Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

AURORA N. DE PEDRO, Petitioner,	**G.R. NO. 194751**
	Present:
	CARPIO, *J., Chairperson,* DEL CASTILLO, MENDOZA, REYES,* and LEONEN, *JJ.*
-versus-	
ROMASAN DEVELOPMENT CORPORATION, Respondent.	**Promulgated:** NOV 26 2014

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DECISION

LEONEN, *J.*:

Regardless of the type of action — whether it is *in personam, in rem* or *quasi in rem* — the preferred mode of service of summons is personal service. To avail themselves of substituted service, courts must rely on a detailed enumeration of the sheriff's actions and a showing that the defendant cannot be served despite diligent and reasonable efforts. The sheriff's return, which contains these details, is entitled to a presumption of regularity, and on this basis, the court may allow substituted service. Should the sheriff's return be wanting of these details, substituted service will be irregular if no other evidence of the efforts to serve summons was presented.

Failure to serve summons will mean that the court failed to acquire

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* Designated Acting Member per Special Order No. 1881 dated November 25, 2014.

jurisdiction over the person of the defendant. However, the filing of a motion for new trial or reconsideration is tantamount to voluntary appearance.

This Rule 45 petition seeks the review of the Court of Appeals July 7, 2010 decision in CA G.R. SP. No. 96471. The Court of Appeals denied petitioner's action for annulment of the Regional Trial Court decision, which, in turn, nullified her certificate of title.

This case originated from separate complaints for nullification of free patent and original certificates of title, filed against several defendants.[1] One of the defendants is petitioner Aurora De Pedro (De Pedro).[2] The complaints were filed by respondent Romasan Development Corporation before the Regional Trial Court of Antipolo City on July 7, 1998.[3]

Respondent Romasan Development Corporation alleged in its complaints that it was the owner and possessor of a parcel of land in Antipolo City.[4] The land was covered by Transfer Certificate of Title (TCT) No. 236044.[5]

Based on respondent's narrative, its representative, Mr. Rodrigo Ko, discovered sometime in November 1996 that De Pedro put up fences on a portion of its Antipolo property.[6] Mr. Ko confronted De Pedro regarding her acts, but she was able to show title and documents evidencing her ownership.[7]

Mr. Ko informed respondent about the documents.[8] Upon checking with the Community Environment and Natural Resources Office-Department of Environment and Natural Resources (CENRO-DENR), it was discovered that the DENR issued free patents covering portions of respondent's property to the following:

a. Defendant Nora Jocson, married to Carlito Jocson - OCT No. P-723, Free Patent No. 045802-91-616;

b. Defendants Heirs of Marcelino Santos[,] represented by

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1 *Rollo*, pp. 14, 49, 73, 97. The following are the defendants in the complaints filed by Romasan Development Corporation before the trial court: Civil Case No. 98-4936, Nora Jocson, married to Carlito Jocson, et al.; Civil Case No. 98-4937, Heirs of Marcelino Santos, et al; Civil Case No. 98-4938, Aurora de Pedro married to Elpidio de Pedro, et al.; Civil Case No. 98-4939, Wilson Dadia, et al.; Civil Case No. 98-4040, Prudencio Marana, et al.

2 Id.

3 Id.

4 Id. at 50 and 73.

5 Id.

6 Id. at 50 and 74.

7 Id.

8 Id. at 74

Cristino Santos - OCT No. P-727, Free Patent No. 045802-91-919;

c. Defendant Aurora de Pedro married to Elpidio de Pedro - OCT No. 691, Free Patent No. 045802-91-914;

d. Defendant Wilson Dadia - OCT No. P-722, Free Patent No. 045802-91-915; and

e. Defendant Prudencio Marana - OCT No. P-721, Free Patent N[o]. 045802-91-923.[9] (Emphasis supplied)

Based on these free patents, the Register of Deeds issued titles covering portions of respondent's property.[10] Original Certificate of Title (OCT) No. 691, Free Patent No. 045802-91-914 was signed by the Provincial Environment and Natural Resources Office in favor of De Pedro on December 9, 1991.[11]

