

**JOSE A. BERNAS AND THE WHARTON RESOURCES GROUP
(PHILIPPINES), INC., PETITIONERS, V. THE ESTATE OF FELIPE YU
HAN YAT, REPRESENTED BY HERO T. YU, RESPONDENT.**

G.R. No. 195908. August 15, 2018

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CAGUIOA, J:

These are consolidated Petitions for Review on Certiorari (Petitions) under Rule 45 of the Rules of Court assailing the Decision[1] of the Court of Appeals (CA) Seventeenth Division dated December 14, 2010 in CA-G.R. CV No. 82681 and the Resolution[2] dated February 28, 2011 denying the Motion for Reconsideration filed by the petitioners.

Facts

The present case involves a parcel of land known as Lot 824-A-4 (subject property), covered by Transfer Certificate of Title (TCT) No. RT-28758 (30627) PR-9639 (TCT No. 30627), located at Brgy. Matandang Balara, Quezon City, consisting of 30,000 square meters, more or less, which is part of Lot 824 of the Piedad Estate containing an area of 147,072 square meters registered in the name of respondent Felipe Yu Han Yat (Yu Han Yat).[3]

Yu Han Yat subdivided the subject property into 60 lots under Subdivision Plan Psd-13-018013, duly approved by the Bureau of Lands on August 13, 1991, as part of his plan to develop and convert the subject property.[4] As a consequence, TCT No. 30627 was cancelled and derivative titles, namely TCT Nos. 47294 to 47353 (Yu Han Yat TCTs), were issued in his name.[5]

To finance his plan of developing the subject property, Yu Han Yat applied for loans with several banks using some[6] of the Yu Han Yat TCTs as security. However, when the mortgage instruments[7] were presented for registration, the Register of Deeds of Quezon City refused to record the same on the ground that the Yu Han Yat TCTs overlapped with the boundaries covered by another title: TCT No. 336663 registered in the name of Esperanza Nava (Nava).[8] However, in Consulta No. 2038[9] issued on October 15, 1992, the Land Registration Authority (LRA) reversed the action taken by the Register of Deeds, and ordered the registration of the mortgage instruments on Yu Han Yat's TCTs.[10]

Meanwhile, petitioners Jose A. Bernas (Bernas) and Felomena S. Mejia (Mejia) claimed ownership over the subject property. They claim that Nava was the registered owner of a parcel of land covered by TCT No. 336663 until she sold parts of the said lot to Mejia and Gregorio Galarosa (Galarosa).[11] On September 15, 1986, Mejia executed with Nava a Deed of Sale with Right of Redemption by virtue of which Mejia acquired the real property covered by TCT No. 336663, subject to Nava's right to redeem the same.[12] When Nava failed to redeem the property, Mejia then filed a petition for consolidation of title under her name. The petition was granted in a Decision dated June 28, 1990 in Civil Case No. Q-90-5211 rendered by Branch 85 of the Regional Trial Court (RTC) of Quezon City.[13]

Since TCT No. 336663 bore the annotation "subject to verification," the Register of Deeds of Quezon City referred the matter to the LRA for consultation. In a Resolution dated March 15, 1991, in LRA Consulta No. 1890,[14] the LRA upheld the registrability of TCT No. 336663 in the name of Mejia. In LRA Consulta No. 1890, the LRA reasoned that a court decision is needed to categorically determine that the titles from which TCT No. 336663 were derived were spurious before it could order that the encumbrance was not registrable. Thus:

In his letter of January 22, 1991, the herein petitioner [Register of Deeds of Quezon City] elevated en consulta to this authority the registrability of the deed of sale with right of redemption executed by Nava in favor of Mejia, it appearing that Nava's title, Transfer Certificate of Title no. 336663, contains a memorandum that the same is subject to verification by the Verification Committee on Questionable Titles which was annotated thereon pursuant to Ministry of Justice Opinion No. 239 dated November 4, 1982. The only issue, therefore, to be resolved is whether or not the deed of sale with right of redemption may be registered.

x x x x

Considering that the findings of the Verification Committee that the Dominga Sumulong title was fabricated and non-existent cannot justify the suspension of registration of deeds affecting titles derived from Sumulong's reconstituted title and that this Office will be pre-empting the court's judgment on the matter if it were to suspend registration of documents involving titles it has administratively determined to be fabricated, there appears to be no more constraint in the registration of the deed of sale with right of redemption. This is especially true in this case where the court has already ordered the consolidation of ownership in favor of Felomena S. Mejia and directed the Register of Deeds to cancel Transfer Certificate of Title No. 336663 and issue, in lieu thereof, a transfer certificate of title in the name of Mejia.[15] (Underscoring omitted)

Hence, by virtue of the said Resolution, the Deed of Sale with Right of Redemption was annotated on the title of the subject property.

On February 21, 1992, Bernas, for and on behalf of Wharton Resources Group (Philippines), Inc. (Wharton), entered into a Memorandum of Agreement[16] with Mejia whereby the latter agreed to sell to Wharton the parcel of land covered by TCT No. 336663. Subsequently, a Deed of Sale[17] was entered into between Mejia and Wharton conveying to the latter the subject property.

In April 1992, Bernas discovered that there was another title covering about three hectares which overlapped a portion of the property registered under TCT No. 336663.[18] This other title, TCT No. 30627, indicated Yu Han Yat as the registered owner pursuant to subdivision plan Psd-2498 of a parcel of land located in Bayanbayan, Marikina.[19]

On June 24, 1992, Bernas filed an Affidavit of Adverse Claim on Yu Han Yat's TCTs, claiming that a Deed of Sale was executed between himself, for and on behalf of Wharton, and Mejia over the realty covered by TCT No. 336663 which overlaps portions covered by Yu Han Yat's TCTs.[20]

On the basis of this adverse claim filed by Bernas, the Register of Deeds of Quezon City refused to record the subject mortgages affecting the Yu Han Yat TCTs. This prompted Yu Han Yat to file another consulta with the LRA which, in a Resolution dated October 15, 1992, ordered the registration of the mortgage to the properties.[21]

Afterwards, on September 18, 1992, Yu Han Yat filed a Petition for Quieting of Title[22] before the RTC of Quezon City docketed as Civil Case No. Q-92-13609 against the Estate of Nava (represented by Antonio N. Crismundo), Galarosa, Mejia, Bernas, and the Register of Deeds of Quezon City (Estate of Nava, et al.).[23] Mejia then filed an Answer with Compulsory Counterclaims[24] and claimed, among others that, (a) Yu Han Yat's title, TCT No. 30627, was invalid because it originated from TCT No. 8047, which was issued on the basis

of a spurious subdivision plan, Psd-2498; (b) Psd-2498 was spurious because it represents to cover a parcel of land located in Barrio Bayanbayan, Marikina, whereas the actual location of Lot 824 Piedad Estate was in Caloocan City and Quezon City; and (c) the registrability of Mejia's rights and ownership over the subject property was sustained by the LRA in LRA Consulta No. 1890.[25] Bernas also filed an Answer with Application for Injunctive Relief[26] dated December 10, 1992 to restrain Yu Han Yat from undertaking development works on the subject property.

On December 20, 1993, the RTC issued an Order[27] granting Bernas' application for preliminary injunction. The RTC, in the said Order, stated that:

This Court finds the respondents to have amply proven their entitlement to the relief. Petitioner in this case has failed to convince this Court to act otherwise. The Court takes notice of a number of allegations brought up by petitioner's witness in the person of Atty. Bustos, however, the short of it all is that the respondents' title which is traced back from the title of Dominga Sumulong remains valid and subsisting insofar as the lot in question is concerned. Under the decisions rendered in Civil Case No. Q-11962 of then Court of First Instance of Rizal, Branch 9, Quezon City entitled Zaida M. Santos vs. Dominga Sumulong and in Civil Case No. 11180 entitled Pilar Ibanez Vda. De Suzuaregui et al., vs Constitutional Hills Deverlopment (sic) Corporation, Dominga Sumulong, et al.; it is stated therein that the title of Dominga Sumulong is not wholly null and void but only insofar as the lots involved are concerned which does not particularly refer to the lot in question in the instant case.[28]

On August 12, 1994, Yu Han Yat filed an Amended Petition[29] dated August 9, 1994 to implead Wharton, in view of the fact that the latter was the beneficial owner of the subject property and that Bernas was only its agent.[30] On October 3, 1994, Bernas and Wharton filed an Amended Answer to Amended Petition[31] dated September 29, 1994, adding the following affirmative defenses: (a) that Yu Han Yat's Amended Petition stated no cause of action because petitioners are innocent purchasers for value; and (b) although there was an annotation in TCT No. 336663 that the same was "subject to verification," the registrability of the title was nevertheless upheld in LRA Consulta No. 1890. The Amended Answer likewise interposed a cross-claim against Mejia for possible breach of her Memorandum of Agreement with Bernas.[32]

Trial ensued, and on March 15, 2004, the RTC issued a Decision[33] ruling in favor of the Estate of Nava, et al., and Wharton. The trial court reasoned as follows:

Based on the records and evidence presented[,] the properties subject of the controversy are TCT No. 30627 of the petitioner (Exhibit "G") and TCT No. 336663 (Exhibit "G" for Mejia as adopted by Bernas). Details underlying the procurement of those titles from the parties were quite overwhelming. But the history of how such titles came about does not convince the court to grant the relief sought by the petitioner.

Careful reading of the amended petition shows the evident objective of the claim – that is to nullify the respondents' title (TCT 336663) (Rollo, page 276, Volume 1) that runs to the very core of challenging the indefeasibility of Torrens title seeking succor under the guise of a petition for quieting of title.

Undeniably, the amended petition admits that petitioner's title overlaps with TCT No. 336663 (paragraphs 7 and 14, Amended Petition, Rollo, pages 212-21 A, Volume 1). The petition likewise cited Consulta No. 2038 (Exhibit "O") of the Land Registration Authority, from which petitioner wanted to conclude that TCT No. 336663 is of doubtful authenticity. The petitioner, however, contradicted himself when in his Memorandum he conceded that the findings of the Land Registration Commission is not binding upon this court. This leads to a point where the Government, through the Solicitor General, filed a nullification and cancellation proceedings (sic) (Exhibit "JJ") against Esperanza Nava from whom respondents Bernas and Mejia derived title to TCT No. 336663. The case was cited by petitioner in the petition and he jumped into conclusion that it constituted full knowledge upon respondents that indeed TCT No. 336663 is void and ineffective (Paragraphs 17 and 18,

Amended Petition, Rollo, page 275, Volume 1) without evidence of a decision from Branch 102 of the Regional Trial Court of Quezon City which heard the case. It was in stark contrast to the evidence presented by respondent Galarosa that the court ordered the Government to submit proof of service of summonses within ten (10) (sic) from completion lest the court will be constrained to dismiss or archive the case (Exhibit "17"). The records do not account up to this time on the progress of said case. What is apparent is the similar action filed by the Government against Amado R. Santos, the predecessor-in-interest of Esperanza Nava for nullification and cancellation proceedings of titles that included the latter's title. The case docketed as Civil Case No. Q-52834 before Branch 95 of this jurisdiction was dismissed for lack of merit (Exhibit "16" for Galarosa).

The very import of these pieces of evidence is that the petition misleads the court into believing that TCT No. 336663 has been decisively concluded to be void and ineffective. While it is true that TCT No. 336663 bears an annotation which reads: "This title is subject to verification by the LRC Verification Committee on questionable titles, plans[,] decrees and other documents" (Exhibit "KK-1" Exhibit "8-Galarosa"), this court has yet to await a final decision or decree that would indeed declare the questioned title null and void. Proof of which is incumbent upon the petitioner.

It is worthy to note that respondent Bernas' Memorandum quickly pointed out that petitioner's title which was based on plan PS 2498 (sic) referred to a parcel of land located in Bayanbayanan, Marikina, Metro Manila (Exhibit "I-Mejia" and Exhibit "E"-Petitioner) which is poles apart from respondents' title that covered a land in Matandang Balara, Quezon City. Petitioner did not present convincing evidence to overturn such fact except to plainly state that "the person who prepared the Survey Plan may have been confused as to the Property's (sic) exact location". Although petitioner went on to prove that his property covered by TCT No. 30627 was in Quezon City as he presented Commonwealth Act No. 502 (Exhibit "A"). Nowhere in said evidence proved that Bayanbayanan, Marikina was set to form part of the boundaries of Quezon City under Section 3 thereof. Simply put, the petitioner utterly failed to discharge the burden of proving the sustainability of his posture.

It is a well entrenched rule that in an action for quieting of title, the petition must prove legal or equitable title to the land as the far reaching implication of which is quieting titled lands and putting to stop forever any question of legality of the registration in the certificate or questions that may arise therefrom. To allow the petitioner to nullify the title of the respondents to the property in question would mean an obvious collateral attack which is not permitted under the principle of indefeasibility of a Torrens title. "A certificate of title cannot be subject to collateral attack and can be altered modified or cancelled only in a direct proceeding in accordance with law." (Virginia Calalang vs. Register of Deeds of Quezon City, et. al., G.R. No. 76265, March 11, 1994)[34] (Emphasis in the original)

Aggrieved, Yu Han Yat appealed the above Decision of the RTC to the CA.

In its Decision, the CA granted Yu Han Yat's appeal and held that: (a) the petition for quieting of title, and the petition for annulment of title are essentially the same; and (b) Bernas and Mejia's title was void as they source their ownership from Dominga Sumulong's title to the property which had been declared as null and void by the CA in previous cases. The CA also awarded actual damages, moral damages, exemplary damages, and attorney's fees in favor of Yu Han Yat. Herein petitioners Bernas, Mejia, and Wharton[35] sought reconsideration of the CA Decision, but the same was denied by the CA on February 28, 2011.

Hence, this appeal.

