EULOGIO B. TOPACIO, JR., PLAINTIFF-APPELLANT, VS. SPS. ERNESTO V. YU AND ELSIE ONG YU AND BENNY SAULOG AND SPS. JESUS B. MUPAS AND LORINDA T. MUPAS, DEFENDANTS-APPELLEES.

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GALAPATE-LAGUILLES, J:

Before Us is an appeal from the Decision[1] dated December 28, 2011 and the Order[2] dated July 24, 2012 of Branch 90, Regional Trial Court (RTC), Dasmariñas, Cavite, sitting in Imus, Cavite in Civil Case No. 2215-00 for Quieting of Title/Recovery of Possession/Reconveyance and Damages", dismissing the case for lack of merit and denying reconsideration thereof.

The facts are culled from the records.

In his Amended Complaint,[3] plaintiff-appellant Eulogio B. Topacio, Jr. averred that he is the registered owner of Lot 7402-E of the subdivision plan Psu-042106-054870 situated in Barangay Paliparan, Dasmarinas, Cavite covered by Transfer Certificate of Title(TCT) No. T-348422 issued by the Register of Deeds of Cavite consisting of 9,878 square meters. He alleged that defendants-appellees Spouses Ernesto V. Yu and Elsie Ong Yu (spouses Yu) were issued TCT No. T-490552 of the Register of Deeds of Cavite consisting of 606 square meters, more or less, which is a portion of the area covered by the plaintiff-appellant's title;(3) that TCT No. T-490552 that was issued to defendants-appellees Spouses Yu is spurious, illegal and null and void as the same was issued much later than plaintiff-appellant's title; (4) that defendant-appellee Benny Saulog (Saulog) is claiming and occupying a portion of the area covered by the plaintiff-appellant's title, which is based on a claim of ownership under TCT No. T-289604, which is also spurious and void as it covers a different parcel of land as per sketch plan; (5) that TCT No. T-289604 was cancelled by TCT No. T-597438 issued to Celestina Saulog and later by TCT No. T-376040 issued to spouses Jesus Mupas and Lorinda Mupas (spouses Mupas); (6) that the titles of the defendants have cast a cloud on the title of the plaintiff-appellant as they are invalid, illegal and prejudicial to plaintiff-appellant's title; (7) that despite demand, said defendants-appellees have failed to cease and desist from fencing and constructing a house, respectively, on the plaintiff-appellant's property. Thus, plaintiff-appellant prayed that TCT Nos. T-490552 and T-376040 issued to spouses Yu and spouses Mupas, respectively, be cancelled for being null and void.

By way of Answer with Counterclaims,[4] spouses Yu explained that they are the owners of Lot No. 8142-New, Fls-2286 consisting an area of 606 square meters and covered by TCT No. T-490552; that they have purchased said property from spouses Asislo Martinez and Norma Linatoc by virtue of an Absolute Deed of Sale dated June 10, 1994; that said property was then covered by TCT No. T-267842 issued by the Register of Deeds of Cavite in the name of Asislo Martinez; that after purchasing said property, they had the sale registered in their name under TCT No. T-490552; that spouses Martinez have acquired the subject property from the Bureau of Lands on June 9, 1989 by virtue of Sales Certificate No. 1793, Deed No. V-70973 which was signed by the Director of Lands; that spouses Martinez have caused the conduct of a relocation survey to ascertain its boundaries until a relocation survey plan was prepared by Geodetic Engineer Antonio P. Pascual, Jr.; that Spouses Yu have taken possession of the subject property and exercised dominion over it; that they have religiously paid the property taxes; that they

have constructed a fence with the permission of the Barangay Officer; and that they have secured a permit to construct said fence from the Office of the Municipal Engineer.

