

PEN DEVELOPMENT CORPORATION AND LAS BRISAS RESORT CORPORATION, PETITIONERS, VS. MARTINEZ LEYBA, INC., RESPONDENT.

G.R. No. 211845. August 09, 2017

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

Assailed in this Petition for Review on Certiorari[1] are the July 17, 2013 Decision[2] of the Court of Appeals (CA) in CA-G.R CV No. 97478 which affirmed with modification the January 20, 2009 Decision[3] of the Regional Trial Court of Antipolo City, Branch 71 (RTC) in Civil Case No. 97-4386, and the CA's March 28, 2014 Resolution[4] denying herein petitioners' Motion for Reconsideration.[5]

Factual Antecedents

As found by the CA, the facts are as follows:

Plaintiff-Appellee Martinez Leyba, Inc. (hereafter Martinez) is a corporation organized and existing under Philippine laws and the registered owner of three (3) contiguous parcels of land situated in Antipolo, Rizal, surveyed and identified as Lot Nos. 29, 30 and 31, Block 3, (LRC) Pcs-7305 and registered under Transfer Certificate of Title Nos. 250242, 250244 and 250243, respectively, with the Register of Deeds of Rizal.

Defendants-Appellants Pen Development Corporation and Las Brisas Resorts Corporation are also domestic corporations duly organized and existing under Philippine laws. Appellants, thereafter, merged into one corporate entity under the name Las Brisas Resorts Corporation (hereafter Las Brisas). Las Brisas is the registered owner of a parcel of land under TCT No. 153101 which is situated adjacent to the lands owned by Martinez. Las Brisas occupied the said land in 1967 and fenced the same.

In 1968, Martinez noticed that the construction of Las Brisas' fence seemed to encroach on its land. Upon verification by surveyors, Martinez was informed that the fence of Las Brisas overlaps its property. On 11 March 1968, Martinez sent a Letter informing Las Brisas that the fence it constructed encroaches [sic] on Martinez's land and requested Las Brisas to refrain from further intruding on the same. Las Brisa did not respond to Martinez's letter and continued developing its land.

Martinez sent two (2) more Letters dated 31 March 1970 and 3 November 1970 to Las Brisas informing the latter of the encroachment of its structures and improvements over Martinez's titled land.

On 31 July 1971, Las Brisas, through a certain Paul Naidas, sent a letter to Martinez, claiming that it 'can not [sic] trace the origin of these titles' (pertaining to Martinez's land).

Martinez sent two (2) Letters to Las Brisas reiterating its ownership over the land that Las Brisas' improvements have encroached upon. Despite the notices, Las Brisas continued developing its property.

Martinez sought the services of a licensed geodetic engineer to survey the boundaries of its land. The verification survey plan Vs-04,00034, which was approved by the Regional Technical Director for Lands of

the Department of Environment and Natural Resources (DENR), revealed that the building and improvements constructed by Las Brisas occupied portions of Martinez's lands: 567 square meters of Lot No. 29, Block 3, (LRC) Pcs. 7305; a portion of 1,389 square meters of Lot No. 30, Block 3, (LRC) Pcs. 7305 covered under TCT Nos. 250242, 250244 and 250243, respectively.

On 24 November 1994, Martinez sent a letter to Las Brisas demanding the latter to cease and desist from unlawfully holding portions of Martinez's land occupied by Las Brisas structures and improvements. Despite the said demand, no action was taken by Las Brisas.

On 24 March 1997, Martinez filed a Complaint for Quieting of Title, Cancellation of Title and Recovery of Ownership with Damages against Las Brisas before the Regional Trial Court of Antipolo City, docketed as Civil Case No. 97-4386. The case was raffled to, and heard by, Branch 71 thereof x x x.

In its Answer, Las Brisas denied that it encroached on Martinez's land and that it constructed the Las Brisas Resort Complex within the land covered by TCT No. 153101.[6]

In its Complaint,[7] Martinez added that Transfer Certificate of Title (TCT) Nos. 250242, 250244 and 250243 (or the Martinez titles – totaling 9,796 square meters)[8] emanated from Decree No. 1921 issued by the General Land Registration Office pursuant to Land Registration Case No. 3296, which was transcribed as Original Certificate of Title (OCT) No. 756 by the Register of Deeds of Rizal on August 14, 1915; that Las Brisas "constructed a riprapping on the northern portion of Lot No. 29, a building straddling Lots 30 and 31, and are now constructing a new building on Lot No. 31,"[9] which acts constitute an encroachment on lands covered by the Martinez titles; that Las Brisas's title, TCT 153101[10] (TCT 153101), was originally registered on September 14, 1973, under OCT 9311 pursuant to Decree No. N-147380, LRC Case No. N-7993, Rec. No. N-43097; that the encroachment is confirmed per verification survey conducted by a geodetic engineer and approved by the Regional Technical Director for Lands of the Department of Environment and Natural Resources (DENR); and that TCT 153101 thus casts a cloud on the Martinez titles, which must be removed in order to quiet title to the latter.

Las Brisas countered in its Answer[11] that it bought the land covered by TCT 153101 (consisting of 3,606 square meters) on May 18, 1967 from Republic Bank; that it took possession thereof in good faith that very same year; and that it is actually Martinez that was encroaching upon its land.

Ruling of the Regional Trial Court

After trial, the RTC issued its Decision dated January 20, 2009, containing the following pronouncement:

To clarify matters, the plaintiff[12] engaged the services of Ricardo S. Cruz, a licensed Geodetic Engineer, to plot and verify the plans and technical descriptions to determine the relative geographic positions of the land covered by the titles of plaintiff and defendant.[13] This verification survey was approved by the Regional Technical Director of Lands on May 23, 1996, under plan VS-04-000394. (Exh. T-1, T-2, T-3, T-4, T-5). This plan revealed that Psu-234002, in relation to T.C.T. No. 153101 of the defendant overlapped thus:

- A portion of 567 square meters of Lot No. 29, Block 3, (LRC) Pcs-7305, covered by plaintiff's T.C.T. No. 250242. This is the portion where the defendant built a riprapping.
- A portion of 1,389 square meters of Lot No. 30, Block 3, (LRC) Pcs-7305, covered by plaintiff's T.C.T. No. 250243. This is the portion where the defendant had constructed an old building.
- A portion of 1,498 square meters of Lot No. 31, Block 3, (LRC) Pcs-7305, covered by plaintiff's T.C.T. No. 250244. This is the portion where the defendant constructed a new multi-story edifice.

x x x x

The issues sought to be resolved x x x can be read in the respective memorandum [sic] submitted by the

parties.

For the plaintiff, the statement of issues are as follows:

- Whether x x x the Certificate of Title of the defendant overlapped and thus created a cloud on plaintiff T.C.T. Nos. 250242, 250243, 250244, covering lots nos. 29, 30, and 31, block 3 (LRC) PCS-7305, which should be removed under Article 476 of the Civil Code of the Philippines;
- Whether x x x defendant's T.C.T. No. 153101 should be cancelled insofar as it overlapped Lots 29, 30 and 31, Block 3, (LRC) PCS-7305;
- Whether x x x the defendant is a builder in bad faith and is liable for the consequence of his acts;
- Whether x x x the plaintiff is entitled to collect actual or compensatory and moral damages in the amount of P5,000,000.00, exemplary damage in the amount of P1,000,000.00, nominal damage in the amount of P1,000,000.00, and attorney's fees in the amount of P300,000.00, exclusive of appearance fee of P3,000.00 per hearing or unferome [sic] attended.

