the provisions of Section 41 of Act 496; (4) all Transfer Certificates of Title allegedly emanating and derived from the void Original Certificate of Title No. 735 are likewise null and void; and (5) the plaintiffs in these three civil cases are the owners and entitled to the possession of the parcels of land described in their respective complaints.

We have carefully examined and studied the voluminous records, and the numerous documentary evidence, of these three cases, and We find that the conclusions of the trial court are not supported by the evidence and the applicable decisions of this Court.

The Original Certificate of Title No. 735 that had been declared null and void ab initio by the trial court covers two big parcels of land, mentioned in said title as Parcel 1, having an area of 8,778,644.10 square meters more or less, known as the Santa Mesa Estate; and Parcel 2, having an area of 15,961,246 square meters more or less, known as the Diliman Estate. The three parcels of land involved in Civil Case No. 3621, having an aggregate area of 278,853 square meters, more or less; the two parcels of land involved in Civil Case No. 3622 having an aggregate area of 154,119.7 square meters, more or less; and the one parcel of land involved in Civil Case No. 3623, having an area of 62,481 square meters, more or less, are all included in the area of Parcel 1.[9] The trial court, in its decision, states that the identity of the parcels of land claimed by the plaintiffs is not disputed, and that both the plaintiffs and the defendant admit that the parcels of land litigated are found within the boundaries of the present Sta. Mesa Heights Subdivision (Parcel 1) covered by Original Certificate of Title No. 735.[10] It is shown in the survey plans, presented by both the plaintiffs and the defendant, that the six parcels of lands involved in these three cases are located at the northwestern portion of Parcel 1. (Exhs. UU, VV; and Exh. 29).

The records show, and it is established by the evidence, that sometime in 1911 Mariano Severo Tuason y de la Paz, Teresa Eriberta Tuason y de la Paz, Juan Jose Tuason y de la Paz, Demetrio Asuncion Tuason y de la Paz, and Augusto Huberto Tuason y de la Paz, filed with the Court of Land Registration an application for the registration of their title over two parcels of land, designated in the survey plans accompanying the application as Parcel 1 with an area of 8,798,617 square meters, and Parcel 2 with an area of 16,254,037 square meters. The application was docketed as LRC No. 7681. There was another application covering three other parcels of land, docketed as LRC No. 7680. The application in LRC No. 7681 was set for hearing on November 20, 1911 (Exh. X). The application and the notice of hearing, containing the technical descriptions of the two parcels of land applied for, were published in the issue of the Official Gazette of October 25, 1911 (Exh. YY). On November 20, 1911 the Court of Land Registration issued an order of general default against the whole world except the

Insular Government, the Director of Lands and the municipalities of Caloocan and San Juan del Monte (Exh. 28). On December 23, 1911 the court issued an order authorizing the amendment of the plan in LRC No. 7681 (Exh. 23). On November 11, 1913 the applicants and the Government entered into an agreement whereby the Government agreed to withdraw its opposition to the application for registration of title over the portion known as Hacienda Diliman (Parcel 2) on condition that the roads existing on said tract of land be allowed to remain, and it was further agreed "that the issuance of the title to applicants shall be made subject to all the exceptions established by Section 39 of Act 496 as amended by Section 1 of Act 2011" (Exh. 21). On December 29, 1913 the Court of Land Registration rendered a decision (Exh. 24) in both LRC No. 7680 and LRC No. 7681 which, among others, stated that during the registration proceedings the plans accompanying the two applications were amended in order to exclude certain areas that were the subject of opposition, that the order of general default was confirmed, that the Chief of the Surveyor's Division of the Court of Land Re-registration was ordered to submit a report as to whether or not the new (amended) plans had included lands which were not covered by the original plans, and whether or not the new plans had excluded the lands that had already been covered by the decree in LRC No. 3563. The decision further stated that in the event that the new plans did not include new parcels of land and that the lands that were the subject of the proceedings in LRC No. 3563 had been excluded, an additional decision would be made decreeing the adjudication and registration of the lands that were the subject of the registration proceedings in favor of the applicants, as follows: To Mariano Severo Tuason y de la Paz, two sixths (2/6) undivided portion; to Teresa Eriberta Tuason y de la Paz, one sixth (1/6) undivided portion; to Juan Jose Tuason y de la Paz, one sixth (1/6) undivided portion; to Demetrio Asuncion Tuason y de la Paz, one sixth (1/6) undivided portion; and to Augusto Huberto Tuason y de la Paz, one sixth (1/6) undivided portion.

In compliance with the order contained in the decision of December 29, 1913, the Chief of the Survey Division of the Court of Land Registration, on January 24, 1914, submitted a report (Exh. 22) to the court which, among others, stated that the new plan of Parcel 1 in LRC No. 7681 did not include any land that had not been previously included in the original plan.

On March 7, 1914 the Court of Land Registration rendered a supplemental decision in LRC No. 7681 (Exh. Z, or Exh. 24-A) definitely declaring that, on the basis of the decision of December 29, 1913 and of the report of the Surveyor of the Court of Land Registration, the applicants Mariano Severo Tuason y de la Paz and others were the owners of the land applied for, as described in the amended plan, in the proportion mentioned in the decision, and ordering that the land applied for be registered in the names of the applicants and that a decree of registration be issued in accordance with the decision and the amended plan. On March 27, 1914 the Chief of the Survey Division addressed a communication to the registration court, in connection with LRC No. 7681, suggesting that the decision of the court of March 7, 1914 be modified such that the decree of registration be based upon the original plan as published and not upon the amended plan (Exh. Z-3). The Court of Land Registration did not follow the recommendation of the Chief of the Survey Division. On July 6, 1914 Decree of Registration No. 17431 was issued by the Chief of the General Land Registration Office pursuant to the decision of the Court of Land Registration of March 7, 1914 in LRC No. 7681. The decree contains the technical description of the two parcels of land in accordance with the plan as amended. It appears in the decree that Parcel 1 has an area of 8,798,644.10 square meters, more or less, or an increase of 27.10 square meters over the area of 8,798,617 square meters that was stated in the application for registration and in the notice of hearing which were published in the Official Gazette of October 25, 1911; and that Parcel 2 has an area of 15,961,246 square meters, more or less, or a decrease of 292,791 square meters from the area of 16,254,037 square meters that was stated in the application and in the notice of hearing that were published in the Official Gazette (Exhs. 25 and YY). All in all, there is a decrease of 292,763.90 square meters in the aggregate area of the two parcels of land sought to be registered.

Subsequently, on July 8, 1914, the Register of Deeds of the province of Rizal issued Original Certificate of Title

No. 735 in the names of the applicants, Mariano Severo Tuason y de la Paz, Teresa Eriberta Tuason y de la Paz, Juan Jose Tuason y de la Paz, Demetrio Asuncion Tuason y de la Paz, and Augusto Huberto Tuason y de la Paz (Exh. 30).

1. We shall now deal with the first error assigned by the appellant.

The lower court declared Original Certificate of Title No. 735 null and void ab initio because, according to said court, that title was based on Decree of Registration No. 17431 in LRC No. 7681 that was null and void, said decree having been issued pursuant to a decision of the Court of Land Registration in LRC No. 7681 which had no jurisdiction to render said decision.

As We have adverted to, Original Certificate of Title No. 735 covers two big parcels of land: Parcel 1, known as the Santa Mesa Estate, and Parcel 2, known as the Diliman Estate. The records show that these two parcels of land had been subdivided into numerous lots, and most of those lots had been sold to numerous parties -- Parcel 1 having been converted into a subdivision known as the Santa Mesa Heights Subdivision, and the lots had been sold to private individuals and entities, such that in that subdivision now are located the National Orthopedic Hospital, the station of Pangasinan Transportation Co. (Pantranco), Sto. Domingo Church, Lourdes Church and others. Necessarily, as a result of the sales of the lots into which Parcel 1 was subdivided, transfer certificates of title were issued to the purchasers of the lots, and these transfer certificates of title were based upon transfer certificates of title that emanated from Original Certificate of Title No. 735. The trial court declared null and void all transfer certificates of title emanating, or derived, from Original Certificate of Title No. 735.

The decision of the trial court declaring null and void ab initio Original Certificate of Title No. 735 would invalidate the title over the entire area included in Parcel 1 -- which admittedly includes the six parcels of land claimed by the plaintiffs -- and also the title over the entire area included in Parcel 2. Let it be noted that Parcel 1 has an area of 8,798,644.10 square meters, more or less, and Parcel 2 has an area of 15,961,246 square meters, more or less; while the six parcels of land claimed by the plaintiffs have an aggregate area of only 495,453.7 square meters, more or less. In other words, the area of the six parcels of land claimed by the plaintiffs is only a little over two per cent (2%) of the aggregate area of Parcel 1 and Parcel 2. But the decision of the trial court nullified Original Certificate of Title No. 735, without any qualification.

The trial court held that the Court of Land Registration had no jurisdiction to render the decision in LRC No. 7681 because during the registration proceedings, after the original application and notice of hearing had been duly published, the plan of Parcel 1 was amended and no publication regarding the amended plan was made. The trial court pointed out that the area and the description of Parcel 1 in Decree of Registration No. 17431 are not identical with the area and description of Parcel 1 applied for and published in the Official Gazette. The trial court stressed on the point that publication is one of the essential bases of the jurisdiction of the court to hear and decide an application for registration and to order the issuance of a decree of registration, as provided in Act 496 (Land Registration Act).

We believe that the lower court erred when it held that the Land Registration Court was without jurisdiction to render the decision in LRC No. 7681. Under Section 23 of Act 496, the registration court may allow, or order, an amendment of the application for registration when it appears to the court that the amendment is necessary and proper. Under Section 24 of the same act the court may at any time order an application to be amended by striking out one or more parcels or by severance of the application. The amendment may be made in the application or in the survey plan, or in both, since the application and the survey plan go together. If the amendment consists in the inclusion in the application for registration of an area or parcel of land not previously included in the original application, as published, a new publication of the amended application must be made. The purpose of

the new publication is to give notice to all persons concerned regarding the amended application. Without a new publication the registration court can not acquire jurisdiction over the area or parcel of land that is added to the area covered by the original application, and the decision of the registration court would be a nullity insofar as the decision concerns the newly included land.[11] The reason is because without a new publication, the law is infringed with respect to the publicity that is required in registration proceedings, and third parties who have not had the opportunity to pre-sent their claim might be prejudiced in their rights because of failure of notice.[12] But if the amendment consists in the exclusion of a portion of the area covered by the original application and the original plan as previously published, a new publication is not necessary.[13] In the latter case, the jurisdiction of the court over the remaining area is not affected by the failure of a new publication.[14]

In the case at bar We find that the original plan covering Parcel 1 and Parcel 2 that accompanied the application for registration in LRC No. 7681 was amended in order to exclude certain areas that were the subject of opposition, or which were the subject of another re-registration case; and the Chief of the Survey Division of the Court of Land Registration was ordered to determine whether the amended plan included lands or areas not included in the original plan. In compliance with the order of the registration court said Chief of the Survey Division informed the court that no new parcels were included in the new (or amended) plan. Thus, in the decision of the Court of Land Registration in LRC Nos. 7680 and 7681, dated December 29, 1913 (Exh. 24), We read the following:

"Despues de las notificaciones y avisos de las dos solicitudes en ambos expedientes, se enmendaron los planos unidos a los mismos para excluir ciertas porciones que habian sido objeto de oposicion."

xxx xxx xxx

"POR TANTO, ratificando como por la pre-sente se ratifica la declaracion de rebeldia general, se ordena:

1. o Que el Jefe de la Division de Agri-mensores de este Tribunal informe a la mayor brevedad si los nuevos planos incluyen o no terreno que no haya sido comprendido en los planos originales x x x."[15]

On January 24, 1914 the Chief of the Survey Division of the Court of Land Registration made a report to the court (Exh. 22), from which report We read the following:

"Cumpliendo lo mandado por el Tribunal en el No. 1 de la parte dispositiva de su Decision de fecha 29 de Diciembre proximo pasado, el que suscribe, despues de un detenido estudio de los planos unidos a los Expedientes arriba citados, tiene el honor de informar;;

"1. o Que los nuevos planos presentados por los solicitantes corresponden a las parcelas 1.a 2.a, y 3.a, del Expediente No. 7680 y a la 1.a parcela del No. 7681, que son las mismas a que se refiere el plano Exhibito A del No. 7680.

xxx xxx xxx

"4. Que los nuevos planos presentados de las parcelas 1.a, 2.a y 3.a del Expediente 7680, y de la 1.a del 7681 no incluyen terreno alguno que no haya sido comprendido en los planos originales.[16]

And so, in the supplemental decision of the Court of Land Registration in LRC No. 7681, dated March 7, 1914 (Exh. 24-A), the report of the Chief of the Survey Division was taken into consideration and the court ordered the registration of the lands applied for by the applicants as described in the amended plan ("como esta descrito en el plano enmendado"). It is thus shown that the amended plan in LRC No. 7681 did not cover parcels, or areas, that were not previously included in the original plan which accompanied the application that had been published in the Official Gazette. There was, therefore, no necessity for a new publication of the amended plan in order to vest the Court of Land Registration with jurisdiction to hear and decide the application for registration in LRC No.

7681 and to order the issuance of Decree of Registration No. 17431 upon which Original Certificate of Title No. 735 was based.

Way back in 1933, this Court had occasion to rule on the validity of the very same Original Certificate of Title No. 735 which the trial court had declared null and void in the three cases now before this Court. In the case of the Bank of the Philippine Islands vs. Acuña (59 Phil. 183) the validity of Original Certificate of Title No. 735 was assailed by the appellants (Pascual Acuña and others) precisely upon the ground that during the registration proceedings, which brought about the issuance of Original Certificate of Title No. 735, the original plan of the applicants was ordered amended, and no new publication was made of the amended plan and so it was urged that the registration court did not have jurisdiction to order the issuance of the decree of re-registration in favor of the applicants. The action in this case was instituted by the Bank of the Philippine Islands as receiver of the Tuason Entail for the purpose, among others, of recovering from Pascual Acuña and others certain lands included in the Santa Mesa and Diliman hacienda located in the barrios of Bagobantay and Diliman, in the municipalities of Caloocan and San Juan del Monte, Province of Rizal. Upon hearing, the Court of First Instance of Rizal declared that none of the defendants owned any part of the land in controversy. On appeal, this Court observed that the character in which the plaintiff sued was not open to question, and the material facts were as follows: The heirs of the Tuason estate, referred to as the Tuason Entail, held a Torrens title to a tract of land with an area of about 1,600 hectares located in the province of Rizal. This proper-ty was then covered by Transfer Certificate of Title No. 3792 issued in lieu of older certificates dating from July 8, 1914. This Transfer Certificate of Title No. 3792 emanated from Original Certificate of Title No. 735.[17] The appellants precisely sought to nullify the title of the heirs of the Tuason estate, which emanated from Original Certificate of Title No. 735, upon the ground, as now urged by the appellees in the three cases at bar, that during the registration proceedings the original plan of the lands known as the Sta. Mesa and Diliman es-tates was amended, and no publication was made of the amended plan. Regarding the question of the non-publication of the amended plan, this Court said:

"Among the arguments made by the appel-lants of the Bagobantay group, it is alleged that the Torrens title relied upon by the plaintiff is void, and in support of this contention it is stated that, during the course of the registration proceedings, an order was made by the court for the amendment of the original plan of the applicants and that this order was not followed by new publication, wherefore, it is supposed, the court was without jurisdiction to decree the title to the applicants. In this connection reliance is placed upon the doctrine stated in the Philip-pine Manufacturing Co. vs. Imperial (49 Phil. 122). But the brief for the appellants fails to call attention to the fact that the rule stated in the case cited has reference to an amendment of the plan by which additional land, different from that included in the original survey, is intended to be brought within the process of registration. In the case before us, the order referred to was for the exclusion of certain portions of the land covered by the original survey, and the doctrine of the case cited cannot apply. Apart from this it does not appear that the portion intended to be excluded comprehended any part of the land which had been usurped." [18]

The appellees, however, asserts that the case of the Bank of the Philippine Islands vs. Acuña, supra, is not applicable to the three cases now before this Court because what was involved in said case was Parcel 2 of Original Certificate of Title No. 735, and not Parcel 1 which is the land involved in these three cases. This as-assertion of the appellees is not correct. The decision in that case states that the action was instituted by the Bank of the Philippine Islands, as receiver of the Tuason Entail, for the purpose, among others, of re-covering from Pascual Acuña and others "certain lands contained in the Sta. Mesa and Diliman Hacienda located in the barrios of Bagobantay and Diliman in the municipalities of Caloocan and San Juan del Monte." [19] But what matters is the doctrine that was laid down by this Court in that case, that is: that when the original survey plan is amended, after the publication of the application, in order to include land not previously included in the original survey, a new publication of the amended plan is necessary in order to confer juris-diction upon the registration court to

order the registration of the land that is added to what was included in the original survey plan. The ruling of this Court in the *Bank of the Philippine Islands* case has a decisive application in the three cases now before this Court.

The trial court laid stress on the point that publication of the amended plan of Parcel 1 should have been made because it appears in the Decree of Registration No. 17431, and as reproduced in Original Certificate of Title No. 735, that the area of said parcel is "big-ger" than the area stated in the application as published in the Official Gazette; and, also, that the boundaries of Parcel 1 stated in the decree are not identical with the boundaries stated in the application as published in the Official Gazette. We paid particular attention on this point of the lower court's decision, and our impression is that the trial court had exploited certain minor discrepancies between the description of Parcel 1 in the decree of registration and its description in the original application, in order to bolster its ruling that "to render a decision on the amended plan, boundary descriptions, and additional lands comprised within Parcel 1 in Decree No. 17431, a republication of such amended plan, boundary description, technical description and additional areas is necessary to confer jurisdiction upon the Court." [20]

Oddly enough, when the lower court said that the area of Parcel 1 in the decree of registration is bigger than the area of Parcel 1 in the application as published, it did not mention the fact that the difference in area is only 27.10 square meters. We believe that this difference of 27.10 square meters is too minimal to be of decisive consequence in the determination of the validity of Original Certificate of Title No. 735. It was error on the part of the lower court to lay stress on this circumstance and made it a basis for ruling that because in the amended plan there is this increase in area as compared to the area appearing in the application as published, the Land Registration Court did not have jurisdiction to render the decision decreeing the registration of Parcel 1 in LRC No. 7681. The Chief of the Survey Division of the Court of Land Registration, in his report to the court of January 24, 1914 (Exh. 22), stated that the new plan of Parcel 1 did not include any land that was not included in the original plan. That report was made precisely in compliance with the order of the registration court, in the decision of December 29, 1913 in LRC No. 7681, to inform the court "si los nuevos planos incluyen o no terreno que no haya sido comprendido en los planos originales". That report was submitted by the Chief Surveyor "despues de un detenido estudio de los planos unidos a los expedientes". Under the foregoing circumstances, our inference is that the area of 27.10 square meters was already included in the original plan, and that the computation of the area in the original survey must have been inaccurate; and the error was corrected in the recomputation of the area when the amended plan was prepared. We made a careful study and comparison of the technical description of Parcel 1 appearing in the application as published, and the technical description appearing in Decree of Registration No. 17431 (Exhs. 19, 19-A and Z-6), and We accept the explanation of counsel for the appellant that this seeming increase of 27.10 square meters had been brought about "by the fact that when the amendment of the plan was made, the distances and bearings in a few points along the southwestern boundary (Please see Exh. 19) were brought to the nearest millimeter and to the nearest second respectively; whereas, the computation of the survey in the original plan was to the nearest decimeter and to the nearest minute only". [21] We believe that this very slight increase of 27.10 square meters would not justify the conclusion of the lower court that "the amended plan . . . included additional lands which were not originally included in Parcel 1 as published in the Official Gazette." It being undisputed that Parcel 1 has an area of more than 8,798,600 square meters (or 879.86 hectares), We believe that this difference of 27.10 square meters, between the computation of the area when the original plan was made and the computation of the area when the amended plan was prepared, can not be considered substantial as would affect the identity of Parcel 1.

Moreover, no evidence was presented to identify this area of 27.10 square meters, nor to show its location, in relation to the entire area of Parcel 1. The appellees did not even attempt to show that this excess area of 27.10 square meters is included within the parcels that they are claiming. We cannot, therefore, consider this area of

27.10 square meters as an area that was separate and distinct from, and was added to, the land that was covered by the original survey plan, such that the publication of the amended plan would be necessary in order that the registration court could acquire jurisdiction over that area. As We have pointed out, this increase of 27.10 square meters was simply the result of the recomputation of the area when the original plan was amended. There is no showing that the recomputation is incorrect. Neither is there a showing that this small area of 27.10 square meters belongs to any person and that person had been deprived of his property, or had failed to claim that particular area because of the non-publication of the amended plan. On the other hand, there is the report of the Chief of the Survey Division of the Court of Land Registration (Exh. 22) stating that the amended plan of Parcel 1 in LRC No. 7681 did not include any land which was not included in the original plan.[22]

It is the settled rule in this jurisdiction that only in cases where the original survey plan is amended during the registration proceedings by the addition of lands not previously included in the original plan should publication be made in order to confer jurisdiction on the court to order the registration of the area that was added after the publication of the original plan.[23]

The settled rule, further, is that once the registration court had acquired jurisdiction over a certain parcel, or parcels, of land in the registration proceedings in virtue of the publication of the application, that jurisdiction attaches to the land or lands mentioned and described in the application. If it is later shown that the decree of registration had included land or lands not included in the original application as published, then the registration proceedings and the decree of registration must be declared null and void insofar -- but only insofar -- as the land not included in the publication is concerned. This is so, because the court did not acquire jurisdiction over the land not included in the publication -- the publication being the basis of the jurisdiction of the court. But the proceedings and the decree of registration, relating to the lands that were included in the publication, are valid. Thus, if it is shown that a certificate of title had been issued covering lands where the registration court had no jurisdiction, the certificate of title is null and void insofar as it concerns the land or lands over which registration court had not acquired jurisdiction.[24]

And so in the three cases now before this Court, even granting that the registration court had no jurisdiction over the increased area of 27.10 square meters (as alleged by appellees), the most that the lower court could have done was to nullify the decree and the certificate of title insofar as that area of 27.10 square meters is concerned, if that area can be identified. But, certainly, the lower court could not declare, and should not have declared, null and void the whole proceedings in LRC No. 7681; and, certainly, the lower court erred in declaring null and void ab initio Original Certificate of Title No. 735 which covers not only the supposed excess area of 27.10 square meters but also the remaining area of 8,798,617 square meters of Parcel 1 and the entire area of 15,961,246 square meters of Parcel 2. The trial court, in its decision, declared Original Certificate of Title No. 735 "null and void from the very beginning and of no effect whatsoever", without any qualification. This declaration by the lower court, if sanctioned by this Court and given effect, would nullify the title that covers two big parcels of land (Parcels 1 and 2) that have a total area of 24,759,890.10 square meters, or almost 2,476 hectares. And not only that. The trial court declared null and void all transfer certificates of title that are derived, or that emanated, from Original Certificate of Title No. 735, regardless of whether those transfer certificates of title are the results of transactions done in good faith and for value by the holder of those transfer certificates of title.

It must be noted that the appellees in the present cases claim six parcels that have an area of some 495,453.7 square meters (about 49.5 hectares), whereas the combined area of Parcel 1 and Parcel 2 is 24,759,890.10 square meters (about 2,476 hectares). It must also be noted that both Parcel 1 and Parcel 2 have been subdivided into numerous lots (Exhs. 14 and 14-B) which have already been acquired by numerous persons and/or entities that are now holding certificates of title which can be traced back to Original Certificate of Title No. 735. The decision of

the lower court, however, would render useless Original Certificate of Title No. 735 and all transfer certificates of title emanating, or derived, therefrom. The decision of the lower court would certainly prejudice the rights of the persons, both natural and juridical, who had acquired portions of Parcel 1 and Parcel 2, relying on the doctrine of the indefeasibility of Torrens title. The decision of the lower court would, indeed, prejudice the rights of persons who are not parties in the present cases. And this is so, because the trial court, in its decision, did not adhere to the applicable decisions of this Court in resolving the pertinent issues in these cases.

Another reason mentioned by the lower court to support its ruling that Decree of Registration No. 17431 is null and void is that the description of Parcel 1 in the decree of registration is different from the description of the same parcel in the notice of hearing of the original application for registration as published in the Official Gazette. The different description that appears in the decree of registration, according to the lower court, is an amendment to the Original survey plan that accompanied the application and the amended survey plan should have been republished; and because there was no such republication the registration court was without jurisdiction to issue the decree of registration. The lower court also committed an error in making this ruling. We find that the lower court incorrectly laid stress on differences in the names of the owners, and on differences in the designations, of the lands that adjoin Parcel 1 along its southwestern boundary. We find, however, that these differences are well explained in the record.

In the notice of hearing in LRC No. 7681 (Exhibits YY and YY-2) the boundaries of Parcel 1 are stated as follows:

"Bounded on the N. by property of Rosario Negrao and others (Maysilo Estate); E. by the San Juan River; SW. by Parcel 3, properties of Benito Legarda, Hospital de San Juan de Dios, by Parcel 2, Santa Clara Monastery, by Parcel 1; and W. by a road, Cementerio del Norte and the Roman Catholic Church"

As described in Decree of Registration No. 17431 (Exh. 25), the boundaries of Parcel 1 are as follows:

"PARCEL 1. Bounded on the N. by property of Rosario Negrao y Escobar, et al., (Maysilo Estate): On the E. by San Juan River; on the SW. by properties of Mariano Severo Tuason y de la Paz, et al., Benito Legarda, Hospital de San Juan de Dios and C. W. Rosenstock & Co.; and on the W. by a road, Cementerio del Norte and property of the Roman Catholic Church x x x"

It will thus be noted that the boundaries of Parcel 1 on the northern, eastern, and western sides, as they appear in the notice of hearing that was published and in Decree of Registration No. 17431, are the same. It is in the southwestern boundary where there appear some differences in the names of the owners, or in the designations, of the adjoining lands. Thus, in the published notice of hearing, it appears that the names of the owners, or the designations, of the lands that bound Parcel 1 (of LRC No. 7681) on the South-west are parcel 3, properties of Benito Legarda, Hospital de San Juan de Dios, parcel 2, Monasterio de Santa Clara and parcel 1; while in the decree of registration it appears that the lands that bound Parcel 1 (of LRC No. 7681) on the Southwest are the properties of Mariano Severo Tuason y de la Paz, et al., Benito Legarda, Hospital de San Juan de Dios and C. W. Rosenstock & Co. Upon a careful examination of the records, We find that the lands that adjoin Parcel 1 at its southwestern boundary, as indicated in the notice of hearing that was published in the Official Gazette, are the same lands that are indicated in the decree of registration as the lands that adjoin Parcel 1 at its southwestern boundary. There is simply a change in the names of the owners, or in the designations, of the lands. We find that parcels 3, 2 and 1, appearing as the boundary lands on the southwestern side of Parcel 1 in LRC No. 7681, as published, are in fact parcels of land that are owned, and had been applied for registration, by Mariano Severo Tuason y de la Paz, et al. in LRC No. 7680. This LRC No. 7680 was heard and decided jointly with LRC No. 7681 by the Land Registration Court (Exh. 24). These parcels 3, 2 and 1 of LRC No. 7680, being lands owned by Mariano Severo Tuason y de la Paz, et al., it may as well be stated in the decree of registration that those lands on

the southwestern side of Parcel 1 in LRC No. 7681 are the properties of Mariano Severo Tuason y de la Paz, et al., instead of designating them as parcel 3, parcel 2, and parcel 1 (of LRC 1680). And so, what appears in Decree of Registration No. 17431 as the pro-perties of Mariano Severo Tuason y de la Paz, et al., at the southwestern side of Parcel 1 are no other than those very parcels 3, 2 and 1 that appear in the notice of hearing as the lands that bound Parcel 1 on the south-west.

In the description of Parcel 1 as published, it appears that one of the boundaries on the southwest-ern side is Santa Clara Monastery, while in the decree of registration the words "Santa Clara Monastery" do not appear but, instead, are replaced by the words "C. W. Rosenstock & Co." It will be remembered that during the registration proceedings the plan of Parcel 1 was ordered amended, and the surveyor who prepared the amended plan must have found that what used to be the property of the Santa Clara Monastery at the time of the original survey was already the property of C. W. Rosenstock & Co. when the amended plan was prepared. This can simply mean that there was a change of ownership from Santa Clara Monastery to C. W. Rosenstock & Co. It must be considered that the original survey took place from December, 1910 to June, 1911 (Exhibits 18 and 19), while the registration case was decided on March 7, 1914.