The defendants-appellees spouses Yu interposed the following defenses: (1) that the complaint does not state a cause of action; (2) that plaintiff-appellant is not a real party-in-interest; (3) that they were innocent purchasers of the subject property for value and in good faith; (4) that said complaint amounts to a collateral attack on their lawful and valid title over the subject property which cannot be done in this proceeding.[5]

On the other hand, defendant-appellee Saulog filed a separate Answer with Affirmative and Special Defenses with Compulsory Counterclaim,[6] denying the material allegations in the Complaint. As special and affirmative defenses, Saulog alleged that he owned and occupied Lot No. 7569-A with an area of 152 square meters and not Lot No. 7589 as stated in the Complaint. According to Saulog, he bought Lot No. 7569-A, which was then covered by TCT No. T-289604, from Ferdinand T. Ramirez and Ricardo T. De Leon. Further, he averred that TCT No. T-289604 was cancelled by TCT No. T-597438 issued in the name of Celestina Saulog and registered on January 5, 1996; and that the same was likewise cancelled by TCT No. T-736040 issued in the name of Spouses Jesus B. Mupas and Lorinda T. Mupas (spouses Mupas) on June 18, 1997. According further to Saulog, plaintiff-appellant should be held liable for perjury for stating in the complaint that he was claiming a portion of plaintiff-appellant's property covered by TCT No. T-348422. He further posited that the enjoyment of the property in his possession was with factual and legal bases as he was considered a purchaser for value and in good faith.

In the meantime, spouses Mupas were declared in default for failure to file any responsive pleading. Thereafter, plaintiff-appellant filed a Motion to Discharge[7] Saulog and spouses Mupas upon learning that the property they were occupying were outside of his property. Likewise, he filed a Motion for Joint Survey[8] which was granted by the court a quo in an Order[9] dated May 7, 2008 in aid of the early disposition of this case without going into trial while the earlier motion to drop defendants-appellees Saulog and spouses Mupas was held in abeyance until after the completion of the joint survey between plaintiff-appellant and spouses Yu.

On March 5, 2009, a survey team from the CENRO of Trece Martirez City led by Geodetic Engineer Ramoncito Tañola was constituted,[10] and on April 22, 2009, they conducted a verification survey on the parcels of land claimed by plaintiff-appellant and the spouses Yu in the presence of all the parties, who were duly assisted by their counsel and private geodetic engineers.[11] On February 25, 2010, Engr. Tañola submitted his Report of Verification Survey[12] which contained the following findings:

> xxx
>
> After computing the actual side-shots of the properties, reference lot, it was verified and ascertained[:]
>
> That Lot 7402-E, Psd-042106-054870 covered by TCT No. 348422 and registered in the name of Eulogio Topacio married to Alicia Cruz Topacio with the total area of 9,878 square meters.
>
> That Lot 8142-New, Fls-2286, Imus Estate covered by TCT No. 490552 and registered in the name of Sps[.] Ernesto V. Yu and Elsie Yu with a total area of 606 square meters.

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> That the Tie Point of both Lot 7402-E, Psd-042106-054870 and Lot 8142-New, Fls-2286, Imus Estate is Mon. No. 79, of Imus Estate and found out to be visible, undisturbed and still in correct position.
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> That both [Lot] 7402-E, Psd-042106-054870 and Lot 8142-New, Fls-2286, Imus Estate have the same Tie Points which is Mon. 79, of Imus Estate and when plotted using their respective Tie Lines it appeared that they fall apart with each other with the approximate distance of 1,526 meters. (see attached sketch plan sheet 1)
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> That based on the actual verification survey[,] the property claimed by Sps[.] Ernesto V. Yu and Elsie Yu with existing structure and with the total area of 450 square meters is inside the property of Eulogio A. Topacio, Jr. covered by Lot 7402-E, Psd-042106-054870. (see attached sketch plan sheet 2)[13]
>
> xxx

During the trial, only plaintiff-appellant and spouses Yu presented their evidence. The testimonies of plaintiff-appellant's witnesses, Engr. Tañola and Engr. Juanito Galang, were summarized by the court a quo as follows:

> "Engineer Ramoncito Tañola xxx has testified on the CENRO report pertaining to the verification survey that he has conducted on the subject property, together with the sketch plan. He explained that the property of the plaintiff and the Spouses Yu have common tie lines, which can be gathered from their respective titles that both parties have furnished him for his reference in conducting the verification survey xxx with the use of the instrument called the "total station". After the actual survey, it appeared that the property of the plaintiffs and that of the defendant-spouses Yu are 1,526.21 meters away from each other based on the tie lines and tie points that appear in their references. Engr. Tañola stressed that there is no overlapping as it appeared in the titles of the property, however, based on the actual survey, it would appear that the property of defendants spouses is inside the property of Mr. Topacio, and Engr. Tañola could only wonder why this had happened. He suggested that perhaps the remedy of the parties would be to check the authenticity and genuineness of their respective titles, and, the title that was issued first shall prevail.
>
> On cross examination, the same witness simply testified on the manner that he conducted the actual survey by means of the instrument called the total station starting at monument 79, and that they have finished the survey at around 5:00 o'clock in the afternoon on April 22, 2009. He again admitted that he could not understand how it happened that upon actual survey of the property there exists an overlapping of the Yu property on the plaintiff's property. On re-direct examination, Engr. Tañola reiterated that after plotting the technical descriptions of the respective properties of the parties as a consequence of the actual survey, there really appeared an overlapping of the Yu property on the Topacio property. Thereafter, he had furnished the parties with copies of his actual survey."
>
> Thereafter, Engineer Juanito Galang was again put to the witness stand as witness in the main trial of this case, and testifying along the lines of the testimony of Engr. Tañola, he recalled that he simply assisted Engr. Tanola in the actual survey of the subject property on April 22, 2010, and that he represented the plaintiff in the same survey. He tagged along Engr. Tañola during the survey that the latter conducted as he was familiar with the property, and helped him in putting up the traverse stations as per the reference points indicated in the

technical descriptions and the monuments on the property; however, after the reference points were placed, his job was done and they went on their separate ways. He did not participate in that particular survey as he has already had his prior survey, but he and Engr. Tanola are one in saying that based on the respective titles of the parties there would be no overlapping, although it appeared that Mr. Yu's property is actually occupying a portion of the Topacio property.

On cross-examination, Engr. Galang recalled in synthesis that he conducted the survey on the subject property sometime in 2003 upon the behest of the plaintff, although he does not know whether a similar survey was conducted prior to his own survey. He admitted that what he did in the 2003 survey was simply plotting the technical description of the property of Mr. Topacio on the basis of the photocopies of the certified true copies of the title, and he did not even inquire as to the authenticity of these titles. He stated that it is the defendants Yu [who] are in possession of the subject portion, but he was able to identify the exact location of the Topacio and Yu properties. He stated that it is not possible for a lot to be located in another place other than what is defined in the technical description appearing on its title because the technical description of the property should conform to the ground where the property is located. The ideal is that the technical description in the title should be the same as that projected on the ground, and what is not ideal is the situation that the technical description does not reconcile with the location of the lot."[14] (Emphasis Ours)

On the other hand, the testimonial evidence for the defense consisting of the testimonies of Engr. Ramon Miranda and Ernesto Tu was synthesized by the court a quo as follows:

First to testify for the defendants-spouses was Engr. Ramon Miranda, who is presently the construction project manager of EVY Construction and Development Corporation, and as such he takes charge of research and implementation of projects for the company that is owned by the Spouses Yu.

He recalled that a certain Asislo Martinez had sold to Mr. Ernesto V. Yu, the subject property, and soon after the sale, Mr. Yu gave him instruction to verify the authenticity of Transfer Certificate of Title No. T-267842 of the Register of Deeds Cavite covering the said property. Later on, he found that the said title is clean xxx, and soon thereafter, they constructed a perimeter fence around the property xxx. Eventually, Mr. Yu again instructed him to have the title to the property registered in the name of Mr. Yu, and later on Transfer Certificate of Title No. T-490552 was issued in favor of the Spouses Ernesto V. Yu xxx. Thereafter, his job was finished.

