

HEIRS OF DON MARIANO LOPEZ DE LEON, NAMELY: TORIBIO E. LOPEZ DE LEON, THE HEIRS OF LAURO P. LOPEZ DE LEON, REBECCA LOPEZ DE LEON-CARRASCO, THE HEIRS OF MAXIMO LOPEZ DE LEON, APO...

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal from the Order[1] dated May 3, 2012 issued by the Regional Trial Court of Las Piñas City, Branch 255, in Spl. Case No. 06-0190, which granted respondent-appellee's petition for relief from judgment and ordered the dismissal of petitioners-appellants' petition for quieting of title. More specifically, the dispositive portion of the appealed Order reads:

WHEREFORE, in view of all the foregoing, the Court finds the instant petition for relief from judgment to be meritorious and the same is hereby GRANTED. Accordingly, the Decision dated September 9, 2008 rendered by this Court is hereby SET ASIDE for being void.

Further, pursuant to Section 1, Rule 9 of the Revised Rules of Court, the main petition for quieting of title filed by the Heirs of Don Mariano Lopez De Leon is DISMISSED on the ground that the same is already barred by a prior judgment (res judicata).

SO ORDERED.

The facts are borne out by the records.

On September 21, 2006, the heirs of the late Don Mariano Lopez De Leon (hereinafter "appellants") filed a Petition[2] for Quieting of Title against Norma C. Espinosa (hereinafter "appellee"), alleging that:

3. Petitioners are the surviving descendants and compulsory heirs of the late Don Mariano Lopez de Leon, who had died sometime in September 14, 1941, leaving to petitioners, among others, the parcel of land covered by Original Certificate of Title No. 3053 (OCT No. 3053) issued in 1924 by the Register of Deeds of Pasig City, Rizal and the original of which is on file with the Register of Deeds of Las Piñas City, which consists of a total area of 363.6059 hectares located in Tindig ng Manga, Las Piñas City. For ready reference, a photocopy of said OCT No. 3053 is hereto attached as Annexes 'A' and 'A-1'.

4. Don Mariano Lopez de Leon had secured said OCT No. 3053, as follows:

a) On December 18-22, 1918, he had the land surveyed and PSU-16400 (SWU-6478) over 363.6059 hectares was prepared for him (Copy of the Survey Plan is made Annex 'B' hereof).

b) On August 22, 1921, the said plan was approved by the Director of Lands (Please refer to Plan).

c) On December 10, 1923, an Order was issued by the Court of First Instance of Rizal in Case 313, GLRO REC No. 21134, that Mariano Lopez de Leon, married to Isidra Gana Potenciano, both of legal age, Filipinos and residents of Biñan, P.I. is the owner in fee simple of certain land in said Province of Rizal as described in Plan PSU-16400 containing an area of 363.6059 hectares and that said land be registered in accordance with

the Land Registration Act in the name of said Mariano Lopez de Leon, subject, however, to such encumbrances mentioned in Section 39 of said law as may be subsisting and to the claim of Conrado Potenciano that a portion of 113.8469 hectares of land described therein as donated in his favor (See OCT No. 3053).

d) On March 12, 1924, Decree No. 151422 was issued by Enrique Altavas, Chief of the General Land Registration Office.

e) On March 26, 1924, the said decree was received and transcribed at the Office of the Register of Deeds of Rizal and OCT 3053 was issued by the Register of Deeds based on said Decree.

f) On April 2, 1934, with the conformity of Don Mariano Lopez de Leon, an Order was issued by the Court of First Instance of Rizal in Case No. 375, GLRO Record 22200 that Conrado Potenciano married to Rufina Reyes y Almeda Carlos of Manila is the owner in fee simple of certain land situated in said Provinces of Rizal as described in Plan PSU 23132 containing an area of 113.8469.

5. The said OCT 3053 has never been cancelled and is still existing in the records of the Office of the Register of Deeds of Las Piñas City. Further, the Petitioners are likewise in possession of the Owner's Duplicate Certificate of said OCT No. 3053, which has not been encumbered, transferred or cancelled and is still valid and binding, entitled on its face to the regular presumption of validity.

6. However, there is a cloud on Petitioners' OCT No. 3053 consisting of Transfer Certificates of Title which had been subsequently issued and presently existing in the files of the Register of Deeds of Las Piñas City, which cover certain portions of the land covered by the aforesaid OCT No. 3053, all of which clouds need to be quieted or removed and declared invalid, for which reason this Petition for Declaratory Relief or Quieting of Title under Rule 63 of the Rules of Court is being filed. These Transfer Certificates of Title ('TCT') have been issued in the name of Respondent NORMA C. ESPINOSA by the Office of the Register of Deeds of Las Piñas City, and which are more specifically described as follows:

TCT

AREA IN HECTARES

DATE ISSUED

S-17190

2.8714

17 November 1975

S-17189

0.1287

17 November 1975

TOTAL

3.0001

The assessed value of the parcels of land covered by said TCT Nos. S-17190 and S-17189 is in the total amount of P2,400,000.00. And for ready reference, certified true copies of said TCT Nos. S-17190 and S-17189 are hereto attached as Annexes 'C' and 'D', respectively.

7. The settled rule in Philippine jurisdiction, is that, where several certificates of title are issued, the one of an earlier date shall prevail. Inasmuch as Petitioners have the earliest title (OCT No. 3053) issued in 1924, thus all

certificates of title subsequent thereto over the whole or portions of the parcel of land covered by OCT No. 3053 are not valid.[3]

Attempts to serve appellee the summons and copy of the petition were unsuccessful, causing Deputy Sheriff Roberto T. Galing to file a Return[4] on October 4, 2006, stating that:

THIS IS TO CERTIFY that the Summons issued in the above-entitled case together with the petition and all annexes thereof was caused to be served by the undersigned Deputy Sheriff Roberto T. Galing on September 27, 2006 at No. 15, Margarita St., Magallanes Village, Makati City but failed and unavailing due to the fact the said address is vacant and the caretaker of the place, a certain Dominga Ganti told the undersigned the owner of the said place is a certain Mrs. Yu.

WHEREFORE, Sheriff's return of the Summons is hereby respectfully returned to the Honorable Court UNSERVED for the Court's record and information.

On November 16, 2006, the appellants filed a Manifestation,[5] stating that the supposed address of appellee to which the Deputy Sheriff served the summons was based on the address appearing in the Transfer Certificate of Title Nos. S-17189 and S-17190; that aside from the said address, appellee's whereabouts is unknown to the appellants; and that they would exert earnest efforts to locate the appellee so that the summons and other processes of the court may be served upon her.

On May 17, 2007, however, the court a quo dismissed the petition for failure to prosecute, the court saying that it had given enough time for the appellants to locate the appellee and, despite the lapse of a period of time, they still failed to do so.

On May 30, 2007, appellants filed an Omnibus Motion (I) to Reconsider the Order dated May 17, 2007 and (II) to Serve Summons by Publication.[6] On June 29, 2007, the court a quo granted the Omnibus Motion, reinstating the petition and allowing the summons to be served by publication at the expense of the appellants.

On December 14, 2007, appellants moved to declare the appellee in default.[7] The motion was granted and appellee was declared in default in the Order dated December 17, 2007.[8]

Thereafter, appellants presented their evidence ex parte, before the Branch Clerk of Court, acting as a Commissioner. The evidence presented were survey plans, the Original Certificate of Title No. 3053 in the name of Mariano Lopez de Leon, General Land Registration Decree No. 151422, TCT Nos. 17189 and 17190 both in the name of Norma C. Espinosa, Report of Geodetic Engr. Regino Sobreviñas, Jr., and the Judicial Affidavits of Gen. Pacifico Lopez de Leon and Geodetic Engr. Regino Sobreviñas, Jr.

On September 9, 2008, the court a quo issued a Decision granting appellants' Petition for Quieting of Title. The court ruled:

The petitioners cited that respondent Espinosa's properties covered by TCT Nos. (17189) T-35043-A covering an area of 1,287 square meters and (17190) T-35044-A involving an area of 28,714 square meters overlap a portion of the property covered by OCT No. 3053. To support the same, the petitioners presented a lot sketch plan and a report both dated 14 February 2008 prepared by Geodetic Engineer Sobreviñas, Jr. disclosing that the above parcels of land 'are totally inside and part of plan Psu-16400' which appears in the title of the late Mariano Lopez de Leon. On account thereof, the petitioners consider their peaceful possession thereof being disturbed and threatened.

As far as the petitioners are concerned the cloud of doubt caused by the said titles of respondent Espinosa must be removed since the 'date of the original survey of Psu-16400 and the date of original registration of OCT No. 3053' are 'both earlier than the date of original survey and date of original registration of the lots and titles of Lots 12 & 13, (LRC) Psd-19896 covered by TCTs Nos. (S-17189) T-35043-A and (S-17190) T-35044-A.' This

being so, they insist that they have a superior right over the properties in the name of respondent Espinosa.

In the absence of any opposition or contravening evidence from the herein respondent the averments of the petitioners against the latter will have to be taken as is. Although the sketch plan and report of Geodetic Engineer Sobreviñas, Jr. were obtained by the petitioners after they filed the present petition the Court will give them due weight. Suffice it to say, if not for the above recent documents the Court cannot have a clear grasp of the claim of the petitioners against respondent Espinosa. Surely, they cannot just rely on what appears in, among others, OCT No. 3053 and the judicial affidavits presented by the petitioners to assail the subject titles issued in the name of the respondent.

Working for the petitioners is the fact that they complied with the required notice and publication requirements, including the other requisites to establish their claim. Of course, it need not be stressed that any false statement regarding the matter would readily subject them to, for one, a criminal action for perjury.

Moreso, the failure of the respondent to adduce evidence in her defense cannot help her cause. As already mentioned, the presence of a better right on the part of the petitioners limited only to the titles of the respondent subject hereof deserves weight and credence.

To be clear, the ruling herein cannot just apply to the entire parcel of land covered by OCT No. 3053 or give outright a declaration that the same is valid and duly existing as against anyone who is not a party herein. There are other cases involving the said original title that must be resolved based on the evidence obtaining therein and should not depend on the results of this uncontested proceeding.[9]

On January 6, 2009, the court issued a Certificate of Finality.[10] On motion of the appellants, the court a quo issued an Order[11] on January 30, 2009 directing the issuance of a writ of execution. On February 10, 2009, a Writ of Execution was issued.[12]

On April 17, 2009, appellee filed a Petition for Relief from Judgment with Prayer for Writ of Preliminary Injunction,[13] anchored on the following grounds:

I

PETITIONER COULD NOT POSSIBLY HAVE ANSWERED RESPONDENTS' PETITION, AND THUS FINAL JUDGMENT WAS EVENTUALLY ENTERED AGAINST HER WITHOUT HER HAVING PARTICIPATED IN ANY WAY IN THE PROCEEDINGS, BY REASON OF FRAUD, IN THAT:

- THE ADDRESS OF PETITIONER ALLEGED IN THE PETITION, WHERE PERSONAL SERVICE OF SUMMONS WAS ACCORDINGLY ATTEMPTED TO BE MADE UPON HER, IS NOT HER 'RESIDENCE' AS CONTEMPLATED UNDER SECTION 6, RULE 14 OF THE RULES OF COURT; AND
- THE PROCEDURES PRESCRIBED UNDER SECTIONS 8 AND 14, RULE 14 OF THE RULES OF COURT REGARDING PERSONAL AND SUBSTITUTED SERVICE OF SUMMONS WERE COMPLETELY IGNORED, IF NOT COMPLETELY DISREGARDED BY BOTH THE SHERIFF AND RESPONDENTS.

II

PETITIONER HAS GOOD AND SUBSTANTIAL DEFENSES TO COUNTERACT RESPONDENTS' CLAIM, IF PETITIONER IS GIVEN THE CHANCE TO BE HEARD, TO WIT:

- THE PRESENT COMPLAINT IS BARRED BY RES JUDICATA;
- THE HONORABLE COURT HAS NO SUBJECT MATTER JURISDICTION OVER THE CASE;
- THE CERTIFICATION OF NON-FORUM SHOPPING, ACCOMPANYING THE PRESENT PETITION, IS FATALY DEFECTIVE;

- THE CERTIFICATION OF NON-FORUM SHOPPING, ACCOMPANYING THE PRESENT PETITION, IS TOTALLY FALSE;
- RESPONDENTS' PETITION STATES NO CAUSE OF ACTION AGAINST HEREIN PETITIONER, HEREIN RESPONDENTS NOT BEING 'ENTITLED TO THE AVAILS OF THE SUIT' AS THEY DO NOT HAVE THE LEGAL REPRESENTATION THEY CLAIM;
- HEREIN RESPONDENTS HAVE NO CAUSE OF ACTION AGAINST HEREIN PETITIONER;
- RESPONDENTS' PETITION IS BARRED BY LITIS PENDENTIA; AND
- THE CLAIM SET FORTH IN THE PRESENT PETITION IS BARRED UNDER THE TWIN PRINCIPLES OF ESTOPPEL AND LACHES.[14]

In an Order[15] dated July 3, 2009 the court a quo denied appellee's prayer for the issuance of a writ of preliminary injunction. On July 14, 2009, appellants filed their Answer[16] to the petition for relief from judgment.

After reception of evidence, the court a quo issued its now assailed Order dated May 3, 2012 granting the Petition for Relief from Judgment. It ruled that the court did not acquire jurisdiction over the person of the appellee because the service of summons by publication was defective and premature as there was no showing that diligent efforts were, in fact, taken to ascertain the whereabouts of the appellee. The court then proceeded to dismiss appellants' petition for quieting of title on the ground of res judicata, citing decisions of the Supreme Court in *Margolles vs. Court of Appeals*,[17] *Peltan Development, et al. vs. Court of Appeals*,[18] *Firestone Ceramics, et al. vs. Court of Appeals*,[19] and *Republic vs. Court of Appeals*,[20] wherein the Supreme Court upheld the validity of Original Certificate of Title (OCT) No. 4216, from which appellee's transfer certificates of title were derived. Finally, the court took judicial notice of its Decision in another case (Civil Case No. LP-04-0177) which declared appellants' OCT No. 3053 "fake and spurious, and therefore null and void." With that, the court a quo decreed that:

WHEREFORE, in view of all the foregoing, the Court finds the instant petition for relief from judgment to be meritorious and the same is hereby GRANTED. Accordingly, the Decision dated September 9, 2008 rendered by this Court is hereby SET ASIDE for being void.

Further, pursuant to Section 1, Rule 9 of the Revised Rules of Court, the main petition for quieting of title filed by the Heirs of Don Mariano Lopez De Leon is DISMISSED on the ground that the same is already barred by a prior judgment (res judicata).

SO ORDERED.

Their Motion for Reconsideration[21] having been denied by the court a quo's Order[22] dated August 22, 2012, the appellants filed the instant appeal, alleging that:

1.1

THE TRIAL COURT SERIOUSLY ERRED IN GRANTING THE PETITION FOR RELIEF FROM JUDGMENT WHEN THERE WAS NO FINDING OF FRAUD, ACCIDENT, MISTAKE, OR EXCUSABLE NEGLIGENCE.

1.2

THE TRIAL COURT SERIOUSLY ERRED IN DISMISSING THE CASE BASED ON RES JUDICATA, IN DISREGARD OF PROPER PROCEDURE.[23]

Appellee opposes the appeal, claiming that (a) contrary to the claim of the appellants, the court below categorically declared that because of appellants' fraudulent scheme, appellee was prevented from having her day in court or from presenting her case, (b) jurisprudence recognizes denial of due process as additional ground for petition for relief from judgment under Rule 38 of the Rules of Court, (c) the court below committed no error in dismissing *motu proprio* appellants' petition for quieting of title on the ground of *res judicata*, which is evident in the case record, the same being sanctioned under Section 1, Rule 9 of the Rules of Court, (d) the claim of appellants that their petition for quieting of title against appellee is not barred by *res judicata* is absolutely devoid of merit, and (e) the dismissal of appellants' petition for quieting of title is also justified on the ground of *litis pendentia*.

Thus, the main issue in this appeal is whether or not the court a quo committed reversible error in granting appellee's petition for relief from judgment and in dismissing the appellants' petition for quieting of title.

The appeal is bereft of merit.

A petition for relief from judgment is an equitable remedy which is allowed only in exceptional cases because, as a rule, a final judgment should not be disturbed where a party could have appealed or availed himself of another remedy.[24] According to Sections 1 and 2, Rule 38 of the Rules of Court, it may be filed when (a) a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court, or (b) when a party thereto has been prevented from taking an appeal, (c) through fraud, accident, mistake or excusable negligence. A petition for relief from judgment should be filed within sixty (60) days after petitioner learns of the judgment, final order or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered or such proceeding was taken.[25]

In the case at bar, appellee filed the Petition for Relief from Judgment on April 17, 2009, or more than three months (90 days) after the finality of the Decision dated September 9, 2008 on January 6, 2009. But, in her petition, she alleged that she "came to know of said Decision only on 6 March 2009 when she received from her sister, Ms. Alice Espinosa Sotto, a copy of the Writ of Execution issued by th[e] Honorable Court on 10 February 2009." [26] From March 6, 2009 to April 17, 2009, only forty-two (42) days had passed. Thus, it was filed on time.

The ground relied upon by the appellee is "fraud" supposedly committed by the appellants and the Deputy Sheriff when they served the summons to an address not her residence and prematurely resorting to service of summons by publication, thus, effectively depriving her of her day in court.

The court a quo agreed with the appellee and held that there was in fact fraud committed against her. Appellants, however, contend that "the alleged ineffective service of summons does not amount to fraud, accident, mistake or excusable negligence as contemplated by Rule 38", and that "the ineffective service of summons, assuming there was ineffective service, could be a ground for an annulment of judgment under Rule 47 of the Rules of Court but not under Rule 38 wherein fraud, accident, mistake or excusable negligence must be sufficiently established, among others."

Appellants' contention is untenable.

Summons is a writ by which the defendant is notified of the action brought against him.[27] Service of such writ is the means by which the court may acquire jurisdiction over his person.[28] Trial and judgment without such service is null and void.[29]

Proper service of summons guarantees the defendant his or her right to due process. As held in *Manotoc vs. Court of Appeals*: [30]

The court's jurisdiction over a defendant is founded on a valid service of summons. Without a valid service, the court cannot acquire jurisdiction over the defendant, unless the defendant voluntarily submits to it. The defendant must be properly apprised of a pending action against him and assured of the opportunity to present his defenses to the suit. Proper service of summons is used to protect one's right to due process.[31]

Absence of a chance to be heard amounts to fraud which is a ground for a petition for relief from judgment. As explained in *Bang vs. Sy*: [32]

Where fraud is the ground, the fraud must be extrinsic or collateral. The extrinsic or collateral fraud that invalidates a final judgment must be such that it prevented the unsuccessful party from fully and fairly presenting his case or defense and the losing party from having an adversarial trial of the issue. There is extrinsic fraud when a party is prevented from fully presenting his case to the court as when the lawyer connives to defeat or corruptly sells out his client's interest. Extrinsic fraud can be committed by a counsel against his client when the latter is prevented from presenting his case to the court.[33]

There is no question that appellee was denied her chance to be heard in the petition for quieting of title filed by the appellants. The reason for this was that she was not properly served summons in order for her to file an Answer thereto. As correctly ruled by the court a quo, this was attributable to the appellants. This is because, under Section 3, Rule 6 of the Rules of Court, the name and residence of the defendant must be stated in the complaint (or petition, as the case may be). A properly stated address is required for the service of summons under Rule 14 of the Rules of Court. Section 6 thereof states that, whenever practicable, the summons shall be served handing a copy thereof to the defendant in person, or, if he refuses to receive and sign for it, by tendering it to him. Personal service on the defendant is the preferred mode of service, substituted service being resorted to only for excusable reasons.[34] Clearly, without an accurate address stated in the complaint or petition, summons cannot be served on the defendant.

Appellants claim that they obtained the supposed address of appellee from the Transfer Certificates of Title on file with the Register of Deeds of Las Piñas City. However, appellants immediately knew that the said address was inaccurate when the Deputy Sheriff filed his Return on October 4, 2006. On November 16, 2006, the appellants filed a Manifestation stating that they would exert earnest efforts to locate the appellee so that the summons and other processes of the court may be served upon her. But, instead of providing appellee's correct address, the appellants filed an Omnibus Motion on May 30, 2007 to, among others, Serve Summons by Publication, stating that "[f]or the past months, [they] have been exerting their best effort to determine the present whereabouts of [the appellee], but despite diligent inquiry the same could not be ascertained."

