

10



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
DEC 03 2018
BY: Dennis H.F.
TIME: 11:10

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**MARILYN L. GO RAMOS-YEO,
LAURENCE L. GO AND
MONTGOMERY L. GO,**
Petitioners,

G.R. No. 236075

- versus -

**SPOUSES RICHARD O. CHUA AND
POLLY S. CHUA, CENTURY
TRADING INC., MULTI-REALTY
DEVELOPMENT CORPORATION,
ECI TRADING CORPORATION
SUBSTITUTED BY SPOUSES
RAFAEL G. HECHANOVA AND
EUMELIA C. HECHANOVA, AND J.
KING & SONS CO., INC., THE
REGISTER OF DEEDS FOR
TAGAYTAY CITY, THE CITY
ENGINEER FOR TAGAYTAY CITY
AND LANDS MANAGEMENT
BUREAU,**

Respondents.

X-----X

**MULTI-REALTY DEVELOPMENT
CORPORATION,**
Petitioner,

G.R. No. 236076

Present:

- versus -

**MARILYN L. GO RAMOS-YEO,
LAURENCE L. GO AND
MONTGOMERY L. GO, REGIONAL**

BERSAMIN, J.*
Acting Chairperson,
DEL CASTILLO,**
JARDELEZA,
TIJAM, and
GESMUNDO, JJ.***


* Designated Acting Chairperson per Special Order No. 2606 dated October 10, 2018.

** On official leave.

*** Designated Additional Member per Special Order No. 2607 dated October 10, 2018; on official leave.

**TRIAL COURT OF CAVITE,
BRANCH 18, TAGAYTAY CITY,
SPOUSES RICHARD O. CHUA AND
POLLY S. CHUA, CENTURY
TRADING INC., ECI TRADING
CORPORATION SUBSTITUTED BY
SPOUSES RAFAEL G. HECHANOVA
AND EUMELIA C. HECHANOVA,
AND J. KING & SONS CO., INC.,
Respondents.**

Promulgated:

NOV 05 2018


X-----

DECISION**TIJAM, J.:**

This is a consolidated Petitions for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by Marilyn L. Go Ramos-Yeo, Laurence L. Go and Montgomery L. Go (Gos) in G.R. No. 236075 and Multi-Realty Development Corporation (Multi-Realty) in G.R. No. 236076, which seeks to reverse and set aside the Court of Appeals' (CA) Decision² dated March 9, 2017 and Resolution³ dated October 24, 2017 in CA-G.R. SP No. 50922, affirming the January 27, 1992 Amended Decision⁴ of the Regional Trial Court (RTC), Fourth Judicial Region, Tagaytay City, Branch 18 in Civil Case No. TG-893.

The Facts

On April 21, 1986, Spouses Richard O. Chua and Polly S. Chua (Spouses Chua) filed a Complaint⁵ for *Accion Reinvidicatoria* with Preliminary Injunction for the recovery of possession over a portion of their property covered by Transfer Certificate Title (TCT) No. T-2163 against respondent Century Investment Co. Inc., (Century) covered by TCT No. T-2903.⁶

Spouses Chua alleged in their complaint that after a relocation survey, they found out that their property overlapped with the property owned by Century. However, in view of Century's failure to attend a conference set by Engineer Nicolas Bernando, Spouses Chua constructed a hollow block fence around their property. Later on, Spouses Chua also discovered that Century

¹ *Rollo* (G.R. No. 236075), pp. 38-80; *rollo* (G.R. No. 236076), pp. 43-75.

² Penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Franchito N. Diamante and Carmelita Salandanan-Manahan; id. (G.R. No. 236075) at 9-26.

³ Id. at 27-34.

⁴ Id. at 156-157.

⁵ Penned by Judge Julieto P. Tabiola; id. at 156-167.

⁶ Id. at 11, 45, 170-171.



took possession of a portion of their property and planted pineapple thereon.⁷

Hence, a Complaint was filed by Spouses Chua against Century to recover possession and ownership of their lot.

Thereafter, on May 16, 1987, the RTC issued an Order requiring the Chief Surveyor of the Lands Management Bureau to re-survey the respective lots of Spouses Chua and Century and to shed light on the case.⁸

Pursuant to the RTC directive to re-survey, Acting Chief Geodetic Engineer of Central Surveys Division, Engr. Privadi Dalire (Engr. Dalire), and Engr. Eleuterio Paz of the Regional Survey Division of the Bureau of Lands, Region IV, uncovered that there was an error in the cadastral survey because the cadastral map surprisingly emplaced Lot 3, PSU-146224 of Spouses Chua's property inside Lot 3, PSU-167189 of Century's property; that the said lots of Spouses Chua and Century were not overlapping but instead adjoining one another; that the tie-lines for the respective lots are in error, and the correction of the same would result to a chain reaction of all adjoining lots covered by PSU-146224 and PSU-167189.⁹

On the basis of the aforesaid reports, the RTC ordered the Amendment and/or Supplementation of the Complaint *Ad Cautela*, which impleaded all the owners of the adjoining lots affected, namely: Gos, Multi-Realty, ECI Trading Corporation (ECI Trading).¹⁰

On January 16, 1990, Multi-Realty, the registered owner of the adjoining parcels of land located at Tagaytay City, Cavite, designated as Lots 1 (Psu-146224) and 2 (Psu-110811), with a total area of One Thousand Nine Hundred Sixty-Nine (1,969) square meters covered by TCT Nos. 14786 and 14787, filed a Motion to Dismiss.¹¹ Multi-Realty invoked the dismissal of the Complaint *Ad Cautela*, on the ground among others, that the RTC had no jurisdiction over the subject matter of the action since the proper forum should be in a land registration court, and that the case was intended to amend the titles of the adjoining lot owners in the guise of an action for recovery of ownership and possession, which was not allowed under Presidential Decree (P.D.) 1529.¹²

On February 2, 1990, Spouses Chua filed an Opposition¹³ (to Motion to Dismiss), wherein they admitted that the RTC had no jurisdiction to order the correction of the certificates of title, and even acknowledged that the

⁷ Id. at 172-173.

⁸ Id. at 46.

⁹ Id. at 203-204.

¹⁰ Id. at 192-210.

¹¹ Id. at 229-245.

¹² Id. at 232-235.

¹³ Id. at 247-254.

W

same can only be ordered in a land registration case.

The RTC denied the Motion to Dismiss of Multi-Realty and required it to file responsive pleading. On the other hand, the Gos were declared in default in a *Nunc Pro Tunc* Order by the RTC dated February 22, 1991.¹⁴

The RTC Ruling

Trial on the merits ensued and thereafter, on January 27, 1992, the RTC issued an Amended Decision¹⁵, to wit:

WHEREFORE, considering all the foregoing, judgment is hereby rendered identifying the properties pursuant (sic) to the aforesaid Report and declaring the following as the identifying descriptions of the individual properties of all the parties.

Lot 1
Psu-167189
ECI Trading
TCT No. T-15797

A parcel of LAND (Lot 1 of the plan Psu-167189, L.R.C. Record No.), situated in Tagaytay City. Bounded on the N., along line 1-2 by Provincial Road (20.00 m. wide); on the E., along lines 2-3-4, by property of Josefa Jara Martinez; on the S., along line 4-5, by property of Leopoldo de Grano; and on the W., along line 5-1, by Right of way. Beginning at a point marked "1" on plan, being N. 82 deg. 53'W., 819.80 m. from B.L.L.M. 5, Mp. of Tagaytay.

Thence N. 83 deg. 13'E., 82.00 m. to point 2; thence S. 2 deg. 03'E., 79.18 m. to point 3; thence S. 9 deg. 08'E., 7.00 m. to point 4; thence S. 75 deg. 20'W., 41.96 m. to point 5; thence N. 3 deg. 00'E., 93.01 m. to point of beginning;

containing an area of THREE THOUSAND TWO HUNDRED (3,200) Square Meters. All points referred to are indicated on the plan and are marked on the ground by P.S. Cyl. Conc. Mons.; bearings true; date of survey, January 31, 1958 and that of the approval, May 19, 1958.

Lot 2
Psu-167189
(ECI Trading)
TCT No. T-16603

A PARCEL OF LAND (Lot 2 of the plan Psu-167189, L.R.C. Record No.), situated in Tagaytay City. Bounded on the W., along line 1-2 by Lot 3 of plan Psu-167189; on the N., along lines 2-3-4, by Provincial Road (20.00 m. wide); on the E., along line 4-5, by Right of Way; and on the S., along line 5-1, by property of Leopoldo de Grano.

¹⁴ Id. at 296.

¹⁵ Id. at 156-167.

Beginning at a point marked "1" on plan, being S. 89 deg. 22'W., 859.91 m. from B.L.L.M. 5 Mp. of Tagaytay,

thence N. 4 deg. 00'E., 107.00 m. to point 2;
 thence N. 85 deg. 41'E., 7.17 m. to point 3;
 thence N. 83 deg. 13'E., 24.83 m. to point 4;
 thence S. 3 deg. 00'W., 102.79 m. to point 5;
 thence S. 77 deg. 25'W., 34.72 m. to the point of beginning;

containing an area of THREE THOUSAND FOUR HUNDRED (3,400) Square Meters. All points referred to are indicated on the plan and are marked on the ground by P.S. Cyl. Conc. Mons.; bearings true; date of survey, January 31, 1958 and that of the approval, May 19, 1958.

Lot 3
 Psu-167189
 (Century Investment,
 TCT No. 2903)

A PARCEL OF LAND (Lot 3 of the plan Psu-167189, L.R.C. Record No.), situated in Tagaytay City. Bounded on the W., along line 1-2, by property of Genoveva Perlas and Jose Crisostomo (Lot 3, Psu-146224 Amd.); on the N., along line 2-3, by Provincial Road (20.00 m. wide); on the E., along line 3-4, by Lot 2 of plan Psu-167189; on the S., along line 4-5, by property of Leopoldo de Grano; and on the W., along line 5-1, by property of Leopoldo de Grano. Beginning at a point marked "1" on plan, being N. 89 deg. 56'W., 890.87m. From B.L.L.M. 5 Mp. of Tagaytay.

thence N. 4 deg. 00'E., 94.23 m. to point 2;
 thence N. 85 deg. 41'E., 32.00 m. to point 3;
 thence S. 4 deg. 00'W., 107.00 m. to point 4;
 thence S. 77 deg. 11'W., 33.06 m. to point 5;
 thence N. 4 deg. 00'E., 17.70 m. to point of beginning;

containing an area of THREE THOUSAND FOUR HUNDRED SIXTY SIX (3,466) Square Meters. All points referred to are indicated on the plan and are marked on the ground as follows; points 1 and 2 by old P.L.S. Conc. Mons.; and the rest by P.S. Cyl. Conc. Mons; bearings true; date of survey, January 31, 1958 and that of the approval, May 19, 1958.