Respondent further alleged in its separate complaints that the government could not legally issue the free patents because at the time of their issuance, the land was already released for disposition to private individuals.[12] OCT No. 438, from which respondent's TCT No. 236044 originated, was already issued as early as August 30, 1937.[13]

Respondent also prayed for the payment of attorney's fees and exemplary damages.[14]

Attempts to personally serve summons on De Pedro failed.[15] The officer's return, dated February 22, 1999 reads in part:

OFFICER'S RETURN

I HEREBY CERTIFY that on the 15th and 18th day of February, 1999, I have served a copy of the summons with complaint and annexes dated January 29, 1999 issued by Regional Trial Court, Fourth Judicial Region, Branch 74, Antipolo City upon defendants in the above-entitled case on the following, to wit;

1. AURORA N. DE PEDRO – Unserved for the reason that according to the messenger of Post Office of Pasig their [sic] is no person in the said given address.[16]

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9 Id. at 51 and 74.
10 Id. at 74.
11 Id. at 74 and 155.
12 Id. at 74.
13 Id. at 51 and 74.
14 Id. at 74.
15 Id. at 14, 50-52, 74, and 97.
16 Id. at 14.

Respondent filed a motion to serve summons and the complaint by publication.[17]

On August 17, 1998, the Regional Trial Court granted the motion.[18] The summons and the complaint were published in People's Balita on its April 24, May 1, and May 8, 1998 issues.[19]

On July 15, 1999, respondent moved to declare all defendants in its complaints, including De Pedro, in default for failure to file their answers.[20] Respondent also moved to be allowed to present evidence *ex parte*.[21] The Regional Trial Court granted the motions on August 19, 1999.[22]

On January 7, 2000, the Regional Trial Court issued an order declaring as nullity the titles and free patents issued to all defendants in respondent's complaint, including the free patent issued to De Pedro.[23] Thus:

> Accordingly the Court declares as a nullity the following titles and Free Patents issued to the Defendants.
>
> a. Defendant Nora Jocson married to Carlito Jocson OCT No. P-723; Free Patent N[o]. 045802-91-616;
> b. Defendant Heirs of Marcelino Santos represented by Cristino Santos – OCT N[o]. P-727; Free Patent N[o]. 045802-91-919;
> *c. Defendant Aurora N. de Pedro married to Elpidio de Pedro – OCT No. P-691; Free Patent No. 045802-91-914;*
> d. Defendant Wilson Dadia – OCT No. P-722; Free Patent No. 045802-91-915;
> e. Defendant Prudencio Marana – OCT No. P-721; Free Patent N[o]. 045802-91-923.
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> There being clear bad faith on the part of the Private defendants in obtaining said Free Patents and titles in their names covering the portions of the property of the plaintiff, said defendants are each ordered to pay to the plaintiff the amount of P20,000.00 as attorney's fees, P3,000.00 as appearance fee and also P50,000.00 as moral damages with costs against said private defendants.
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> Once the Decision becomes final and in order to give full force and effect to the Decision of the Court nullifying the titles and patents issued to the defendants, the latter are directed to surrender the same within a

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17 Id. at 52, 74-75.
18 Id. at 75.
19 Id. at 52 and 75.
20 Id. at 52 and 75.
21 Id.
22 Id. at 14-15, 52, and 75.
23 Id. at 15, 52, 78, and 98.

> period of ten (10) days from the finality of said Decision to the Registry of Deeds of Marikina City and failure on the part of the defendants to surrender the owner's duplicate of the titles in their possession, defendant Register of Deeds of Marikina City is authorized to cancel the same without the presentation of said owner's duplicate of titles in the possession of the defendants.[24] (Emphasis supplied)

In so ruling, the Regional Trial Court noted that none of the defendants, including De Pedro, filed an answer to respondent's complaints.[25] The Regional Trial Court also noted the committee report admitting CENRO's irregularity in the issuance of the free patents to the defendants in the case.[26]

The Regional Trial Court also found that the title and free patent issued to De Pedro were void.[27] As early as August 30, 1937, or before the free patents were issued to the defendants in the case, OCT No. 438 was already issued to the property's original owner.[28] Hence, the property was already "segregated from the mass of public domain" that can be disposed by the government.[29]