For defendants, the issues presented are:

- Whether x x x defendant's title over the property is valid and effective;
- Whether x x x defendant is an innocent purchaser for value;
- Whether x x x defendant is entitled to reimbursement for expenses in developing the property.

For its evidence in chief, plaintiff presented Nestor Quesada (direct, June 7, 2001; cross Ju1y 26, 2001) rested its case on October 4, 2001. Its Formal Offer of Evidence as filed with the Court on November 15, 2001 wherein Court Order dated January 15, 2002, Exhibit A to U, inclusive of their submarkings were admitted over the objections of defendant.

The defendant presented Eufracia Naidas (direct/cross on July 11, 2004), then rested its case on May 11, 2005, the Formal Offer of Evidence was filed in Court on June 10, 2005 wherein the Court Order dated June 27, 2005, Exhibit 1 to 7 inclusive of submarkings were all admitted over plaintiff's objections.

x x x x

Considering that the defendant has raised the defense of the validity of T.C.T. No. N-21871 of the Registry of Deeds, Marikina (Exhibit 1), and subsequently cancelled by T.C.T. No. 153101 as transferred to the Pen Development Corp. (Exh. 2) and introduced substantial improvements thereon which from the facts established and evidence presented during the hearings of the case it cannot be denied that said title over the property in question is genuine and valid. Moreover, the defendant obtained the property as innocent purchasers for value, having no knowledge of any irregularity, defect, or duplication in the title.

Defendant further argued that there is no proof to plaintiff's claim that it had sent notices and claims to defendant. Assuming that notices were sent to defendant as early as 1968, it took plaintiff almost thirty (30) years to file the action to quiet its title. Therefore, by the principle of laches it should suffer the consequence of its failure to do so within a reasonable period of time. x x x

Defendant, having introduced substantial improvements on the property, if on the ground or assumption that the case will be decided in favor of the plaintiff, that defendant should be, by law, entitled to be reimbursed for the expenses incurred in purchasing and developing the property, the construction cost of the building alone estimated to be Fifty-Five Million Pesos (P55,000,000.00) x x x.

Defendant also cited Articles 544, 546, 548 of the New Civil Code of the Philippines in further support of its defense.

It is incumbent upon the plaintiff to adduce evidence in support of his complaint x x x. Likewise, the trial shall be limited to the issues stated in the pre-trial order.

As earlier stated, the Court shall rule on whether x x x plaintiff has discharged its obligation to do so in compliance with the Rules of Court. Having closely examined, evaluated and passed upon the evidence presented by both the plaintiff and defendant the Court is convinced that the plaintiff has successfully discharged said obligation and is inclined to grant the reliefs prayed for.

Clearly this is a valid complaint for quieting of title specifically defined under Article 476 of the Civil Code and as cited in the cases of *Vda. De Angeles v. CA*, G.R. No. 95748, November 21, 1996; *Tan vs. Valdehuesa*, 66 SCRA 61 (1975).

As claimed by the plaintiff, defendant's T.C.T. No. 153101 is an instrument, record or claim which constitutes or casts a cloud upon its T.C.T. Nos. 250242, 250243, and 250244. Sufficient and competent evidence has been introduced by the plaintiff that upon plotting verification of the technical description of both parcels of land conducted by Geodetic Engineer Ricardo Cruz, duly approved by the Regional Technical Director of Lands of the DENR that Psu-234002, covered by defendant's T.C.T. No. 153101 overlapped a portion of 567 square meters of Lot No. 29 x x x, a portion of 1,389 square meters of Lot No. 30 x x x covered by plaintiffs T.C.T. Nos. 250242, 2502 and 250244, respectively. Surprisingly, defendant has not disputed nor has it adduced evidence to disprove these findings.

It was likewise established that plaintiff's T.C.T. No[s]. 250242, 250243 and 250244 emanated from O.C.T. No. 756, which was originally registered on August 14, 1915, whereas, from defendant's own evidence, its T.C.T. No. 153101 was derived from O.C.T. No. 9311, which was originally registered on September 14, 1973, pursuant to Decree No. D-147380, in LRC Case No. N-7993, Rec. No. 43097.

Plaintiff's mother title was registered 58 years ahead of defendant's mother title. Thus, while defendant's T.C.T. No. 153101 and its mother title are apparently valid and effective in the sense that they were issued in consequence of a land registration proceeding, they are in truth and in fact invalid, ineffective, voidable, and unenforceable [sic] insofar as it overlaps plaintiff's prior and subsisting titles.

x x x x

In the cases of *Chan vs. CA*, 298 SCRA 713, *de Villa vs. Trinidad*, 20 SCRA 1167, *Gotian vs. Gaffud*, 27 SCRA 706, again the Supreme Court held:

'When two certificates of title are issued to different persons covering the same land, in whole or in part, the earlier in date must prevail and in cases of successive registrations where more than one certificate of title is issued over the same land, the person holding a prior certificate is entitled to the land as against a person who relies on a subsequent certificate.'

x x x x

Article 526 of the Civil Code defines a possession in good faith as 'one who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it, and a possession in bad faith as one who possesses in any case contrary to the foregoing.'

x x x x

In the case of *Ortiz vs. Fuentebella*, 27 Phil. 537, the Supreme Court held:

'Thus, where defendant received a letter from the daughter of the plaintiff, advising defendant to desist from planting coconut on a land in possession of defendant, and which letter the defendant answered by saying she did not intend to plant coconuts on the land belonging to plaintiff, it was held that the possession [in] bad faith began from the receipt of such letter.'

A close similarity exists in Fuentebella above cited with the facts obtaining in this case. The pieces evidence [sic] show that while defendant was in good faith when it bought the land from the Republic Bank as a foreclosed property, the plaintiff in a letter dated as early as March 11, 1968 x x x advised the defendant that the land it was trying to fence is within plaintiff's property and that the defendant should refrain from occupying and building improvements thereon and from doing any act in derogation of plaintiff's property rights. Six other letters followed suit x x x. The records show that defendant received these letters but chose to ignore them and the only communication in writing from the defendant thru Paul Naidas was a letter dated July 31, 1971, stating that he (Naidas) was all the more confused about plaintiff's claim to the land. The defendant cannot dispute the letters sent because it sent a response dated July 31, 1970. It is very clear that while defendant may have been [in] good faith when it purchased the land from Republic Bank on December 6, 1977, such good faith ceased upon being informed in writing about plaintiff's title or claim over the same land, and, worse, it acted with evident bad faith when it proceed [sic] to build the structures on the land despite such notice.

Consequently, the rule on the matter can be found in Articles 449, 450 of the Civil Code of the Philippines which provide:

'Article 449. – He who builds, plants, or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity.'

Article 450. – The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work; or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed, or he may compel the builder or planter to pay the price of the land, and the sower the proper rent.'

In the case of Tan Queto vs. CA, 122 SCRA 206, the Supreme Court held:

'A builder in bad faith loses the building he builds on another's property without right of refund,' x x x

x x x x

As to defendant's claim that they had obtained title to the property as innocent purchasers for value, lack of knowledge of any irregularity, effect or duplication of title, they could have discovered the overlapping had they only bothered to engage a licensed geodetic engineer to check the accuracy of their plan Psu-234002. To that extent, defendant has failed to exercise the diligence to be entitled to the status as an innocent purchaser for value. It was clearly established that defendant's certificate of title emanated from a mother title that partially overlapped the plaintiff's prior and subsisting title. Hence, defendant's certificate of title is void abinitio [sic] insofar as the overlapped areas are concerned.