ISSUES

For resolution of the Court are the following issues:

(a)

Whether petitioners complied with Rule 45 of the 1997 Rules of Civil Procedure when they filed the Petitions

dated April 15, 2011 and April 20, 2011;

(b)

Whether the filing of the Petitions constituted forum shopping; whether Petitions are barred by res judicata;

(c)

Whether Yu Han Yat's Amended Petition constitutes a collateral attack on the validity of the title of petitioners (and their predecessors-in-interest) over the property subject of TCT No. 336663;

(d)

Whether the CA ruling that the property covered by respondent's title is the same as the property subject of TCT No. 336663 is supported by the evidence on record;

(e)

Whether the case of *Manotok, et al. v. Barque*[36] (*Manotok*) applies;

(f)

Whether the CA erred when it took judicial notice of proceedings in other cases before it;

(g)

Whether Yu Han Yat's alleged payment of real property tax constitutes proof of ownership or superior title over the property covered by TCT No. 336663; and

(h)

Whether petitioners are liable to the estate of Yu Han Yat (respondent) for damages and attorney's fees.

THE COURT'S RULING

On whether petitioners complied with Rule 45 of the 1997 Rules of Civil Procedure when they filed the Petitions dated April 15, 2011 and April 20, 2011

Before delving into the substantive issues raised by petitioners, the Court deems it proper to first discuss the procedural issue raised by respondent in its Comment — that the Court should have dismissed the case because the Petition raised questions of fact which are outside the province of an appeal through Rule 45.

It is true that, as a general rule, the Court is not a trier of facts, and that petitions under Rule 45 of the Rules of Court should only raise questions of law.[37] This rule, however, is subject to the following exceptions:

(1)

the conclusion is grounded on speculations, surmises or conjectures;

(2)

the inference is manifestly mistaken, absurd or impossible;

(3)

there is grave abuse of discretion;

(4)

the judgment is based on a misapprehension of facts;

(5)

the findings of fact are conflicting;

(6)

there is no citation of specific evidence on which the factual findings are based;

(7)

the findings of absence of fact are contradicted by the presence of evidence on record;

(8)

the findings of the CA are contrary to those of the trial court;

(9)

the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion;

(10)

the findings of the CA are beyond the issues of the case; and

(11)

such findings are contrary to the admissions of both parties.[38]

Some of the exceptions are present in this case. The rulings alone of the RTC and the CA were contradictory, to the point that they differ on their rulings on each of the issues presented in this case. Further, and as will be discussed in detail later on, the CA committed grave abuse of discretion in arriving at certain factual findings and legal conclusions. The Court must perforce conduct a judicious examination of the records to arrive at a just conclusion for this case.

On whether the filing of the Petitions constituted forum shopping, and whether the Petitions are barred by res judicata

Respondent claims that petitioners violated the rule against forum shopping when petitioner Bernas failed to inform the Court that a similar case was pending because Mejia had filed an appeal of the assailed CA Decision subsequent to the filing by Bernas. This failure supposedly constitutes a violation of Section 5, Rule 7 of the Rules of Court, which states that:

SECTION 5. Certification against forum shopping. — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (Emphasis and underscoring supplied)

In addition, respondent also asserts that since the heirs of Esperanza Nava (Heirs of Nava) did not appeal the CA Decision, then the same constitutes *res judicata* as regards petitioners Bernas and Mejia. Thus, the case should be dismissed.

Respondent's assertions fail to convince. Petitioners did not commit forum shopping by filing separate appeals. In *Young v. Spouses Sy*,^[39] the Court held that there is forum shopping where there exist:

(a)

identity of parties, or at least such parties as represent the same interests in both actions;

(b)

identity of rights asserted and relief prayed for, the relief being founded on the same facts; and

(c)

the identity of the two preceding particulars is such that any judgment rendered in the pending case, regardless of which party is successful would amount to *res judicata*.^[40]

While there was identity of rights asserted and relief prayed for, there was no identity of parties in the case at bar. Granted that both Mejia and Bernas trace their title from Nava, this does not, by itself, make their interests identical. Bernas' and Mejia's interests remain separate, and a judgment on one will not amount to *res judicata* on the other as, for instance, Bernas could, and did, raise the defense that he was an innocent purchaser for value of the subject property and thus should not be bound by any adverse judgment should Mejia's title be found defective. The same reasoning applies to respondent's assertion that Mejia's and Bernas' claims were now barred by *res judicata* because the Heirs of Nava did not appeal. The heirs of Nava hold an interest separate from Mejia's and Bernas', and the latter could not be adversely affected by the fact that the Heirs of Nava no longer filed an appeal.

On whether Yu Han Yat's Amended Petition constitutes a collateral attack on the validity of the title of petitioners (and their predecessors-in-interest) over the property subject of TCT No. 336663

Bernas and Mejia claim that the CA erred when it upheld as valid the petition for quieting of title filed by Yu Han Yat. They claim that the petition for quieting of title was a collateral attack, as opposed to a direct attack, on TCT No. 336663, which is proscribed under the principle of indefeasibility of Torrens titles.

Petitioners are mistaken. The CA was correct in holding that the petition for quieting of title filed by Yu Han Yat was not a collateral attack on TCT No. 336663, and was, in fact, a direct attack on the same. In *Villarica Pawnshop v. Spouses Gernale*,^[41] the issue before the Court was whether *litis pendentia* was present when there were two pending cases between the same parties: one for quieting of title, and another for annulment and cancellation of title. Ruling in the affirmative, the Court held that:

Civil Case No. 438-M-2002 is for quieting of title and damages, while Civil Case No. 502-M-2002 is for annulment and cancellation of titles and damages. The two cases are different only in the form of action, but an examination of the allegations in both cases reveals that the main issue raised, which is ownership of the land, and the principal relief sought, which is cancellation of the opposing parties' transfer certificates of title, are substantially the same. The evidence required to substantiate the parties' claims is likewise the same. The proceedings in Civil Case No. 502-M-2002 would entail the presentation of essentially the same evidence, which should be adduced in Civil Case No. 438-M-2002. As cited by the CA, this Court held in *Stilianopulos v. City of Legaspi* that:

The underlying objectives or reliefs sought in both the quieting-of-title and the annulment-of-title cases are essentially the same — adjudication of the ownership of the disputed lot and nullification of one of the two certificates of title. Thus, it becomes readily apparent that the same evidence of facts as those considered in the quieting-of-title case would also be used in this petition.

The subject cases are so intimately related to each other that the judgment that may be rendered in one, regardless of which party would be successful, would amount to *res judicata* in the other.^[42] (Emphasis and underscoring supplied)

The pronouncement above does not mean that in all instances, cases for quieting of title and for annulment of title are essentially the same, as the CA incorrectly held in its assailed Decision.^[43] However, petitioners are mistaken in their conclusion that the action filed by Yu Han Yat was a collateral attack just because it was denominated as a "petition for quieting of title" instead of a "petition for annulment of title."

The test is not the name of the action, but the ultimate objective of the same and the relief sought therein. Applying the said test in this case, the petition for quieting of title filed by Yu Han Yat was a direct attack on the petitioners' title as the petition specifically sought to annul TCT No. 336663 in the name of Nava.^[44] Thus, even as petitioners correctly claim that in assailing the validity of a Torrens title, there must be a direct proceeding expressly instituted for the purpose, the fact of the matter is that the petition for quieting of title was exactly that proceeding as it was filed precisely to question the validity of TCT No. 336663.

