G.R. No. 211845 – Pen Development Corp., et al. *versus* Martinez Leyba, Inc.

Promulgated:

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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

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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.

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

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4 Decision, p. 15.

> 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 became 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
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> 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
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> 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

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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.

> 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.
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> x x x x
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> 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.

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[13] Id. at 600-602.

[14] Id. at 602.

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.***
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> On the issue of good faith of the plaintiffs, the Court of Appeals reasoned out:
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> > "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.
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> > "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
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> > 'Mistake upon a doubtful or difficult question of law may be the basis of good faith.'
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> > "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

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15 Supra note 6.
16 Id. at 686.
17 Id.

> moment their Torrens Titles are declared null and void by the Courts."
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> 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.
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> x x x x
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> 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.
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> 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.
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> 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

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18 Id. at 686-687.

19 Supra note 7.

20 "₱48,000.00 per annum representing the value of the abaca fibers derived from the land plus the further sum of ₱360.00 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.

> 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 ₱900.00 and again in 1954 for a loan of ₱1,100.00. 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

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

22 Supra note 8.

> 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 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.[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

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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.

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

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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.

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 ₱55,000,000.00.**[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.
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> 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 ₱55,000,000.00-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]

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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.

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.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice