SPECIAL SECOND DIVISION

[G.R. No. 173120, April 10, 2019]

SPOUSES YU HWA PING AND MARY GAW, PETITIONERS, VS. AYALA LAND, INC., RESPONDENT.

[G.R. No. 173141]

HEIRS OF SPOUSES ANDRES DIAZ AND JOSEFA MIA, PETITIONERS, VS. AYALA LAND, INC., RESPONDENT.

RESOLUTION

PERALTA, J.:

This resolves respondent Ayala Land, Inc.'s *(ALI)* Second Motion for Reconsideration filed on February 9, 2018 against the July 26, 2017 Decision[1] of the Court, and ALI's supplement to the motion to refer the instant case to the Court *en banc* as mandated by the Constitution, on the ground that the said Decision supposedly modified and reversed doctrines and principles of law (on land registration, prescription and Torrens System) previously laid down by the Court in decisions rendered *en banc* or in Division.

To recall, in the July 26, 2017 Decision, the Court granted the petitions in the instant case, reversed and set aside the June 19, 2006 Decision of the Court of Appeals in CA-G.R. CV Nos. 61593 & 70622, and reinstated the February 8, 2005 Amended Decision of the Court of Appeals. On September 28, 2017, ALI filed a Motion for Reconsideration[2] with motion to refer the case to the Court *en banc.* On December 4, 2017, the Court issued a Minute Resolution[3] unanimously denying with finality the said motions.

ALI then filed on February 14, 2018 the instant Second Motion for Reconsideration[4] and supplement to the motion to refer the case to the Court *en banc*[5] which were then assigned to Associate Justice Marvic M.V.F. Leonen, in view of the inhibition of Senior Associate Justice Antonio T. Carpio, the Member-in-charge of the first motion for reconsideration, by virtue of a motion for inhibition filed by ALI after the denial of the first motion for reconsideration. By a vote of three (3) to one (1), the undersigned wrote the majority opinion, which was joined by Associate Justices Alexander G. Gesmundo and Ramon Paul L. Hernando, with Associate Justice Leonen dissenting, and Associate Justice Mariano C. Del Castillo on official leave.

The referral of the case to the Court *en banc* and ALI's Second Motion for Reconsideration are hereby denied. As will be discussed below, the July 26, 2017 Decision of the Court neither modified nor reversed a doctrine or principle laid down by the Court *en banc* or by a Division, but merely applied the pertinent law and jurisprudence to the factual findings of the trial court and the appellate court. The

Supreme Court, sitting *en banc,* is not an appellate court *vis-a-vis* its Divisions, and it exercises no appellate jurisdiction over the latter.[6] Each division of the Court is considered not a body inferior to the Court *en banc,* and sits veritably as the Court *en banc* itself.[7]

Section 2, Rule 52 of the Rules of Court prohibits a second motion for reconsideration by the same party. Section 3, Rule 15 of the Internal Rules of the Supreme Court echoes the prohibition, providing thusly:

> Section 3. *Second motion for reconsideration.* — The Court shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the higher interest of justice by the Court *en banc* upon a vote of at least two-thirds of its actual membership. There is reconsideration "in the higher interest of justice" when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties. A second motion for reconsideration can only be entertained before the ruling sought to be reconsidered becomes final by operation of law or by the Court's declaration.
>
> In the Division, a vote of three Members shall be required to elevate a second motion for reconsideration to the Court *En Banc.*

Public policy frowns upon the piecemeal impugnment of a judgment or final order by the filing of successive motions for reconsideration. This rule is also consistent with the equally important policy that all litigations must come to an end at some point.[8] A second motion for reconsideration, albeit prohibited, may be entertained in the higher interest of justice, such as when the assailed decision is not only legally erroneous but also patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the moving party.[9]

In this case, ALI failed to assert any meritorious reason to allow its second motion for reconsideration. **Glaringly, the arguments raised by ALI are mere reiterations of its previous arguments in its Memorandum and First Motion for Reconsideration.** ALI did not anymore raise any genuine or novel issue that has not been threshed out by the Court. Verily, the Court cannot entertain a second motion for reconsideration that essentially raises the same grounds that have been repeatedly denied.