Under Section 40 of Act 496, the decree of regis-tration "shall contain a description of the land as finally determined by the court." Evidently, the Court of Land Registration acted in consonance with this pro-vision of the law when, in its decision in LRC 7681, it took into consideration the actual description of Par-cel 1 as shown in the amended survey plan, and when it disregarded the recommendation of the Chief of the Survey Division, dated March 27, 1914, that the decision of the court of March 7, 1914 "be based upon the original plans, as published, and not upon the amended plan." It may well be said that Decree of Registration No. 17431 simply contains the correct area of Parcel 1 and the correct names of the owners of the lands that bound Parcel 1 in LRC No. 1681 as of the time when the decision of the land registration court was rendered.

In this connection, the following pronouncement of this Court in the case of Domingo vs. Ongsiako, 55 Phil. 361, 373-4, is pertinent:

"We may further observe that under-lying the contention of the plaintiffs is the idea that errors in the plans nullify the decrees of registration. This is erroneous. It is the land and not the plan which is registered. Prior to the enact-ment of Act No. 1875, practically all plans for land registration were defective especially in regard to errors of closures and areas, but so far no such errors have been permitted to affect the validity of the decrees. If the boundaries of the land registered can be determined, the technical description in the certificate of title may be corrected without cancelling the decree. Such corrections have been made in this case by approved sur-veys which embrace all of the land here in question. To nullify and cancel final decrees merely by reason of faulty tech-nical descriptions would lead to chaos."

We have taken note of the fact that the six parcels of land that are claimed by the plaintiffs in the three cases now before this Court are on the northwestern portion of Parcel 1 (parcels labelled A, B, C, D, E and F, in Exh. UU; and Exhs. 17, 29 and 29-B). They are far from the southwestern boundary. The circumstance, therefore, regarding the dissimilarity in the names of the owners, or the designations, of the lands that adjoin the southwestern side of Parcel 1 is of no moment insofar as the lots claimed by appellees are concerned. What matters is that the lots claimed by the appellees are all included in Parcel 1 of LRC No. 1681 and are located at the northwestern portion of said Parcel 1. Indeed, it was error on the part of the lower court to make as one of the bases in declaring Decree of Registration No. 17431 and Original Certificate of Title No. 735 null and void and of no effect whatsoever the aforestated dissimilarities in the names of the owners, or in the designations, of the lands on the southwestern side of Parcel 1, because those dissimilarities are well explained in the records of these cases.

The lower court committed still another error when it made the finding that the only boundary of Parcel 1 on the

western side is "A. Bonifacio road" and then declared that the lands situated west of the A. Bonifacio road were never the subject of the registration proceedings in LRC No. 7681. The lower court declared the lands west of A. Bonifacio road as unregistered lands and awarded the ownership of those lands to the plaintiffs in Civil Cases Nos. 3621 and 3622 (appellees in G. R. Nos. L-26127 and L-26128). This finding of the lower court is contrary to the evidence presented by the parties in these cases. Both the appellees and the appellant submitted as their evidence the notice of hearing of the application as published in the Official Gazette (Exhibit X, YY and YY-2; and Exhibit 26) and the decree of registration No. 17431 (Exhibit Y, and Exh. 25) wherein are clearly stated that the boundaries of Parcel 1 on the West are: (1) a road, (2) Cementerio del Norte and (3) Roman Catholic Church (Exhs. Z-6, UU, and Exhs. 6, 18, 19 and 20). But the lower court considered the A. Bonifacio road as the only boundary on the West, and ignored the two other boundaries on the West that are mentioned both in the notice of hearing as published and in the decree of registration. The sketches and the survey plans, forming part of the evidence on record, show that the road, labelled as "A. Bonifacio", goes alongside the western boundary of Parcel 1 (separating Parcel 1 and the Cementerio del Norte), until it reaches a point where it traverses the northwestern portion of Parcel 1, such that from the point where it enters the area of Parcel 1 what is left as the boundaries on the western side area the Cementerio del Norte and the Roman Catholic Church (Exhibits UU, VV, 17, 19 and 29). Ignoring the existence of the Cementerio del Norte and the Roman Catholic Church as the other boundaries of Parcel 1 on the West, the lower court declared that the lands west of the A. Bonifacio road, which form part of the lands that are claimed by the plaintiffs in Civil Cases Nos. 3621 and 3622, are outside the boundary of Parcel 1 on the west and that those particular areas had remained as unregistered lands and are not covered by Original Certificate of Title No. 735. This finding of the lower court is contrary to the very admission of the appellees in these three cases that all the lands (six parcels in all) that they claim are included in the area of Parcel 1 mentioned in Original Certificate of Title No. 735. In paragraph XIV of the original, as well as in the amended complaint, in each of these three cases, the plaintiffs alleged that the lands that they claim "had either been fraudulently or erroneously included ... in Parcel 1 (known as Santa Mesa Estate) of the Original Certificate of Title No. 735 of the Land Records of the Province of Rizal." [25] In their appeal brief, the appellees categorically stated that "Both the appellees and the appellant admit that these parcels of land claimed by the plaintiffs in these three (3) civil cases are located within Parcel 1 (Santa Mesa Estate) covered by Original Certificate of Title No. 735". [26] In the pre-trial order of the lower court of December 18, 1957, it was stated that the parcels of land litigated in these cases are portions of the lands covered by OCT No. 735. [27] The lower court itself, at the earlier part of its decision, stated that "both the plaintiffs and the defendants admit that the parcels of land litigated in Civil Cases Nos. 3621, 3622 and 3623 are found within the boundaries of the present Santa Mesa Heights Subdivision covered by Original Certificate of Title No. 735". [28] The appellees in these two cases had never asserted that part of the lands that they claim are outside the boundaries of Parcel 1, nor did they assert that part of the lands that they claim have remained unregistered and not covered by Original Certificate of Title No. 735. The lower court had made a finding not only contrary to the evidence of the appellees but even more than what the appellees asked when it said in its decision that the western boundary of Parcel 1 is only the A. Bonifacio road and that the lands claimed by the appellees west of this road had never been registered. This Court certainly can not give its approval to the findings and rulings of the lower court that are patently erroneous.

2. The lower court also erred when it declared Original Certificate of Title No. 735 null and void upon the ground that the decree of registration was not transcribed in the Registration Book in accordance with the provisions of Section 41 of Act 496. In its decision, the lower court said:

"During the trial, the Book of Original Certificate of Title was brought to the Court. The Court had occasion to see and examine the 'ENTRY' made in the Registration Book. The Court found that the Face of the Title which, under ordinary circumstances, should be Page 1 is found as Page 2. The sheet containing the technical description which should be page 2 is Page 1. The FACE of the Title, which should have been Page 1,

contained the last portion of the description of the land described in the decree. The sheet containing the bulk of the description of the lands decreed should have been Page 2. The so-called Original Certificate of Title No. 735 found on Page 138, Book A-7 of the Register of Deeds of Rizal is, therefore, null and void because the provisions of Section 41 of the Land Registration Law have not been complied with. Said Section requires that the entry in the Registration Book must be a transcription of the Decree and the paging should consist of a leaf or leaves in consecutive order x x x"[29]

The pertinent provisions of Section 41 of Act 496 reads, as follows:

"SEC. 41. Immediately after final decision by the court directing the registration of any property, the clerk shall send a certified copy of such decision to the Chief of the General Land Registration Office, who shall prepare the decree in accordance with section forty of Act numbered four hundred and ninety-six, and he shall forward a certified copy of said decree to the register of deeds of the province or city in which the property is situated. The register of deeds shall transcribe the decree in a book to be called the "Registration Book' in which a leaf, or leaves in consecutive order, shall be devoted exclusively to each title. The entry made by the register of deeds in this book in each case shall be the original certificate of title, and shall be signed by him and sealed with the seal of his office. x x x x"

The pertinent provisions of Section 40 of Act 496 reads, as follows:

"SEC. 40. Every decree of registration shall bear the day of the year, hour, and minute of its entry, and shall be signed by the clerk. It shall state whether the owner is married or unmarried, and if married, the name of the husband or wife. If the owner is under disability, it shall state the nature of the disability, and if a minor, shall state his age. It shall contain a description of the land as finally determined by the court, . . . The decree shall be stated in a convenient form for transcription upon the certificates of title hereinafter mentioned."

Section 29 of Act 496 provides that as soon as the decree of title has been registered in the office of the register of deeds, as provided in Section forty-one, the property included in said decree shall become registered land under the Act. Section 42 of Act 496 provides that the certificate shall take effect upon the date of the transcription of the decree.

This Court has held that as defined in Section 41 of Act 496, the certificate of title is the transcript of the decree of registration made by the register of deeds in the registry.[30]

The appellant presented as evidence a photostat of Original Certificate of Title No. 735, as found in the Registration Book in the office of the register of deeds of Rizal (Exhibit 50).[31] We have examined this document very carefully, and We find that it is a copy of the original that satisfies all the requirements of a valid Torrens title as provided for in Sections 40 and 41 of Act 496.

On the face, or on the first page, of this title, there is the certification of the Chief of the Land Registration Office that the decree of registration was registered in Manila on July 6, 1914 at 7:41 a.m.; and the certification of the Register of Deeds of Rizal that the decree was received for transcription in his office on July 8, 1914 at 3:30 P.M. It is also stated on the face of this title that it was entered pursuant to Decree No. 17431 of the Court of Land Registration, dated at Manila on the 7th day of March 1914, in Case No. 7681 of said court. The names of the declared owners, their civil status, their spouses if married, and their respective interest or share in the lands covered by the title are stated on the face of this title. We have noted that the technical descriptions of the lands (Parcels 1 and 2) covered by the title are copied on the sheets constituting the title. We have compared the technical descriptions of Parcels 1 and 2 as they appear on this photostat of Original Certificate of Title No. 735 (Exhibit 50) with the technical descriptions of these lands as they appear in the decree of registration (Exhibit Y for the plaintiffs, and Exhibit 25 for the defendant), and We find that the technical descriptions appearing on the title are the complete and faithful reproduction, or transcription, of the technical descriptions appearing in the

decree of registration.

We have noted what the lower court found, that the technical descriptions of Parcels 1 and 2 do not begin on the face, or on the first page, of this title, as a technical description is ordinarily copied on the certificate of title. What appears on the face of this title is the last part of the technical description of Parcel 2. The technical descriptions of Parcels 1 and 2 begin on the second page and end on the first page. This circumstance, that is, that the technical descriptions of Parcels 1 and 2 do not begin on the face, or on the first page, of the title, is the basis of the lower court in ruling that the decree of registration was not transcribed in the registration book in accordance with Section 41 of Act 496, and so Original Certificate of Title No. 735 is null and void. We have noted, however, that in its decision the lower court made no mention that in the transcription of the decree in the registration book any of the data that is required in Section 40 of Act 496 to be included had been omitted. We have also noted - and this fact is undenied - that the technical descriptions of Parcels 1 and 2 as they appear in Decree of Registration No. 17431 are fully and faithfully transcribed on the photostat of Original Certificate of Title No. 735 (Exhibit 50). There is no showing that the manner of transcribing the decree, as it appears on that photostat, was done for a fraudulent purpose, or was done in order to mislead. Considering that the decree of registration is fully transcribed in the Registration Book, and also as copied in Original Certificate of Title No. 735, the circumstance that the beginning of the technical descriptions is not found on the face, or on the first page, of Original Certificate of Title No. 735 is not a ground to nullify the said certificate of title. We agree with the lower court that the transcription of the technical descriptions should begin, or should have been started, on the face, or on the first page, of the title. We hold, however, that the fact that this was not so done in the case of Original Certificate of Title No. 735 should not be taken as a factor in determining the validity of Original Certificate of Title No. 735. This defect in the manner of transcribing the technical descriptions should be considered as a formal, and not a substantial, defect. What matters is that the original certificate of title contains the full transcription of the decree of registration, and that the required data provided for in Section 40 of Act 496 are stated in the original certificate of title. The lower court made a literal construction of the provisions of Section 41 of Act 496 and strictly applied its construction in the determination of the validity of Original Certificate of Title No. 735. We believe that the provisions of Section 41 of Act 496 should be interpreted liberally, in keeping with Section 123 of said Act which provides that "This Act shall be construed liberally so far as may be necessary for the purpose of effecting its general intent." If we adopt a literal construction of the provisions of Section 41 of Act 496, as was done by the lower court, such that the defect in the manner or form of transcribing the decree in the registration book would render null and void the original certificate of title, then it can happen that the validity or the invalidity of a certificate of title would depend on the register of deeds, or on the personnel in the office of the register of deeds. The register of deeds, or an employee in his office, can wittingly or unwittingly render use-less a decree of registration regularly issued pursuant to a decision of a registration court and thus nullify by the error that he commits in the transcription of the decree in the Registration Book an original certificate of title that has been existing for years. This strict interpretation or construction of Section 41 of Act 496 would certainly not promote the purpose of the Land Registration Law (Act 496), which generally are: to ascertain once and for all the absolute title over a given landed property[32]; to make, so far as it is possible, a certificate of title issued by the court to the owner of the land absolute proof of such title[33]; to quiet title to land and to put a stop forever to any question of legality of title[34]; and to decree that land title shall be final, irrevocable and indisputable.[35]

We, therefore, hold that the formal defect in the transcription of Decree of Registration No. 17431 in the Registration Book did not render null and void Original Certificate of Title No. 735. Consequently, We declare that the two parcels of land (Parcel 1 which includes the lands claimed by the appellees, and Parcel 2) covered by Original Certificate of Title No. 735 are properly registered under the Torrens System of registration.

3. The principal issue that has to be resolved in the present appeal is whether or not the lower court had correctly

declared that "Original Certificate of Title No. 735 ... is null and void from the very beginning and of no effect whatsoever." [36]

In the preceding discussions, We have held that the lower court erred when it declared null and void Original Certificate of Title No. 735. We have found that the registration proceedings that brought about the decree of registration upon which was based the issuance of Original Certificate of Title No. 735 were in accordance with the provisions of Act 496, as amended. We have held that the Land Registration Court that ordered the issuance of the decree of registration had jurisdiction to hear and decide the application for registration filed by Mariano Severo, Teresa Eriberta, Juan Jose, Demetrio Asuncion, and Augusto Huberto, all surnamed Tuason y de la Paz. The records show that the notice of hearing of the application, which embodied the technical descriptions of the two parcels of land (Parcel 1, known as the Sta. Mesa Estate, and Parcel 2, known as the Diliman Estate), was duly published as required by law. The records show that the hearing on the application was regularly held, and that the registration court had seen to it that no land which was not included in the original survey plan and not covered by the original application was made the subject of the registration proceedings. We have found that the decree of registration was properly issued by the Land Registration Office pursuant to the decision of the Land Registration Court, and that said decree of registration was fully transcribed in the Registration Book in the office of the Register of Deeds of the province of Rizal. We have found also that the six parcels of land that are claimed by the appellees in the three cases now before Us are all included in Parcel 1 that is covered by Original Certificate of Title No. 735.