Defendant's claim of lack of notice on the claim of the plaintiff on the overlapped properties is belied by the evidence presented by plaintiff which consisted by [sic] a letter dated as early as March 11, 1968 (Exh. N, N-1, N-2) advising defendant that the land it was trying to fence of [sic] is within plaintiff's property, and at the same time asking the defendant to refrain from occupying and building improvements thereon and from doing any act in derogation plaintiff's property rights. Five (5) succeeding letters addressed to defendant followed suit and the evidence clearly show that the same were received by defendant and no less than Paul Naidas wrote a reply letter to plaintiff's counsel, Alfonso Roldan on July 31, 1971 which conclusively affirm the fact that defendant is well aware of plaintiff's claim to the portion of the land encroached. Thus, the defendant's claim that it is a builder in good faith finds no factual nor legal basis. On the contrary, the defendant's continued construction and introduction of improvements on the questioned portion of plaintiff's property clearly negates good faith.

The claim for damages prayed for by plaintiff as a result of defendant's obstinate refusal to recognize [the]

plaintiffs title to the land insofar as the encroachments were made and to turn over the possession thereof entitles the plaintiff to the award of moral, exemplary damages and attorney's fees. However, since no sufficient evidence was presented that the plaintiff suffered actual damages, the Court cannot award any pursuant to [Article] 2199 of the New Civil Code of the Philippines.

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant as follows:

- Quieting its T.C.T. Nos. 250242, 240243 and 250[2]44, and removing the clouds thereon created by the issuance of T.C.T. No. 153101 insofar as the said titles are overlapped by the T.C.T. No. 153101;
- Ordering the cancellation or annulment of portions of T.C.T. No. 153101 insofar as it overlaps plaintiff's T.C.T. No. 250242, to Lot 29, Block 3, (LRC) Pcs-7305; plaintiff's T.C.T. No. 250243 to Lot 30, Block 3 (LRC) Pcs-7305; and plaintiff's [TCT] No. 250244 to Lot 31, Block 3, (LRC) Pcs-7305;
- Ordering the defendant to vacate and turn over the possession of said portions in favor of the plaintiff, and to remove the building or structures it has constructed thereon at its own expense without right to indemnity [therefor]; to allow the plaintiff to appropriate what the defendant has built or to compel the defendant to pay for the value of the land encroached upon;
- Ordering the defendant to pay moral damages to the plaintiff in the amount of P1,000,000.00; exemplary damages in the amount of P1,000,000.00 and attorney's fees in the amount of P100,000.00.
- Ordering the defendant to pay for the cost of suit.

SO ORDERED.[14]

Petitioners filed a joint Motion for Reconsideration.[15] However, in an August 7, 2009 Order,[16] the RTC held its ground

Ruling of the Court of Appeals

Petitioners interposed an appeal before the CA, docketed as CA-G.R. CV No. 97478. They argued that the trial court erred in, giving probative value to respondent's documentary evidence despite its hearsay character; that the trial court erred in declaring them builders in bad faith; that the respondent is guilty of laches; and that the lower court erred in awarding damages to respondent.

On July 17, 2013, the CA rendered the assailed Decision declaring as follows:

The appeal fails.

Good faith is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. An individual's personal good faith is a concept of his own mind and, therefore, may not conclusively be determined by his protestations alone. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. The essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim, and absence of intention to overreach another.

Article 528 of the New Civil Code provides that possession acquired in good faith does not lose this character, except in a case and from the moment facts exist which show that the possessor is not unaware that he possesses the thing improperly or wrongfully. Possession in good faith ceases from the moment defects in the title are made known to the possessors, by extraneous evidence or by suit for recovery of the property by the true owner. Whatever may be the cause or the fact from which it can be deduced that the possessor has

knowledge of the defects of his title or mode of acquisition, it must be considered sufficient to show bad faith.

In the instant case, as early as 1968, Martinez sent several letters to Las Brisas informing the latter of Martinez's ownership over the land covered by TCT Nos. 250242, 250243 and 250244 and that the buildings and improvements Las Brisas made have encroached on the said property. In the Letter dated 11 March 1968, Martinez informed Las Brisas that the latter's fence had overlapped into the former's land and requested that Las Brisas refrain from entering Martinez's property. However, Las Brisas did not heed Martinez's demand and continued developing its property. Martinez sent six (6) more letters to Las Brisas reiterating that the latter's structure and improvements encroached on Martinez's land. Records show that Las Brisas received these notices and in fact, made a reply to one of Martinez's letters. Clearly, Las Brisas was informed on several occasions about Martinez's titles x x x over its land and, despite such notices, Las Brisas chose to ignore Martinez's demand and continued constructing other buildings and improvements that intruded into Martinez's property. Hence, Las Brisas cannot claim that it had no knowledge of the defects of its title and, consequently, cannot be considered in good faith.

Neither did Las Brisas bother to have its property surveyed in order to discover, for its own benefit, the actual boundaries of its land (TCT No. 153101). It is doctrinal in land registration law that possession of titled property adverse to the registered owner is necessarily tainted with bad faith. Thus, proceeding with the construction works on the overlapped portions of TCT Nos. 250242, 250243 and 250244 despite knowledge of Martinez's ownership thereof puts Las Brisas in bad faith.

Las Brisas further argues that Martinez is guilty of laches as it failed to assert its right over the encroached portions of TCT Nos. 250242, 250243 and 250244 within reasonable time.

We disagree.

x x x x

Furthermore, Martinez is the registered owner of TCT Nos. 250242, 250243 and 250244 and, as such, its right to demand to recover the portions thereof encroached by Las Brisas is never barred by laches. In the case of *Arroyo vs. Bocago Inland Dev't Corp.*, the Supreme Court held:

'As registered owners of the lots in question, the private respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioners' occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.'

Las Brisas argues that the court a quo erred in admitting Martinez's Relocation Survey of Lot Nos. 28, 29 and 30 and the Verification Plan Vs 04-00394 as they constitute hearsay evidence and as such are inadmissible.

We are not persuaded.

It bears noting that this issue of hearsay evidence was raised for the first time on appeal. It is a fundamental rule that no question will be entertained on appeal unless it has been raised below. Stated differently, issues of fact and arguments not adequately brought to the attention of the lower courts will not be considered by the reviewing courts as they cannot be raised for the first time on appeal. An issue, which was neither averred in the complaint nor raised during the trial in the lower courts, cannot be raised for the first time on appeal because it would be offensive to the basic rule of fair play and justice, and would be violative of the constitutional right to due process of the other party. In fact, the determination of issues at the pre-trial bars consideration of other issues or questions on appeal,

In this case, Las Brisas failed to raise this argument during pre-trial and in the trial proper. Las Brisas even failed

to [raise] its objection during Martinez's formal offer of evidence. Clearly, Las Brisas waived its right to object on [sic] the admissibility of Martinez's evidence. Thus, We cannot bend backwards to examine this issue raised by Las Brisas at this late stage of the proceedings as it would violate Martinez's right to due process and should thus be disregarded.

Anent the award of moral damages of Php1,000,000.00 and exemplary damages of Php1,000,000.00, We find the same without factual or legal basis.

A juridical person is generally not entitled to moral damages because, unlike a natural person, it not experience physical suffering, or such sentiments as wounded feelings, serious anxiety, mental anguish or moral shock. While the courts may allow the grant of moral damages to corporations in exceptional situations, it is not automatically granted because there must still be proof of the existence of the factual basis of the damage and its casual relation to the defendant's acts. Moral damages, though incapable of pecuniary estimation, are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer. In this case, We find no evidence that Martinez suffered besmirched reputation on account of the Las Brisas encroachment on Martinez's land. Hence, the award of moral damages should be deleted.