We agree with the court a quo that the appellants committed fraud in that there was no truth that they exerted their best effort to determine the whereabouts of the appellee. As correctly pointed out by the court a quo in its Order dated August 22, 2012 which denied appellants' Motion for Reconsideration:

Again, in the case at bar, the Court finds that there was deliberate failure on the part of the respondents to notify the petitioner of the former's petition for quieting of title, which is tantamount to actual or extrinsic fraud. Granting that the sheriff who had attempted to serve the summons had not exerted sufficient efforts to locate the petitioner before making his return stating therein that the summons was 'unserved', the respondents had expressed to this Court through their Manifestation dated November 16, 2006 that 'they will exert earnest effort to locate the above-named respondent (herein Petitioner) so that the summons and other processes of the Honorable Court may be properly served upon her.' The records show that the respondents did not abide by this undertaking, except only when the time came for the execution of the favorable decision it had obtained from this Court. This Court cannot ignore the fact that it became very convenient for the respondents, after obtaining a favorable decision, to simply proceed to the subject land to implement said decision. Had this been done as part of the respondents' "earnest effort" to locate the petitioner for the personal service of summons

upon her, a resort to the service of summons by publication should not have been had. This bolsters the fact that the respondents intentionally did not exert any effort to locate the petitioner in order for the latter to be personally served with the summons for their petition for quieting of title. The circumstance showing how the respondents could have easily located the whereabouts of the petitioner before resorting to the remedy of serving the summons by publication had already been exhaustively discussed in the assailed Order dated May 3, 2012. As explained by Justice Oswaldo D. Agcaoili in his 2011 book entitled 'Property Registration Decree and Related Laws', the overriding consideration in the instant situation is that the fraudulent scheme of the prevailing litigants (the respondents), prevented the petitioner from having her day in court or from presenting her case. The fraud, therefore, is one that affects and goes into the jurisdiction of the court, justifying the setting aside of the Decision dated September 9, 2008.[35]

Thus, because the appellants did not diligently exert effort to find the actual whereabouts of the appellee, there was no basis for service of summons by publication. Under Section 14, Rule 14 of the Rules of Court, diligent inquiry is a requisite:

SEC. 14. Service upon defendant whose identity or whereabouts are unknown.—In any action where the defendant is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court be effected upon him by publication in a newspaper of general circulation and in such places and for such time as the court may order.

The decision of the Supreme Court in *Baltazar vs. Court of Appeals*[36] is instructive. In that case, summons intended for defendant Good Earth Enterprises, Inc. was served by publication, because, allegedly, the summons could not be personally served at the address set forth in the complaint despite three attempts. The Supreme Court declared that the service by publication was null and void because the standard of "diligent inquiry was not satisfied," considering that the defendant was a corporation and its address was easily ascertainable from the Securities and Exchange Commission. Said the Supreme Court:

In the case at bar, petitioner acted as if the address of Good Earth was 'unknown.' Petitioner claimed that Good Earth could not be found at 666 Muelle de Binondo, Manila, the address appearing in the Transfer Certificate of Title No. 191048 issued in the name of Good Earth. As aforesaid, Deputy Sheriff Pre stated in his Return that he had tried to serve summons upon Good Earth at the mentioned address three (3) times, i.e., on March 25, 27 and 30, 1977. This Return appears to suggest that the Sheriff went to 666 Muelle de Binondo, Manila, three (3) times. The correctness of this suggestion in the Sheriff's Return is open to serious doubt considering that, in the allegation of Good Earth not denied by petitioner, the Sheriff received the summons and copy of the complaint only on 29 March 1977. The sum total of what the Sheriff actually did, was to ask a security guard he found at 666 Muelle de Binondo and this security guard apparently pointed to the building directory where the name of Good Earth did not appear. It is argued by Good Earth that had the Sheriff inquired at any of the offices actually found in the building at 666 Muelle de Binondo, he would have found Good Earth which is a corporation owned or controlled by the Ching family, considering that all the corporations quartered at 666 Muelle de Binondo are Ching family corporations. Good Earth, in other words, did not dispute that 666 Muelle de Binondo, Manila was its correct corporate address. We do not believe, therefore, that the address of Good Earth could be regarded as 'unknown' within the meaning of Section 16 of Rule 14.

More importantly, we do not believe that the acts of Deputy Sheriff Pre satisfied the standard of 'diligent inquiry' established by Section 16 of Rule 14. Deputy Sheriff Pre should have known what every law school student knows, that Good Earth being a domestic corporation must have been registered with the Securities and Exchange Commission and that the SEC records would, therefore, reveal not just the correct address of the corporate headquarters of Good Earth but also the addresses of its directors and other officers. We believe and so hold that a litigant or process server who has not gone through the records of the SEC cannot claim to have carried out the 'diligent inquiry' required under Section 16 of Rule 14 of the Revised Rules of Court for valid service of summons by publication upon a domestic corporation.

It remains to note the celerity with which petitioner Artemio Baltazar, Deputy Sheriff Pre and the Judge of the trial court acted in going through the motions of serving summons by publication upon Good Earth. Deputy Sheriff Pre, as noted earlier, received the summons for delivery on 29 March 1977. He attempted to serve the summons on 30 March 1977. Two (2) days later, on 1 April 1977, Deputy Sheriff Pre executed his Return of the summons. On the same day, petitioner Baltazar filed an Ex Parte Motion for leave to serve summons by publication. On 4 April 1977, the trial court granted Baltazar's Motion and ordered summons by publication. This notable dispatch appears quite inconsistent with any claim that petitioner and Deputy Sheriff Pre had exercised reasonable diligence in trying to discover the address of Good Earth. It may be noted, finally, that the record does not show that Baltazar sent a copy of the summons and the order for publication to Good Earth by registered mail to its last known address which was 666 Muelle de Binondo, Manila, as required by Section 21 of Rule 14, Revised Rules of Court.

We hold that the purported service of summons by publication upon Good Earth in Civil Case No. 5552-P was legally and constitutionally vitiated and hence invalid and ineffective to vest jurisdiction over the person of Good Earth upon the trial court, and that the judgment there rendered by that court was null and void. It vested no rights upon Baltazar and imposed no liabilities or burdens upon Good Earth. We agree with the respondent Court of Appeals that the trial court in Civil Case No. PQ-7410-P fell into profound error in not setting aside and annulling the judgment of the trial court in Civil Case No. 5552-P.

In the case at bar, it beguiles the Court why the appellants and Deputy Sheriff Roberto T. Galing did not know the whereabouts of appellee when all they had to do was visit the subject property as they had later done when they served the writ of execution. It is not disputed that appellee is in physical possession of the property since acquiring the same in the 1970s. Had they checked with the guards of the appellee, they would have known the actual address of the appellee. But they did not. Their failure to do so is deliberate, not merely accidental. No justifiable reason or excuse had been given why, in their undertaking that they would exert earnest efforts to find the present address of the appellee, the appellants or the Deputy Sheriff did not visit the subject property when in fact it is located in the same City of Las Piñas where the case was filed.

Applying *Baltazar vs. Court of Appeals*,^[37] this Court holds that the service of summons by publication was invalid and ineffective, the standard of "diligent inquiry" not having been satisfied. Thus, the court a quo did not acquire jurisdiction over the person of the appellee. Necessarily, the Decision dated September 9, 2008 which granted the petition for quieting of title is null and void, and the court a quo correctly entertained and granted appellee's petition for relief from judgment.

Appellants, however, claim that the appellee should have filed a petition for annulment of judgment under Rule 47 of the Rules of Court where ineffective service of summons is allegedly a ground. The appellants are mistaken. Section 1 of Rule 47 provides that the remedy of annulment of judgment is available when "the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner." Thus, if a petition for relief from judgment is still available, that remedy should be resorted to, before a petition for annulment of judgment. As explained in *Lazaro vs. Rural Bank of Francisco Balagtas*:^[38]

Let it be stressed at the outset that before a party can avail of the reliefs provided for by Rule 47, i.e., annulment of judgments, final orders, and resolutions, it is a condition sine qua non that one must have failed to move for new trial in, or appeal from, or file a petition for relief against said issuances or take other appropriate remedies thereon, through no fault attributable to him. If he failed to avail of those cited remedies without sufficient justification, he cannot resort to the action for annulment provided in Rule 47, for otherwise he would benefit, from his own inaction or negligence.