In view of Our findings and conclusion that Original Certificate of Title No. 735 was issued in accordance with the provisions of Act 496, and that the six parcels of land that are claimed by the appellees in the present cases are covered by said certificate of title, what is left for this Court to decide is whether or not the appellees still have any legal right over the six parcels of land that they claim.

Let it be noted that, as maintained by counsel for the appellees, the action of the appellees is principally to recover the ownership and possession of the six parcels of land mentioned and described in their complaints. The appellees would accomplish their objective through alternative ways: (1) secure the nullification of the decision of the Land Registration Court in LRC No. 6781, the nullification of the Decree of Registration No. 17431 and the nullification of Original Certificate of Title No. 735; (2) if they fail in their efforts to secure the desired nullifications, with Original Certificate of Title No. 735 being considered valid and effective, they seek the reconveyance to them by the defendants named in their complaints, including herein appellant J. M. Tuason & Co., Inc., of the six parcels of land that they claim; and (3) if they cannot secure a reconveyance, they seek to secure payment to them by the defendants named in their complaints of the actual value of the six parcels of land that they claim.

It appears to Us that the appellees are not sure of their stand, or have not adopted a definite stand, in asserting the rights that they claim.

It is the settled rule that a party seeking the reconveyance to him of his land that he claims had been wrongly registered in the name of another person must recognize the validity of the certificate of title of the latter. It is also the rule that a reconveyance may only take place if the land that is claimed to be wrongly registered is still registered in the name of the person who procured the wrongful registration. No action for reconveyance can take place as against a third party who had acquired title over the registered property in good faith and for value. And if no reconveyance can be made, the value of the property registered may be demanded only from the person (or persons) who procured the wrongful registration in his name. [37]

The lower court accepted, and sustained, the assertion of the appellees that the proceedings in LRC No. 7681 of

the Court of Land Registration were null and void and that Original Certificate of Title No. 735 is null and void ab initio and of no effect. The trial court even went to the extent of declaring that some of the parcels of land claimed by the appellees in Civil Cases Nos. 3621 and 3622 (now G. R. Nos. L-26127 and L-26128 before this Court) were not covered by Original Certificate of Title No. 735. The lower court forthwith declared the appellees the owners of the parcels of land claimed by them, as described in their complaints. Strangely enough, the lower court, upon declaring Original Certificate of Title No. 735 null and void, did not make any statement, or observation, regarding the status or situation of the remaining lands (Parcels 1 and 2) covered by Original Certificate of Title No. 735 after adjudicating to the appellees the six parcels of land claimed by them in their complaints.

In the present appeal counsel for the appellees had maintained, and has endeavored to show, that the lower court was correct in annulling Original Certificate of Title No. 735 and in adjudicating in favor of the appellees the ownership and possession of the six parcels of land claimed by them in their complaints.

But, as hereinbefore held by Us, the lower court erred in declaring Original Certificate of Title No. 735 void and of no effect. We have held that Original Certificate of Title No. 735 was issued as a result of the registration proceedings in LRC No. 7681 which was regular and that said certificate of title is valid and effective. The proceedings in LRC 7681 being in rem, the decree of registration issued pursuant to the decision rendered in said registration case bound the lands covered by the decree and quieted title thereto, and is conclusive upon and against all persons, including the government and all the branches thereof, whether mentioned by name in the application, notice or citation, or included in the general inscription "To whom it may concern", and such decree will not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceedings in any court for reversing judgment or decree. Such decree may only be reopened if any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud would file in the competent court of first instance a petition for review within one year after entry of the decree, provided no innocent purchaser for value had acquired an interest on the land, and upon the expiration of said period of one year, the decree, or the certificate of title issued pursuant to the decree, is incontrovertible (Sec. 38, Act 496). In the case now before Us, the Decree of Registration No. 17431 in LRC 7681 was entered on July 8, 1914. It is undisputed that no person had filed any petition for review of the decree of registration in LRC 7681 within the period of one year from July 8, 1914. That decree of registration, and Original Certificate of Title No. 735 issued pursuant thereto, therefore, had been incontrovertible since July 9, 1915.

Moreover, innocent purchasers for value had acquired interest in the lands covered by Original Certificate of Title No. 735.[38]

The Original Certificate of Title No. 735 was issued on July 8, 1914 in the names of the original applicants for registration, namely, Mariano Severo Tuason y de la Paz, Teresa Eriberta Tuason y de la Paz, Juan Jose Tuason y de la Paz, Demetrio Asuncion Tuason y de la Paz, and Augusto Huberto Tuason y de la Paz. Herein appellant J.M. Tuason & Co., Inc. is not one of those who were registered as the original owners mentioned in Original Certificate of Title No. 735. When the original complaints were filed in these three cases in the Court of First Instance of Rizal the parties named defendants in each of the three cases were Mariano Severo Tuason y de la Paz, Teresa Eriberta Tuason y de la Paz, Juan Jose Tuason y de la Paz, Demetrio Asuncion Tuason y de la Paz, Augusto Huberto Tuason y de la Paz, the heirs of each one of these defendants (without naming them), and J. M. Tuason & Co., Inc. Of all the defendants named in the three complaints only defendant J. M. Tuason & Co., Inc. appeared and filed its answer to the complaints. All the other defendants did not appear, and so they were all declared in default.[39] It had to happen that way because as of the time when the three complaints were filed on May 19, 1955 the ownership of Parcel 1 that was originally covered by Original Certificate of Title No. 735

had already passed to defendant J. M. Tuason & Co., Inc. In fact this defendant had caused Parcel 1 to be subdivided and had sold the subdivision lots.

The records show that Parcel 1 in Original Certificate of Title No. 735 was part of the properties of the Mayorasgo Tuason (Tuason Entail) which became involved in a litigation in the Court of First Instance of Manila.[40] During the pendency of the case the properties of the Mayorasgo Tuason were administered by the Bank of the Philippine Islands as the judicial receiver. In the order of the Court of First Instance of Manila, dated May 5, 1938, in Civil Case No. 24803, the Bank of the Philippine Islands, as receiver, was authorized, directed and ordered to execute, upon payment to it of the sum of P763,925.75, a deed of transfer and assignment in favor of the Heirs of D. Tuason, Inc. of the property covered by Transfer Certificate of Title No. 31997, which was originally Parcel 1 included in Original Certificate of Title No. 735 (Exh. 13-B). On June 13, 1938 the receiver Bank of the Philippine Islands executed the deed of transfer and assignment (Exh. 13-A). Transfer Certificate of Title No. 34853 of the Register of Deeds of Rizal was forthwith issued in the name of the Heirs of D. Tuason, Inc. (Exhs. 12-b and 36). The deed of transfer and assignment was approved by the court in an order dated June 17, 1938. This conveyance to the Heirs of D. Tuason Inc. took place at a time when the Supreme Court had already decided the case of Bank of the Philippine Islands vs. Acuña (59 Phil. 183) wherein this Court upheld the validity of Original Certificate of Title No. 735 and also the validity of the transfer certificate of title emanating therefrom.[41]

The circumstances attending the acquisition by the Heirs of D. Tuason Inc. of the land covered by Transfer Certificate of Title No. 31997 -- which was formerly Parcel 1 covered by Original Certificate of Title No. 735 -- clearly indicate that said corporation acquired its title in a regular transaction as purchaser in good faith and for value. On June 15, 1938 the Heirs of D. Tuason, Inc. in turn sold the same property to J. M. Tuason & Co., Inc., and Transfer Certificate of Title No. 35073 was issued in the name of the latter (Exhs. 12-c and 37).

The lower court declared that herein appellant J. M. Tuason & Co., Inc. was a purchaser in bad faith. We do not find any evidence in the record that would sustain such a finding of the lower court. One reason given by the lower court in declaring appellant J. M. Tuason & Co., Inc. a purchaser in bad faith is the fact that the incorporators of the Heirs of D. Tuason, Inc. and the incorporators of J. M. Tuason & Co., Inc. were practically the same persons belonging to the same Tuason family. We do not see anything wrong if some incorporators of the Heirs of D. Tuason Inc. are also incorporators of J. M. Tuason & Co., Inc. During these days when businesses are promoted, operated, and managed, through corporate entities, it is not surprising to see two or more corporations organized by the same persons or group of persons, with different purposes, for different lines of business and with distinct or separate assets and interests. Besides, as has been shown, the Heirs of D. Tuason, Inc. acquired the land (Parcel 1 in Original Certificate of Title No. 735) from the Bank of the Philippine Islands, the receiver of the properties of the Mayorasgo Tuason, in a sale that was authorized, and subsequently approved, by the court. The Heirs of D. Tuason, Inc. paid the sum of P763,950.80 for the property. Certainly if the Heirs of D. Tuason Inc. had acquired the land originally covered by Original Certificate of Title No. 735 in a transaction that was authorized by the court, for a valuable consideration, thereby acquiring a good title over the property as a purchaser in good faith and for value, the title that it transferred to J. M. Tuason & Co., Inc. when it sold same property to the latter was also a good title, and J.M. Tuason & Co., Inc. was also a purchaser in good faith and for value -- even if it appears that the incorporators of the two corporations belong to the same Tuason family. The records of these cases are bereft of any evidence which would indicate that the sale of Parcel 1 in question by the Heirs of D. Tuason, Inc. to J. M. Tuason, & Co., Inc. was fraudulent.

Another reason given by the lower court in declaring appellant J. M. Tuason & Co., Inc. a buyer in bad faith is that when said appellant bought Parcel 1 originally covered by Original Certificate of Title No. 735 it was aware

of the fact that the appellees or their predecessors in interest were in possession of, and were cultivating, the six parcels of land that they now claim in these cases. The conclusion of the lower court is too strained. It should be remembered that the registered property bought by J. M. Tuason & Co., Inc. had an area of some 879 hectares. It could happen that certain relatives or ancestors of appellees had been squatting on some portions of the land and claimed certain areas as their own, to the extent of having the areas claimed by them declared for taxation purposes in their names. Thus the appellees presented in evidence tax declarations that appear to have taken effect as of 1941. We have noted, however, that at the back of those tax declarations are written the words "This parcel is a duplicate of the land under Tax No. 764-J. M. Tuason & Co., Inc." (Exhs. E-Alcantara, F-Alcantara, FF-1-Benin, GG-Benin, HH-Benin, BBB-Pili, and BBB-1-Pili).[42] These annotations simply reveal that when the predecessors of the appellees had those tax declarations made to cover the lands that they claim, those lands were already included in the tax declaration of appellant J. M. Tuason & Co., Inc. Appellant J. M. Tuason & Co., Inc. had been exercising, and asserting, its proprietary rights over the lands in questions after it bought the same from the Heirs of D. Tuason, Inc.[43] This is borne by the statement in the order, dated September 26, 1955, issued by Judge Juan P. Enriquez who at the time was presiding the branch of the Court of First Instance of Rizal where these three cases were pending, as follows:

"3. It having been shown that J. M. Tuason & Co. had title covering the land in question which they are subdividing into small lots for sale and in view of the observation under paragraph 2 hereof the Court finds that there is no justifiable reason to maintain the writ of preliminary injunction that has been issued. This is particularly true in Civil Case No. 2622, defendants having secured affinal judgment against plaintiffs Juan Alcantara and Jose Alcantara for ejectment before the Municipal court of Quezon City; and such injunction would annul the order of the execution issued by the Quezon City courts. It should be noted that the herein plaintiffs at the beginning pleaded to the Court that the area on which their respective houses stand be not touched and their possession thereof be respected by defendant J. M. Tuason & Co. In other words, each plaintiff is merely asking for about 250 square meters each which represents the land on which the house stands and their immediate yard, and not the whole land covered by these three cases or 68 hectares. On the other hand, the Court requires J. M. Tuason & Co. to put up a bond of P2,000 in favor of each of the defendant (sic) to answer for whatever damages he may suffer by reason of the continuance during the action of the acts complained of." [44]

Besides, the possession by the appellees, either by themselves or through their predecessors in interest, if there was such possession at all, would be unavailing against the holder of a Torrens certificate of title covering the parcels of lands now in question. From July 8, 1914 when Original Certificate of Title No. 735 was issued, no possession by any person of any portion of the lands covered by said original certificate of title, or covered by a subsequent transfer certificate of title derived from said original certificate of title, could defeat the title of the registered owner of the lands covered by the certificate of title. In this connection, let it be noted that appellant J. M. Tuason & Co., Inc. became the registered owner of Parcel 1, which was originally covered by Original Certificate of Title No. 735, only on June 15, 1938, or almost 24 years after Original Certificate of Title No. 735 was issued.

It can well be said that J. M. Tuason & Co., Inc. had relied on the title of the Heirs of D. Tuason, Inc. when it bought the land covered by Transfer Certificate of Title No. 34853, and the Heirs of D. Tuason, Inc. likewise had relied on the title of the Mayorasgo Tuason (Mariano Severo Tuason y de la Paz, et al.) when it bought the land covered by Transfer Certificate of Title No. 31997 from the judicial receiver, duly authorized and approved by the court. We, therefore, can not agree with the lower court when it declared appellant J. M. Tuason & Co., Inc. a purchaser in bad faith.

The evidence shows that appellant J. M. Tuason & Co., Inc. had converted the land originally covered by Original

Certificate of Title No. 735, including the six parcels claimed by appellees into a subdivision, and numerous persons and entities had purchased the subdivision lots, and the purchasers in turn were issued transfer certificates of title covering the lots that they bought, based on the transfer certificate of title in the name of J. M. Tuason & Co., Inc. The buyers of the lots necessarily relied upon the certificate of title in the name of J. M. Tuason & Co., Inc. and because they paid for the lots they certainly are purchasers in good faith and for value. The purchasers of these lots have built thereon residential houses, office buildings, shops, hospital, even churches. But the lower court, disregarding these circumstances, declared null and void all transfer certificates of title that emanated, or that were derived, from Original Certificate of Title No. 735. This is a grave error committed by the lower court. And the error is compounded when the lower court ordered appellant J. M. Tuason & Co., Inc. and all those claiming under said appellant, to vacate and restore to the appellees the possession of the parcels of lands that are claimed by them in the present cases. The possessors of the lots comprised within the six parcels of land in question, and who hold certificates of title covering the lots that they bought, are not parties in the present cases, and yet the decision of the lower court would annul their titles and compel them to give up the possession of their properties. To give effect to the decision of the lower court is to deprive persons of their property without due process of law.[45] The decision of the lower court would set at naught the settled doctrine that the holder of a certificate of title who acquired the property covered by the title in good faith and for value can rest assured that his title is perfect and incontrovertible.[46]

In view of the foregoing discussions, it is obvious that the action of the appellees in the three cases now before this Court must fail.