Lot 1
 Psu-146224 Amd.
 (Multi Realty Dev. Corp.)
 (MRDC) TCT No. T-14786

A PARCEL OF LAND (Lot 1 of the amendment plan Psu-146224 Amd., L.R.C. Record No.), situated in Tagaytay City. Bounded on the E., along line 1-2 by Lot 2 of the amendment plan; on the S., along line 2-3 by property of Leopoldo de Grano; on the W., along line 3-4, by property of Francisco Tolentino (LOT 2 Psu-110811); and on the N., along line 4-1, by National Road (20.00 m. wide). Beginning at a point marked "1" on plan, being N. 84 deg. 10' W., 953.36 m. from BL.L.M. 5, Tagaytay City,

M

thence S. 2 deg. 51'W., 80.51 m. to point 2;
 thence N. 80 deg. 13' W., 38.24 m. to point 3;
 thence N. 2 deg. 51' E., 77.56 m. to point 4;
 thence S. 84 deg. 38'E., 38.00 m. to the point of beginning;

containing an area of THREE THOUSAND (3,000) Square Meters. All points referred to are indicated on the plan and are marked on the ground as follows; point 2 by P.L.S. Cyl. Conc. Mons.; and the rest by old P.L.S. Cyl. Conc. Mons.; bearings true; date of the amendment survey, March 4 and Oct. 11, 1955 and that of approval, Oct. 28,1955.

Lot 2

Psu-146224 Amd.

(Marilyn Go, Ramos Yeo, Laurence L. Go and Montgomery L. Go)

TCT Nos. 17271 and 17272

A PARCEL OF LAND (Lot 2 of the amendment plan Psu-146224 Amd., L.R.C. Record No.), situated in Tagaytay City. Bounded on the N., along lines 1-2-3, by National Road (20.00 m. wide); on the E., along line 3-4, by lot 3 of the amendment plan; on the S., along line 4-5, by property of Leopoldo de Grano; on the W., along line 5-1, by lot 1 of the amendment plan. Beginning at a point marked "1" on plan, being N. 84 deg. 10 W., 953.36 m. from B.L.L.M. 5, Tagaytay City.

thence S. 88 deg. 13' E., 8.39 m. to point 2;
 thence S. 88 deg. 15' E., 17.79 m. to point 3;
 thence S. 3 deg. 54' W., 89.09 m. to point 4;
 thence N. 74 deg. 18' W., 35.41 m. to point 5;
 thence N. 2 deg. 51' E., 80.51 m. to the point of beginning;

containing an area of THREE THOUSAND (3,000) Square Meters. All points referred to are indicated on the plan and are marked on the ground as follows; points 4 and 5 by P.L.S. Cyl. Conc. Mons.; and the rest by old P.L.S. Cyl. Conc. Mons.; bearings true; date of the amendment survey, March 4 and Oct. 11, 1955 and that of the approval, Oct. 28,1955.

Lot 3

Psu-146224 Amd.

(Richard Chua

TCT No. T-2163)

A PARCEL OF LAND (Lot 3 of the amendment plan Psu-146224 Amd., L.R.C. Record No.), situated in Tagaytay City. Bounded on the N., along line 1-2, by National Road (20.00 m. wide); on the E., and on the S., along lines 2-3-4, by property of Leopoldo de Grano; and on the W., along line 4-1, by Lot 2 of the amendment plan. Beginning at a point marked "1" on plan, being N. 84 deg. 00'W., 917.72 m. from B.L.L.M. 5, Tagaytay City.

thence S. 88 deg. 10' E., 28.41 m. to point 2;
 thence S. 4 deg. 00' W., 94.23 m. to point 3;
 thence N. 77 deg. 48' W., 28.53 m. to point 4;

thence N. 3 deg. 54' E., 89.09 m. to the point of beginning;

containing an area of TWO THOUSAND FIVE HUNDRED NINETY-SIX (2,596) Square Meters. All points referred to are indicated on the plan and are marked on the ground as follows: point 4 by P.L.S. Cyl. Conc. Mon.; and the rest by old P.L.S. Cyl. Conc. Mons.; bearings true; date of the amendment survey, March 4 and Oct. 11, 1955 and that of the approval, Oct. 28, 1955.

Plaintiffs Richard O. Chua and Polly S. Chua and defendant Century Investment Co., Inc. are hereby ordered to pay not later than fifteen (15) days from receipt of this judgment, their outstanding balance the amounts of P11,000.00 and P5,000.00, respectively, in favor of Engineers Paz and Daliri, pursuant to a Statement of Expenses which they submitted to the Court, in an equal sharing basis, pursuant to a prior agreement of the parties.

SO ORDERED.¹⁶

On May 14, 1992, the RTC issued a Writ of Execution¹⁷ and subsequently ordered the Amended Decision final and executory.¹⁸

On September 20, 1997, Gos were surprised when they discovered that Spouses Chua had started building an adobe fence around a substantial portion of their properties, designated as Lots 2-A and 2-B, covering areas of One Thousand Thirty-One square meters (1,031 sq. m.), and One Thousand Nine Hundred Sixty-Nine square meters (1,969 sq. m.), covered by TCT Nos. T-17272¹⁹ and T-17217²⁰, respectively, without their knowledge and consent.