In the instant case, not only did petitioner fail to avail of the ordinary and appropriate remedies in assailing the questioned judgments of the trial courts, but he also failed to show to the satisfaction of this Court that he could not have availed of the ordinary and appropriate remedies under the Rules. According to petitioner, he

allegedly learned of the cases filed against him by respondent bank only when writs of execution were issued against him. At the very least then, he could have moved to quash the writs of execution. In the alternative, he could have filed a petition for relief of judgment under Rule 38. Instead, petitioner merely alleged that he approached Atty. Gregorio Salazar, the bank's counsel, for clarification and assistance, which is not one of the ordinary and appropriate remedies contemplated by the Rules. Petitioner's failure to explain why he failed to avail of said remedies, which were still available to him at that time, in both Civil Case No. 7355-M and Civil Case No. 2856-V-88, is fatal to his cause. To be sure, a petition for annulment of judgment under Rule 47 is not a substitute for one's own neglect in not availing of the ordinary and appropriate remedies, but a peculiar remedy granted under certain conditions to those who failed to avail of the ordinary remedies without their fault. Thus, in our considered view, based on the cited reasons and circumstances, the Court of Appeals did not err when it denied the petition for annulment of judgment.[39]

Clearly, the remedy taken by the appellee is proper in light of the provisions of Rules 38 and 47 of the Rules of Court.

Undaunted, the appellants claim that the court a quo erred in dismissing the petition for quieting of title on the ground of res judicata without first conducting a hearing in accordance with Section 6, Rule 38 of the Rules of Court.

The claim is without merit.

Section 6, Rule 38 of the Rules of Court provides:

SEC. 6. Proceedings after answer is filed.—After the filing of the answer or the expiration of the period therefor, the court shall hear the petition and if after such hearing, it finds that the allegations thereof are not true, the petition shall be dismissed; but if it finds said allegations to be true, it shall set aside the judgment or final order or other proceeding complained of upon such terms as may be just. Thereafter the case shall stand as if such judgment, final order or other proceeding had never been rendered, issued or taken. The court shall then proceed to hear and determine the case as if a timely motion for a new trial or reconsideration had been granted by it.

Contrary to appellants' claim, the court a quo conducted hearings on the petition for relief from judgment, including the claim of the appellee that the petition for quieting of title is barred by prior judgment (res judicata). Appellee herself testified and presented as witnesses her sister, Alice Espinosa Sotto, and her counsel, Atty. Paraja Hayudini. In the case of appellants, however, they were given two chances to present their evidence,[40] which chances they chose to forfeit. Thus, on motion of the appellee, the court a quo declared (and rightly so) the appellants to have waived their right to adduce additional evidence, the court considering only those already on the record.

At any rate, appellants were given the opportunity to be heard when they filed a Motion for Reconsideration on May 30, 2012 which, however, was denied by the court a quo in its Order dated August 22, 2012. Well-established is the rule that the essence of due process is simply an opportunity to be heard.[41] The right to be heard does not only refer to the right to present verbal arguments in court.[42] A party may also be heard through his pleadings, and where opportunity to be heard is accorded, either through oral arguments or pleadings, there is no denial of procedural due process.[43]

On the issue of whether or not appellants' petition for quieting of title is, in fact, barred by prior judgment or res judicata, appellants claim that there is no res judicata with respect to the cases of Margolles vs. Court of Appeals and Peltan vs. Court of Appeals because there is no identity of parties and that the appellants' OCT No. 3053 was not declared invalid in said cases. They insist that, inasmuch as they have the earliest title, i.e., OCT No. 3053 issued in 1924, all certificates of title, including the titles of appellee issued subsequent thereto, are not valid.

We do not agree.

The doctrine of res judicata was explained in *Carlet vs. Court of Appeals*,^[44] to wit:

When material facts or questions which were in issue in a former action and were admitted or judicially determined there are conclusively settled by a judgment rendered therein, such facts or questions become res judicata and may not again be litigated in a subsequent action between the same parties or their privies regardless of the form of the latter.

There are four requisites to successfully invoke res judicata: (a) finality of the former judgment; (b) the court which rendered it had jurisdiction over the subject matter and the parties; (c) it must be a judgment on the merits; and (d) there must be between the first and second actions identity of parties, subject matter and cause of action.

Appellants' petition for quieting of title is based on their claim that appellee's titles are invalid. They must, therefore, show that appellee's titles are invalid. But this cannot be allowed because it would be tantamount to trying again a matter that was already settled by the Supreme Court in *Margolles vs. Court of Appeals* and *Peltan vs. Court of Appeals*.

A brief review of the facts and ruling in *Margolles vs. Court of Appeals*^[45] is in order. In that case, herein appellee Norma Espinosa was one of the defendants in a complaint for annulment of titles, recovery of possession, and quieting of titles involving several parcels of land in Barrio Almanza, Las Piñas, Metro Manila. After trial, the court ordered annulled the titles of the defendants, including appellee's TCT Nos. S-17189 and S-17190 on the ground that the Original Certificate of Title No. 4216, from which the titles of the defendants were derived, was null and void. The Supreme Court reversed, ruling that:

Three basic issues confronted the courts below, now before us for review; viz:

- (1) Whether or not the genuineness and authenticity of Original Certificate of Title No. A-S-47, against an overlapping Original Certificate of Title No. 4216, was sufficiently established;
- (2) Whether or not Original Certificate of Title No. 4216 was issued while the property was still unclassified public land; and
- (3) Whether or not the claim of the petitioners was correctly barred by laches.

The first issue is basically factual. Ordinarily, only questions of law may be raised in a petition for review on certiorari. This rule, however, is subject to exceptions, such as when there are compelling reasons to justify otherwise, or when the appealed decision is clearly contradicted by the evidence on record. This case is so illustrative of such exceptional instances.

To support their claim that OCT No. 4216 is genuine, the petitioners have submitted, among other things, the following pieces of documentary evidence:

- (1) The Original of OCT No. 4216, as well as the owner's duplicate certificates, on file with the Office of the Register of Deeds of Rizal;
- (2) The publications (in the English and Spanish versions) of the Official Gazette (1927 editions), containing notices of the initial hearing in Land Registration Case No. 672 (GLRO Record No. 30406), instituted by the spouses Lorenzo Gana and Maria Juliana Carlos, covering a parcel of land in Tindig na Mangga, Las Piñas;
- (3) The order of then CFI Judge Cecilia Muñoz-Palma, dated 23 March 1961, in LRC Case No. N-2126 (GLRO Record No. N-6564), denying the registration of a parcel of land by reason of the certification, dated 26 June 1959, of the Land Registration Commissioner, Antonio N. Noblejas, that a portion of the property

covered in this post-was (sic) land case had been decreed under Decree No. 351823, issued on 05 March 1929, in the name of the spouses Lorenzo Gana and Maria Juliana A. Carlos in LRC Case No. 672 (GLRO Record No. 30406), and while said case covered only a part of the property in dispute, it did show, however, that the decree was, in fact issued to the spouses Gana and Carlos;