It has been shown that appellant J. M. Tuason & Co., Inc. had acquired a valid title over the land which includes the six parcels that are claimed by the appellees. The fact, that the predecessors in interest of the appellees -- or any person, for that matter -- had not filed a petition for the review of the decree of registration in LRC No. 7681 within a period of one year from July 8, 1914 when the decree of registration was issued, is a circumstance that had forever foreclosed any proceeding for the review of said decree. As we have adverted to, that decree of registration had become incontrovertible. An action, similar to one brought by the appellees in each of the present cases, which attack collaterally the said decree of registration cannot be entertained.[47] Neither may the action of the appellees for reconveyance of the lands in question be entertained because such action had already prescribed, and barred by laches, considering that Original Certificate of Title No. 735 had been issued way back in 1914 and the complaint in the present cases were filed only on May 19, 1955, or after a lapse of some 41 years. Moreover, as of the time when these complaints were filed the six parcels of land claimed by the appellees are no longer covered by the certificate of title in the names of the persons who procured the original registration of those lands. The title to Parcel 1, which includes the six parcels of land claimed by the appellees, had passed to the hands of parties who were innocent purchasers for value. This Parcel 1 which was one of the two parcels originally covered by Original Certificate of Title No. 735, was subsequently covered by Transfer Certificate of Title No. 31997. As has been shown, this Parcel 1 was part of the properties of the Mayorasgo Tuason and it was conveyed by order of the court in Civil Case No. 24803 of the Court of First Instance of Manila to the Heirs of D. Tuason, Inc., and the latter in turn conveyed the same to J. M. Tuason & Co., Inc. Transfer Certificate of Title No. 34853 in the name of the Heirs of D. Tuason, Inc. was cancelled and Transfer Certificate of Title No. 35073 was issued in the name of J. M. Tuason & Co., Inc. It has also been shown that J. M. Tuason & Co., Inc. had converted Parcel 1 to a subdivision. Numerous persons and entities bought those subdivision lots, and to those buyers were issued transfer certificates of title covering the lots that they acquired. It is very clear, therefore, that an action for reconveyance cannot prosper against appellant J. M. Tuason & Co., much less against the registered owners of the lots that form parts of the six parcels of land that are claimed by the appellees.[48]

Neither may the appellees have a cause of action for damages against appellant J.M. Tuason & Co., Inc.,

considering that said appellant is not one of the original registered owners that procured the registration of the land. There is no evidence that J. M. Tuason & Co., Inc. had anything to do with the registration proceedings which brought about the issuance of Original Certificate of Title No. 735 -- even supposing that the registration was procured fraudulently.

4. Numerous cases have been decided by this Court, dealing on questions regarding the validity and effectiveness of Original Certificate of Title No. 735. The rulings of this Court in those cases are necessarily relevant to, and of decisive bearing in, the resolution of the issues involved in the three cases now at bar.

(a) We have earlier cited the case of the Bank of the Philippine Islands vs. Acuña (59 Phil., 183), where the jurisdiction of the Court of Land Registration that issued the decree which was the basis of Original Certificate of Title No. 735 was questioned, and this Court upheld the jurisdiction of the registration court and categorically pronounced the validity of Original Certificate of Title No. 735.

(b) There is the case of Jose Alcantara, et al., versus Mariano Tuason y de la Paz, et al. (G. R. No. L-4998, Mar. 13, 1953, 92 Phil. 796), where this Court declared that Original Certificate of Title No. 735 is incontrovertible and is conclusive against all persons claiming, either by themselves or by their predecessors in interest, rights over the lands covered by said certificate of title.

We find that the Alcantara case is intimately related to the three cases at bar, and the rulings of this Court in that former case are of decisive application to these three cases.

On August 29, 1950 a complaint was filed in the Court of First Instance of Rizal (Quezon City Branch) by Jose Alcantara, Elias Benin, Pascual Pili, Alejandro de Dios, Tomas Bagagonio, Quintina Sandoval, and Tomasa Lazaro against Mariano Tuason y de la Paz, Heirs of Mariano Tuason, J. M. Tuason & Co., Inc. and Gregorio Araneta, Inc. This case was docketed as Civil Case No. Q-156. It will be noted that three of the plaintiffs in Civil Case No. Q-156, namely, Jose Alcantara, Elias Benin, and Pascual Pili, are among the original plaintiffs in the three cases now before this Court; Elias Benin, in Civil Case No. 3621; Jose Alcantara, in Civil Case No. 3622; and Pascual Pili, in Civil Case No. 3623. Jose Alcantara, Elias Benin and Pascual Pili, as plaintiffs in that Civil Case No. Q-156 claimed that they were the lawful owners of six (of the ten) parcels of land described in paragraph 2 of their complaint - Jose Alcantara claiming two parcels, Elias Benin claiming three parcels, and Pascual Pili claiming one parcel. Substantially, it is alleged in the complaint^[49] that each plaintiff, by himself and by his predecessors in interest, as lawful owner, had been in the actual, open and continuous possession of his own respective parcel, or parcels, of land from time immemorial until January 1950 when the defendants by force and by the use of armed men started to convert their lands into a subdivision; that on July 8, 1914 the defendants had obtained Original Certificate of Title No. 735 over a parcel of land which included the lands possessed by them (plaintiffs) and which they and their ancestors had been enjoying as owners, for more than thirty years before the issuance of the title; that the silence and inaction of the defendants since the date of their original certificate of title showed that said certificate of title did not express the status of their claim to the said parcels, that plaintiffs were not given formal notice by the defendants of the registration of the lands, such that defendants' certificate of title No. 735 was not in accordance with law, and that defendants did not have proper title for registration to the parcels of land owned by the plaintiffs, as described in the complaint; and that because the certificate of title issued by the register of deeds was still in the names of the defendants, successors in interest of the Tuasons y de la Paz, and has not passed to innocent parties for valuable consideration, the conveyance of the same to the plaintiffs was in order. The plaintiffs prayed that therein defendants be ordered to execute deeds of conveyance of the parcels of land described in their complaint in favor of the plaintiffs, that the defendants' certificate of title be cancelled and the corresponding certificate be ordered issued in the names of the plaintiffs. We quote from the decision:

"The material allegations of the complaint are: that plaintiffs are own-ers of the parcels of land set forth in their complaint, which parcels are sit-uated along Bonifacio street, barrio of San Jose, Quezon City, and that they have been in actual, open, and continuous pos-session and enjoyment thereof without molestation from defendants from time im-memorial to the present; that on July 8, 1914, defendants obtained a certificate of title (No. 735) over a parcel of land, which included the lands possessed by plaintiffs, and which they and their an-cestors had been enjoying as owners more than 30 years before the issuance of said title; that on June 23, 1950, defendants caused the removal of two houses of plain-tiffs on the land; and that defendants did not file any action against plaintiffs before the inclusion of the lands in their title, in violation of the 'due process of law' clause of the Constitution. There are other allegations which really are argu-ments or legal discussion, thus: that defendants could not acquire title by the registration proceedings against the lawful holder, especially without formal notice, because registration is to confirm title, not to acquire it; that the silence of the defendants since the issuance of their title shows that this does not express the lawful status of their claim; etc. The defendants moved to dismiss the complaint on the ground that it states no cause of action and that, if it does, the same is barred by the statute of limitations. The court sustained this motion on the second ground. Subsequently, plaintiffs filed an amended complaint with the same substantial allegations, but with new ones, i.e., that it was in January, 1950, that they learned that their lands were included in the registration proceedings which culminated in the issuance of defendants' title; that defendants never claimed owner-ship to the lands, but directly or indirectly allowed plaintiffs to continue exercising their rights of ownership over the same. This amended complaint was denied admission, and the motion for the reconsideration of the order of dismissal was also denied. Hence the appeal."

In affirming the order of the lower court dis-missing the complaint, this Court held:

"Without considering whether the trial court's refusal to admit the amended com-plaint is erroneous or not, we are constrained to hold that the dismissal of the action, even with the amended complaint as a basis thereof, is correct. From the allegations of both the original and amended complaints, it appears that the defendants are holders of a certificate of title issued on July 8, 1914 as a consequence of registration proceedings. There is no allegation in both original and amen-ded complaints that the plaintiffs were not notified, or were not aware, of the registration proceedings. It is presumed, therefore, that as occupants proper notices thereof were served on them and that they were aware of said proceedings. If this is so, then the plaintiffs, who were, or whose predecessors in interest were, on the land during the registration proceedings, were bound by said proceedings. The latter are in rem and bind the whole world, whether served with notice personal-ly or not. (Grey Alba vs. De la Cruz, 17 Phil. 49). And the decree of registration, in pursuance of which defendants' title was issued, binds the land and quiets title thereto, and is conclusive against the plaintiffs. (Section 38, Land Registration Act). The supposed right of plaintiffs by reason of their alleged continued posses-sion for thirty years was, therefore, des-troyed fully and completely by the regis-tration proceedings, and their supposed ignorance of the inclusion of the lands can not exclude them from the effects of the registration proceedings, and the supposed conduct of defendants in allowing plaintiffs to continue on the land after registration can not serve as basis of any title or right thereto, because acts of a possessory charac-ter by tolerance of an owner does not consti-tute possession (Article 1942, Spanish Civil Code), and because no title to registered land in derogation to that of the registered owner shall be acquired by prescription or ad-verse possession (Section 46, Land Registra-tion Act)."

Thus, in the Alcantara case, as in the Bank of the Philippine Island vs. Acuña case, supra, this Court upheld the validity of the registration proceedings which culminated in the issuance of Original Certifi-cate of Title No. 735. This Court declared that "the decree of registration, in pursuance of which defen-dants' title was issued, binds the land and quiets title thereto and is conclusive against the plaintiffs." In other words, in virtue of that decision, the plaintiffs in Civil Case No. Q-156, among them Jose Alcan-tara, Elias Benin and Pascual Pili, and their suc-cessors-in-interest, could no longer question the validity of Original Certificate of Title No. 735, nor claim any right of ownership over any portion of the land that is covered by said certificate of title.

But Elias Benin, Jose Alcantara, and Pascual Pili again came to court to claim ownership over portions of the land covered by Original Certificate of Title No. 735. On May 19, 1955 Elias Benin, joined by his brother Victor Benin and his sister Marta Benin, filed Civil Case No. 3621; Jose Alcantara joined by his brother Juan Alcantara, filed Civil Case No. 3622; and Pascual Pili, joined by his sister Luisa Pili, filed Civil Case No. 3623. These are the three cases which originated in the Court of First Instance of Rizal (Quezon City Branch) which are now before this Court on appeal.

In the earlier part of this decision, We have pointed out that the complaints in these three cases had been amended so as to include as parties plaintiffs all the heirs of the persons who were alleged to be the owners of the parcels of land claimed by the plain-tiffs in each case. Thus, the complaint in Civil Case No. 3621 was amended to include all the heirs of Sixto Benin, the alleged owner of the three parcels of land described in the complaint and the common predecessor in interest of all the plaintiffs in the case. The com-plaint in Civil Case No. 3622 was amended to include all the heirs of Bonoso Alcantara, the alleged owner of the two parcels of land described in the complaint and the common predecessor in interest of all the plaintiffs in the case. The complaint in Civil Case No. 3623 was amended to include all the heirs of Candido Pili, the alleged owner of the one parcel of land described in the complaint and the common predecessor in interest of all the plaintiffs in the case.

In those three cases, in the court below, herein appellant J. M. Tuason & Co., Inc. (defendant therein) filed a motion to dismiss upon the principal ground "that the cause of action (assuming there is one) is barred by prior judgment, or by the statute of limitation". In its motion to dismiss J. M. Tuason & Co., Inc. contended that the decision of the Supreme Court in the Alcantara case is a bar to the action of the plaintiffs in Civil Cases Nos. 3621, 3622 and 3623 of the Court of First Instance of Rizal. The lower court, however, denied the motion to dis-miss. In its answer to the complaint in each of these three cases, J.M. Tuason & Co., Inc. set up as affirmative defenses the very grounds of its motion to dismiss. After the plaintiffs had closed their direct evidence, J. M. Tuason & Co., Inc. filed another motion to dismiss upon the ground that the action was barred by the statute of limitations and by a prior judgment, and that the plaintiffs had not presented evidence to prove their claim of ownership. This second motion to dismiss was also denied by the lower court.[50]

In its decision, which is now on appeal before this Court, the lower court held that the decision in the Alcantara case was not a bar to the action in these three cases, ruling that there is no identity, of the parties, of the subject matter, and of the cause of action, between Civil Case No. Q-156, on the one hand, and Civil Cases Nos. 3621, 3622, and 3623, on the other.

It is now contended by appellant J. M. Tuason & Co. Inc., in the present appeal, that "the trial court erred in not dismissing these cases on the ground of res judicata and in denying the motion to dismiss filed on said ground." [51]

Does the judgment in the aforementioned Alcantara case operate as a bar to the action of the appellees in the three cases at bar?

In order that the rule of res judicata may apply, the following requisites must be present: (a) the former judgment must be final; (b) it must have been ren-dered by a court having jurisdiction of the subject-mat-ter and of the parties; (c) it must be a judgment on the merits; and (d) there must be, between the first and the second actions, identity of parties, of subject-matter, and of cause of action (San Diego vs. Cardona, 70 Phil. 281-283).

We find that the judgment in Civil Case No. Q-156 (G. R. No. L-4998) is a final judgment on the merits that was rendered by a court having jurisdiction over the subject matter and over the parties. The only requisite for res judicata which we have to determine is whe-ther between Civil Case Q-156 (G. R. No. 4998), on the one hand, and Civil Cases Nos. 3621, 3622 and 3623 (G. R. Nos. L-26127, 26128 and 26129), on the other, there is identity

of parties, of subject matter and of cause of action.