Testifying along the lines of his answer, Mr. Ernesto Yu testified that he is the owner of the property xxx subject matter of this case, which property he purchased from Asislo Martinez. The latter had shown Mr. Yu the title to the property covered by Transfer Certificate of Title No. T-267842 xxx and then, the latter instructed Engr. Ramon Miranda to have the said title verified. Later on, Engr. Miranda told him that the title is clean, so he immediately gave instructions for Miranda to process the deed of sale xxx. Soon after, Mr. Yu took possession of the said property and put up a fence around it xxx.

On cross-examination, Mr. Yu clarified that he was with the owner of the subject property, together with one Kapitan Dan Sañez, the middleman, at the time it was offered to him for sale. Thereafter, he put to ask his trusted employee, Engineer Ramon Miranda, to secure the services of a surveyor to determine the actual location of the property and to have the same verified at the Register of Deeds. He saw the result of the survey,

> although he could no longer remember whether the said survey report was submitted to the CENRO. He can only recall that it was pointed out to him as to who were the owners of the property adjacent to the subject property, and that after, he paid for the property and had the same surveyed; he secured a barangay clearance to have the same fenced. Mr. Yu stressed that all his documents pertaining to the property are intact and complete and he simply relied on the geodetic engineer that surveyed the property as well as the actions taken by Mr. Ramon Miranda. However, after he had the property fenced, there were entities that appeared to claim the property. The first was Villa Esperanza that filed a forcible entry case against him, and then, this case was also filed against him. Mr. Yu insisted that he owns the property."[15]

After trial, the parties formally offered their respective documentary evidence. The plaintiff-appellant offered the following documents: 1) Exhibit A – Certified True Copy of TCT No. T-348422; 2) Exhibit B – Technical Description of plaintiff's property covered by TCT No. T-348422 that was used in the verification survey; 3) Exhibit C – Blue print of Vicinity Map of the plaintiff's property; 4) Exhbit D – Report dated December 1, 2009 of Engr. Ramoncito A. Tañola on the verification survey of the properties claimed by plaintiff-appellant and defendants-appellees spouses Yu; and 5) Exhibit D-1 – Sketch Plan Sheet 1 prepared by Engr. Tañola, showing the correct location of the properties of plaintiff and defendants, based on the technical descriptions contained in their respective titles.[16]

On the other hand, spouses Yu offered the following documentary evidence: 1) Exhibit 1 and sub-markings – Transfer Certificate of Title No. T-490552 in the name of spouses Yu; 2) Exhibit 2 and sub-markings – TCT No. T-267842 in the name of Asislo Martinez; 3) Exhibit 3 – Absolute Deed of Sale dated 10 June 1994 showing that spouses Martinez conveyed the property described in TCT No. T-267842 in favor of spouses Yu; 4) Exhibits 6 and 7 – Barangay Permit dated November 7, 1994 and Fencing Permit No. 11-94-015 dated November 9, 1994, respectively, to show that spouses Yu constructed a perimeter fence over their property; and 5) Summary of Billing Statements and sub-marking showing the expenses incurred by spouses Yu in relation to the case.[17]

On December 28, 2011, the court a quo rendered its Decision[18], dismissing the Complaint filed by Topacio because there was no sufficient proof that the spouses Yu and the other defendants obtained their respective titles by means of fraud. According to the court a quo, since the spouses Yu's title was not shown to be fraudulent, there was no instrument, record, claim, encumbrance or proceeding that constituted a cloud of doubt upon the plaintiff's title. The fallo of the assailed Decision reads:

> WHEREFORE, premises considered, this case against all the defendants must perforce be DISMISSED for lack of merit. The counterclaims of the defendants-spouses must likewise be dismissed for lack of factual and legal bases.
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> SO ORDERED.[19]

Thereafter, plaintiff-appellant moved for a reconsideration[20] of the adverse ruling but the same was denied in an Order[21] dated July 24, 2012. Aggrieved, plaintiff-appellant filed the present appeal ascribing the following errors to the court a quo:

> I. The Court a quo erred in not adjudicating the parties' rights and obligations despite full blown trial;
>
> II. The Court a quo erred in holding that fraud is an issue in the present case;