Consequently, Gos demanded Spouses Chua to desist from completing the adobe fences and encroaching upon their properties. However, Gos were informed for the first time by Spouses Chua of the RTC's Amended Decision, which supposedly ordered and caused the movement of the boundaries of their respective properties.²¹

Thus, to protect their rights, on February 25, 1999, Gos filed an Amended Petition for Annulment of Judgment (with prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction under Rule 47 of the Rules of Court before the CA.²²

Gos argued that the RTC did not acquire jurisdiction over their person on account of improper service of summons. Gos also argued that the RTC

¹⁶ Id. at 164-167.

¹⁷ Id. at 297-301.

¹⁸ Order dated May 15, 1992, id. at 302.

¹⁹ Id. at 168.

²⁰ Id. at 169.

²¹ Id. at 44-45.

²² Id. at 114-150.

had no jurisdiction over the subject matter of the action, considering that the amendments of certificates of title can only be ordered in a proper *in rem* proceedings by a court sitting as a land registration court, and not in an ordinary civil action such as the Amendment and/or Supplementation of the Complaint Ad Cautela, resultantly, the RTC's Amended Decision was void.²³ Gos further argued that the RTC's order of amendment of the certificates of title did not fall within the purview of allowable amendments under P.D. 1529.²⁴

The CA's Ruling

On March 9, 2017 the CA rendered a Decision, which denied Gos Amended Petition for Annulment of Judgment and affirmed the RTC ruling. The CA ruled that the RTC did not, in any manner, ordered the amendment of the transfer certificates of title but merely identified the respective property of each adjoining party by using the correct tie-line in plotting the lots on the ground to conform with the decree and the approved original survey plan.²⁵ The dispositive portion of the CA Decision, provides:

WHEREFORE, the *Amended Petition for Annulment of Judgment* is hereby **DENIED**. The assailed *Amended Decision* dated 27 January 1992 of the Regional Trial Court, Fourth Judicial Region, Tagaytay City, Cavite, Branch 18, in Civil Case No. TG-893, is **AFFIRMED**.

Costs against petitioners.

SO ORDERED.²⁶

The motions for reconsideration filed by Gos²⁷ and Multi-Realty²⁸ were also denied by the CA in its October 24, 2017 Resolution²⁹.

Hence, the instant petitions.

Gos raised the following assignment of errors in their Petition:

THE COURT A QUO COMMITTED AN EGREGIOUS AND HARMFUL ERROR IN ISSUING THE ASSAILED DECISION AND ASSAILED RESOLUTION, WHICH DENIED THE AMENDED PETITION, AND FAILED TO ANNUL AND SET ASIDE THE AMENDED DECISION ISSUED BY THE RTC PURSUANT TO SECTION 2, RULE 47 OF THE RULES OF COURT, CONSIDERING THAT:

A. THE RTC NEVER ACQUIRED JURISDICTION

²³ Id. at 130-140.

²⁴ Id. at 130, 140-147.

²⁵ Id. at 23.

²⁶ Id. at 25.

²⁷ Id. at 306-322.

²⁸ Id. at 406-424.

²⁹ Id. at 27-34.

OVER THE PERSONS OF THE PETITIONERS DUE TO IMPROPER SUBSTITUTED SERVICE OF SUMMONS;

B. THE RTC HAD NO JURISDICTION OVER THE SUBJECT MATTER OF THE RTC CASE, SINCE THE ALTERNATIVE CAUSES OF ACTION PLEADED IN THE AMENDED COMPLAINT ARE EXCLUSIVELY WITHIN THE JURISDICTION OF LAND REGISTRATION COURTS TO RESOLVE; AND

C. CONTRARY TO THE FINDING OF THE COURT *A QUO*, THE PETITIONERS ARE NOT BARRED BY LACHES FROM FILING THE AMENDED PETITION, PRECISELY BECAUSE THE AMENDED DECISION IS VOID FOR LACK OF JURISDICTION OF THE RTC.³⁰

For its part, Multi-Realty raised the following assignment of errors in its petition:

I

THE COURT *A QUO* COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT FAILED TO FIND THAT THE AMENDED PETITION FOR ANNULMENT OF JUDGMENT IS AN APPROPRIATE REMEDY TO RECTIFY THE AMENDED DECISION OF THE TRIAL COURT, WHICH WAS PROMULGATED WITHOUT JURISDICTION OVER THE SUBJECT MATTER OF THE CASE.

A. THE TRIAL COURT PROMULGATED THE AMENDED DECISION WITHOUT JURISDICTION CONSIDERING THAT AMENDMENTS OF CERTIFICATES OF TITLE CAN ONLY BE ORDERED IN PROPER *IN REM* PROCEEDINGS BY A COURT SITTING AS A LAND REGISTRATION COURT, AND NOT IN AN ORDINARY CIVIL ACTION SUCH AS THE AMENDED AND/OR SUPPLEMENTAL COMPLAINT *AD CAUTELA* IN CIVIL CASE NO. TG-893.

B. THE TRIAL COURT ALSO PROMULGATED THE AMENDED DECISION WITHOUT JURISDICTION SINCE THE TRIAL COURT FAILED TO COMPLY WITH SECTION 23 OF PRESIDENTIAL DECREE NO. 1592, (SIC) OR THE PROPERTY REGISTRATION DECREE (PD 1529) ON PUBLICATION AND NOTICE TO INTERESTED PARTIES.

C. EVEN ASSUMING THAT CIVIL CASE NO. TG-893 WAS AN ACTION *IN REM*, THE TRIAL COURT STILL HAD NO JURISDICTION TO ORDER THE AMENDMENT OF THE CERTIFICATES OF TITLE SINCE THE AMENDMENT OF TORRENS CERTIFICATES OF TITLES PRAYED FOR THEREIN IS TANTAMOUNT TO THE RE-OPENING OR REVIEW OF THE

³⁰ Id. at 59-60.

DECREE OF REGISTRATION BEYOND THE REGLEMENTARY ONE (1) YEAR PROVIDED UNDER SECTION 32 OF PD 1529.

D. THE TRIAL COURT STILL HAD NO JURISDICTION TO ORDER THE AMENDMENT OF THE CERTIFICATES OF TITLE SINCE SUCH AMENDMENT DID NOT FALL WITHIN THE PURVIEW OF ALLOWABLE AMENDMENTS UNDER SECTION 108 OF PD 1592 (SIC).

II

THE COURT *A QUO* COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT RULED THAT PETITIONER MULTI-REALTY WAS BARRED BY LACHES, SINCE THE AMENDED DECISION OF THE TRIAL COURT IS VOID FOR LACK OF JURISDICTION; CONSEQUENTLY, PETITIONER MULTI-REALTY CANNOT BE BARRED BY LACHES.

III

THE COURT *A QUO* COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT COMPLETELY FAILED TO CONSIDER THE ARGUMENTS AND EVIDENCE OF PETITIONER MULTI-REALTY, AS WELL AS THE RESULTING PREJUDICE THAT THE AMENDMENT OF ITS CERTIFICATE OF TITLE WILL PRODUCE, AS IS CLEARLY EVIDENT FROM THE ASSAILED DECISION AND THE ASSAILED RESOLUTION.³¹

Ultimately, the issues for Our resolution are: 1) Whether there was a valid substituted service of summons on Gos for the trial court to acquire jurisdiction; 2) Whether the amendments of certificates of title can only be ordered in proper *in rem* proceedings by a court sitting as a land registration court; 3) Whether the order of amendment of the certificates of title is beyond the one (1) year prescriptive period under PD No. 1529; 4) Whether the amendment of certificates of title is allowed under PD. No. 1529; and, 5) Whether the Gos and Multi-Realty are barred by laches to question the Amended Decision of the trial court.

Our Ruling

The petitions are meritorious.

The RTC did not acquire jurisdiction over the person of Gos because of invalid service of summons.

There is no dispute that service of summons upon a defendant is imperative in order that a court may acquire jurisdiction over his person. As

³¹ *Rollo*, (GR 236076), pp. 56-57.

held in the case of *Ma. Imelda M. Manotoc vs. Court of Appeals, et al.*,³²

The court's jurisdiction over a defendant is founded on a valid service of summons. Without a valid service, the court cannot acquire jurisdiction over the defendant, unless the defendant voluntarily submits to it. The defendant must be properly apprised of a pending action against him and assured of the opportunity to present his defenses to the suit. Proper service of summons is used to protect one's right to due process.³³

It is settled in Our jurisprudence, that personal service is the preferred mode of service of summons, but if, for justifiable reasons, it cannot be served within reasonable time, then substituted service can be resorted to.

In the case of *Carson Realty & Management Corp. vs. Red Robin Realty Security Agency and Monina Santos*,³⁴ the Court explained:

In actions *in personam*, such as the present case, the court acquires jurisdiction over the person of the defendant through personal or substituted service of summons. However, because substituted service is in derogation of the usual method of service and personal service of summons is preferred over substituted service, parties do not have unbridled right to resort to substituted service of summons. Before substituted service of summons is resorted to, the parties must: (a) indicate the impossibility of personal service of summons within a reasonable time; (b) specify the efforts exerted to locate the defendant; and (c) state that the summons was served upon a person of sufficient age and discretion who is residing in the address, or who is in charge of the office or regular place of business of the defendant.

Let us examine the full text of the Sheriff's Return dated December 15, 1989 executed by Deputy Sheriff Bienvenido J. Liboro (Deputy Sheriff Liboro), which reads:

THIS CERTIFIES THAT on December 15, 1989, summons and copies of the complaint together with annexes in the above-entitled case were served upon subject defendants at No. 154, 10th Street, New Manila, Quezon City, thru Mr. Patricio Alampay, a person of suitable age and discretion residing at the above given address, who acknowledged receipt thereof as evidenced by his signature affixed on the original copy of the summons herewith returned to the Honorable Court of origin SERVED by way of substituted service.³⁵

Here, the service of summons was, without question, made via substituted service. A careful reading of the Sheriff's Return, however, would reveal the absence of specific details on the serious efforts to serve the summons on the persons of Gos, nor were there valid reasons cited why

³² 530 Phil. 454 (2006).

³³ Id. at 462.

³⁴ G.R. No. 225035, February 8, 2017.

³⁵ *Rollo*, (G.R. No. 236075) p. 294

personal service proved to be ineffectual.

It is also apparent on the face of the Sheriff's Return that personal service was attempted to the Gos only once on December 15, 1989, and no other date. Deputy Sheriff Liboro failed to at least personally serve the summons for three (3) tries, preferably on at least two different dates, and gave no explanation why personal service proved to be ineffectual or impossible.