In our examination of the records and the evidence, We find that there is identity of subject matter. In the lower court's pre-trial order, dated December 18, 1957, which was based on the agreement of the parties, it is stated

"That the parcels of land in litigation in Case No. Q-156 are substantially identical to the same parcels of land litigated in these cases Nos. 3621, 3622 and 3623." [52]

We also find that there is identity of cause of action. It is apparent, upon reading the original complaint (Exhibit 1) in Civil Case Q-156 and the decision in the Alcantara case (G. R. No. L-4998), that the cause of action in Civil Case Q-156 was based on the alleged fact that the defendants had dispossessed and deprived the plaintiffs therein of the parcels of land described in the complaint, which were claimed by the plaintiffs as their own and of which they had been in actual, open and continuous possession from time immemorial, and that said lands were wrongly included in Certificate of Title No. 735 that was obtained by the defendants. In the three cases at bar, plaintiffs (now appellees) also complain of having been dispossessed and deprived by the defendants of the parcels of land of which they were absolute owners and possessors, by themselves and through their predecessors in interest, since time immemorial and that their said lands were wrongly included in Parcel 1 of Original Certificate of Title No. 735 that was obtained by the defendants. In Civil Case No. Q-156, on the one hand, and in the three cases now at bar, on the other, the plaintiffs therein seek the nullification of Original Certificate of Title No. 735, and the reconveyance to them of the parcels of land that they claim as theirs. [53] It appears clear to Us that in Civil Case No. Q-156 and in the three cases at bar, the object or purpose of the plaintiffs is to recover the ownership and possession of the same parcels of land.

As far as the parties are concerned, We find that there is no exact identity of parties between Civil Case No. Q-156, on the one hand, and Civil Cases Nos. 3621, 3622 and 3623, on the other. It appears that of the plaintiffs in Civil Cases Nos. 3621, 3622 and 3623, only Elias Benin, Jose Alcantara and Pascual Pili were plaintiffs in Civil Case No. Q-156. In Civil Case No. Q-156, the defendants were Mariano Tuason y de la Paz, Heirs of Mariano Tuason, J. M. Tuason & Co., Inc. and Gregorio Araneta, Inc.; while in Civil Cases Nos. 3621, 3622 and 3623 the defendants were Mariano Severo, Teresa Eriberta, Juan Jose, Demetrio Asuncion, Augusto Huberto, all surnamed Tuason y de la Paz (the persons appearing as registered owners in Original Certificate of Title No. 735), their heirs, and J. M. Tuason and Co., Inc. We find that the natural persons surnamed Tuason, and the heirs, refer to the persons who belong to the Tuason family that secured the registration of Parcel 1 in Original Certificate of Title No. 735. The defendant Gregorio Araneta Inc. in Civil Case No. Q-156 is the administrator of the Tuason properties. So, the parties defendants in all these cases are practically the same. We find, however, that in Civil Case No. Q-156 as well as in Civil Cases Nos. 3621, 3622 and 3623, it was the defendant J. M. Tuason & Co., Inc. that actually controverted the claims of the plaintiffs.

After a careful study, We are of the considered view that the judgment in the Alcantara case is a bar to the action of the plaintiffs who are the heirs of Elias Benin in Civil Case No. 3621 (G. R. No. 26127), of plaintiff Jose Alcantara in Civil Case No. 3622 (G. R. No. 26128), and of plaintiff Pascual Pili in Civil Case No. 3623 (G. R. No. 26129) under the doctrine of res adjudicata. We are likewise of the considered view that the decision in the Alcantara case would serve to rule out the action of the other plaintiffs in Civil Cases Nos. 3621, 3622 and 3623 under the doctrine of stare decisis.

In Civil Case No. 3621 the original plaintiffs were Victor Benin, Marta Benin, and Elias Benin - two brothers and a sister. In the amended complaint it was alleged that these three original plaintiffs had another brother, and another sister, namely Esteban Benin and Felipa Benin. But because all the five Benin brothers and sisters died, they were all substituted by their heirs, such that as of the time when Civil Case No. 3621 was decided the plaintiffs were: (1) the heirs of Victor Benin; (2) the heirs of Marta Benin; (3) the heirs of Elias Benin; (4) the

heirs of Esteban Benin, and (5) the heirs of Felipa Binin.

In Civil Case No. 3622 the original plaintiffs were Juan Alcantara and Jose Alcantara, Juan Alcantara died, and he was substituted by his heirs, such that as of the time Civil Case No. 3622 was decided the plaintiffs were: (1) the heirs of Juan Alcantara, and (2) Jose Alcantara.

In Civil Case No. 3623 the original plaintiffs were Pascual Pili and Luisa Pili. In the amended complaint, it was alleged that Luisa Pili and Pascual Pili had two brothers who were already dead, namely, Diego Pili and Manuel Pili, so they were substituted by their heirs. Luisa Pili died, and she was substituted by her heirs, such that as of the time Case No. 3623 was decided, the plaintiffs were: (1) the heirs of Diego Pili; (2) the heirs of Manuel Pili; (3) the heirs of Luisa Pili, and (4) Pascual Pili.

It would thus appear that of the plaintiffs in Civil Case No. 3621 Elias Benin is the only one who was a plaintiff in Civil Case No. Q-156; of the plaintiffs in Civil Case No. 3622 Jose E. Alcantara, who is still living, is the only one who was a plaintiff in Civil Case No. Q-156; of the plaintiffs in Civil Case No. 3623 Pascual Pili, who is still living, is the only one who was a plaintiff in Civil Case No. Q-156.

It being Our finding that the judgment in Civil Case No. Q-156 (G. R. No. L-4998 - the Alcantara case) is a final judgment on the merits that was rendered by a court that had jurisdiction over the subject matter and over the parties, and that there is identity of subject matter and cause of action between Civil Case No. Q-156, on the one hand, and Civil Cases Nos. 3621, 3622, and 3623, on the other; and it appearing that Elias Benin is a party-plaintiff both in Civil Case Q-156 and Civil Case No. 3621; that Jose Alcantara is a party-plaintiff in both Civil Case No. Q-156 and Civil Case No. 3622; that Pascual Pili is a party-plaintiff in both Civil Case No. Q-156 and Civil Case No. 3623; and that the defendants in Civil Case No. Q-156 and in Civil Cases Nos. 3621, 3622 and 3623 are practically the same persons and/or entities, We hold that the doctrine of bar by a previous judgment or res adjudicata squarely applies to Elias Benin, or to his heirs and successors in interest in Civil Case No. 3621; to Jose Alcantara and his heirs or successors in interest in Civil Case No. 3622; and to Pascual Pili and his heirs or successors in interest in Civil Case No. 3623.[54]

We now consider the case of the other plaintiffs in Civil Cases Nos. 3621, 3622 and 3623.

It will be noted that in Civil Case No. 3621 the plaintiffs base their claim of ownership of the three parcels of land described in the complaint on their being heirs of successors in interest of Sixto Benin who died in 1936. In Civil Case No. 3622 the plaintiffs base their claim of ownership over the two parcels of land described in their complaint on their being the heirs and successors in interest of Bonoso Alcantara who died in 1934. In Civil Case No. 3623 the plaintiffs base their claim of ownership of the one parcel of land described in their complaint on their being the heirs and successors in interest of Candido Pili who died in 1931.

When Jose Alcantara, Elias Benin and Pascual Pili, alleged in their complaint in Civil Case No. Q-156 (which was filed in 1950) that they were the owners of the parcels of land specified in their complaint, having inherited the same from their ancestors and had been in possession of the same from time immemorial, each was claiming a right as an heir of Bonoso Alcantara, Sixto Benin, and Candido Pili, respectively. Similarly, in Civil Cases Nos. 3621, 3622 and 3623, the source of the rights claimed by the plaintiffs Jose Alcantara, Elias Benin and Pascual Pili and all the other plaintiffs were their respective ancestor, or predecessor in interest, namely Bonoso Alcantara, Sixto Benin and Candido Pili, as the case may be.

Inasmuch as Sixto Benin died in 1936, Bonoso Alcantara died in 1934, and Candido Pili died in 1931, it is obvious that during all the time when the registration proceedings in LRC No. 7681 were taking place before the Court of Land Registration, which culminated in the issuance of Original Certificate of Title No. 735 on July 8,

1914, Sixto Benin, Bonoso Alcantara and Candido Pili were living. The records show that no one of these three persons, or their representative, had filed any opposition to the application for registration in said LRC 7681, nor did any one of them, or their representative, file any petition for review of the decree of registration No. 17431 that was issued in said LRC No. 7681.

It is Our view, therefore, that the decision of this Court, in G. R. No. L-4998, which affirmed the order of the Court of First Instance of Rizal dismissing the complaint of Jose Alcantara, Elias Benin and Pascual Pili (along with four other plaintiffs) in Civil Case No. Q-156 should apply not only against the heirs, of Elias Benin, against Jose Alcantara, and against Pascual Pili, as plaintiffs in Civil Cases Nos. 3621, 3622 and 3623, respectively, but also against all the other plaintiffs in those cases. We find that the plaintiffs in Civil Case No. 3621 do not claim a right which is different from that claimed by Elias Benin in Civil Case No. Q-156. Likewise, the plaintiffs in Civil Case No. 3622 do not claim a right different from that claimed by Jose Alcantara in Civil Case No. Q-156. And, also, the plaintiffs in Civil Case No. 3623 do not claim a right different from that claimed by Pascual Pili in Civil Case No. Q-156. They all claim the same right, based on the alleged ownership of their respective common predecessor in interest -- in Civil Case No. 3621 the common predecessor in interest being Sixto Benin; in Case No. 3622 the common predecessor in interest being Bonoso Alcantara; and in Civil Case No. 3623 the common predecessor in interest being Candido Pili. In Civil Case No. Q-156 Elias Benin based his claim of ownership upon the ownership of his predecessor in interest who necessarily must be Sixto Benin; Jose Alcantara, upon the ownership of his predecessor in interest who necessarily must be Bonoso Alcantara; and Pascual Pili, upon the ownership of his predecessor in interest who necessarily must be Candido Pili. It follows, therefore, that the decision of this Court in G. R. No. L-4998 (Civil Case No. Q-156), which held untenable the cause of action of the successors in interest, of Sixto Benin, of Bonoso Alcantara and of Candido Pili, to recover the ownership and possession of any land covered by Original Certificate of Title No. 735, would also foreclose a similar cause of action of all other persons who claim to be successors in interest of Sixto Benin, of Bonoso Alcantara and of Candido Pili over any land covered by said certificate of title. As We have Adverted to, Sixto Benin died in 1936, Bonoso Alcantara died in 1934, and Candido Pili died in 1931. These three predecessors in interest of the appellees died long after the issuance of Original Certificate of Title No. 735, which took place on July 8, 1914.

And so, even if there are plaintiffs (now appellees) in these three cases who are not privies to plaintiffs Jose Alcantara, Elias Benin, and Pascual Pili in Civil Case No. Q-156 (G. R. No. L-4998 - the Alcantara case) and were not parties in that case, still the ruling of this Court in that former case, to the effect that therein plaintiffs or their predecessors in interest were bound by the proceedings in the registration court which culminated in the issuance of Original Certificate of Title No. 735, holds and applies to those plaintiffs in these three cases, because the claim of ownership of these plaintiffs is based on the same predecessors in interest of plaintiffs Jose Alcantara, Elias Benin and Pascual Pili in said Civil Case No. Q-156.[55] It may well be said that the interests of the appellees in G.R. No. L-26127 (Civil Case No. 3621) who claim rights as heirs or successors in interest of Sixto Benin were represented by Elias Benin in Civil Case No. Q-156 (G. R. No. L-4998); the appellees in G.R. No. 26128 (Civil Case No. 3622) who claim rights as heirs or successors in interest of Bonoso Alcantara were represented by Jose Alcantara in Civil Case No. Q-156 (G.R. No. L-4998); the appellees in G. R. No. 26129 (Civil Case No. 3623) who claim rights as heirs or successors in interest of Candido Pili were represented by Pascual Pili in Civil Case No. Q-156 (G.R. No. L-4998).

(c) In the case of Albina Santiago, et al. vs. J.M. Tuason & Co., Inc. (G. R. No. L-14223, November 23, 1960)[56], where Original Certificate of Title No. 735 was also in question, this Court ruled on issues akin to the issues involved in the three cases now at bar. Albina Santiago and her co-plaintiffs filed a complaint in the Court of First Instance of Quezon City, docketed as Civil Case No. Q-2918, against J. M. Tuason & Co., Inc. alleging, substantially, that their ancestor, Inocencio Santiago, was the owner of a parcel of land, evidenced by a document

(attached to their complaint as Annex A) issued by the Spanish government on May 12, 1848[57]; that Inocencio Santiago had since then been in possession of the aforesaid land as owner, publicly, continuously and adversely until his death, when his two children, Isaias and Albina, succeeded and continued to own and possess said land pro indiviso in the same character as that of their predecessor; that upon the death of Isaias Santiago his one-half share of the land was inherited by his eleven children who, together with their aunt Albina, continued to own and possess the land in the same character as that of their predecessors; that Albina and her co-plaintiffs came to know that J. M. Tuason & Co., Inc. had previously filed in the Court of First Instance of Quezon City Civil Case No. Q-27 for "quieting of title and recovery of possession" against five of the children of Isaias Santiago involving the parcel of land of which they were co-owners; that J.M. Tuason & Co., Inc. had claimed that parcel to be part of the land covered by its Transfer Certificate of Title No. 119; that the judgment in Civil Case No. Q-27, in which they (Albina Santiago, et al.) were never impleaded as parties, had already become final[58]; that J. M. Tuason & Co., Inc. had executed the judgment against them, excluding and ousting them from the enjoyment and possession of the land. Albina and her co-plaintiffs also alleged that Transfer Certificate of Title No. 119 (37679) of J. M. Tuason & Co., Inc., as well as Original Certificate of Title No. 735 from which the former was derived, did not include the parcel claimed by them; that even granting that Transfer Certificate of Title No. 119 included the parcel claimed by them the inclusion of that parcel in the certificate of title of J. M. Tuason & Co., Inc. was done through fraud because they, nor their predecessors, were not actually notified of the registration proceedings. As ground for cancellation of the certificate of title of J. M. Tuason & Co., Inc. Albina Santiago and her co-plaintiffs further alleged that the technical description in Original Certificate of Title No. 735 had been falsified to include areas never brought within the jurisdiction of the Land Registration Court, since they were areas not included in the application and publication in the registration proceedings; that long before the predecessors of J. M. Tuason & Co., Inc. applied for, and secured, registration of the land which included their parcel of land they had already acquired ownership thereof not only by the document, Annex A of their complaint, but also by acquisitive prescription. Albina Santiago and her co-plaintiffs prayed, that J. M. Tuason & Co., Inc. be ordered to desist from enforcing Civil Case No. Q-27 against them; that a resurvey be ordered to determine whether or not Transfer Certificate of Title No. 119 (37679) included the land described in their complaint; that a reconveyance to them be ordered of whatever portion of the land claimed by them may be found included in Transfer Certificate of Title No. 119; that Transfer Certificate of Title No. 119 and Original Certificate of Title No. 735 be ordered cancelled and substituted with a new certificate of title embracing only those lands included in the application, publication and/or decree in LRC No. 7681 of the Court of Land Registration.