Neither is Martinez entitled to exemplary damages. Exemplary damages may only be awarded if it has been shown that the wrongful act was accompanied by bad faith or done in a wanton, fraudulent and reckless or malevolent manner. Exemplary damages are allowed only in addition to moral damages such that no exemplary damage can be awarded unless the claimant first establishes his clear right to moral damages. As the moral damages are improper in the instant case, so is the award of exemplary damages.

Nevertheless, an award of nominal damages of Php100,000.00 is warranted since Las Brisas violated the property rights of Martinez. The New Civil Code provides:

Art. 2221. Nominal damages are adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.

Art. 2222. The court may award nominal damages in every obligation arising from any source enumerated in Article 1157, or in every case where any property right has been invaded.

The award of damages is also in accordance with Article 451 of the New Civil Code which states that the landowner is entitled to damages from the builder in bad faith.

WHEREFORE, the Decision dated 20 January 2009 of the Regional Trial Court of Antipolo City, Branch 71, in Civil Case No. 974386 is AFFIRMED with MODIFICATION, as follows:

1.)

deleting the award of moral damages and exemplary damages to Martinez Leyba, Inc.; and

2.)

ordering Las Brisas Resort Corporation, Leyba, Inc., Php100,000.00, nominal damages.

SO ORDERED.[17] (Citations omitted)

Petitioners sought to reconsider, but were rebuffed. Hence, the present Petition.

Issues

In a June 15, 2015 Resolution,[18] this Court resolved to give due course to the Petition, which contains the following assignment of errors:

- THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT PETITIONER IS A POSSESSOR/BUILDER IN BAD FAITH.
- THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN FAILING TO RULE THAT THE RESPONDENT INCURRED LACHES IN ENFORCING ITS PUTATIVE RIGHTS.
- THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED IN RULING THAT THE ISSUE ON HEARSAY CANNOT BE RAISED FOR THE FIRST TIME ON APPEAL.[19]

Petitioners' Arguments

In praying that the assailed CA and trial court dispositions be set aside and that Civil Case No. 97-4386 be dismissed instead, petitioners argue in their Petition and Reply[20] that they are not builders in bad faith; that in constructing the improvements subject of the instant case, they merely relied on the validity and indefeasibility of their title, TCT 153101; that until their title is nullified and invalidated, the same subsists; that as builders in good faith, they are entitled either to a) a refund and reimbursement of the necessary expenses, and full retention of the land until they are paid by respondent, or b) removal of the improvements without damage to respondent's property; that contrary to the CA's pronouncement, respondent may be held accountable for laches in filing a case only after the lapse of thirty years; and that the Survey Plan of Lots 29, 30 and 31 and the Verification Survey Plan Vs-04-000394 are inadmissible in evidence for being hearsay, as they were not authenticated in court.

Respondent's Arguments

Respondent, on the other hand, counters in its Comment[21] that the CA is correct in declaring that petitioners are possessors and builders in bad faith; that while petitioners may have been innocent purchasers for value, they were not possessors and builders in good faith because despite having been regularly informed in writing that they encroached on respondent's land and are building illegal structures thereon, they continued with their illegal occupation and construction; that under the Civil Code, petitioners are not entitled to retention or reimbursement for being builders in bad faith; that the principle of laches does not apply against owners of land registered under the Torrens system of land registration; and that petitioners cannot be allowed to argue for the first time on appeal that the pieces of documentary evidence it presented before the trial court are hearsay.

Our Ruling

The Court denies the Petition.

Under the Manual on Land Survey Procedures of the Philippines, on Verification Surveys, particularly, it is provided, thus:

Section 146. The Regional Technical Director for Lands may issue order to conduct a verification survey whenever any approved survey is reported to be erroneous, or when titled lands are reported to overlap or where occupancy is reported to encroach another property. x x x

x x x x

Section 149. All survey work undertaken for verification purposes shall be subject of verification and approval in the DENR-LMS Regional Office concerned and shall be designated as Verification Surveys Vs). x x x

Pursuant to these provisions, respondent caused its property to be surveyed, and on May 23, 1996, the Regional Technical Director of Lands approved the verification survey under Verification Survey Plan

Vs-04-000394.[22]This Verification Survey Plan revealed that petitioners encroached on respondent's land to the following extent:

- A Portion of 567 square meters of Lot No. 29, Block 3, (LRC) Pcs-7305, covered by respondent's TCT 250242. This is the portion where the petitioners built a riprapping.
- A portion of 1,389 square meters of Lot No. 30, Block 3, (LRC) Pcs-7305, covered by respondent's TCT 250243. This is the portion where the petitioners had constructed an old building.
- A portion of 1,498 square meters of Lot No. 31, Block 3, (LRC) Pcs-7305, covered by respondent's TCT 250244. This is the portion where the petitioners constructed & new multi-story edifice.

On this basis, respondent filed Civil Case No. 97-4386. Respondent's main evidence is the said Verification Survey Plan Vs-04-000394, which is a public document. As a public document, it is admissible in evidence even without further proof of its due execution and genuineness,[23] and had in its favor the presumption of regularity. To contradict the same, there must be evidence that is clear, convincing and more than merely preponderant, otherwise the document should be upheld.[24] The certification and approval by the Regional Technical Director of Lands signifies the "technical correctness of the survey plotted in the said plan." [25]

On the other hand, petitioners' evidence consists mainly of the claim that their TCT 153101 is a valid title and that they purchased the land covered by it in good faith and for value. They did not present evidence to contradict respondent's Verification Survey Plan VS-04-000394; in other words, no evidence was presented to disprove respondent's claim of overlapping. Their evidence only goes so far as proving that they acquired the land covered by TCT 153101 in good faith. However, while it may be true that they acquired TCT 153101 in good faith and for value, this does not prove that they did not encroach upon respondent's lands.

In effect, respondent's Verification Survey Plan Vs-04-000394 remains unrefuted. Petitioners' sole objection to this piece of evidence that it was not authenticated during trial is of no significance considering that the said documentary evidence is a public document.

Although "[i]n overlapping of titles disputes, it has always been the practice for the [trial] court to appoint a surveyor from the government land agencies [such as] the Land Registration Authority or the DENR to act as commissioner,"[26] this is not mandatory procedure; the trial court may rely on the parties' respective evidence to resolve the case.[27] In this case, respondent presented the results of a verification survey conducted on its lands. On the other hand, petitioners did not present proof like the results of a survey conducted upon their initiative to contradict respondent's evidence; nor did they move for the appointment by the trial court of government or private surveyors to act as commissioners. Their sole defense is that they acquired their land in good faith and for value; but this does not squarely address respondent's claim of overlapping.

For the RTC and CA, respondent's undisputed evidence proved its claim of overlapping. This Court agrees. As a public document containing the certification and approval by the Regional Technical Director of Lands, Verification Survey Plan Vs-04-000394 can be relied upon as proof of the encroachment over respondent's lands. More so when petitioners could not present contradictory proof.

On the issue of being a builder in bad faith, there is no question that petitioners should be held liable to respondent for their obstinate refusal to abide by the latter's repeated demands to cease and desist from continuing their construction upon the encroached area. Petitioners' sole defense is that they purchased their property in good faith and for value; but this does not squarely address the issue of encroachment or overlapping. To repeat, while petitioners may have been innocent purchasers for value with respect to their land, this does not prove that they are equally innocent of the claim of encroachment upon respondent's lands. The evidence suggests otherwise:

despite being apprised of the encroachment, petitioners turned a blind eye and deaf ear and continued to construct on the disputed area. They did not bother to conduct their own survey to put the issue to rest, and to avoid the possibility of being adjudged as builders in bad faith upon land that did not long to them.