As explained in the case of *Manotoc*:

X x x. For substituted service of summons to be accepted, there must be several attempts by the sheriff to personally serve the summons within a reasonable period [of one month] which eventually resulted in failure to prove impossibility of prompt service. Several attempts means at least three (3) tries, preferably on at least two different dates. In addition, the sheriff must cite why such efforts were unsuccessful. It is only then that impossibility of service can be confirmed or accepted.³⁶

Moreso, there are two (2) requirements for substituted service of summons to be available under the Rules³⁷: (1) recipient must be a person of suitable age and discretion; and (2) recipient must reside in the house or residence of defendant. The case of *Manotoc*,³⁸ explains a person of suitable age and discretion:

If the substituted service will be effected at defendants house or residence, it should be left with a person of suitable age and discretion then residing therein. A person of suitable age and discretion is one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons. Discretion is defined as the ability to make decisions which represent a responsible choice and for which an understanding of what is lawful, right or wise may be presupposed. Thus, to be of sufficient discretion, such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action. Thus, the person must have the relation of confidence to the defendant, ensuring that the latter would receive or at least be notified of the receipt of the summons. The sheriff must therefore determine if the person found in the alleged dwelling or residence of defendant is of legal age, what the recipients relationship with the defendant is, and whether said person comprehends the significance of the

³⁶ *Manotoc v. Court of Appeals, et. al.*, supra note 32 at 470.

³⁷ Section 7, Rule 14 of the Rules of Court provides:

SEC. 7. Substituted service. If the defendant cannot be served within a reasonable time as provided in the preceding section [personal service on defendant], service may be effected (a) by leaving copies of the summons at the defendants residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendants office or regular place of business with some competent person in charge thereof.

³⁸ Supra note 32 at 470-471.

receipt of the summons and his duty to immediately deliver it to the defendant or at least notify the defendant of said receipt of summons. These matters must be clearly and specifically described in the Return of Summons.

Here, both requirements were not met. Deputy Sheriff Liboro did not alleged any justifiable reason for effecting the substituted service upon the person of Mr. Patricio Alampay (Alampay). The Sheriff's Return failed to substantiate that Alampay is a person of suitable age with full legal capacity (18 years old), and is considered to have enough discernment to comprehend the import of the summons, and fully realize the need to deliver the same to the Gos at the earliest possible time for the person to take appropriate action.

Indeed, compliance with the rules regarding the service of summons is as much important as the issue of due process as of jurisdiction.³⁹ It has been stated and restated that substituted service of summons must faithfully and strictly comply with the prescribed requirements and in the circumstances authorized by the rules.⁴⁰

Further, it cannot be gainsaid that Gos voluntarily submitted to the Court's jurisdiction and were afforded the opportunity to be heard. In fact, they were declared in default and learned the pendency of the action and the Amended Decision only on September 20, 1997, when they discovered that Spouses Chua had started building an adobe fence around the substantial portion of their properties. Immediately thenceforth, Gos filed an Amended Petition for Annulment of Judgment before the CA to question the decision and to protect their rights.

Due to non-compliance with the prerequisites for valid substituted service, the trial court did not acquire jurisdiction over the persons of Gos and any proceedings held and judgment therefrom must be annulled.

The trial court had no jurisdiction over the subject matter, which is to reopen, review and amend the transfer certificate of titles of Gos and Multi-Realty. The amendment of certificates of title is within the jurisdiction of a court sitting as a land registration court.

The appellate court erroneously affirmed the trial court's supposed subject matter of jurisdiction over the case. The assailed Decision incorrectly characterized the Amended Complaint as an *Accion Reinvidicatoria* by reason of the allegations that relate to issues of ownership and possession, but a cursory reading of the same would reveal that it was a disguise to re-

³⁹ Supra note 32 at 468.

⁴⁰ Supra note 32 at 475..

open and review a final decree of registration in the names of Gos, and Multi-Realty, the relative portion of the Spouses Chua's Amended Complaint's prayer, reads:

x x x x

1. For the **resurvey** of Multi-Realty's Lot, Go's Lot, Chua's Lot, Century's Lot and ECI's Lot for purposes of shifting northwesternly and locating correctly the said lots on the ground;
2. **Amending** the tie-lines for the Multi-Realty's Lot, Go's Lot, Chua's Lot, Century's Lot and ECI's Lot to reflect the correct tie-line as determined by this Honorable Court;
3. **Correcting the tie-lines as appearing in the respective certificates of title** for the Multi-Realty's Lot, Go's Lot, Chua's Lot, Century's Lot and ECI's Lot to reflect the correct tie-line as determined by this Honorable Court;
4. **Directing the Registry of Deeds for Tagaytay City to issue an amended transfer certificates of title** for the Multi-Realty's Lot, Go's Lot, Chua's Lot, Century's Lot and ECI's Lot incorporating therein the correct tie-line as determined by this Honorable Court. (Emphasis Ours).⁴¹

Hence, it can be inferred that the Amended Complaint is not only an *Accion Reinvidicatoria* but an indirect and collateral attack to the validity and accuracy of Gos and Multi-Realty's titles, which is not allowed within the purview of Sections 108 and 32 of P.D. 1529, quoted as follows:

Section 108 of P.D. No. 1529, reads:

Section 108. *Amendment and alteration of certificates.* **No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the Register of Deeds, except by order of the proper Court of First Instance.** A registered owner or other person having an interest in registered property, or, in proper cases, the Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court upon the ground that the registered interests of any description, whether vested, contingent, expectant or inchoate appearing on the certificate, have terminated and ceased; or that new interest not appearing upon the certificate have arisen or been created; or that an omission or error was made in entering a certificate or any memorandum thereon, or, on any duplicate certificate: or that the same or any person on the certificate has been changed; or that the registered owner has married, or, if registered as married, that the marriage has been terminated and no right or interests of heirs or creditors will thereby be affected; or that a corporation which owned registered land and has been dissolved has not convened the same within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or cancellation of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief

⁴¹ *Rollo*, (G.R. No. 236075) pp. 208-209.

upon such terms and conditions, requiring security or bond if necessary, as it may consider proper; *Provided, however, That this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs, and assigns, without his or their written consent.* Where the owners duplicate certificate is not presented, a similar petition may be filed as provided in the preceding section.

All petitions or motions filed under this Section as well as any other provision of this Decree after original registration shall be filed and entitled in the original case in which the decree or registration was entered. (Emphasis Ours)

And Section 32, provides:

Section 32. *Review of decree of registration; Innocent purchaser for value.* The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgments, subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, **to file in the proper Court of First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration,** but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible. Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other persons responsible for the fraud. (Emphasis Ours)

In addition, Spouses Chua themselves admitted in their Opposition dated January 26 1990, that the said complaint was only for recovery of possession and not a land registration case, which they implicitly admitted that the trial court has no jurisdiction in correction of certificates of title. The pertinent portions thereof, provides:

The instant case was not instituted by [Spouses Chua] principally to seek the correction of the certificates of title, but to recover land unjustly detained from them. x x x.

The alternative prayers set forth by the [Spouses Chua], including the necessity for a thorough resurvey of the properties concerned and the

correction of the tie lines, if found necessary, have not and will not change the nature of the present suit, **which is primarily for recovery of possession, not for correction of certificate of title. Thus, if the preliminary findings of the surveyors would subsequently be confirmed, a conversion of the present proceedings into a land registration cases, or perhaps, the filing of an entirely new action, will then have to be necessary, this time for the correction of the certificate of title.** (Emphasis Ours)⁴²

Gos and Multi-Realty certificates of title became incontrovertible after the lapse of the one-year period.

The filing of the Amended Complaint and the Amended Decision promulgated by the trial court had the effect of reopening the decree of registration, and thereby impaired the rights of innocent purchasers in good faith and for value, herein Gos and Multi-Realty. To reopen the decree of registration was no longer permissible, considering that the one-year period to do so had long ago lapsed, and their certificates of title became incontrovertible. Thusly, it violates the *proviso* in Section 108 of P.D. No. 1529, to wit:

x x x *Provided, however,* That this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs and assigns without his or their written consent. Where the owner's duplicate certificate is not presented, a similar petition may be filed as provided in the preceding section.⁴³

Moreover, the appellate court was not correct in its conclusion that it merely identified the respective property of each adjoining party, by using the correct tie-line, the defects are very material that it cannot be argued that they are just clerical in nature.⁴⁴ The material alterations in the boundaries of the respective properties of Gos and Multi-Realty pertain to the essential core of their title and definitely affect their integrity.

Furthermore, it is settled that a land registration case is a proceeding *in rem*, and jurisdiction *in rem* cannot be acquired unless there be constructive seizure of the land through publication and service of notice,⁴⁵ which the Spouses Chua failed to comply.

Ergo, without complying with the requirements under P.D. 1529, and the trial court not sitting as a land registration court, the trial court

⁴² Id. at 249-250.

⁴³ *Paz, v. Rep. of the Phils., et al.*, 677 Phil. 78, 85-86, (2011).

⁴⁴ *Chua, et al., v. B.E. San Diego, Inc.*, 708 Phil. 386, 421 (2013).

⁴⁵ *Cabañez v. Solano*, 786 Phil. 381, 394 (2016).

erroneously ordered the reopening, review, and amendment of the transfer certificate of titles of Gos and Multi-Realty. The appellate court likewise erred in affirming the same. In all cases where the authority of the courts to proceed is conferred by a statute, and when the manner of obtaining jurisdiction is mandatory, it must be strictly complied with, or the proceedings will be utterly void.⁴⁶

Gos and Multi-Realty are not barred by laches.

A judgment rendered without jurisdiction over the subject matter is void. In the same way, no laches will even attach when the judgment is null and void for want of jurisdiction.⁴⁷

As We have dissertate in the case of *Heirs of Julian Dela Cruz and Leonora Talaro v. Heirs of Alberto Cruz*,⁴⁸ viz:

It is axiomatic that the jurisdiction of a tribunal, including a quasi-judicial officer or government agency, over the nature and subject matter of a petition or complaint is determined by the material allegations therein and the character of the relief prayed for, irrespective of whether the petitioner or complainant is entitled to any or all such reliefs. Jurisdiction over the nature and subject matter of an action is conferred by the Constitution and the law, and not by the consent or waiver of the parties where the court otherwise would have no jurisdiction over the nature or subject matter of the action. **Nor can it be acquired through, or waived by, any act or omission of the parties. Moreover, estoppel does not apply to confer jurisdiction to a tribunal that has none over the cause of action.** x x x

x x x x

Indeed, the jurisdiction of the court or tribunal is not affected by the defenses or theories set up by the defendant or respondent in his answer or motion to dismiss. Jurisdiction should be determined by considering not only the status or the relationship of the parties but also the nature of the issues or questions that is the subject of the controversy. x x x **The proceedings before a court or tribunal without jurisdiction, including its decision, are null and void, hence, susceptible to direct and collateral attacks.**⁴⁹ (Emphasis Ours)

Penultimately, this is not to say, however, that a *certiorari* before the Court is a remedy against its own final and executory judgment. As ruled in certain cases, the Court is invested with the power to suspend the application of the rules of procedure as a necessary complement to promote substantial

⁴⁶ Supra note 45 at 394-395.