Upon motion of defendant J. M. Tuason & Co., Inc., the Court of First Instance of Quezon City dismissed the complaint of Albina Santiago, et al., upon the grounds that there was no cause of action, that the case was barred by a prior judgment in Civil Case No. Q-27 which was affirmed by the Supreme Court is G. R. No. L-5079, and that the action of the plaintiffs, if they had any, had prescribed.

This Court affirmed the order of the lower court dismissing the complaint of Albina Santiago and her co-plaintiffs.[59] Regarding the contention of Albina Santiago and her co-plaintiffs that the judgment in the previous case (Civil Case No. Q-27, affirmed in G.R. No. L-5079) would not operate as res judicata against them because they were not parties in that suit, and that they did not derive their title from the defendants in the previous suit, this Court held:

"We agree with appellants that the decision in the preceding suit to quiet title, prosecuted by the appellee Tuason & Co. against other heirs of Ynocencio Santiago (99 Phil., 615; 50 Off. Gaz. 11, 5727), can not constitute res judicata against these appellants who were not parties to that suit and do not derive their title from the defendants in the previous litigation (Rule 39, sec. 44 (b). There is authority for the proposition that a

judgment may be made binding in a subsequent litigation upon one who, although not a formal party to a previous suit, has actually conducted or controlled the action or defense therein (65 ALR 1134), or who was adequately represented in such previous litigation; but no clear proof of the existence of such exceptional circumstances is before us in the present case. On the other hand, the rule is that co-owners are not privies in interest in relation to the property owned in common.

xxx xxx xxx

"But granting that the plaintiffs-appellants herein are not privies of the defendants Santiago in the former litigation over this same property (S. C. G. R. No. L-5079), still the pronouncement of this Court, made in the former case, to the effect that the Spanish document (Annex A) issued in favor of Ynocencio Santiago (ancestor of appellants herein) was neither a titulo de informacion posesoria nor a title by composition con el estado, and, therefore, vested no ownership over the land therein described in favor of Ynocencio Santiago, holds and applies to herein appellants, since the quality or the legal effect of the document does not depend upon the persons who invoke it.

"If the late Ynocencio Santiago did not become the owner of the disputed property by virtue of the document Annex A, then appellants herein, as heirs of Ynocencio, have not acquired such ownership either. It follows that the first and second causes of action of their complaint, predicated as they are on the assumption that such ownership and its consequential rights resulted from Annex A, must necessarily fail. Not being owners, they can complain of no invasion of dominical rights."

It will thus be noted that in the afore-mentioned decision in the Santiago case, even if Albina Santiago and her co-plaintiffs were not considered privies to the defendants in Civil Case No. Q-27, and even if they were not parties in that previous case, this Court nevertheless applied to them the judgment (G. R. No. L-5079) in that previous case where it was pronounced that the document, Annex A of the complaint of Albina Santiago, et al., was neither a titulo de informacion posesoria nor a title by composition con el estado, and it did not establish the right of ownership of their predecessor in interest, Inocencio Santiago, Albina Santiago and her co-plaintiffs had based their claim of ownership on that document (Annex A).[60] This Court held in that previous case that the document was unavailing against Transfer Certificate of Title No. 119 of J. M. Tuason & Co., Inc. and against Original Certificate of Title No. 735.

And so, following the logic of this Court in its decision in the Santiago case, in the three cases at bar We hold that even if the plaintiffs in Civil Case No. 3621, except the heirs of Elias Benin, are not privies to Elias Benin and were not parties in Civil Case No. Q-156; even if the plaintiffs in Civil Case No. 3622, except Jose Alcantara, are not privies to Jose Alcantara and were not parties in Civil Case No. Q-156; and even if the plaintiffs in Civil Case No. 3623, except Pascual Pili, are not privies to Pascual Pili and were not parties in Civil Case No. Q-156, still the pronouncement of this Court in the judgment in that previous case (G.R. No. L-4998), to the effect that the plaintiffs in that case and their predecessors in interest were bound by the registration proceedings which culminated, in the issuance of Original Certificate of Title No. 735, holds and applies to all the plaintiffs (now appellees) in these three cases. In that judgment this Court ruled out, or did not sustain, the rights claimed by the predecessors in interest of herein appellees over the land covered by Original Certificate of Title No. 735. These appellees, therefore, have not succeeded to any right that can derogate the validity and conclusiveness of Original Certificate of Title No. 735, and of the certificates of title that are derived from said original certificate of title.

Coming back to the Santiago case, as regards the contention of Albina Santiago and her co-plaintiffs that the registration proceedings which resulted in the issuance of Original Certificate of Title No. 735 were irregular and fraudulent, this Court held:

"(T)he mere fact that appellants herein were not personally notified of the registration proceedings that resulted in a decree of registration of title in favor of the Tuasons in 1914 does not constitute in itself a case of

fraud that would invalidate the decree. The registration proceedings, as proceedings in rem, operate as against the whole world and the decree issued therein is conclusive adjudication of the ownership of the lands registered, not only against those parties who appeared in such proceedings but also against parties who were summoned by publication but did not appear. The registration by the appellee's predecessors-in-interest freed the lands from claims and liens of whatever character that existed against the lands prior to the issuance of the certificates of title, except those noted in the certificate and legal encumbrances saved by law (*Yumol vs. Rivera and Dizon*, 64 Phil. 13, 17 and cases cited therein). In addition, there being no allegation that the registered owners procured the non-appearance of appellants at the registration proceedings, and very much more than one year having elapsed from the issuance of the decree of registration in 1914, neither revocation of such decree nor a decree of reconveyance are obtainable anymore."

Regarding the claim of Albina Santiago and her co-plaintiffs that they had acquired title by prescription over the parcel of land claimed by them, this Court held:

"It follows also that the allegation of prescriptive title in favor of plaintiffs does not suffice to establish a cause of action. If such prescription was completed before the registration of the land in favor of the Tuasons, the resulting prescriptive title was cut off and extinguished by the decree of registration. If, on the contrary, the prescription was either begun or completed after the decree of registration, it conferred no title because, by express provision of law, prescription can not operate against the registered owner (Act 496, section 46)."

Thus, in this Santiago case, as in the *Alcantara* case, this Court declared conclusive and indefeasible Original Certificate of Title No. 735 which was issued as a result of the registration proceedings in L. R. C. No. 7681 of the Court of Land Registration. There are many other cases where this Court has made a similar pronouncement regarding Original Certificate of Title No. 735.[61]

In view of the findings, and the rulings, that We have hereinbefore made, it follows that, as contended by the appellant, the lower court also erred when it declared the appellees the owners of the lands claimed by them and in awarding damages to them, in these three cases.[62]

We consider it unnecessary to rule on the counterclaim of appellant J.M. Tuason & Co., Inc., for damages and attorneys fees against the appellees[63], considering, as the records show, that the appellees are persons who are not in a position to pay damages in any form.[64] We believe that the appellees had filed their complaints in the honest, but mistaken, belief that they have a good cause of action against the appellant corporation and not because they meant to embarrass or humiliate the persons who are identified or connected with the appellant.

WHEREFORE, the joint decision of the Court of First Instance of Rizal (Quezon City Branch) in Civil Cases Nos. 3621, 3622 and 3623, appealed from, is reversed and set aside. The bond filed by appellant in the three cases in the court below for the lifting of the writ of preliminary injunction is ordered cancelled. No pronouncement as to costs.

IT IS SO ORDERED.

Makalintal, C.J., Castro, Teehankee, Barredo, Makasiar, Antonio, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

Fernando, J., did not take part.

[1] The three cases were tried together, and decided in one joint decision, by the Court of First Instance of Rizal; were jointly appealed directly to the Supreme Court because of the value of the property involved in each case; and are now decided jointly by the Supreme Court.

[2] The original plaintiffs in Civil Case No. 3621 were Victor Benin, Marta Benin and Elias Benin. In the second amended complaint, dated June 18, 1959, it was there alleged that Sixto Benin, who died in 1936, left five (5) children, namely, Victor Benin, Elias Benin, Esteban Benin, Felipa Benin and Marta Benin. When the original complaint was filed on May 19, 1955, Esteban Benin and Felipa Benin were dead, but their heirs were not included as parties plaintiffs. At the time the second amended complaint was filed, of the three (3) original plaintiffs, only Victor Benin and Elias Benin were living -- Marta Benin having died after the original complaint was filed; and so the complaint was amended, naming as parties plaintiffs Victor Benin and Elias Benin (two of the three original defendants); Mercedes Zamora y Benin, Leocadio Zamora y Benin, Roman Zamora y Benin, Eduardo Zamora y Benin, Pablo Zamora y Benin, Antonio Zamora y Benin and Rufino Zamora y Benin (in substitution at original plaintiffs Marta Benin); Ines Benin, Estanislawa Benin, and Irineo Benin, representing their deceased father Esteban Benin; and Felipe Manuel, Ricardo Manuel, and Virginia Manuel, representing their deceased mother Felipa Benin. During the pendency of this case in the court below, original plaintiff Elias Benin died, and he was substituted by his heirs, namely, Isabel Rivera Vda. de Benin, Hermenegildo R. Benin, Mamerto R. Benin, Celerina Cruz, Ceferino Cruz, Mario Cruz, and Cora Cruz (these last four being children of the deceased Margarita Benin who was one of the children of Elias Benin), Ester R. Benin, Elisa R. Benin and Apolinario R. Benin. Likewise, during the pendency of this case in the court below, original plaintiff Victor Benin died, and he was substituted by his heirs, namely, Agripina Rivera Vda. de Benin, Rosario Benin, Teotimo Benin, Miraldo Benin, Eufrocio Benin, Gloria Benin, Jose Benin, and Elino Benin. In resume, therefore, at the time when Civil Case No. 3621 was decided by the Court of First Instance of Rizal, the plaintiffs in the said case were: (1) VICTOR BENIN, represented by his heirs, Agripina Rivera Vda. de Benin, Rosario Benin, Teotimo Benin, Miraldo Benin, Eufrocio Benin, Gloria Benin, Jose Benin, and Elino Benin; (2) MARTA BENIN, represented by her heirs, Leocadio Zamora y Benin, Mercedes Zamora y Benin, Roman Zamora y Benin, Eduardo Zamora y Benin, Pablo Zamora y Benin, Antonio Zamora y Benin, and Rufino Zamora y Benin; (3) ELIAS BENIN, represented by his heirs, Isabel Rivera Vda. de Benin, Hermenegildo Benin, Mamerto Benin, Ester Benin, Elisa Benin, Apolinario Benin, Celerina Cruz y Benin, Ceferino Cruz y Benin, Mario Cruz y Benin, and Cora Cruz y Benin; (4) ESTEBAN BENIN, represented by his heirs, Ines Benin, Estanislawa Benin, and Irineo Benin; and (5) FELIPA BENIN, represented by her heirs, Felipe Manuel y Benin, Ricardo Manuel y Benin, and Virginia Manuel y Benin. (R. A., Vol. I, pp. 37, 423, 427, 476, 477; R. A., Vol. II, pp. 718-719, 751-752).

The original plaintiffs in Civil Case No. 3622 were the two brothers, Juan E. Alcantara and Jose E. Alcantara. During the pendency of this case in the court below, Juan Alcantara died, and he was substituted by his heirs, namely, Victoria Alcantara, Marcelina Alcantara, Cresencia Alcantara and Victor Alcantara. Therefore, at the time when Civil Case No. 3622 was decided by the Court of First Instance of Rizal, the parties-plaintiffs were (1) JOSE E. ALCANTARA, and (2) JUAN E. ALCANTARA, represented by his heirs, Victoria Alcantara, Marceline Alcantara, Cresencia Alcantara, and Victor Alcantara. (R. A. Vol. II, pp. 644-646)

In Civil Case No. 3623, the original plaintiffs were Pascual Pili and Luisa Pili, who were brother and sister. In the second amended complaint, dated June 18, 1959, it is stated that the two original plaintiffs, Pascual Pili and Luisa Pili, were the children of Candido Pili who died in 1931. The other children of Candido Pili were Diego Pili and Manuel Pili, both deceased at the time of the filing of the original complaint but their heirs were not included as parties plaintiffs. When the second amended complaint was filed on June 18, 1959, those named plaintiffs were Pascual Pili, Luisa Pili, Domingo Pili, Florentina Pili and Felicidad Pili (these last three being the children of Diego Pili), Tarcila Pili and Julia Pili (these last two being the children of Manuel Pili). During the pendency of Civil Case No. 3623 in the court below, original plaintiff Luisa Pili died, and she was substituted by her heirs, namely, Elisa de los Santos y Pili, Salud de los Santos y Pili, Teodorico Manalili y Pili, Mateo Manalili y Pili, Tomas Manalili y Pili and Leogarda Manalili y Pili. At the time when Civil Case No. 3623 was decided by the

Court of First Instance of Rizal, therefore, the parties plaintiffs were: (1) PASCUAL PILI; (2) LUISA PILI, represented by her heirs Elisa de los Santos y Pili, Salud de los Santos y Pili, Teodorico Manalili y Pili, Mateo Manalili y Pili, Tomas Manalili y Pili, and Leogarda Manalili y Pili; (3) DIEGO PILI, represented by his heirs Domingo Pili, Florentina Pili, and Felicidad Pili; and (4) MANUEL PILI, represented by his heirs, Tarcila Pili and Julia Pili. (R. A. Vol. II, pp. 754-756)

The parties named defendants in each of the three cases (Civil Cases Nos. 3621, 3622 and 3623) were Mariano Severo Tuason y de la Paz, Teresa Eriberta Tuason y de la Paz, Juan Jose Tuason y dela Paz, Demetrio Asuncion Tuason y de la Paz, Augusto Huberto Tuason y de la Paz, Heirs of Mariano Severo Tuason y de la Paz; Heirs of Teresa Eriber-ta Tuason y de la Paz; Heirs of Juan Jose Tuason y de la Paz; Heirs of Demetrio Asuncion Tuason y de la Paz; Heirs of Augusto Huberto Tuason y de la Paz; and J.M. Tuason & Co., Inc. In the complaint in each of these three cases the plaintiffs alleged that defendants Mariano Severo Tuason y de la Paz, Teresa Eriberta Tuason y de la Paz, Juan Jose Tuason y de la Paz, Demetrio Asuncion Tuason y de la Paz, Augusto Huberto Tuason y de la Paz appeared in the Original Certificate of Title No. 735 of the Office of the Register of Deeds of Rizal as having their address in the City of Manila, and that if those defendants were still living, their whereabouts were unknown, and these defendants were dead, the plaintiffs had no knowledge of such facts; and so the plaintiffs prayed that if those defendants were still living they be served with summons by means of publication. The plaintiffs further alleged that the defendants, Heirs of Mariano Severo Tuason y de la Paz, Heirs of Teresa Eriberta Tuason y de la Paz, Heirs of Juan Jose Tuason y de la Paz, Heirs of Demetrio Asuncion Tuason y de la Paz, Heirs of Augusto Huberto Tuason y de la Paz, were being sued in the alternative as additional defendants, and the fact of their being alive or dead was also unknown to the plaintiffs, and if those defendants were living they could likewise be served with summons by means of publication. (R.A. Vol. I, pp. 3-4)

[3] See pp. 3-52, Amended Record on Appeal, Vol. I.