Under the Civil Code,

Art. 449. He who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity.

Art. 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land, and the sower the proper rent.

Art. 451. In the cases of the two preceding articles, the landowner is entitled to damages from the builder planter or sower.

Moreover, it has been declared that

The right of the owner of the land to recover damages from a builder in bad faith is clearly provided for in Article 451 of the Civil Code. Although said Article 451 does not elaborate on the basis for damages, the Court perceives that it should reasonably correspond with the value of the properties lost or destroyed as a result of the occupation in bad faith, as well as the fruits (natural, industrial or civil) from those properties that the owner of the land reasonably expected to obtain. x x x[28]

For their part, petitioners are not entitled to reimbursement for necessary expenses. Indeed, under Article 452 of the Civil Code,[29] the builder, planter or sower in bad faith is entitled to reimbursement for the necessary expenses of preservation of the land. However, in this case, respondent's lands were not preserved: petitioners' construction and use thereof in fact caused damage, which must be undone or simply endured by respondent by force of law and circumstance. Respondent did not in any way benefit from petitioners' occupation of its lands.

Finally, on the question of laches, the CA correctly held that as owners of the subject property, respondent has the imprescriptible right to recover possession thereof from any person illegally occupying its lands. Even if petitioners have been occupying these lands for a significant period of time, respondent as the registered and lawful owner has the right to demand the return thereof at any time.

Jurisprudence consistently holds that 'prescription and laches cannot apply to registered land covered by the Torrens system' because 'under the Property Registration Decree, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession.'[30]

Under Section 47 of the Property Registration Decree, or Presidential Decree No. 1529, "(n)o title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession."

WHEREFORE, the Petition is DENIED. The July 17, 2013 Decision and March 28, 2014 Resolution of the Court of Appeals in CA-G.R. CV No. 97478 are AFFIRMED in toto.

SO ORDERED.

Sereno, C.J., (Chairperson), and Perlas-Bernabe, JJ., concur.

Leonardo-de Castro, J., joins the concurring and dissenting opinion of Justice Caguioa.

Caguioa, J., see dissenting opinion.

[1] Rollo, pp. 11-40.

[2] Id. at 42-52; penned by Associate Justice Jane Aurora C. Lantion and concurred in by Associate Justices Vicente S.E. Veloso and Eduardo B. Peralta, Jr.

[3] Id. at 198-207; penned by Assisting Judge Armando A. Yanga.

[4] Id. at 81-82.

[5] Id. at 53-62.

[6] Id. at 43-45.

[7] Id. at 91-99.

[8] Id. at 113-115.

[9] Id. at 92.

[10] Id. at 166-167.

[11] Id. at 100-104.

[12] Martinez.

[13] Las Brisas.

[14] Rollo, pp. 200-207.

[15] Id. at 208-222.

[16] Id. at 245-251.

[17] Id. at 46-52.

[18] Id. at 425-426.

[19] Id. at 17-18.

[20] Id. at 405-411.

[21] Id. at 369-387.

[22] Annex "E," records, p. 13.

[23] Iwasawa v. Gangan, 717 Phil. 825, 830 (2013).

[24] Ladignon v. Court of Appeals, 390 Phil. 1161, 1172 (2000).

[25] Republic v. Dayaoen, G.R. No. 200773, July 8, 2015, 762 SCRA 310, 337.

[26] Cambridge Realty and Resources Corporation v. Eridanus Development, Inc., 579 Phil. 375, 395-396 (2008).

[27] Id.

[28] Heirs of Durano, Sr. v. Spouses Uy, 398 Phil. 125, 155 (2000).

[29] Art. 452. The builder, planter or sower in bad faith is entitled to reimbursement for the necessary expenses of preservation of the land.

[30] *Spouses Ocampo v. Heirs of Bernardino U. Dionisio*, 744 Phil. 716, 730 (2014), citing *Jakosalem v. Barangan*, 682 Phil. 130, 142 (2012).

CONCURRING AND DISSENTING OPINION

CAGUIOA, J.:

This case is NOT a simple boundary dispute where a neighbor builds a structure on an adjacent registered land belonging to another. Here, the area where the former had built happens to be within the land registered in his name which overlaps with the titles of the latter. Thus, this is a proper case of overlapping of certificates of title belonging to different persons.

Given the fact that this case involves overlapping of titles, I fully concur with the Decision that as between *Martinez Leyba, Inc. (MLI)* and *Las Brisas Resorts Corp.*^[1] (*Las Brisas*), MLI has a superior right to the overlapped or encroached portions in issue being the holder of a transfer certificate of title that can be traced to the earlier original certificate of title.

In case of double registration where land has been registered in the name of two persons, priority of registration is the settled rule. In the 1915 en banc case of *Legarda v. Saleeby*,^[2] the Court stated:

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.^[3] (Emphasis and underscoring supplied)

TCT Nos. 250242, 250243 and 250244 registered in the name of MLI conflict with TCT No. 153101 registered in the name of *Las Brisas*. There is encroachment or overlapping of: (1) a portion of 567 square meters in TCT No. 250242 where *Las Brisas* built a riprapping; (2) a portion of 1,389 square meters in TCT No. 250243 where *Las Brisas* constructed an old building; and (3) a portion of 1,498 square meters in TCT No. 250244 where *Las Brisas* constructed a new multi-story edifice. The overlapped portions add up to 3,454 square meters. Given that the total area of TCT No. 153101 is 3,606 square meters and 3,454 square meters will be deducted therefrom because that portion rightfully pertains to MLI pursuant to prevailing and settled rule on double registration, only 152 square meters will remain under TCT No. 153101 in the name of *Las Brisas*.

However, I cannot agree with the finding that *Las Brisas* is a builder in bad faith. Thus, my dissent tackles directly and mainly the issue of good faith on the part of a registered owner (*Las Brisas*) who built within a portion of the parcel of land delimited by the boundaries or technical descriptions of its own certificate of title that turns out to be within the boundaries or technical descriptions of the adjoining titled parcels of land despite prior written notices by the registered owner (MLI) of the adjoining parcels of land that the former owner was building within the latter owner's registered property.

The Decision rules in favor of MLI and affirms the finding of the Court of Appeals (CA) that *Las Brisas* is a builder in bad faith. The CA Decision states:

[W]hile [*Las Brisas*] may have been [an] innocent [purchaser] for value with respect to [its] land, this does not prove that they are equally innocent of the claim of encroachment upon [MLI]'s lands. The evidence suggest otherwise; despite being apprised of the encroachment, [*Las Brisas*] turned a blind eye and deaf ear and

continued to construct on the disputed area. They did not bother to conduct their own survey to put the issue to rest, and to avoid the possibility of being adjudged as builders in bad faith upon land that did not belong to them.[4]

With due respect, the determination of the good faith of Las Brisas should not be made to depend solely on the written notices sent by MLI to Las Brisas warning the latter that it was building and making improvements on MLI's parcels of land. I firmly subscribe to the view that the fact that Las Brisas built within its titled property and the doctrine of indefeasibility or incontrovertibility of its certificate of title should also be factored in.

The provision of the Civil Code on the definition of a possessor in good faith, Article 526, provides:

ART. 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.

He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing.

Mistake upon a doubtful or difficult question of law may be the basis of good faith.

In turn, Article 528 of the Civil Code provides: "Possession acquired in good faith does not lose this character except in the case and from the moment facts exist which show that the possessor is not unaware that he possesses the thing improperly or wrongfully."