(4) The report, dated 07 June 1983, of the Land Registration Commission's Verification Committee, sustaining the validity of Decree No. 351823 in favor of Lorenzo J. Gana and Maria Juliana A. Carlos;

(5) Page 209 of the book of Decrees (Old Book) of the Land Registration Commission, showing that a decree was 'okayed' in GLRO Record No. 30406 (LRC Case No. 672), under the entry 'Date O.K. for Decree' on '1-22-29' (22 January 1929) and that a decree was issued under the entry 'Date Decree Issued' on '3-5-29' (05 March 1929);

(6) The certified true microfilm reproduction of plan Psu-49273 covering a parcel of land in Barrio Tindig na Mangga, Las Piñas, surveyed for Lorenzo Gana and Maria Juliana Carlos, approved by the Bureau of Lands in 1926;

(7) The decision of this Court in *Guico vs. San Pedro*, 72 Phil. 415, Pointing to the decision rendered by the Court of First Instance of Rizal in LRC Case No. 672 in favor of the spouses Lorenzo Gana and Maria Juliana Carlos; and

(8) The letters of Solicitor General Estelito Mendoza and Solicitor General Francisco Chavez, stating that the information and documents submitted to the Office of the Solicitor General by the Bureau of Lands and the Land Registration Commission were not sufficient to support an action for cancellation of OCT No. 4216 and the derivative titles thereof.

The above documentary evidence is much too overwhelming to be simply brushed aside. It is our considered view that the appellate court has committed serious error in refusing to give any probative value to such evidence.[46]

Thus, in the dispositive portion of the decision in *Margolles*, the Supreme Court upheld OCT No. 4216, the source title of herein appellee's certificates of title. More specifically, the Supreme Court decreed that:

WHEREFORE, the decision of the Court of Appeals and that of the court a quo REVERSED and SET ASIDE, and another is entered UPHOLDING instead the validity of the various titles, aforementioned, in favor of the petitioner. No costs.

SO ORDERED.[47]

Later, in *Peltan Development, Inc. vs. Court of Appeals*,[48] the Supreme Court reiterated *Margolles* and upheld the title of herein appellee. In that case, appellee was once again impleaded as one of the defendants in a complaint for cancellation of titles and damages involving a parcel of land in Barrio Tindig na Manga, Las Piñas, Metro Manila. The plaintiffs in that case were applicants of a free patent over the said land and they sought the cancellation of all the titles derived from OCT No. 4216 because the latter is allegedly fictitious and spurious. On motion of the defendants, the complaint was dismissed on the ground that the plaintiffs were not real parties-in-interest. This Court reversed the trial court. But, on appeal to the Supreme Court, the Supreme Court reinstated the trial court's order of dismissal, upholding the validity of OCT No. 4216, thus:

In resolving the present complaint, therefore, the Court is well aware that a decision in *Margolles vs. CA*, rendered on 14 February 1994, upheld the validity of OCT No. 4216 (and the certificates of title derived therefrom), the same OCT that the present complaint seeks to nullify for being 'fictitious and spurious.' Respondent CA, in its assailed Decision dated 29 June 1994, failed to consider *Margolles vs. CA*. This we cannot countenance.

In finding that the complaint stated a cause of action, Public Respondent CA recognized that private respondent had a valid right over the property in question, based on their actual possession thereof and their pending application for a free patent thereon. The linchpin of this right, however, is the validity of OCT No. 4216. In other words, private respondents' right is premised on the allegation that the title of herein petitioners originated merely from the 'fictitious and/or spurious' OCT No. 4216.

Because it had failed to take cognizance of *Margolles vs. CA*, the CA was unable to consider that (sic) the legality of OCT No. 4216. As adverted to earlier, *Margolles vs. CA* upheld the validity of this title and the titles derived therefrom by, among others, Petitioner Peltan Corporation. Clearly, private respondents' possession of the land, and their pending application for a free patent thereon, did not vest in them a right superior to the valid title of petitioner originating from OCT No. 4216. Indeed, private respondents can invoke no right at all against the petitioners. Accordingly, the first element of a cause of action, i.e., plaintiff's right, is not present in the instant case.

In this light, the CA's treatment of the present suit as an *accion publiciana* to determine which one among the parties had a better right over the property is but an exercise in redundancy. As discussed above, the same issue has been foreclosed by the Supreme Court in *Margolles*.

The Supreme Court promulgated *Margolles* ahead of the assailed CA decision. It was incumbent upon Respondent CA to take judicial notice thereof and apply it in resolving this case. That the CA did not is clearly a reversible error.

Furthermore, allowing repeated suits seeking to nullify OCT No. 4216, like the present case, will bring to naught the principle of indefeasibility of titles issued under the Torrens system of land registration. Thus, in a resolution dated 10 August 1994, the First Division of this Court, applying the *Margolles* ruling, dismissed a petition for review involving herein petitioner Peltan Corporation which had raised as issue the validity of OCT No. 4216. The Court, in the case at bench, can do no less. Subjecting OCT No. 4216 to further scrutiny, as proposed in the amended complaint, is no longer an available option.[49]

Applying the foregoing decisions of the Supreme Court which recognized the validity of OCT No. 4216 and appellee's titles, the court a quo held that the appellants' petition for quieting of title is dismissible on the ground of *res judicata*. Truth be told, herein appellants were not parties to any of the two cases above-mentioned. But it has been ruled that absolute identity of parties is not required for *res judicata* to apply. What is important is that there is an identity of subject matter between the two cases. Thus, in *Dapar vs. Biascan*,[50] the Supreme Court held that:

It is clear that there is identity of subject matter between the two cases; that is, the parcel of land in Caloocan City covered by TCT No. 207197. Such property was adjudicated in favor of the petitioner and the respondent, as co-owners in equal shares. It must be stressed that in a complaint for partition, the plaintiff seeks, first, a declaration that he is a co-owner of the subject properties; and second, the conveyance of his lawful shares. An action for partition is at once an action for declaration of co-ownership and for segregation and conveyance of a determinate portion of the properties involved. As we ruled in a recent case:

To split the proceedings into declaration of nullity of the deed of sale and trial for the partition case, or to hold in abeyance the partition case pending resolution of the nullity case would result in the multiplicity of suits, duplicitous procedure and unnecessary delay, as the lower court observed. The conduct of separate trials of the parties' respective claims would entail a substantial duplication of effort and time not only of the parties but also of the courts concerned. On the other hand, it would be in the interest of justice if the partition court hears all the actions and incidents concerning the properties subject of the partition in a single and complete proceeding.

After all, the issue of nullity can be properly ventilated before the partition court. Thus, even with the dismissal

of the action for nullity, petitioner is not without recourse. She can still dispute the execution of the deed of absolute sale and assert her rights to the properties subject of the said instrument in the partition case. There is no need for a separate case to resolve the matter.

Indeed, the difference in form and nature of the two actions is immaterial and is not a reason for exemption from the effects of *res judicata*. The philosophy behind this rule prohibits the parties from litigating the same issue more than once. When a right or fact has been judicially tried and determined by a court of competent jurisdiction or an opportunity for such trial has been given, the judgment of the court, as long as it remains unreversed, should be conclusive upon the parties and those in privity with them. Whatever has once been irrevocably established as the controlling legal principle in an earlier final judgment continues to be the law of the case between the same parties in another suit, as long as the facts on which such decision was predicated continue to be the facts of the dispute before the court.