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> III. The Court a quo committed reversible error when it did not appoint a Commissioner or Panel of Commissioners when it was called for by the circumstances of the case;
>
> IV. The Court a quo committed reversible error in not upholding plaintiff's preponderant evidence and not ruling in his favor.[22]

In his Brief[23], plaintiff-appellant, among others things, argues that after a long period of litigation, the court a quo failed to determine the parties' rights over the subject realty. According to plaintiff-appellant, the court a quo should have resolved the case on the merits as what was done in the analogous case of Chan v. Court of Appeals.[24] He likewise faulted the court a quo for giving premium on the alleged absence of fraud in the issuance of spouses Yu's title as fraud is not always an issue in an action for quieting of title.[25] According further to plaintiff-appellant, if the court a quo was unconvinced of the sufficiency of evidence on record, it should have appointed a commissioner or panel of commissioners so as to come up with a comprehensive report, the necessary information that will guide it in resolving the case completely citing the case of Cambridge Realty and Resources Corp. v. Eridanus Development, Inc. et al.[26] Lastly, plaintiff-appellant insists that his evidence sufficiently shows that defendants-appellees spouses Yu's Lot 8142-New covered by TCT No. T-490552 is far removed from Lot 7402-E but on actual verification survey, defendants-appellees are occupying a portion of his property.

Defendants-appellees spouses Yu, on the other hand, argue in their Brief[27] that plaintiff-appellant's claim for quieting of title is unfounded as there is clearly no cloud that exists on the latter's title. They emphasize that Lot 8142-New covered by TCT No. T-490552 is far removed from Lot 7402 covered by plaintiff-appellant's title, and that these two titles are distinct and do not cover the same parcel of land. Spouses Yu further contend that the actual survey is not enough proof to show that they have obtained their title by fraud.

Stripped of the non-essentials, this appeal poses two-pronged issues: one, whether the spouses Yu encroached upon Lot 7402-E covered by TCT No. T-348422 issued to plaintiff-appellant; and second, whether TCT No. T-490552 of the spouses Yu constitutes a cloud on the Torrens title of plaintiff-appellant. In the assailed Decision, the court a quo concluded that the Complaint was unfounded solely on the reason that plaintiff-appellant failed to prove that spouses Yu obtained their title by means of fraud. It did not take into consideration the verification survey conducted by the CENRO team and their report that the spouses Yu actually occupied a portion of Lot 7402-E covered by TCT No. T-348422 in the name of plaintiff-appellant, which is different from the lot described in their own title. In fine, the court a quo dismissed the case without declaring who between the parties is the rightful possessor of the subject property.

We modify.

An action for quieting of title is essentially a common law remedy grounded on equity.[28] The competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best.[29] This recourse is now enshrined under Article 476 of the Civil Code, which provides:

> Article 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any

> instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.
>
> An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

Under the aforecited provision and the juriprudence on the subject, an action to quiet title will prosper when these two indispensable requisites concur, namely: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy.[30]

Here, it is extant on the records that plaintiff-appellant has a legal title over the subject property as he was issued TCT No. T-348422 that was registered on June 25, 1992. His title, which is indefeasible, is the best proof of his ownership.[31]

However, the second requisite is unavailing in this case as spouses Yu's TCT No. T- 490552 was not sufficiently shown to be the kind of intrument or record “which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable,” and may be prejudicial to the title of the plaintiff-appellant. A scrutiny of the two certificates of title readily reveals that they cover two different parcels of land. The technical description inscribed in TCT No. T-490552 in the names of spouses Yu which allegedly casts a cloud on plaintiff-appellant's TCT No. T-348422, covers Lot No. 8142-New, Fls-2286, the technical description thereof reads:

> A parcel of land (Lot 8142-New, Fls-2286), Beginning at a pt. marked “1” on Lot 8142 (New) Fls-2286, being N. 31-36 E., 3106.17 m. from Mon. 79, Imus Estate; thence N. 40-48' E., 21.03 m. to pt. 2; N. 85-37 E.; 21.64 m. to pt. 3; S. 10-36 W., 30.10 m. to pt. 4; N. 67-09 W., 30.12 m. to pt. 1; pt. of beginning, containing an area of SIX HUNDRED SIX (606) SQ. METERS. All pts. referred to are indicated on the plan and are marked on the ground by Old BL cyl. conc. mons. Bounded on the NW., & N., along lines 1-2-3 by Lot 7569, Imus Estate; o n the SW., along line 3-4 by Aguinaldo Ave.; and on the SW., along line 4-1 by National Road. Bearings true, date of the orig. survey, July 18, 1938 and approved on May 11, 1939.[32]

On the other hand, TCT No. T-348422 in the name of the plaintiff-appellant covers Lot No. 7402-E and its technical description reads as follows:

> A parcel of land (Lot 7402-E of the subd. Plan Psu-042106-054870, being a portion of Lot 7402 (Fls-2285), Imus Estate, LRC Rec. No.) situated in the Brgy. of Paliparan, Mun. of Damariñas, Province of Cavite. Bounded on the SW., along line 1-2 by Road (20.00 m. wide); on the NW., along lines 2-3-4 by Lot 7418; on the NE., along line 4-5 by Lot 7417, both Fls-2285; on the SE., along lines 5-6-1 by Lot 7402-F (Road 20.00 m. wide) of the subd. plan. Beginning xxx a pt. marked “1” on plan, being N. 2 deg. 42'E., 2994.73 m. from Mon. 79, Imus Estate; thence N. 67 deg. 33'W., 97.70 m. to pt. 2; thence N. 37 deg. 57'E., 89.91 m. to pt. 3; thence N. 52 deg. 30'E., 62.82 m. to pt. 4; thence S. 79 deg. 04'E., 27.43 m. to pt. 5; thence S. 15 deg. 01'W., 143.96 m. to pt. 6; thence S. 63 deg. 45'W., 5.00 m. to the pt. of beginning; containing an area of NINE THOUSAND EIGHT HUNDRED SEVENTY EIGHT (9,878) SQUARE METERS. All pts. referred to are indicated on the plan and are marked on the ground by P.S. cyl. conc. mons. 15X60 cm; bearings true; date of

> the original survey, July 27, 1905 – June 1, 1908 and that of the subd. survey, March 15, 1992 and was approved on April 23, 1992.[33]

Moreover, the Sketch Plan Sheet 1[34] prepared by Engr. Tañola, the geodetic engineer from CENRO who led the verification survey, as well as the Vicinity Map[35] show that the parties' respective titles pertain to two distinct lots separated by a distance of 1,526.21 meters. Engr. Tañola confirmed during trial that based on the tie points and tie lines that appeared in the technical description of the parties' titles, Lot 7402-E and Lot 8142-New do not overlap. To be sure, TCT No. T-490552 is not prejudicial to plaintiff-appellant's title, as the Supreme Court held in Phil-Ville Development and Housing Corporation v. Bonifacio, et al., viz:[36]

> Such disparity in location is more vividly illustrated in the Plan prepared by Engr. Privadi J.G. Dalire, Chief of the Geodetic Surveys Division, showing the relative positions of Lots 23 and 23-A. As it appears on the Plan, the land covered by respondents' TCT No. C-314537 lies far west of petitioner's lands under TCT Nos. 270921, 270922 and 270923. Strictly speaking, therefore, the existence of TCT No. C-314537 is not prejudicial to petitioner's titles insofar as it pertains to a different land. (Emphasis Ours)

As a corrollary, We likewise cannot accede to plaintiff-appellant's asseveration regarding double registration as this concept presupposes that there are two certificates of title, which were issued to different claimants, involving the same land, whether wholly or partly.[37] Suffice it to state that these circumstances are not obtaining in this case because the parties' respective titles pertain to distinct lots.