When did Las Brisas become aware of facts which show that it was possessing the disputed areas or portions improperly or wrongfully? There are several en banc Decisions of the Court which may find application in this case. These are *Legarda v. Saleeby*[5] (1915), *Dizon v. Rodriguez*[6] (1965), *De Villa v. Trinidad*[7] (1968) and *Gatioan v. Gaffud*[8] (1969).

In *Legarda*, the Court had to grapple with Sections 38,[9] 55[10] and 112[11] of Act No. 496 which indicate that the vendee may acquire rights and be protected against the defenses which the vendor would not and speak of available rights in favor of third parties which are cut off by virtue of the sale of the land to an "innocent purchaser." [12] Thus, the Court said:

May the purchaser of land which has been included in a "second original certificate" ever be regarded as an "innocent purchaser," as against the rights or interest of the owner of the first original certificate, his heirs, assigns, or vendee? The first original certificate is recorded in the public registry. It is never issued until it is recorded. The record is notice to all the world. All persons are charged with the knowledge of what it contains. All persons dealing with the land so recorded, or any portion of it, must be charged with notice of whatever it contains. The purchaser is charged with notice of every fact shown by the record and is presumed to know every fact which the record discloses. x x x

When a conveyance has been properly recorded such record is constructive notice of its contents and all interests, legal and equitable, included therein. x x x

Under the rule of notice, it is presumed that the purchaser has examined every instrument of record affecting the title. Such presumption is irrebutable. He is charged with notice of every fact shown by the record and is presumed to know every fact which an examination of the record would have disclosed. This presumption cannot be overcome by proof of innocence or good faith. Otherwise the very purpose and object of the law requiring a record would be destroyed. Such presumption cannot be defeated by proof of want of knowledge of what the record contains any more than one may be permitted to show that he was ignorant of the provisions of the law. The rule that all persons must take notice of the facts which the public record contains is a rule of law. The rule must be absolute. Any variation would lead to endless confusion and useless litigation.

x x x x

In view, therefore, of the foregoing rules of law, may the purchaser of land from the owner of the second original certificate be an "innocent purchaser," when a part or all of such land had theretofore been registered in the name of another, not the vendor? We are of the opinion that said sections 38, 55, and 112 should not be applied to such purchasers. We do not believe that the phrase "innocent purchaser" should be applied to such a purchaser. He cannot be regarded as an "innocent purchaser" because of the facts contained in the record of the first original certificate. x x x He, in no sense, can be an "innocent purchaser" of the portion of the land included in another earlier original certificate. The rule of notice of what the record contains precludes the idea of innocence. By reason of the prior registry there cannot be an innocent purchaser of land included in a prior original certificate and in a name other than that of the vendor, or his successor. In order to minimize the difficulties we think this is the safer rule to establish. We believe the phrase "innocent purchaser," used in said sections, should be limited only to cases where unregistered land has been wrongfully included in a certificate under the torrens system. When land is once brought under the torrens system, the record of the original certificate and all subsequent transfers thereof is notice to all the world. x x x[13] (citations omitted)

Legarda was concerned more with the issue of ownership than with the issue of possession: To bar transferees of the "second or later original certificate of title" from ever having a right of ownership superior to those who derive their title from the "earlier or first original certificate of title," Legarda ruled that the "innocent purchaser [for value]" doctrine should not apply because "[w]hen land is once brought under the torrens system, the record of the original certificate and all subsequent transfers thereof is notice to all the world." [14] However, that notice is constructive and not actual.

If Legarda is strictly and uniformly applied, then holders of transfer certificates of title emanating from the "second or later original certificate of title" or any person deriving any interest from them can never be buyers in good faith.

I am not advocating in this dissent that the Legarda doctrine on double registration or titling be abandoned or overturned. I submit that it is and remains controlling in that respect. Rather, I take the position that a wholesale, indiscriminate, blind application of the constructive notice doctrine espoused in Legarda without regard to the peculiar factual circumstances of each case may not be the best approach to dispense justice.

Dizon v. Rodriguez [15] did not involve double registration. It involved titled lots which are "actually part of the territorial waters and belong to the State." [16] While the Court ruled that "the incontestable and indefeasible character of a Torrens certificate of title does not operate when the land thus covered is not capable of registration," [17] the Court nonetheless upheld the CA's finding of possession in good faith in favor of the registered owners until the latter's titles were declared null and void, viz.:

On the matter of possession of plaintiffs-appellants, the ruling of the Court of Appeals must be upheld. There is no showing that plaintiffs are not purchasers in good faith and for value. As such title-holders, they have reason to rely on the indefeasible character of their certificates.

On the issue of good faith of the plaintiffs, the Court of Appeals reasoned out:

"The concept of possessor in good faith given in Art. 526 of the Civil Code and when said possession loses this character under Art. 528, needs to be reconciled with the doctrine of indefeasibility of a Torrens title. Such reconciliation can only be achieved by holding that the possessor with a Torrens title is not aware of any flaw in his title which invalidates it until his Torrens Title is declared null and void by final judgment of the Courts.

"Even if the doctrine of indefeasibility of a Torrens Title were not thus reconciled, the result would be the same, considering the third paragraph of Art. 526 which provides that:

Art. 526. x x x

'Mistake upon a doubtful or difficult question of law may be the basis of good faith.'

"The legal question whether plaintiffs-appellants' possession in good faith, under their Torrens Titles acquired in good faith, does not lose this character except in the case and from the moment their Titles are declared null and void by the Courts, is a difficult one. Even the members of this Court were for a long time divided, two to one, on the answer. It was only after several sessions, where the results of exhaustive researches on both sides were thoroughly discussed, that an undivided Court finally found the answer given in the next preceding paragraph. Hence, even if it be assumed for the sake of argument that the Supreme Court would find that the law is not as we have stated it in the next preceding paragraph and that the plaintiffs-appellants made a mistake in relying thereon, such mistake on a difficult question of law may be the basis of good faith. Hence, their possession in good faith does not lose this character except in the case and from the moment their Torrens Titles are declared null and void by the Courts."

Under the circumstances of the case, especially where the subdivision plan was originally approved by the Director of Lands, we are not ready to conclude that the above reasoning of the Court of Appeals on this point is reversible error. Needless to state, as such occupants in good faith, plaintiffs have the right to the retention of the property until they are reimbursed of the necessary expenses made on the lands.[18] (Emphasis and italics supplied)

The Court, in *De Villa v. Trinidad*,[19] while it cited *Legarda*, did not apply the constructive notice doctrine in determining whether necessary and useful expenses may be recovered by a transferee of the "second original certificate" and reckoned the said transferee's bad faith from the filing of the complaint, viz.:

We have laid the rule that where two certificates of title are issued to different persons covering the same land in whole or in part, the earlier in date must prevail as between original parties and in case of successive registrations where more than one certificate is issued over the land, the person holding under the prior certificate is entitled to the land as against the person who rely on the second certificate. The purchaser from the owner of the later certificate and his successors, should resort to his vendor for redress, rather than molest the holder of the first certificate and his successors, who should be permitted to rest secure in their title. Consequently, since Original Certificate of Title No. 183 was registered on January 30, 1920, *De Villa's* claim which is based on said title should prevail, as against *Trinidad's* whose original title was registered on November 25, 1920. And from the point of equity, this is the proper solution, considering that unlike the titles of *Palma* and the *DBP*, *De Villa's* title was never tainted with fraud.

x x x x

The facts and circumstances, however, do not call for assessment of damages against appellants until after the filing of the present suit on January 26, 1962 for only then could they be positively adjudged in bad faith in view of their knowledge that there was an adverse claimant to the land.

Trinidad's repossession of the land on March 2, 1961 cannot be deemed in bad faith as it was pursuant to a court order legally obtained, and as his possession before that time was in good faith.

Appellant does not question the specific amounts of the damages[20] awarded in *De Villa's* favor and the same, at any rate, is borne out by the records. Said damages, however should be offset against the value of whatever necessary and useful expenses and improvements were made or incurred by *Trinidad* with respect to the land, provided that in the case of useful expenses or improvements these were made or incurred prior to the filing of the present action. Such reimbursable amount due to *Trinidad* must, therefore, first be determined before the aforesaid award of damages in *De Villa's* favor can be executed. And its determination shall be by way of supplementary proceedings in aid of execution in the lower court.[21]

In *Gatioan v. Gaffud*,[22] the Court did not only cite *Legarda* but held it controlling. In that case, while the appellant therein (*Philippine National Bank*) did not impugn the lower court's ruling in declaring null and void

and cancelling OCT No. P-6038 in favor of defendant spouses Gaffud and Logan, it insisted that the lower court should have declared it an innocent mortgagee in good faith and for value as regards the mortgages executed in its favor by said defendant spouses and duly annotated on their OCT and that consequently, the said mortgage annotations should be carried over to and considered encumbrances on the land covered by TCT No. T-1212 of appellee which is the identical land covered by the OCT of the Gaffuds. The Court found the contention of the appellant therein without merit and quoted extensively Legarda wherein the Court held that the purchaser of the land or a part thereof which has been included in a "second original certificate" cannot be regarded as an "innocent purchaser" under Sections 38, 55, and 112 of Act No. 496 because of the facts contained in the record of the first original certificate.

However, in the same breath, the Court also took judicial notice that before a bank grants a loan on the security of a land, it first undertakes a careful examination of title of the applicant as well as a physical and on-the-spot investigation of the land itself offered as security. In that case, had the appellant bank taken such a step which was demanded by the most ordinary prudence, it would have easily discovered the flaw in the title of the defendant spouses. As such, it was held guilty of gross negligence in granting the loans in question. The Court further said:

A more factual approach would lead to the same result. From the stipulated facts, it can be seen that prior to the execution of the mortgage between appellant and the defendant spouses, the appellee had been mortgaging the land described in TCT No. T-1212 to it. She did this first in the year 1950 for a loan of P900.00 and again in 1954 for a loan of P1,100.00. In both instances, the appellant Bank had possession of, or at least, must have examined appellee's title, TCT No. T-1212, wherein appear clearly the technical description, exact area, lot number and cadastral number of the land covered by said title. In other words, by the time the defendant spouses offered OCT P-6038, in their names, for scrutiny in connection with their own application for loan with appellant, the latter was charged with the notice of the identity of the technical descriptions, areas, lot numbers and cadastral numbers of the lands purportedly covered by the two titles and was in a position to know, if it did not have such knowledge actually, that they referred to one and the same lot. Under the circumstances, appellant had absolutely no excuse for approving the application of the defendant spouses and giving the loans in question. x x x[23]

Thus, the Court in Gatioan took "a more factual approach" in determining the good faith of the mortgagee who derived its right from the owner of the "second original certificate" and it did not simply apply the constructive notice doctrine espoused in Legarda.

In the Decision, the factual approach is being adopted. This is evident when it reproduced the Regional Trial Court of Antipolo City, Branch 71 (RTC) Decision's citation and discussion of *Ortiz v. Fuentebella*,[24] wherein it was held that the defendant's possession in bad faith began from the receipt by the defendant of a letter from the daughter of the plaintiff therein, advising the defendant to desist from planting on a land in possession of the defendant. The RTC noted that:

A close similarity exists in [Ortiz] with the facts obtaining in this case. The pieces evidence [sic] show that while defendant was in good faith when it bought the land from the Republic Bank as a foreclosed property, the plaintiff in a letter dated as early as March 11, 1968 x x x had advised the defendant that the land it was trying to fence is within plaintiffs property and that the defendant should refrain from occupying and building improvements thereon and from doing any act in derogation of plaintiffs property rights. Six other letters followed suit x x x.[25] The records show that defendant received these letters but chose to ignore them and the only communication in writing from the defendant thru Paul Naidas was a letter dated July 31, 1971, stating that he (Naidas) was all the more confused about plaintiff's claim to the land. x x x[26]

Unfortunately, *Ortiz* — decided "103 years ago" according to the ponente — is not squarely in point. There, the subject land is not registered land. It was merely covered by a possessory information title, which was allowed

under the Spanish Mortgage Law.[27] The *informacion posesoria* was a method of acquiring title to public lands, subject to two conditions, to wit: (1) the inscription or registration thereof in the Registry of Property, and (2) actual, public, adverse and uninterrupted possession of the land for 20 years.[28]

If the constructive notice doctrine embodied in Section 52[29] of PD 1529 and espoused in *Legarda* has been strictly applied in this case and the ponente has not taken a "more factual approach," then it would be erroneous to hold that "they [referring to petitioners, *Las Brisas* and *Pen Development Corporation*, which are one and the same entity] acquired TCT 153101 in good faith and for value" or "petitioners may have been innocent purchasers for value with respect to their land," and that *Las Brisas'* good faith turned into bad faith upon "being apprised of the encroachment" by MLI —because *Las Brisas* should automatically be deemed to have had constructive notice of MLI's certificates of title that overlapped the certificate of title of *Republic Bank* which *Las Brisas* acquired as a foreclosed property. By the same token, a finding that *Las Brisas* is an "innocent purchaser for value with respect to its land" is precisely what *Legarda* wanted to avoid because that would result in a transferee of the "second or later original certificate of title" having a right of ownership superior to that of a transferee of the "first or earliest original certificate of title." Clearly, the Decision here betrays a fundamental confusion on the import of these earlier rulings.

I agree that the factual approach is preferable over the indiscriminate application of the constructive notice doctrine in cases of double registration with respect to the determination of the good faith or bad faith of the possessor or builder who derives his right from the "second original certificate of title."

I must emphasize that, in this case, the issue of good faith or bad faith is being decided in relation to possession, independently of ownership. *Legarda* already grants the ownership of the overlapped portions in favor of MLI, being a vendee who derives its title from the "earlier original certificate of title" based on the rule 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."

In the instant case, the accurate question to ask is this: were the letters of MLI sufficient to put *Las Brisas* on notice that it was possessing the disputed areas or portions improperly or wrongfully?

To my mind, those letters were insufficient even if the transfer certificates of title of MLI were specified therein. Following the en banc cases of *Dizon*, *De Villa* and *Gatioan*, I believe that *Las Brisas* could not be faulted for relying on its own certificate of title which, until nullified or voided by a court of competent jurisdiction, is incontrovertible or indefeasible — and it would be unjust to expect *Las Brisas* to make a legal determination of the validity of its certificate of title.

It should be mentioned that *Las Brisas* bought the land in a foreclosure sale. Furthermore, *Las Brisas* should not be blamed for the failure of the government agency concerned to ascertain the overlapping when it approved the survey plan that became the basis for the application and approval of the confirmation of the original title of *Las Brisas'* predecessor-in-interest, which overlapping also escaped the attention of the court that granted the application and confirmed the title. Even the Assessor's Office of *Antipolo City* never noticed the overlapping since there is no indication thereof in the parties' respective declarations of real property value for real property tax purposes. As formulated in *Dizon*, the matter indeed involves a doubtful or difficult question of law which, under Article 526, may be the basis of good faith.