On whether the Court of Appeals' ruling that the property covered by respondent's title is the same as the property subject of TCT No. 336663 is supported by the evidence on record

Petitioners question the following findings of the CA:

We have scoured and scrutinized the records of the case and found that petitioner-appellant's title was derived from a valid title while respondents-appellees failed to prove that their title were derived from a valid one. Furthermore, petitioner-appellant was able to show how he acquired the subject property from his immediate predecessors and was able to account for the previous major transactions involving Lot 824, its subdivision and, finally, until it was transferred to him.

It is incorrect to state that TCT No. 30627, is a transfer from Original Title (sic) No. 8047, when it is clear that

it came from Original Title No. 614, pursuant to Decree No. 6667. It is of judicial notice that OCT No. 614, embraces many lots involving the Piedad Estate which are located in Quezon City.

It is clearly typographical error that, as stated, TCT No. 8047 is a transfer from TCT No. 3633/T-R because the technical description therein does not correspond to technical description stated in TCT No. 8047, but it instead corresponds to the technical description stated in TCT No. 36633 (sic), after its subdivision.

On respondent-appellee Bernas' claim that TCT 8047 was a transfer from TCT No. 3633, which involved a different property, We have scrutinized the same and it is apparent that TCT 8047, (sic) would show that the one who made such certification used a different typewriter as the entry "3633/T-R," appears to be different from the typewritten description of the property which used carbon paper. Likewise, it was certified that the title contains two pages, however, for unknown reasons, the second page was not presented; thus, the Court has no way of checking whether there are encumbrances that may be annotated therein which would trace that how (sic) TCT 8047 came to be.[45]

They contend that the CA Decision was not based on the evidence on record, and that TCT No. 30627 allegedly covers a property different from the one covered by TCT No. 336663 from which they derive their claims.

Petitioners' contention is without merit. Prescinding from the CA's justifications as to the use of a different typewriter, a careful scrutiny of the voluminous records of this case would reveal that the CA was ultimately correct that Yu Han Yat was able to establish better title over the subject property. Simply put, the CA was correct in holding that it was Yu Han Yat who was able to account for the previous major transactions involving the property and was able to show how he acquired the subject property from his immediate predecessors. To be sure, Yu Han Yat painstakingly traced his title, complete with documentary and testimonial evidence, in the following manner:

1. Petitioner's title, TCT No. RT28758 (30627) PR-[9]639 (Exh. "G") was issued on March 9, 1956, being a transfer from TCT No. 8047 in the name of Bienvenido A. Tan, Jr. (Exh. "1-Galarosa"). Both petitioner's title and that of Mr. Tan, Jr. have the following technical descriptions, to wit:

"A parcel of land (Lot 824-A-4 of the subd. plan Psd-22842 being a portion of Lot 824-A described on plan Psd-2498 (LRC Rec. No.), situated in Q. City, bounded on the N., by Lot 9471 on the E., by Lots 824-A-1, 824-A-2, 824-A-3 of the subd. plans on the SE. by Tuason Estates; on the W., by Lot 824-B of plan Psd-2498. Beginning at a point marked "1" on plan, being S. 85 deg. 22'E., 3255.54 from LM No. 16, Piedad Estate; thence N.1 deg., 42'W., 290.30 m. to pt. 2; thence E., 115.00 m. to pt. 3; thence S. 0 deg. 08'E., 248.64 m. to pt. 4; thence S. 68 deg. 47'W., 114.78 m. to pt. of beginning; containing an area of THIRTY THOUSAND (30,000) SQ.M. more or less All pts. referred to are indicated on the plan and are marked on the ground pts. 1 & 2 are marked by Old PLS Cyl, Cone, Mons. & the pt. 3 & 4 by PLS Cyl, Cone. Mons. bearings true; declination 0 deg. 45'E., date of the subd. survey Nov. 4, 1947."

x x x x

3. The validity and regularity of petitioner's title is borne out by the fact that it can be traced back to the title of Juan Porciuncula issued prior to 1930. Porciuncula's title is TCT No. T-10849 covering "Lot 824 of the 'PIEDAD ESTATE SUBDIVISION' Case No. 5975 of the Court of Land Registration" (Exh. "R" and "R-1" TSN Lara, 4 April 1995 page 68) the original of which was presented in Court and identified by Mr. Lara of the Pasig Registry. Due to the document's old age, the same had to be placed in a plastic sheet to prevent further deterioration, as mere holding would break the document. In fact, the edges of the document, including the portion on which the date where the title's issuance should have appeared, have been torn to small pieces.

4. On 21 November 1931, an entry written in Spanish was made at the back of TCT No. 10849 to record the subdivision of the lot into Lot 824-A consisting of 60,012 sq. meters, and Lot 824-B with an area of 87,060 sq.

meters, pursuant to Subdivision Plan Psd-2498. At the same time, the entry recorded the sale of Lot 824-A to Castor B. Cruz for the sum of P1,220.00. The date of the deed of sale was 20 August 1930. (Exh "R-2") As a result of the sale to Castor B. Cruz, TCT No. T-10849 was cancelled and replaced by TCT No. T-20897 and T-20898 (Exh. "R-3" TSN Lara, 4 April 1995 page 103).

5. While TCT No. 20897 could not be found in the Registration Book (T-84-A) of the Pasig Registry and was listed as missing after the titles were inventoried (TSN Lara, 4 April 1995 pages 87, 88), the Index Card of Porciuncula shows that TCT No. T-10849 was replaced by TCT No. 20897 and 20898 (Exh. "S" and "S-1"). Likewise, the Index Card of Castor Cruz shows that TCT No. 20897 was issued in his name for Lot 824-A. (Exh. "U" and "U-1")

6. On 9 February 1939, TCT No. 20897 was cancelled by TCT No. [366633] issued in the name of Sps. Juan M. Ruiz and Conchita O. Baradi (Exh. "V"). The cancellation and issuance of a new title was occasioned by the sale of Lot 824-A by Castor B. Cruz to the said spouses which sale was registered in the Primary Entry Book (Exh. "W") under Entry No. 5445 (Exh. "W-1", TSN Lara, 4 April 1995 pages 112-114). The cancellation of Castor B. Cruz' TCT No. 20897 and the issuance of TCT No. T-[36633] were also recorded in the Index Card of the former. (Exh. "U-1").