Assuming *arguendo* that the substantive issues reiterated by ALI shall be entertained by the Court, the second motion for reconsideration still lacks merit.

The titles of ALI are void due to the erroneous technical descriptions sourced from void ab initio surveys

ALI essentially argues that the transfer certificate of titles *(TCTs)* registered under its name cannot be declared void simply because the survey conducted on the

subject land was not valid. It emphasizes that the survey of the subject land is not part and parcel of the TCTs, thus, it is immaterial whether the survey suffered from any defect.

The argument fails.

Although a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein,[10] it is not a conclusive proof of ownership. It is a well-settled rule that ownership is different from a certificate of title. The fact that a person was able to secure a title in his name does not operate to vest ownership upon him of the subject land. Registration of a piece of land under the Torrens System does not create or vest title, because it is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein. It cannot bused to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of others. Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.[11]

One of the distinguishing marks of the Torrens system is the absolute certainty of the identity of a registered land. Consequently, the primary purpose of the requirement that the land must first be surveyed is to fix the exact or definite identity of the land as shown in the **plan and technical description.**[12] It is imperative in an application for original registration that the applicant submit to the court, aside from the original or duplicate copies of the muniments of title, a copy of a duly approved survey plan of the land sought to be registered. The survey plan is indispensable as it provides a reference on the exact identity of the property.[13]

Justice Marvic Mario Victor F. Leonen argues that ALI's titles should have been respected over those of petitioners' because ALI's predecessors-in-interest had their titles issued 20 and 12 years ahead of those of petitioners' predecessors. It appears from such argument that only the date of registration should be considered, while the surveys over the land should be disregarded. The Court must stress, however, that the survey of the land is vital and essential to uphold the validity of a certificate of title.

A survey plan precisely serves to establish the true identity of the land to ensure that it does not overlap a parcel of land or a portion thereof already covered by a previous land registration, and to forestall the possibility that it will be overlapped by a subsequent registration of any adjoining land.[14] Thus, if the survey plan is evidently erroneous, then the exact and finite identity of the land cannot be reflected in the technical description of the certificate of title.

In *Veterans Federation of the Philippines v. Court of Appeals,*[15] the Court ruled that "it is well-established that errors in the certificate of title that relate to the technical description and location cannot just be disregarded as mere clerical aberrations that are harmless in character, but must be treated seriously so as not to jeopardize the integrity and efficacy of the Torrens system of registration of real rights to property. **Thus, when the technical description appearing in the title**

is clearly erroneous, the courts have no other recourse but to order its cancellation and cause the issuance of a new one that would conform to the mutual agreement of the buyer and seller as laid down in the deed of sale."

It was further discussed therein that the simple possession of a certificate of title is not necessarily conclusive of the holder's true ownership of all the property described therein for **said holder does not by virtue of said certificate of title alone become the owner of what has been either illegally or erroneously included.** It has been held by this Court that "if a person or entity obtains a title which includes by mistake or oversight land which cannot be registered under the Torrens system or over which the buyer has no legal right, said buyer does not, by virtue of said certificate alone, become the owner of the land illegally or erroneously included. In fact, when an area is erroneously included in a relocation survey and in the title subsequently issued, the said erroneous inclusion is null and void and of no effect. And on the rare occasion where there is such an error, the courts may decree that the certificate of title be cancelled and a correct one issued to the buyer."[16]

Consequently, the invalidity of the survey affects the technical description of the land, which is found on the title. Glaring and substantial errors in the technical description should not be simply disregarded as trivial or formal errors because these precisely affect the identity of the land. Regrettably, never addressed are the numerous and manifest mistakes in the identity of the purported lands covered by the titles of ALI that will be discussed below.

In *Dizon v. Rodriguez*[17] and *Republic v. Ayala y Cia,*[18] the Court confronted the validity of the surveys conducted on the lands to determine whether the title was properly subdivided. It was ruled therein that "subdivision plan Psd-27941 was erroneous because it was "prepared not in accordance with the technical descriptions in TCT No. T-722 but in disregard of it, supports the conclusion reached by both the lower court and the Court of Appeals that Lots 49 and 1 are actually part of the territorial waters and belong to the State."[19] Accordingly, the sole method for the Court to determine the validity of the title was to dissect the survey upon which it was sourced. As a result, it was discovered that the registered titles therein contained areas which belong to the sea and foreshore lands.