⁴⁷ *Figueroa v. People*, 580 Phil. 548, 77-78 (2008).

⁴⁸ 512 Phil. 389 (2005).

⁴⁹ Id. at 400-401.

justice. The case of *Philippine Woman's Christian Temperance Union, Inc. v. Teodoro R. Yangco 2nd and 3rd Generation Heirs Foundation, Inc.*,⁵⁰ citing *Jimmy L. Barnes v. Hon. Ma. Luisa C. Quijano Padilla*,⁵¹ discussed the rationale for this, to wit:

Let it be emphasized that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflect this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself has already declared to be final, x x x.

*The emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Time and again, this Court has consistently held that rules must not be applied rigidly so as not to override substantial justice.*⁵² (Emphasis supplied)

In this case, the grave error in jurisdiction permeating the proceedings taken in Civil Case No. TG-893, deprived Gos and Multi-Realty substantial portion of its properties without the very foundation of due process. Certainly, the Court cannot let this mistake pass without *de rigueur* rectification by suspending the rules of procedure, and permitting the present recourse to access auxiliary review.⁵³

All told, the RTC, had no jurisdiction over the actual subject matter contained in the Amended Complaint for the amendment of titles of Gos and Multi-Realty. Spouses Chua cannot use the civil action of *Accion Reinvidicatoria* to reopen, review and amend titles which become incontrovertible. Since the RTC had no jurisdiction over the action in disguised of *Accion Reinvidicatoria*, the judgment in Civil Case No. TG-893 is null and void. Being void, it cannot be the source of any right or the creator of any obligation. It can never become final and any writ of execution based on it is likewise void. Resultantly, the appellate proceedings relative to Civil Case No. TG-893, and all issuances made in connection with such review in CA-G.R. SP No. 50922 are likewise of no force and effect. A void judgment cannot perpetuate even if affirmed on appeal by the highest court of the land. All acts pursuant to it and all claims emanating from it have no legal effect.⁵⁴

⁵⁰ 731 Phil. 269 (2014).

⁵¹ 500 Phil. 303, 311 (2005).

⁵² *Id.* at 292.

⁵³ *Philippine Woman's Christian Temperance Union, Inc. v. Teodoro R. Yangco 2nd and 3rd Generation Heirs Foundation, Inc.*, *supra* note 50.


⁵⁴ *Philippine Woman's Christian Temperance Union, Inc. v. Teodoro Yangco 2nd and 3rd Generation Heirs Foundation, Inc.*, *supra* note 50 at 290-291; citing *Ga, Jr., et al. v. Sps. Tubungan, et al.*, 616 Phil. 709, 714-715 (2009).

WHEREFORE, premises considered, the petitions are **GRANTED**. The Court of Appeals' Decision dated March 9, 2017 and Resolution dated October 24, 2017 in CA-G.R. SP No. 50922, are **REVERSED and SET ASIDE**.


Accordingly, all proceedings taken, *i.e.*, decisions, resolutions, orders, and other issuances made in Civil Case No. TG-893 and CA-G.R. SP No. 50922 are hereby **ANNULLED and SET ASIDE**.

The Register of Deeds of Tagaytay City is hereby **ORDERED** to CANCEL any amendments made in the Transfer Certificate of Titles of Marilyn L. Go Ramos-Yeo, Laurence L. Go and Montgomery L. Go and Multi-Realty Development Corporation, as a consequence of the execution of the disposition in Civil Case No. TG-893, and to **REINSTATE** the boundaries of their respective titles in Transfer Certificate of Title Nos. T-17272 and T-17217 in the names of Marilyn L. Go Ramos-Yeo, Laurence L. Go, and Montgomery L. Go and Transfer Certificate of Title Nos. 14786 and 14787 in the name of Multi-Realty Development Corporation.


SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
Associate Justice
Acting Chairperson, First Division

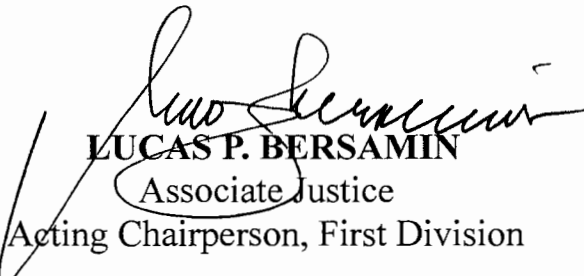
(on official leave)
MARIANO C. DEL CASTILLO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice

(on official leave)
ALEXANDER G. GESMUNDO
Associate Justice

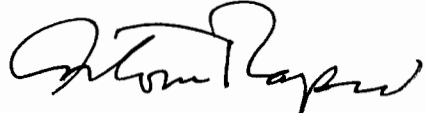
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)