[4] Amended Record on Appeal, Vol. II, pp. 525 and 526.

[5] Amended Record on Appeal, Vol. II, pp. 599-636, 647-697, 698, 715.

[6] Amended Record on Appeal, Vol. II, pp. 953-958.

[7] The motion for new trial was not resolved by the trial court.

[8] Amended Record on Appeal, Vol. II, p. 1038.

[9] Appellee's brief, pp. 16-17.

[10] Lower court's decision, p. 963, Records on Appeal, Vol. II.

[11] Juan and Chuongco vs. Ortiz Luis, 49 Phil. 252--256, 259; Phil. Manufacturing Co. vs. Imperial, 49 Phil. 122-125; Lichauco, et al., vs. Herederos de Corpus, 60 Phil. 211-214.

[12] Escueta vs. Director of Lands, 16 Phil. 482-487.

[13] Phil. Manufacturing Co. vs. Imperial, 49 Phil. 122; Dir. of Lands, et al. vs. Benitez, et al., L-21368 March 31, 1966, 16 SCRA 557, 561.

[14] Bank of P.I. vs. Acuña, 59 Phil. 183-186.

[15] Underscoring, supplied.

[16] Underscoring, supplied.

[17] In Exhibit VV-5, presented by the appellees in the court below, the Register of Deeds of Rizal certified that

OCT No. 735 was cancelled and in lieu thereof TCT No. 2680 was issued on August 9, 1915; and that TCT 2680 was cancelled and in lieu thereof TCT 3792 was issued on October 15, 1917.

[18] Underscoring, supplied.

[19] Parcel 1 in OCT No. 735 is the Hacienda Sta. Mesa.

[20] Decision of Lower Court, page 969, Vol. II, Record on Appeal.

[21] Appellant's Brief, pages 33-34.

[22] See footnote 16, ante.

[23] Philippine Manufacturing Co., vs. Imperial, 49 Phil. 122; Juan and Chuongco vs. Ortiz, 49 Phil. 252; Bank of the P.I. vs. Acuña, 59 Phil. 183; Lichauco vs. Herederos de Corpus, 60 Phil. 211; Director of Lands vs. Benitez, 16 SCRA 557.

[24] Philippine Manufacturing Co., vs. Imperial 49 Phil. 122; Juan and Chongco vs. Ortiz, 49 Phil. 252; Lichauco vs. Herederos de Corpus, 60 Phil. 211.

[25] Record on Appeal, Vol. I, pages 10, 35, 59, 445, 480 & 503.

[26] Appellee's Brief, pages 16-17; See Footnote 9. ante.

[27] Record on Appeal, Vol. I, page 421.

[28] Decision of the lower court, page 963, Vol. II, Record on Appeal. See footnote 10, ante.

[29] Lower court's decision, pp. 970-971, Record on Appeal, Vol. II.

[30] Philippine National Bank vs. Tan Ong Zse, 51 Phil. 317, 321.

[31] Exhibit 50 consists of three pages. The first page is the photostat of the face of OCT No. 735. The second page is the photostat of four small sheets which had been joined together and photographed as one whole page. Attached, or stapled, to this page is the photostat of another small sheet more or less similar in size to each of the four sheets that were joined together and photographed as one whole page. This second page together with the small sheet attached to it contain the technical descriptions of Parcels 1 and 2 in LRC No. 7681. The third page is the photostat of the page containing the memorandum of the encumbrances affecting the property described in the certificate. The records show that this photostat of OCT No. 735 (Exh. 50) was taken before the present cases were instituted.

The appellees presented as evidence also a photostat of OCT No. 735 consisting of three pages (Exhibit WW). The first page is the face of OCT No. 735 which is similar to the face of the photostat of the same title presented by appellant as Exh. 50, except that this face of Exh. "WW" appears deteriorated and the portion at the lower right hand corner is mutilated. The second page (which is at the back of the first page) is the memorandum of the encumbrances affecting the property described in the title. (This page is similar to the third page of Exhibit 50). The third page of Exh. WW consists of the photostat of four small sheets that had been joined together and photographed together as one page. These four small sheets that had been photographed together contain the greater portion of the technical descriptions of Parcels 1 and 2, similar to what appear on page 2 of Exh. 50 of the appellant, except that this page 3 of Exh. "WW" appears deteriorated and mutilated. Then there is attached, or stapled, to this page 3 a photostat of a small sheet (marked Exh. WW-2) which contains the technical description of a parcel of land situated in Muntinglupa, Rizal, along the shore of lake Laguna de Bay.

It appears that the photostat of the small sheet that is attached to the second page of Exh. 50 contains part of the

descriptions of Parcels 1 and 2, while the photostat of the small sheet attached to the third page of Exh. "WW" contains the technical description of a parcel of land in Muntinglupa, Rizal.

We find that what is written on the photostat of the small sheet (Ex. WW-2) attached to Exh. "WW" has no connection to what are written on the third page of Exhibit "WW"; while the photostat of the small sheet at-tached to page two of Exh. 50 contains part of the technical description of Parcel 2 which is continued on the face of Exh. 50. The records show that Exhibit "WW" was taken in July, 1961 when these cases were already pending in the lower court (Exhibit WW-3). The Original complaints in these three cases were filed on May 19, 1955.

Counsel for the appellees made capital of this sheet (Exh. WW-2) which contains the technical description of a land in Muntinglupa in his claim that the transcription of Decree of Registration No. 17431 in the Registration Book was not properly done. Counsel for the appellant explains that at the time of the trial of these cases the record of OCT No. 735 in the office of the Register of Deeds of Rizal was not only badly mutilated but was also in a very deteriorated condition, and the inclusion of a sheet of paper which contains the technical description of a parcel of land situated in Muntinglupa, Rizal could have been due to mishandling of the records in the course of the frequent handling of those records, not to mention the several transfers of the office of the Register of Deeds since 1914 to its location at the time of the trial. It could have happened that this sheet containing the technical description of a lot in Muntinglupa (Exh. WW-2) was mistakenly attached to the record (or pages) of OCT No. 735 in the Registration Book, while the true and correct sheet which contains part of the technical description of Parcel 2 was detached from the record or pages of OCT No. 735 in the Registration Book and misplaced somewhere.

Counsel for the appellant further points out that the best evidence that Decree of Registration No. 17431 was correctly transcribed in the Registration Book is the fact that TCT No. 2680 (Exh. 31) which was issued in lieu of OCT 735 on August 9, 1915 contains the technical descriptions of Parcels 1 and 2 of LRC No. 7681 as lifted from OCT 735, and the technical description in TCT No. 2680 does not make mention of any parcel of land located in Muntinglupa; and TCT No. 3792 (Exh. 32) which was issued on October 15, 1917 in lieu of TCT No. 2680 also does not contain the description of any parcel of land located in Muntinglupa, Rizal (Appellant's Reply Brief, pp. 23-25).

We have noted that the lower court did not give importance to this stray sheet (Exh. WW-2) attached to Exhibit "WW" containing the description of the land in Muntinglupa, because in its decision it did not say that this sheet is an indication of an irregularity in the transcription of the technical description in the registration book (pp. 970-971, Record on Appeal, Vol. II).

This Court believes that Exh. 50 of the appellant is more authentic, and more reliable, than Exh. "WW" (and WW-2) of the appellees. (See Galves, et al., vs. J. M. Tuason & Co., Inc., 10 SCRA 344).

[32] Roxas vs. Enriquez, 29 Phil. 31, 34.

[33] Maloles and Malvar vs. Director of Lands 25 Phil. 548, 552.

[34] Legarda and Prieto vs. Saleeby, 31 Phil. 590, 593.

[35] Government vs. Abural, 39 Phil. 996, 1000.

[36] As quoted from the lower court's decision, p. 983, Vol. II, Record on Appeal.

[37] Sec. 55, Act 496; Severino vs. Severino, 44, Phil. 348, 357; Dizon vs. Lacap, 59 Phil. 193, 196; Director of Lands vs. Register of Deeds of Rizal, 92 Phil. 826. See pp. 113-117, "Land Titles and Deeds," by Noblejas, 1965

edition; and Caladiao, et al., vs. Vda. de Blas, 10 SCRA, 691, 695, 695.

[38] De los Reyes vs. De Villa, 48 Phil. 227-228; Soroñgon vs. Makalintal, 80 Phil. 259; Tiburcio, et al., vs. PHHC, 106 Phil. 477; J.M. Tuason & Co., Inc. vs. Vibat; 8 SCRA 54, 57; Baldoz vs. Papa, 14 SCRA 691; Ilarde, et al., vs. Lichauco, 42 SCRA 641; Libunan vs. Gil, 45 SCRA 17, 27.

[39] The plaintiffs alleged that the individual de-fendants Tuason y de la Paz, and their heirs, were either living or dead, or if they were living their whereabouts were unknown, so they were summoned by publication.

[40] Civil Case No. 24803, entitled "Antonio Barretto, et al., vs. Augusto H. Tuason, et al..." The case was later brought up to the Supreme Court (See 50 Phil. 888).

[41] The case of Bank of the P.I. vs. Acuña was de-cided on December 21, 1933.

[42] J. M. Tuason & Co., Inc. bought Parcel 1 from the Heirs of D. Tuason, Inc. on June 15, 1938 (Exh. 12-C).

[43] Exhibit 3; See pp. 48-57 t.s.n. of Dec. 15, 1956. See also pp. 227-245, Vol. I of Record on Appeal.

[44] Record on Appeal, Vol. I, pp. 290, 293-294. "defendant (sic)" should be "plaintiff".

[45] Bolaños vs. J. M. Tuason & Co. Inc., 37 SCRA 223, 229.

[46] Secs. 45 and 46, Act 496; Legarda vs. Saleeby, 31 Phil. 590; De la Cruz vs. Fabie, 35 Phil. 144.

[47] Domingo vs. Santos Ongsiako, 55 Phil. 361.

[48] Palet vs. Tejedor, 55 Phil. 790, 798. See Tiburcio, et al., vs. PHHC, et al., 106 Phil. 477; J. M. Tuason & Co., Inc. vs. Magdañal, 4 SCRA 84, 88.

[49] Exhibit 1 (Complaint in Civil Case No. Q-156).

[50] J. M. Tuason & Co., Inc. moved to withdraw the third ground of the motion to dismiss and was granted by the trial court, but the court denied the second motion to dismiss just the same. (Pages 599, 698, 715, Vol. II, Record on Appeal).

[51] Fifth assignment of error, page 3, Appellant's brief.

[52] Record on Appeal, Vol. I, pp. 421-425

[53] Exh. 1 page 8; Amended record on appeal, Vol. I, pages 49-51; Vol. 2, pages 522-524; 595-596.

[54] Peñalosa vs. Tuason, 22 Phil. 303; Boncairen vs. Diones, 98 Phil. 122, 126.

[55] Agregado vs. Muñoz, 36 Phil. 465; Varsity Hills, et al., vs. Navarro, et al., 43 SCRA, 503.

[56] 110 Phil. 16; Exhibit 49.

[57] As erroneously reported in Vol. 110 of the Phil. Reports, p. 18, the date is "May 12, 1948"; but in the original of the decision, a certified copy of which is Exhibit 49, the date is "May 12, 1848".

[58] G.R. No. L-5079, July 31, 1956 (J. M. Tuason & Co. vs. Geronimo Santiago, et al.); 99 Phil. 617. In this case this Court also upheld the validity of OCT No. 735.

[59] G. R. No. L-14223, November 23, 1960. See footnote 56, ante.

[60] In G. R. No. L-5079 (J. M. Tuason & Co., Inc. vs. Geronimo Santiago), 99 Phil. 617, Geronimo Santiago and his co-defendants who were co-owners with Albina Santiago and her co-plaintiffs, also based their claim of

ownership on the document (Annex A to the complaint of Albina Santiago, et al.).

[61] J. M. Tuason & Co., Inc. vs. Bolaños 95 Phil. 106; J. M. Tuason & Co., Inc. vs. Geronimo Santiago, 99 Phil. 615; J. M. Tuason & Co., Inc. vs. De Guzman, et al., 99 Phil. 281; Tiburcio, et al., vs. PHHC, et al., 106 Phil. 477; J. M. Tuason & Co., Inc. vs. Register of Deeds, 2 SCRA 1018; J. M. Tuason & Co., Inc. vs. Magdañal, 4 SCRA 84; J. M. Tuason & Co., Inc. vs. Aguirre, 7 SCRA 109; Galvez, et al. vs. J. M. Tuason & Co., Inc. 10 SCRA 344; PHHC, et al. vs. Mencias, et al., 20 SCRA 1031; Varsity Hills vs. Navarro, 43 SCRA 503.

[62] Eight Assignment of error of appellant.

[63] Ninth Assignment of error of appellant.

[64] The appellees are prosecuting their cases as paupers.

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