Thus, even if We consider this case as a direct attack to the validity of TCT No. T-490552 issued in the names of spouses Yu, We cannot cause the cancellation of the said title as there is paucity of evidence to impeach its validity. Plaintiff-appellant's mere allegation of fraud, without presenting concrete evidence to support the said claim, is not sufficient to overcome the presumption of validity of a Torrens title. As correctly observed by the court a quo, there is no indication that the registration proceedings that led to the issuance of TCT No. T-490552 in the name of spouses Yu was tainted by fraud or any illegality. Absent such irregularity, We are not compelled to cancel spouses Yu's certificate of title and its indefeasibility shall be upheld, consistent with the avowed purpose of our Torrens system of registration.

The foregoing disquisitions do not mean, however, that plaintiff-appellant cannot vindicate his right of possession over the subject land based on his ownership thereof. Well-entrenched is the rule that in an action for recovery of possession and quieting of title, a party who claims ownership of real property is duty-bound to clearly identify the land being claimed, in accordance with the title on which he anchors his right of ownership. The ruling in Beo vs. CA[38] is instructive, to wit:

> xxx [P]roof of ownership coupled with identity of the land is the basic rule.
>
> Corrollarily, the rule is likewise well-settled that in order that an action for recovery of possession may prosper, it is indispensable that he who brings the action fully proves not only his ownership but also the identity of the property claimed, by describing the location, area and boundaries thereof. As the appellate court succinctly stated, he who claims to have a better right to the property must clearly show that the land possessed by the other party is the very land that belongs to him. (Emphasis Ours)

The records are replete with evidence that preponderates in favor of plaintiff-appellant's assertion that spouses Yu actually occupied a portion of the lot covered by his Torrens title. The most damning evidence was Engr. Tañola's

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Report of Verification Survey and the attached Sketch Plans showing the location of the parties' respective lots, Lot 7402-E and Lot 8142-New. The said Report ineluctably concluded that spouses Yu actually occupied the lot owned by plaintiff-appellant, or that they took possession of a parcel of land other than that described in their Torrens title, viz:

> "That based on the actual verification survey the property claimed by Sps. Ernesto V. Yu and Elsie Yu with existing structure and with the total area of 450 square is inside the property of Eulogio A. Topacio, Jr. covered by Lot 7402-E, Psd-042106-054870. (see attached sketch plan sheet 2)"[39]

Significantly, Engr. Tañola affirmed the content of his Report during trial, testifying that upon actual survey, "the property of defendants-spouses is inside the property of Mr. Topacio."[40]

Indeed, the verification survey conducted by the team of Engr. Tañola provides the necessary expert assistance in the determination of the actual location and metes and bounds of Lot 7402-E in relation to Lot 8142 covered by spouses Yu's own title. As such, this should be given weight as an act of a government functionary done in the performance of their public duty enjoys a presumption of regularity.[41] At any rate, it appears on record that the said survey was made not only upon the behest of plaintiff-appellant,[42] but also upon the directive[43] of the court a quo and attended by all the parties with the assistance of their counsel and private surveyors. Thus, spouses Yu who participated in the verification survey are bound by its outcome which, incidentally, they failed to question.

In light of the foregoing, We rule that plaintiff-appellant, as a holder of a Torrens title, has the legal right to recover possession of a portion of Lot 7402-E that was illegally occupied by spouses Yu. Time and again, Our jurisprudence consistently upheld the fundamental principle in land registration that a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein; it is the best proof of ownership of a parcel of land.[44]

As regards Saulog and spouses Mupas, there is no evidence to advance plaintiff-appellant's claim that the former are in possession of a portion of his property. In fact, in the proceedings before the court a quo, plaintiff-appellant had filed a Motion to Discharge[45] Saulog and spouses Mupas from the case as he believed that their property did not encroach on Lot 7402-E.

With regard to plaintiff-appellant's claim for compensation, We find it reasonable to entitle him payment of P5,000.00 per month from November 29, 2000, the time of judicial demand, until spouses Yu vacate the subject property as he was deprived of its possession.[46] We also award attorney's fees in favor of plaintiff-appellant as he was constrained to litigate in order to protect his proprietary right and incurred expenses thereby.[47] Likewise, payment of the costs of suit to the prevailing party is a matter of course, pursuant to Section 1, Rule 142[48] of the Revised Rules of Court.