7. As described in the TCT No. [36633] in the name of the Spouses Ruiz, the parcel of land covered by the title is as follows:

"A parcel of land (Lot No. 824-A of the subdivision plan Psd-2498, being a portion of Lot No. 824, described on the original plan of the Piedad Estate, G.L.R.C. Record No. 5975), situated in the Municipality of Caloocan, Province of Rizal. Bounded on the N., by the property of Juan Porciuncula (Lot No. 947 of the subdivision plan No. 2507) on the E. by Lot No. 823 of Piedad Estate; on the SE by property of Tuason Estate; and on the W. by property of Juan Porciuncula (Lot 824-B of the subdivision plan). Beginning at a point marked "1" on the plan, being N. 89 deg. 33'E 3486.40 m. from L.M. No. 16, Piedad Estate, thence S. 0 deg. 04'E., I, 196.40 m. to point "2"; thence S. 68 deg. 47' W., 259.15 m. to point "3"; thence N. 1 deg. 42' W., 290.30 m. to point "4"; thence 250.00 m. to the point of beginning; containing an area of sixty thousand and twelve square meters (60,012) more or less. All points referred to are indicated on the plan and on the ground points 1 and 2 are marked by old points and points 3 and 4 by P.L.S. concrete monuments to 15 x 60 centimeters. Bearings true, declination 0 deg. 48' E., date of original survey, July 1 to December 14, 1907, and that of the subdivision survey, June 11-13, 1927--/" (Exh "V"; Exh. "2"-Galarosa)

8. On 6 October 1948, a Subdivision Plan was recorded on the Spouses Ruiz' TCT No. [36633]. Under the Subdivision Plan, Lot 824-1 was subdivided into four lots, namely: Lots 824-A-1, 824-A-2, 824-A-3 and 824-A-4. The same annotation mentioned Lot 824-A-4 to have been sold to Bienvenido A. Tan, Jr. for the sum of P8,000.00 pursuant to a Deed of Sale dated 12 July 1948 (please see also Exh "CC"). As a result, TCT No. 36633 was cancelled and in lieu thereof, TCT Nos. 8044, 8045, 8046 and 8047 were issued (Exh. "2-a"-Galarosa).

9. TCT No. 8047 for Lot 824-A-4 appears to have been directly issued in the name of Bienvenido A. Tan, Jr. (Exh. "1" and "2-a"-Galarosa). This is the same title that was cancelled when TCT No. 30627 in favor of petitioner was issued on 9 March 1956 (Exh. "G") pursuant to a Deed of Sale dated 6 March 1956 executed by Bienvenido A. Tan, Jr. in favor of Felipe Yu Han Yat for the sum of P30,000.00 (Exh. "BB").[46]

Petitioners, on the other hand, argue that their title does not cover the same property and that even assuming that both titles cover the same property, Yu Han Yat still allegedly failed to prove that his title was superior over theirs.

Both arguments of petitioners fail to convince.

First, petitioners' argument that Yu Han Yat's title, TCT No. 30627, does not cover the same property as their title, TCT No. 336663, is because TCT No. 30627 came from TCT No. 8047 which, in turn, bears an annotation that it is "a transfer from TCT No. 3633/T-R," a title that covers a property situated in Murphy, Quezon City.[47] They point out that, in contrast, TCT No. 336663 covers a parcel of land located in Piedad Estate in Quezon City.[48] The CA dismissed this contention and ruled that the annotation that TCT No. 8047 is "a transfer from TCT No. 3633/T-R" was a clear typographical error "because the technical description therein does not correspond to [the] technical description stated in TCT No. 8047, but it instead corresponds to the technical description stated in TCT No. 36633, after its subdivision." [49] The CA attributed the typographical error to the "use of a different typewriter," which ruling is being vigorously contested by the petitioners. According to them, the difference in the technical descriptions between those stated in (a) TCT Nos. 8047 and 336663 and (b) TCT No. 3633/T-R should be construed to mean that "there was an error in transferring the technical description from the latter to the former."

The Court agrees with the CA. Both TCT No. 30627 and TCT No. 336663 cover the same property as shown by their respective technical descriptions stating that the parcel of land covered is Lot 824 of the Piedad Estate.[50] The fact that TCT No. 8047, from which TCT No. 30627 was derived, bears an annotation that it was a transfer from TCT No. 3633/T-R which covers a property in Murphy, Quezon City casts little doubt on the title of Yu Han Yat.

The Court is more inclined to uphold the view that the error lies in the annotation in TCT No. 8047 that it was "a transfer from TCT No. 3633/T-R," as compared with petitioners' theory that the error was in the entire technical descriptions contained in TCT Nos. 8047 and TCT No. 336663. It is notable that TCT No. 8047 was, in truth, a transfer from TCT No. 336663, as shown by the meticulous narration of Yu Han Yat quoted above. To repeat, records show that TCT No. 336663, in the name of Spouses Ruiz, was cancelled when the lot was subdivided into four lots: Lot 824-A-1, Lot 824-A-2, Lot 824-A-3, and Lot 824-A-4. TCT No. 336663 was cancelled, and TCT Nos. 8044, 8045, 8046, and 8047 were issued in lieu of the same. TCT No. 8047 was then cancelled when the lot was sold to Yu Han Yat in 1956. In other words, the error occurred in encoding that TCT No. 8047 was "a transfer from TCT No. 3633/T-R" instead of "from TCT No. 36633." As Yu Han Yat convincingly argued:

It defies logic to believe such a preposterous claim – that there is greater likelihood of an error occurring in copying the technical description, rather than to consider more likely a typographical error occurring in typing TCT No. 3633/T-R instead of TCT No. 336663 (sic). A technical description is a lengthy narration which would be improbable to be erroneously transferred from one title to another, if good faith is to be presumed in the performance of one's duty. On the other hand, the confusing similarity in the numbers appearing on the title (TCT No. 3633/T-R and TCT No. 336663 [sic]) is more susceptible to being interchanged.[51]

Thus, the Court quotes with approval the following disquisition by the CA:

Moreover, We cannot close our eyes to the fact that TCT No. 30627 (transfer from TCT No. 8047) was issued on March 9, 1956, while TCT No. 336663 (transfer from TCT 116925/T-588) was issued only on October 28, 1985. Thus, as between two certificates of title issued to different persons covering the same land in whole or in part, the earlier in date must prevail, and that is, TCT No. 30627, under [Yu Han Yat]'s title.[52]

It is well established in jurisprudence that where there are two certificates of title covering the same land, the earlier in date must prevail as between the parties claiming ownership over it. As early as the 1915 case of *Legarda vs. Saleeby*,[53] the Court already said that:

The question, who is the owner of land registered in the name of two different persons, has been presented to the courts in other jurisdictions. In some jurisdictions, where the "torrens" system has been adopted, the difficulty has been settled by express statutory provision. In others it has been settled by the courts. Hogg, in

his excellent discussion of the "Australian Torrens System," at page 823, says: "The general rule is that in the case of two certificates of title, purporting to include the same land, the earlier in date prevails, whether the land comprised in the latter certificate be wholly, or only in part, comprised in the earlier certificate. (Oelkers vs. Merry, 2 Q. S. C. R., 193; Miller vs. Davy, 7 N. Z. R., 155; Lloyd vs. May-field, 7 A. L. T. (V.) 48; Stevens vs. Williams, 12 V. L. R., 152; Register of Titles vs. Esperance Land Co., 1 W. A. R., 118.)" Hogg adds however that, "if it can be clearly ascertained by the ordinary rules of construction relating to written documents, that the inclusion of the land in the certificate of title of prior date is a mistake, the mistake may be rectified by holding the latter of the two certificates of title to be conclusive." (See Hogg on the "Australian Torrens System," supra, and cases cited. See also the excellent work of Niblack in his "Analysis of the Torrens System," page 99.) Niblack, in discussing the general question, said: "Where two certificates purport to include the same land the earlier in date prevails [x x x] In successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest; and that person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof. While the acts in this country do not expressly cover the case of the issue of two certificates for the same land, they provide that a registered owner shall hold the title, and the effect of this undoubtedly is that where two certificates purport to include the same registered land, the holder of the earlier one continues to hold the title" (p. 237).