In this case, the TCTs of petitioners originated from Original Transfer Certificate *(OCT)* No. 8510, which was based on survey plan Psu-25909 dated March 17, 1921. On the other hand, the TCTs of ALI originated from OCT No. 242, 244 and 1609, which were based on survey plans Psu-47035 dated October 21, 1925, Psu-80886 dated July 28, 1930, and Psu-80886/SWO-20609 dated March 6, 1931.

As will be thoroughly discussed later, survey plans Psu-47035, Psu-80886, Psu-80886/SWO-20609 contain numerous and glaring irregularities. Consequently, as the surveys were marred with blatant anomalies, the technical descriptions contained in OCT No. 242, 244 and 1609 are also void and erroneous. Verily, these technical descriptions in the said certificate of titles do not refer to a valid and exact portion of the lands. In fact, as noted by the trial court, the lands therein were described to be located in different places. Further, the land surveyed in Psu-47035, Psu-80886, Psu-80886/SWO-20609 patently overlaps with the land surveyed in Psu-25909, even though the latter was issued in an earlier date. Once a land has been surveyed, it is highly irregular to conduct a second survey to overlap with the same

parcel of land. Indeed, when the survey of the land is null and void, the technical description of the land is also null and void. As a result, the validity of OCT No. 242, 244 and 1609 cannot be upheld.

There were numerous irregularities in the survey of the land

As threshed out in the decision of the Court, the surveys in OCT No. 242, 244 and 1609 contain numerous irregularities that strikes out the validity of these titles. The said irregularities are as follows:

First, Psu-25909 was conducted by a certain A.N. Feliciano in favor of Andres Diaz and was approved on May 26, 1921. Curiously, the subsequent surveys of Psu-47035 for a certain Dominador Mayuga, Psu-80886 for a certain Guico and Psu-80886/SWO-20609 for a certain Yaptinchay, were also conducted by A.N. Feliciano. It is dubious how the same surveyor or agrimensor conducted Psu-47035, Psu-80886 and Psu-80886/SWO-20609 even though an earlier survey on Psu-25909, which the surveyor should obviously be aware, was already conducted on the same parcel of land. Engr. Pada, witness of the Spouses Yu, also observed this irregularity and stated that this practice is not the standard norm in conducting surveys.

Second, even though a single entity conducted the surveys, the lands therein were *described to be located in different places.* Psu-25909, the earliest dated survey, indicated its location at Sitio Kay Monica, Barrio Pugad Lawin, Las Piñas, Rizal, while Psu-47035 and Psu-80886 stated their locations at Sitio May Kokek, Barrio Almanza, Las Piñas, Rizal, and Barrio Tindig na Mangga, Las Piñas, Rizal, respectively. Again, Engr. Pada observed this peculiarity and pointed out that the subject properties should have had the same address. ALI did not provide an explanation to the discrepancies in the stated addresses. Thus, it led the CA to believe that the same surveyor indicated different locations to prevent the discovery of the questionable surveys over the same parcel of land.

Third, there is a *discrepancy as to who requested the survey of Psu-47035.* The photocopy of Psu-47035, as submitted by ALI, shows that it was done for a certain Estanislao Mayuga. On the other hand, the certified true copy of Psu-47035 depicts that it was made for Dominador Mayuga. Once more, Engr. Pada noticed this discrepancy on the said survey. ALI, however, did not give any justification on the diverging detail, which raises question as to the authenticity and genuineness of Psu-47035.

Fourth, *Psu-80886 does not contain the signature of then Director of Lands, Serafin P. Hidalgo;* rather, the prefix "Sgd." was simply indicated therein. As properly observed by the CA in its February 8, 2005 decision, any person can place the said prefix and it does not show that the Director of Lands actually signed and gave his *imprimatur* to Psu-80886. The absence of the approval of the Director of Lands on Psu-80886 added doubt to its legitimacy. The excuse proffered by ALI - that Psu-80886 is regular and valid simply because land registration proceedings were undertaken - is insufficient to cure the crucial defect in the survey.

In *University of the Philippines v. Rosario,*[20] it was held that "[n]o *plan or survey may be admitted in land registration proceedings until approved by the Director of*