More importantly, it was impossible for *Las Brisas* to have unearthed or discovered the overlapping of titles from the records of the *Antipolo City Registry of Deeds* at the time it bought its land from *Republic Bank* and while it was building the improvements. The records of the said Registry of Deeds could not be relied upon to disclose such overlapping. Evidently, there are at least two registrations that must be scrutinized and the traceback or

scrutiny of one registration will not readily reveal the existence of the others and vice versa. To my mind, a full proof application of the constructive notice doctrine requires that the defect or flaw in the title could be ascertained from a competent and exhaustive due diligence on the subject titled property. To require beyond that would be asking the impossible. That would be both oppressive and unjust.

The fact that Las Brisas did not present its own survey, unlike MLI, is of no moment. What is crucial is that the improvements that Las Brisas made were within the boundaries described in its title. This is clear from the CA Decision dated July 17, 2013 when it affirmed the Decision dated January 20, 2009 of the RTC in Civil Case No. 97-4386, "[o]rdering the cancellation or annulment of portions of T.C.T. No. 153101 [Las Brisas' title,] insofar as it overlaps [MLI's] T.C.T. No. 250242, x x x T.C.T. No. 250243 x x x; and T.C.T. No. 250244 x x x"[30] and noted that the construction works of Las Brisas were on the overlapped portions of TCT Nos. 250242, 250243 and 250244.[31]

Indeed, the real purpose of the Torrens system is to quiet title to land and to forever stop any question as to its legality, so that once a title is registered, the owner — in this case, Las Brisas — may rest secure, without the necessity of waiting in the portals of the court, or sitting on the "mirador su casa," to avoid the possibility of losing his land.[32] Because of this principle, MLI needed to file a complaint to directly question the validity of Las Brisas' title which resulted to its partial nullity because a collateral attack on Las Brisas' Torrens title is not allowed.[33]

Finally, even assuming that, as intimated by the ponencia, Las Brisas' initial good faith when it bought the property ceased when it received the seven letters from MLI, it is significant to note that the latter filed the complaint for quieting of title/cancellation of title and recovery of ownership only on March 24, 1997[34] — almost 30 years from 1968 when MLI sent its first letter after it noticed the construction of Las Brisas' fence within the contested area, and allowing Las Brisas to develop the property and conducting its business therein, to put up a two-story building initially, and in 1988, to expand and put up a multi-story conference center[35] building that finished construction sometime in 1995 sourced from bank loans and costing Las Brisas P55,000,000.00.[36] By no means can this be considered as MLI seasonably availing of "the means established by the laws and the Rules of Court," such as a petition for injunction with a prayer for a temporary restraining order, to protect MLI in its possession thereof or restore to MLI its possession over the same.[37] These circumstances indubitably taint MLI's good faith.[38]

Under Article 453 of the Civil Code:

If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith.

It is understood that there is bad faith on the part of the landowner whenever the act was done with his knowledge and without opposition on his part.

While MLI "opposed" the introduction of improvements by Las Brisas through the letters the former sent to the latter, this "opposition" can only be considered as token. MLI should have seasonably resorted to court action when Las Brisas kept ignoring its claim of ownership over the disputed areas.

MLI is now barred by estoppel by laches to claim good faith insofar as the construction by Las Brisas is concerned of the improvements, consisting mainly of a P55,000,000.00-worth multi-story building that it introduced in the disputed areas. Laches is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.[39] It is a type of equitable estoppel which arises when a party, knowing his rights as against another, takes no steps or

delays in enforcing them until the condition of the latter, who has no knowledge or notice that the former would assert such rights, has become so changed that he cannot without injury or prejudice, be restored to his former state.[40]

In this case, the doctrines of laches and estoppel are being invoked in relation to the issue of possession and not with respect to ownership. Section 47 of PD 1529 finds no application as it is confined to "title to registered land."

Given the foregoing, I take the position that Las Brisas acted in good faith, or, at the very least, be deemed to be in good faith since both Las Brisas. and MLI were in bad faith following Article 453 of the Civil Code. Thus, Article 448 is controlling in determining the rights and obligations of MLI and Las Brisas with respect to the old building, the new multi-story edifice and the riprapping.

Article 448 of the Civil Code provides:

The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

As to the riprapping, I believe that it is a necessary improvement that it is to be refunded to every possessor, whether in good faith or in bad faith, pursuant to Article 546.

Thus, I vote to GRANT the petition. The Decision dated July 17, 2013 and the Resolution dated March 23, 2014 of the Court of Appeals in CA-G.R. CV No. 97478 should be REVERSED and SET ASIDE.

Finding the parties to have acted in good faith insofar as the improvements introduced by petitioner Las Brisas Resort Corporation are concerned, the Regional Trial Court of Antipolo City, Branch 71 should be directed to issue an Order in Civil Case No. 97-4386, directing the parties to observe and comply with their respective rights and obligations under Article 448 of the Civil Code.

[1] Pen Development Corp. merged with Las Brisas Resorts Corp and the latter is the surviving entity; see rollo, p. 43.

[2] 31 Phil. 590 (1915).

[3] Id. at 598-599.

[4] Decision, p. 15.

[5] Supra note 2.

[6] 121 Phil. 681 (1965).

[7] 131 Phil. 269 (1968).

[8] 137 Phil. 125 (1969).

[9] Now Sec. 32, Presidential Decree No. (PD) 1529 or the Property Registration Decree. It is in this section that the phrase "innocent purchaser for value" is mentioned and it is deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

[10] Now Sec. 53, PD 1529.

[11] Now Sec. 108, PD 1529.

[12] *Legarda v. Saleeby*, supra note 2, at 599.

[13] *Id.* at 600-602.

[14] *Id.* at 602.

[15] Supra note 6.

[16] *Id.* at 686.

[17] *Id.*

[18] *Id.* at 686-687.

[19] Supra note 7.

[20] "P48,000.00 per annum representing the value of the abaca fibers derived from the land plus the further sum of P360.00 every two months representing the value of the harvests from coconuts, starting from the period beginning March 2, 1961 until possession of the property is restored to the plaintiff." *Id.* at 275-276.

[21] *De Villa v. Trinidad*, supra note 7, at 277-278.

[22] Supra note 8.

[23] *Gatioan v. Gaffud*, supra note 8, at 132-133.

[24] 27 Phil. 537 (1914).

[25] In the letters (Exhs. "M", "N", "O", "P", "R", and "S") it will be noted that MLI indicated the TCT Nos. of the land being claimed by MLI where Las Brisas was introducing improvements and their predecessor certificates of title.

[26] Decision, pp. 6-7.

[27] See *Republic v. Court of Appeals*, 230 Phil. 118, 120 (1986).

[28] *Republic v. Court of Appeals*, 244 Phil. 387, 389-390 (1988).

[29] Sec. 52. Constructive notice upon registration.— Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument, or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing or entering.

[30] CA Decision, p. 2; rollo, p. 43.

[31] *Id.* at 7; *id.* at 48.

[32] Judge Oswaldo D. Agcaoili, PROPERTY REGISTRATION DECREE AND RELATED LAWS (LAND TITLES AND DEEDS) (2015), p. 295.

[33] *Id.*

[34] Complaint, rollo, pp. 91-99.

[35] Petition for Review, par. 13, p. 3; id. at 13.

[36] Id, pars. 15, 16 and 17, p. 4, citing TSN, July 14, 2004, pp. 8-9; id. at 14.

[37] CIVIL CODE, Art. 539.

[38] It must be noted that the owners of Las Brisas acquired the titled property from Republic Bank in 1967; rollo, p. 13.

[39] Desiderio P. Jurado, COMMENTS AND JURISPRUDENCE ON OBLIGATIONS AND CONTRACTS (1987 Ninth Rev. Ed.), pp. 622-623, citing Tijam v. Sibonghanoy, 131 Phil. 556 (1968).

[40] Id. at 623.

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