x x x x

We have decided, in case of double registration under the Land Registration Act that the owner of the earliest certificate is the owner of the land. That is the rule between original parties. May this rule be applied to successive vendees of the owners of such certificates? Suppose that one or the other of the parties, before the error is discovered, transfers his original certificate to an "innocent purchaser." The general rule is that the vendee of land has no greater right, title, or interest than his vendor; that he acquires the right which his vendor had, only. Under that rule the vendee of the earlier certificate would be the owner as against the vendee of the owner of the later certificate.[54] (Emphasis and underscoring supplied)

Verily, it is undoubtedly clear that between the parties in this case, it is Yu Han Yat who has shown that he has better title over the subject property for having presented the earlier title.[55] The contention that Bernas (on behalf of Wharton) and Mejia were "innocent purchasers" is thus immaterial, for even if it is assumed that they are indeed such, they still could not acquire a better right than their transferor — Nava — whose title was issued much later than Yu Han Yat's transferor.

Another evidentiary contention by Bernas purportedly establishing his better right to the subject property was that TCT No. T-10849, issued before 1930 to Juan Porciuncula, which was the origin of Yu Han Yat's title, was based on subdivision plan Psd-2498. In turn, Psd-2498 indicates that it is a subdivision plan of a lot located in "Bayanbayanan, Mariquina." [56] Supposedly, this establishes that the land covered by Yu Han Yat's title is different from the one covered by his title. With regard to this issue, the CA ruled that:

While it is true that, under PS 2498 (sic), it was stated that the property is located in Bayanbayanan, Mariquina, however, it must be noted that at the time the survey was conducted on June 11-13, 1927, the property was still under the Province of Rizal and that Quezon City was only created pursuant to Commonwealth Act No. 502, and approved on October 12, 1939. However, subsequent subdivision of Lot 824 would reveal that the property is located at Quezon City.[57]

Bernas asserts that the above ruling of the CA was not supported by evidence on record and was bereft of factual basis nor based on established facts.

The Court, however, agrees with the resolution of the CA. The CA was justified in taking judicial notice when

Quezon City was established. Section 1, Rule 129 of the Rules of Court states:

SECTION 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. (Emphasis supplied)

The CA correctly held that the Quezon City was established only in 1939, upon the enactment of Commonwealth Act No. 502, the city's charter. Hence, when the survey for Psd-2498 was conducted in 1927, Quezon City did not as yet exist. Further, the property in question has always been referred to as part of the Piedad Estate. In turn, Commonwealth Act No. 502 defined the boundaries of Quezon City as follows:

SECTION 3. Boundaries. — The boundaries and limits of the territory of said city are established and prescribed as follows: Beginning at a point marked "1" which is identical to Boundary Monument No. 1 of Piedad Estate; to point "2", which is Boundary Monument No. 2 of Piedad Estate; thence downstream following the Arroyo between Payatas Estate and Mariquina Estate to point "3", which is the junction of the Arroyo and Mariquina River; thence downstream following Mariquina River to point "4", which is the crossing of Mariquina by the old Rosario Road; thence westward following the old Rosario Road to point "5", which is the south-easternmost corner of Wack Wack Golf and Country Club; thence following the road along the south boundary of the Wack Wack [Golf] and Country Club to point "6" where the said road crosses the creek which is the source of Salapan Creek; thence downstream following the Salapan Creek to point "7", which is the junction of Salapan Creek and Dario River; thence southward following the Salapan River to its intersection with the east boundary of the City of Manila to point "8"; thence north-westward following the east boundary of the City of Manila to point "9" near La Loma Cabaret, which is a corner of the boundary of the City of Manila near the entrance to the North Cemetery; thence northward following the boundary of the City of Manila to point "10", which is the northeast corner of said City; thence westward along said City of Manila boundary at a distance of 100 meters to point "11"; thence northward paralleling the Novaliches Road at a distance of 100 meters from the property line on the side of said road to point "12", which is at a distance of 100 meters north of the crossing of Samson Street (road connecting Balintawak Monument with Bonifacio Monument); thence eastward paralleling Samson Street and the Circumferential Road at a distance of 100 meters on the northside of said street and road to point "13", which is the center of the Culiati Creek; thence upstream following the Culiati Creek to point "14", which is the junction of Pasong Tamo River and Culiati Creek; thence upstream following Pasong Tamo River to point "15", which is the junction of Pasong Tamo River and Pinagpatayan Buaya Creek; thence to the point of beginning. (Emphasis and underscoring supplied)

In *Porciuncula v. Adamos*,^[58] the Court notably observed that the Piedad Estate is "located in barrio Bayanbayan, Caloocan, Rizal (now Diliman, Quezon City)."^[59] As Yu Han Yat noted, the history of Bayanbayan, Caloocan may have caused the misdescription of municipality in Psd-2498:^[60]

While it is true that the subdivision plan of Lot 824 (Psd 2498) of the Piedad Estate shows that it is located in the Barrio of Bayanbayan, Municipality of Marikina, a deeper understanding and analysis of the history of the subject property will reveal that the misdescription in the subdivision plan is nothing more than a product of confusion between Bayanbayan, Marikina and Bayanbayan, Caloocan.

x x x A reading of the documents would reveal that the source of the insidious claim by the petitioners that the property is located in Bayanbayan, Marikina stems from an erroneous reference in Psd 2498 dated June 11-13, 1927 made by a certain Engr. Sixto Fernando. The said survey indicates that the location of Lot 824, Piedad Estate containing a total area of 147,072 square meters to be in Bayanbayan, Marikina. When Quezon City was created by virtue of Commonwealth Act No. 502, the boundaries and limits of the city would show that Piedad Estate indeed became part of it, to wit:

Sec. 3. Boundaries. — The boundaries and limits of the territory of said city are established and prescribed as follows: Beginning at a point marked "1" which is identical to Boundary Monument No. 1 of Piedad Estate; to point "2", which is Boundary Monument No. 2 of Piedad Estate; thence downstream following the Arroyo between Payatas Estate and Mariquina Estate to point "3", which is the junction of the Arroyo and Mariquina River; thence downstream following Mariquina River to point "4", which is the crossing of Mariquina by the old Rosario Road; thence westward following the old Rosario Road to point "5", x x x. (Emphasis in the original)

x x x It is apparent that Engr. Sixto Fernando, while making the subdivision plan Psd 2498 in 1927 mistook the portion of respondent's property to be in Bayanbayan, Marikina.

x x x The "Marikina mistake" appears in only one document, as against several evidence showing that respondent's property is in Quezon City. The inadvertent mention that Felipe Yu Han Yat's property (and the entire Lot 824) is located in Bayanbayan, Mariquina appears in one and only one document and that is in Psd-2498. Except for this mistake in the designation of municipality, all other data in the survey plan Psd-2498 are consistent with the property being in Piedad Estate, Matandang Balara, Quezon City.

x x x Further, as stated above, the technical description in respondent's TCT 28758 (30627) PR-9639, referred to the same survey plan, Psd-2498 and went on further to state that the property is located in Quezon City. The said Transfer Certificate of Title where the above cited technical description was mentioned, was prepared by no less than the Register of Deeds. This is a conclusive proof that if at all, the erroneous reference to Bayanbayan, Mariquina in Psd-2498 was rectified by the Register of Deeds himself, when he prepared the title and correctly described the location of the property to be in Quezon City. Noting further the fact that in doing so, he was using as basis the same Psd-2498.[61] (Emphasis supplied)

The foregoing disquisition persuades the Court that the annotation that Psd-2498 pertains to a parcel land in "Bayanbayan, Mariquina" was indeed a mere inadvertent error.