It may be argued that there is no identity of parties in the first and second case. In the first case for partition, the plaintiff was the petitioner, while the defendant was respondent Mario Biascan; in the second case for annulment of title and reconveyance of the same property, respondent Gloria Biascan was the plaintiff, while the defendants were the petitioner and respondent Mario Biascan. However, absolute identity of parties is not required for the principle of *res judicata* to apply. Mere substantial identity of parties, or a community of interests between a party in the first case and a party in the subsequent case, even if the latter was not impleaded in the first case, is sufficient.[51]

In the case at bar, the subject matter of appellants' petition for quieting of title and those of Margolles and Peltan Development is identical, that is to declare null and void OCT No. 4216 and the titles derived from it (including those in the name of appellee), on the ground that OCT No. 4216 is allegedly fictitious and/or spurious. While, indeed, herein appellants were not impleaded in Margolles and Peltan Development, they have a community of interests with the plaintiffs in those cases. They all sought to declare appellee's titles null and void, and to claim the land for themselves. But then, the Supreme Court has ruled, since 1994, that appellee's titles and all other titles derived from OCT No. 4216 are valid, and since the issue had been decided with finality, it can no longer be disturbed. As held in *Gallardo-Corro vs. Gallardo*,[52] cited in *Dapar vs. Biascan*:[53]

Nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable. It may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land. Just as the losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his case. The doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice, and that, at the risk of occasional errors, the judgments or orders of courts must become final at some definite time fixed by law; otherwise, there would be no end to litigation, thus setting to naught the main role of courts of justice which is to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.[54]

Lastly, this Court takes judicial notice of a Decision[55] dated September 6, 2013 which it rendered in a related case, docketed as CA-G.R. CV No. 94906, entitled *Republic of the Philippines vs. Pacifico de Leon, et al.* The case originated also from the court a quo, the difference being that the herein appellants were the defendants in a complaint for annulment of title (their OCT No. 3053) filed by the Republic of the Philippines, through the Land Registration Authority. After trial, the court a quo rendered a Decision dated February 4, 2010, the dispositive portion of which reads:

WHEREFORE, premises considered, the 'Complaint' dated 01 July 2004 of the Republic of the Philippines, as represented by the Administrator of the Land Registration Authority, is given due course. As such, judgment is

hereby rendered declaring Original Certificate of Title No. 3053 in the name of Mariano Lopez de Leon, purportedly issued by the Register of Deeds of Las Piñas City, as fake and spurious and therefore null and void.

Accordingly, the Register of Deeds of Las Piñas City is hereby directed to cancel OCT No. 3053 presently in its files. Likewise, the defendants are ordered to surrender their owner's duplicate copy thereof, if any, to the Register of Deeds of Las Piñas City for cancellation.

SO ORDERED.

Herein appellants also appealed, but this Court, through its former Sixteenth Division,[56] dismissed the appeal and affirmed the court a quo, ruling that:

In support of the first assigned error, defendants-appellants contend that OCT No. 3053 is not fake, as it was issued by the Register of Deeds by virtue of a court decision rendered by the CFI of Rizal in Case No. 313, GLRO Record No. 21134. Said title was registered in accordance with the Land Registration Act and was issued pursuant to Decree No. 151422 dated 12 March 1924. OCT No. 3053 was also supported by a valid and existing Survey Plan PSU-16400 approved by and on file with the DENR (Department of Environment and Natural Resources). Defendants-appellants insist that OCT No. 3053 is presumed to be valid and indefeasible under our prevailing laws. They point out that once a decree of registration becomes final, it shall be deemed conclusive not only on the questions actually contested and determined, but also on matters that might be litigated in the land registration proceedings.

The above contentions are untenable. The presumption of validity and indefeasibility of title does not apply in the present case where there is evidence that OCT No. 3053 pertains to a different registered owner and different parcel of land. Evidence on record show the existence of OCT No. 3053, Decree No. 15422, and the order of registration in CFI of Rizal Case No. 313 (GLRO Record No. 21134), as indicated in the title presented by defendants-appellants. However, there is clear and convincing evidence that such title, decree, and court order were irregularly or not validly issued in the name of Mariano Lopez de Leon and did not cover the subject parcel of land consisting of 3,636,059 square meters.

Decree No. 151422, which was purportedly issued in the name of Mariano Lopez de Leon on 12 March 1924 over the subject parcel of land located in Tindig na Manga, Municipality of Las Piñas, was actually issued on 28 March 1924, pursuant to the order of registration in Cadastral Case No. 5, LRC Cad. (GLRO) Record No. 9410 in the name of Maria Tiamson de los Santos over a parcel of land known as Lot No. 68 situated in Antipolo, Province of Rizal consisting of 486 square meters, more or less. Such decree was issued by Judge Vicente Miranda of the CFI of Rizal and attested by Enrique Altavas, Chief of the General Land Registration Office. The Register of Deeds of Rizal, Glicerio Opinion, received it on 8 April 1924. Pursuant thereto, OCT No. 3053 was issued in the name of Maria Tiamson de los Santos and transcribed on Page 53, Volume A-15 of the Book of Original Certificates. OCT No. 3053, under the name of Maria Tiamson de los Santos pursuant to Decree No. 151422, issued in GLRO Record No. 9410 was later confirmed in Transfer Certificate of Title (TCT) No. 1926 in the name of David Siasoco.

On the other hand, LRA Investigator Marites Tamayo sought a certified true copy of the purported decision dated 10 December 1923 of Judge Julio Llorente of the then CFI of Rizal or any document related to land registration Case No. 313, GLRO Record No. 21134, which led to the issuance of OCT No. 3053 in the name of Mariano Lopez de Leon. However, Teresita R. Ignacio, Chief of the Archives Division of the Records Management and Archives Office issued a certification attesting that no record of such GLRO Decision allegedly rendered by Judge Llorente on 10 December 1923 was on file with their office. Furthermore, Engr. Alberto H. Lingayo, Acting Chief of the Ordinary and Cadastral Decrees Division certified that per Record Book of Decrees for Ordinary Land Registration Cases, (OLD) GLRO Record No. 21134, Pangasinan was issued on 24 November 1924 but the decree was not indicated therein. This certification conflicts with what

appears in the purported Decree in favor of Mariano Lopez de Leon, which provides that GLRO Record No. 21134 was issued by the CFI of the Province of Rizal on 10 December 1923. Engr. Helen T. Tababa, Acting Chief of the Plan Examination, also certified that per Record Book of Land Registration Cases of the Docket Division, there is no Case No. 313 under the Municipality of Las Piñas, and that per Record Book of Decrees, GLRO Record No. 21134 appears to be assigned to a Land Registration Case situated in Pangasinan, not the parcel of land situated in Tindig na Manga, Las Piñas, Rizal supposedly registered in the name of Mariano Lopez de Leon.