WHEREFORE, premises considered, the Appeal is partly GRANTED. The Decision dated December 28, 2011 and the Order dated July 24, 2012 of the Regional Trial Court, Branch 90 of Dasmariñas, Cavite, sitting in Imus, Cavite rendered in Civil Case No. 2215-00, are hereby MODIFIED inasmuch as defendants-appellees spouses Ernesto Yu and Elsie Ong Yu are ordered to:

> (1) vacate and transfer possession of the area of Lot 7402-E, covered by TCT No. T- 348422, that they are unlawfully occupying to plaintiff-appellant Eulogio B. Topacio, Jr. and to remove at their own expense any improvements they introduced thereon;

(2) pay plaintiff-appellant reasonable compensation in the amount of P5,000.00 per month for the use and occupation of the portion of his property from November 29, 2000, the date of judicial demand, until they vacate the said portion of the subject property; and

(3) to pay plaintiff-appellant the amount of P25,000.00 for and as attorney's fees and the costs of this suit.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

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[1] Records, Vol. 2, pp. 585-595.

[2] Id., p. 700.

[3] Records, Vol. 1, pp. 76-81.

[4] Id., pp. 38-46.

[5] Id., pp. 42-43.

[6] Id., pp. 53-56.

[7] Id., pp. 271-273.

[8] Id., pp. 371-374.

[9] Id., pp. 399-402.

[10] Id., p. 428A.

[11] Id.., dorsal portion of p. 438.

[12] Records, Vol. 2, pp. 497-498.

[13] Id.., p. 498.

[14] Id., pp. 590- 592. RTC Decision dated December 28, 2011.

[15] Id., pp. 592-593.

[16] Records, Vol. 2, pp. 519-520.

[17] Id.., pp. 539-541.

[18] Supra note at 1.

[19] Records, Vol. 2, p. 595.

[20] Id., pp. 596-608.

[21] Supra note at 2.

[22] Rollo, p. 17.

[23] Id., pp. 14-36.

[24] G.R. No. 118516, November 18, 1998.

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[25] Rollo, p. 30.

[26] G.R. No. 152445, July 4, 2008.

[27] Rollo, pp. 64-82.

[28] Phil-Ville Development and Housing Corporation v. Bonifacio, et al., G.R. No. 167391, June 8, 2011.

[29] Mananquil, et al. v. Moico, G.R. No. 180076, November 21, 2012.

[30] Ibid.

[31] Heirs of Enrique Diaz v. Virata, G.R. No. 162037, November 29, 2006.

[32] Records, Vol. 2, pp. 543-544.

[33] Records, Vol. 1, p. 227.

[34] Records, Vol. 2, p. 499.

[35] Records, Vol. 1, p. 437.

[36] G.R. No. 167391, June 8, 2011.

[37] Cf. Top Management Programs Corporation v. Fajardo, G.R. No. 150462, June 15, 2011, citing Degollacion v. Register of Deeds of Cavite, G.R. No. 161433, August 29, 2006.

[38] G.R. No. 95709, August 13, 1991.

[39] Records, Vol 2, p.498

[40] Id., p. 590.

[41] Cf. Cajayon v. Spouses Santiago, G.R. No. 149118, February 16, 2006.

[42] Supra at note 8.

[43] Supra at note 9.

[44] Heirs of Enrique Diaz v. Virata, supra.

[45] Supra at note 7.

[46] Jakosalem v. Barangan, G.R. No. 175025, February 15, 2012.

[47] Article 2208, paragraph (2), Civil Code.

[48] “Unless otherwise provided in these rules, cost shall be allowed to the prevailing party as a matter of course, but the court shall have power, for special reasons, to adjudge that either party shall pay the costs of an action, or that the same be divided, as may be equitable. No costs shall be allowed against the Republic of the Philippines unless otherwise provided by law.”

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