To be sure, the above factual findings arrived at by the CA are all based on a painstaking review of the voluminous records of this case. The ultimate truth revealed by the evidence on record is that TCT No. 8047 was a transfer from TCT No. 336663, contrary to the annotation that it was "a transfer from TCT No. 3633/T-R." Likewise, the CA correctly took judicial notice of the fact that Quezon City was not yet established at the time the survey for Psd-2498 was conducted. Therefore, the Court so holds that Yu Han Yat's title, TCT No. 30627, and Mejia and Bernas' title, TCT No. 336663, cover the same property.

On whether the case of *Manotok, et al. v. Barque* applies

Petitioner Mejia argues that the CA erred in ruling in favor of Yu Han Yat, when it did not inquire as to how the latter was able to trace his title from valid alienation by the government pursuant to the provisions of Act No. 1120, or the Friar Lands Act, because Piedad Estate was considered a friar land. Mejia argues that the CA fell short of the yardstick laid down in the case of *Alonso v. Cebu Country Club*,[62] (Alonso) where the Court held:

Section 18 of Act No. 1120 or the Friar Lands Act unequivocally provides: "No lease or sale made by the Chief of the Bureau of Public Lands (now the Director of Lands) under the provisions of this Act shall be valid until approved by the Secretary of the Interior (now, the Secretary of Natural Resources). Thus, petitioners' claim of ownership must fail in the absence of positive evidence showing the approval of the Secretary of Interior. Approval of the Secretary of the Interior cannot simply be presumed or inferred from certain acts since the law is explicit in its mandate. This is the settled rule as enunciated in *Solid State Multi-Products Corporation vs. Court of Appeals* and reiterated in *Liao vs. Court of Appeals*.[63]

Likewise, in the case of *Manotok*,[64] the Court held that:

It must be borne in mind that the disputed property is part of the "Friar Lands" over which the Government holds title and are not public lands but private or patrimonial property of the Government and can be alienated only upon proper compliance with the requirements of Act No. 1120 or the Friar Lands Act.

x x x x

It was thus primordial for the respondent to prove its acquisition of its title by clear and convincing evidence in view of the nature of the land. In fact, it is essential for both respondent and petitioners to establish that it had become private property. Both parties failed to do so. As we have held earlier, petitioners have not succeeded to prove their claim of ownership over the subject property.[65]

Mejia's assertion on this ground fails. In the case of *Alonso*, the Court needed to ascertain both parties' compliance with the Friar Lands Act because the plaintiffs claim was precisely hinged on the alleged sale by the government of the land in question to Francisco Alonso. On the other hand, the Court in *Manotok* needed to check the parties' compliance with the Friar Lands Act because each of the parties questioned the petition for administrative reconstitution filed by the other. Hence, the Court needed to ascertain which of the parties actually held a valid claim to the lands in question, so that it could accordingly grant reconstitution.

The instances present in *Alonso* and *Manotok* do not exist in the case at bar. The issue of whether there was a valid transfer from the government to either of the parties was never raised in the proceedings in the trial court or upon initial appeal. Mejia only raised the issue of compliance with the Friar Lands Act only upon her motion for reconsideration with the CA, and eventually upon appeal to this Court. Mejia is precluded from doing this, as it is well settled in jurisprudence that an issue which was neither averred in the complaint nor raised during the trial in the court below cannot be raised for the first time on appeal as it would be offensive to the basic rules of fair play, justice and due process.[66] As *Yu Han Yat* correctly argued:

Certainly, the issue of whether an inquiry was made as to how the respondent's predecessors-in-interest may trace their title to a valid alienation by the government under the provisions of Act No. 1120 was not among those raised before the trial court and the Court of Appeals. If it were so, respondent would have presented evidence to show that he measures up to the yardstick laid down by the Supreme Court in the *Manotok* case. It must be recalled that the only primordial issue between the parties in this case is whose title is genuine and authentic based on the respective evidence presented. This was how the Honorable Court of Appeals simplified the otherwise convoluted and antagonistic theories of ownership between the parties. But insofar as the alienation by the government of the property in question under the provisions of Act No. 1120 is concerned, that was never put in issue both in the trial court and in the Court of Appeals.[67] (Emphasis supplied)

To emphasize, points of law, theories, issues and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal.[68] Issues raised for the first time on appeal and not raised timely in the proceedings in the lower court are barred by estoppel.[69] To consider the alleged facts and arguments belatedly raised would amount to trampling on the basic principles of fair play, justice, and due process.[70] As such, the Court so holds that the principles under *Alonso* and *Manotok* are inapplicable in the case at bar.

On whether the Court of Appeals erred when it took judicial notice of proceedings in other cases before it

In further ruling in favor of *Yu Han Yat*, the CA held that TCT No. 336663, or the *Nava* TCT, was null and void by taking judicial notice of other cases decided by it, specifically the case of CA-G.R. No. 77666, titled "*Heirs of Dominga Sumulong y Roxas, represented by Wilfredo Sumulong Torres v. Hon. Demetrio B. Macapagal, Sr., Presiding Judge, RTC, Branch 79, Quezon City, et al.*"[71] In the said case, the CA invalidated TCT No. 56809 registered in the name of Dominga Sumulong for being improperly reconstituted: As TCT No. 336663 originated from TCT No. 56809, the CA concluded that *Bernas'* and *Mejia's* title were also null and void because of the

"legal principle that the spring cannot rise higher from its source." [72]

Petitioners decried the act of the CA of taking judicial notice of a previous case decided by it, and argued that the CA committed a serious error of law.

The Court rules in favor of petitioners on this ground. It is well settled that, as a general rule,

courts are not authorized to take judicial notice, in the adjudication of cases pending before them, of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been heard or are actually pending before the same judge. [73]

It is true that the said rule admits of exceptions, namely:

(a)

In the absence of objection, and as a matter of convenience to all parties, a court may properly treat all or any part of the original record of a case filed in its archives as read into the record of a case pending before it, when, with the knowledge of the opposing party, reference is made to it for that purpose, by name and number or in some other manner by which it is sufficiently designated; or

(b)

when the original record of the former case or any part of it, is actually withdrawn from the archives by the court's direction, at the request or with the consent of the parties, and admitted as a part of the record of the case then pending. [74]

Neither of these exceptions, however, exists in this case. The parties were not informed, much less their consent taken, of the fact that the CA would take judicial notice of these cases. Thus, the CA erred in taking judicial notice of the records of CA-G.R. No. 77666 in the process of adjudicating this case.