Further investigation by the LRA-TFTM Investigator Homer P. Margate specifically showed that GLRO Record No. 21134, Case No. 3184 pertains to a property in Urbiztondo, Province of Pangasinan as shown by the certified copy of the Notice of Hearing appearing in Volume XXII, No. 75, Page 1476 of the Official Gazette dated 21 June 1924. Taking into consideration the previous findings of LRA Investigator Tamayo, Margate concluded that Case No. 313, GLRO Record No. 21134 as appearing in the purported OCT of Mariano Lopez de Leon, is a false or manufactured data intended to give color of validity to the assailed title. Margate further declared:

While it may be alleged that there was typographical error committed in the typing of the (GLRO) record number in OCT No. 3053, the probability that such an error occurred is remote considering that Record numbers 21133 up to 21135-7, or those that were issued prior to and after Record No. 21134, all pertain to properties located in the Province of Pangasinan, please see Annex "E-1". Such a circumstance would indicate that indeed GLRO Record No. 21134 was assigned for a property located in Pangasinan and not in Rizal province.

The LRA administrator duly approved the foregoing findings of the LRA-TFTM. On the other hand, defendants-appellants failed to disprove or rebut such finding and conclusion that OCT No. 3053 in the name of Mariano Lopez de Leon is fake and spurious. It must be noted that while the authenticity of OCT No. 3053 in the name of Maria Tiamson de los Santos could be easily traced and verified by public or official records, the issuance of the OCT in the name of Mariano Lopez de Leon are filled with inconsistencies, incomplete details and infirmities. The fact that Mariano Lopez de Leon had an existing and approved survey plan (PSU-16400) over the subject parcel of land does not render OCT No. 3053 under his name valid. An approved survey plan merely identifies the property preparatory to a judicial proceeding for adjudication of title. It is also self-serving since it is prepared at the instance of the party concerned. While a survey plan helps in establishing the identity of the property sought to be registered, it is completely ineffectual in proving the ownership and identities of the owners or claimants of the land surveyed.

Indeed, a title issued under the Torrens System is presumed valid, hence, the best proof of ownership. However, this presumption does not apply where the very certificate of title itself is faulty as to its purported origin, such as in the instant case. A title can never be indefeasible if its issuance is replete with irregularities and badges of fraud that render the same nugatory. The rule on the indefeasibility of a title does not attach to titles secured by fraud or misrepresentation.

It is also well-settled that registration is not a mode of acquiring ownership. It is only a means of confirming the fact of its existence with notice to the world at large. Certificates of title are not a source of right. The mere possession of a title does not make one the true owner of the property. Thus, the mere fact that Mariano Lopez de Leon and his heirs, defendants-appellants, have the purported title of the subject parcel of land in the name of the former does not necessarily, conclusively, and absolutely make them the owners.[57]

Appellants' Motion for Reconsideration was denied in the Resolution[58] dated March 31, 2014.

Our action to take judicial notice of the Decision in CA-G.R. CV No. 94906 is sanctioned by Section 1, Rule 129 of the Rules of Court which provides that:

SEC. 1. Judicial notice, when mandatory.—A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions.[59]

Furthermore, as held by the Supreme Court in *Republic vs. Court of Appeals*,^[60] citing Justice Edgardo L. Paras' book, *Rules of Court, Annotated*, Vol. 4, 1991 Edition:

A court will take judicial notice of its own acts and records in the same case, of facts established in prior proceedings in the same case, of the authenticity of its own records of another case between the same parties, of the files of related cases in the same court, and of public records on file in the same court. In addition judicial notice will be taken of the record, pleadings or judgment of a case in another court between the same parties or involving one of the same parties, as well as of the record of another case between different parties in the same court. Judicial notice will also be taken of court personnel.[61]

Thus, we cannot disregard the decision in CA-G.R. CV No. 94906 where it was ruled that appellants' OCT no. 3053 is "fake and spurious." It is also in the best interest of consistency and orderly administration of justice.

In fine, this Court finds no reversible error on the part of the court a quo in granting appellee's petition for relief from judgment and in, consequently, dismissing appellants' petition for quieting of title on the ground of res judicata.

WHEREFORE, the instant appeal is DISMISSED and the Order dated May 3, 2012 issued by the Regional Trial Court of Las Piñas City, Branch 255, in Spl. Case No. 06-0190 is AFFIRMED IN TOTO.

SO ORDERED.

Zalameda, and Diy, JJ., concur.

[1] Rollo, p. 128-133.

[2] Record, Vol. I, p. 2.

[3] Petition, pp. 2-4.

[4] Record, Vol. I, p. 16.

[5] Record, Vol. I, p. 47.

[6] Record, Vol. I, p. 55.

[7] Record, Vol. I, p. 105.

[8] Record, Vol. I, p. 106.

[9] Decision, p. 6; Rollo, p. 25.

[10] Record, Vol. I, p. 222.

[11] Record, Vol. I, p. 235.

[12] Record, Vol. I, p. 710.

[13] Record, Vol. I, p. 259.

- [14] Record, Vol. I, pp. 262-263.
- [15] Record, Vol. I, p. 437.
- [16] Record, Vol. I, p. 456.
- [17] G.R. No. 109490, February 14, 1994.
- [18] G.R. No. 117029, March 19, 1997.
- [19] G.R. No. 127022, June 28, 2000.
- [20] G.R. No. 127245, June 28, 2000, jointly decided with Firestone Ceramics.
- [21] Record, Vol. II, p. 1235.
- [22] Record, Vol. II, p. 1289.
- [23] Appellant's Brief, p. 1; Rollo, p. 46.
- [24] Tenebro vs. Court of Appeals, G.R. No. 107193, July 7, 1997.
- [25] Sec. 3, Rule 38, Rules of Court.
- [26] Petition, p. 2.
- [27] Spouses Olar vs. Cuna, L-47935, May 5, 1979.
- [28] Ibid.
- [29] Ibid.
- [30] G.R. No. 130974, August 16, 2006.
- [31] Emphasis ours.
- [32] G.R. No. 179955, April 24, 2009.
- [33] Emphasis ours.
- [34] Manotoc vs. Court of Appeals, *supra*.
- [35] Emphasis ours.
- [36] G.R. No. 78728, December 8, 1988.
- [37] *Supra*.
- [38] G.R. No. 139895, August 15, 2003.
- [39] Emphasis ours.
- [40] Hearings dated July 4, 2011 and July 25, 2011.
- [41] Domingo, Jr. vs. COMELEC, G.R. No. 136587, August 30, 1999.
- [42] Ibid.
- [43] Ibid.
- [44] G.R. No. 114275, July 7, 1997.

[45] G.R. No. 109490, February 14, 1994.

[46] Emphasis ours.

[47] Emphasis ours.

[48] G.R. No. 117029, March 19, 1997.

[49] Emphasis ours.

[50] G.R. No. 141880, September 27, 2004.

[51] Emphasis ours.

[52] 350 SCRA 568 (2001).

[53] Supra.

[54] Emphasis ours.

[55] Rollo, pp. 143-156.

[56] Penned by Associate Justice Mariflor P. Punzalan Castillo (Chairperson), with Associate Justices Amy C. Lazaro-Javier and Zenaida T. Galapate-Laguilles, concurring; Rollo, p. 143.

[57] Emphasis ours.

[58] Rollo, pp. 162-163.

[59] Emphasis ours.

[60] G.R. No.119288, August 18, 1997.

[61] Emphasis ours.

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