Nevertheless, despite this error, the result remains that Yu Han Yat is the rightful owner of the subject property in light of the Court's ruling above that there is an overlap between the properties covered by the two TCTs in question, and that the evidence showing Yu Han Yat's title to be earlier means that Yu Han Yat holds better title.

In view of such ruling, the Court no longer sees the need to tackle the issue of whether Yu Han Yat's payment of real property taxes constitutes proof of ownership or superior title over the subject property. In any event, the Court has consistently ruled that:

Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's bona fide claim of acquisition of ownership. [75]

On whether petitioners are liable to respondent for damages and attorney's fees

The CA awarded to Yu Han Yat the following amounts in the form of damages:

- (a) P1,630,514.17 as actual damages;
- (b) P100,000.00 as moral damages;
- (c) P100,000.00 as exemplary damages, and

(d) Attorney's Fees in the amount of P272,868.25

As to the actual damages, the CA held that petitioners were liable therefor because Yu Han Yat deserved adequate compensation for the duly substantiated losses suffered by him to protect his interest over the property. The CA also awarded moral damages to Yu Han Yat because of the supposed wrongful issuance by the RTC of the preliminary injunction, and the refusal of the Housing and Land Use Regulatory Board (HLURB) to issue a License to Sell to Yu Han Yat due to the pendency of the case. Exemplary damages were likewise awarded by the CA by way of example or correction for the public good. Finally, the CA awarded attorney's fees because Yu Han Yat was supposedly forced by the petitioners to incur expenses in litigation to protect his interest.

Contrary to the ruling of the CA, the Court finds no basis in awarding the above damages to Yu Han Yat. In *ABS-CBN Broadcasting Corp. v. Court of Appeals*,^[76] the Court held that in the absence of malice or bad faith in the prosecution of the case, the award of damages is unavailing:

There is no adequate proof that ABS-CBN was inspired by malice or bad faith. It was honestly convinced of the merits of its cause after it had undergone serious negotiations culminating in its formal submission of a draft contract. Settled is the rule that the adverse result of an action does not per se make the action wrongful and subject the actor to damages, for the law could not have meant to impose a penalty on the right to litigate. If damages result from a person's exercise of a right, it is *damnum absque injuria*.^[77]

In the same way, the Court believes that petitioners were honestly convinced of the validity of their claim to the subject property. As subsequent holders of the same through a sale, both Mejia and Bernas (and consequently, Wharton) were expected to insist on their supposed ownership over the property in question. Consequently, the Court deems it proper to delete the award of damages in favor of respondent.

WHEREFORE, the consolidated Petitions are hereby DENIED. The Court of Appeals Decision dated December 14, 2010, and the Resolution dated February 28, 2011 in CA-G.R. CV No. 82681 are AFFIRMED WITH MODIFICATION. The Court deletes the award of actual, moral, and exemplary damages, and attorney's fees in favor of respondent.

SO ORDERED.

Carpio (Chairperson),[*] Perlas-Bernabe, A. Reyes, Jr., and J. Reyes, Jr., JJ., concur.

[*] Senior Associate Justice (Per Section 12, R.A. 296, The Judiciary Act of 1948, as amended)

[1] *Rollo* (G.R. No. 195908) Vol. I, pp. 57-82. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Isaias P. Dican and Franchito N. Diamante concurring.

[2] *Id.* at 84-87.

[3] *Id.* at 59.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] Id. No copy of Consulta No. 2038 was attached in the records of the case, but the CA indicated in its Decision that it was attached in its records. Neither of the parties, however, contests the existence of Consulta No. 2038.

[10] Id.

[11] Id. at 25 and 88.

[12] Id. at 25.

[13] Id. at 118-119.

[14] Id. at 120-122.

[15] Id.

[16] Id. at 123-124.

[17] Id. at 125-130.

[18] Id. at 26.

[19] Id.

[20] Id. at 60 and 159.

[21] Id. at 61

[22] Id. at 138-143.

[23] Id. at 58.

[24] Id. at 148-151.

[25] Id. at 28.

[26] Id. at 58.

[27] Id. at 159-161.

[28] Id. at 161.

[29] Id. at 198-208.

[30] Id. at 29.

[31] Id. at 220-237.

[32] Id. at 29-30.

[33] Id. at 88-91.

[34] Id. at 90-91.

[35] Wharton was not indicated among the respondents-appellees in the title of the case, but was mentioned as one of the parties that filed the Motion for Reconsideration dated January 12, 2011. See id. at 84.

[36] 595 Phil. 87 (2008).

[37] RULES OF COURT, Rule 45, Sec. 1.

- [38] Cereno v. Court of Appeals, 695 Phil. 820, 828 (2012).
- [39] 534 Phil. 246 (2006).
- [40] Id. at 264.
- [41] 601 Phil. 66 (2009).
- [42] Id. at 80-81.
- [43] Rollo (G.R. No. 195908) Vol. I, p. 65.
- [44] Id. at 203.
- [45] Id. at 72-73.
- [46] Rollo (G.R. No. 195908) Vol. II, pp. 631-634.
- [47] Id. at 714.
- [48] Id. at 715.
- [49] Rollo (G.R. No. 195908) Vol. I, p. 73.
- [50] Id. at 152 and 273.
- [51] Rollo (G.R. No. 195908) Vol. II, p. 760.
- [52] Rollo (G.R. No. 195908) Vol. I, p. 69.
- [53] 31 Phil. 590 (1915).
- [54] Id. at 595-599.
- [55] According to the CA Decision, TCT No. 30627 or Yu Han Yat's title is traceable from OCT No. 614, which was issued on March 12, 1912 (rollo [G.R. No. 195908] Vol. I, pp. 72 and 273). On the other hand, petitioners were unable to trace their title to OCT No. 614 and could only present a title issued on Oct. 28, 1985 (id. at 378).
- [56] Rollo (G.R. No. 195908) Vol. I, p. 26; rollo (G.R. No. 195908) Vol. II, p. 717.
- [57] Rollo (G.R. No. 195908) Vol. 1, p. 73-74.
- [58] 103 Phil. 611 (1958).
- [59] Id. at 612.
- [60] Rollo (G.R. No. 195908) Vol. II, p. 763.
- [61] Id. at 763-765.
- [62] 462 Phil. 546 (2003).
- [63] Id. at 561-562.
- [64] Supra note 36.
- [65] Id. at 147.
- [66] Bote v. Spouses Veloso, 700 Phil. 787, 865 (2012).

[67] Rollo (G.R. No. 195908) Vol. II, p. 766.

[68] Madrid v. Spouses Mapoy, 612 Phil. 920, 934 (2009).

[69] Id.

[70] Id.

[71] Rollo (G.R. No 195908) Vol. I, p. 75.

[72] Id. at 76.

[73] Tabuena v. Court of Appeals, 274 Phil. 51, 57 (1991).

[74] Calamba Steel Center, Inc. v. Commissioner of Internal Revenue, 497 Phil. 23, 35 (2005).

[75] Ganila v. Court of Appeals, 500 Phil. 212, 224 (2005).

[76] 361 Phil. 499 (1999).

[77] Id. at 531-532.

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