On March 30, 2000, De Pedro, through counsel, filed before the Regional Trial Court a motion for new trial, alleging that the counsel received notice of the January 7, 2000 decision on March 16, 2000.[30]

De Pedro argued that the Regional Trial Court did not acquire jurisdiction over her person because of improper and defective service of summons. Citing the officer's return dated February 22, 1999, De Pedro pointed out that summons was not personally served upon her "for the reason that according to the messenger of Post Office of Pasig their (sic) is no person in the said given address."[31]

De Pedro also argued that the case should have been dismissed on the ground of *litis pendentia.* She alleged that there was a pending civil case filed by her, involving the same property, when respondent filed the complaints against her and several others.[32]

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24 Id. at 78.
25 Id. at 77.
26 Id.
27 Id.
28 Id.
29 Id.
30 Id. at 15 and 79–85. *See also* p. 98. Based on petitioner's petition for annulment of judgment, "[m]embers of petitioner's family received notice of this DECISION only on 16 March 2000." Page 18 of the petition for review also mentioned that petitioner's family received the Court of Appeals decision on March 16, 2000. On the same day, they allegedly contacted their counsel.
31 Id. at 79.
32 Id. at 15 and 83; 86-90.

On September 30, 2002, the Regional Trial Court issued an order denying De Pedro's motion for new trial.[33]

The Regional Trial Court ruled that summons was validly served upon De Pedro through publication, in accordance with the Rules of Court.[34] Moreover, counting from the date of the summons' publication beginning on March 2, 2000, the motion for new trial was filed beyond the 15-day period within which the motion may be filed.[35] Therefore, the Regional Trial Court decision had become final and executory.[36]

The Regional Trial Court also ruled that the reckoning period for filing the motion for new trial cannot be De Pedro's counsel's receipt of the decision. This is because at the time of the issuance of the court's decision, which had already become final and executory, De Pedro's counsel was yet to enter his appearance for De Pedro.[37]

De Pedro filed a petition for certiorari before the Court of Appeals, alleging that the Regional Trial Court committed grave abuse of discretion when it denied her motion for new trial.[38]

On March 30, 2006, the Court of Appeals dismissed the petition for certiorari for lack of merit, and affirmed the denial of De Pedro's motion for new trial.[39]

The Court of Appeals noted De Pedro's belated filing of her motion for new trial. The Court of Appeals also noted De Pedro's failure to allege any ground that would justify the grant of a motion for new trial under Rule 37, Section 1 of the Revised Rules of Civil Procedure.[40]

De Pedro's motion for reconsideration was denied in the Court of Appeals resolution dated August 24, 2006.[41]

De Pedro elevated the case to this court, but this was likewise denied in the resolution dated October 4, 2006 for failure to pay the Special Allowance for the Judiciary and sheriff's fees.[42]

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33 Id. at 15, 54-55, and 91-92.
34 Id. at 91.
35 Id. at 54 and 91.
36 Id. at 54–55 and 91
37 Id. at 92.
38 Id. at 55.
39 Id.
40 Id. at 56.
41 Id. at 57.
42 Id.

On October 11, 2006, De Pedro filed before the Court of Appeals a petition for annulment of the January 7, 2000 judgment of the Regional Trial Court[43] on grounds of lack of jurisdiction, *litis pendentia,* and for having been dispossessed of her property without due process.

Citing *Pantaleon v. Asuncion*,[44] De Pedro pointed out that "[d]ue process of law requires *personal* service to support a *personal* judgment, and, when the proceeding is *strictly in personam* brought to determine the personal rights and obligations of the parties, *personal* service within the state or a voluntary appearance in the case is *essential to the acquisition of jurisdiction [so] as to constitute compliance with the constitutional requirement of due process.*"[45]

De Pedro also claimed to be the real owner of the property by virtue of OCT No. P-691.[46] She pointed out that the same Regional Trial Court branch ordered the reconstitution of her title to the property in 1997.[47] The Regional Trial Court also issued a certificate of finality stating that "an Entry of Judgment had already been issued by the Court of Appeals dated January 16, 2006."[48]

On July 7, 2010, the Court of Appeals promulgated its decision denying De Pedro's petition for annulment of judgment.[49] The dispositive portion of the Court of Appeals decision reads:

> **WHEREFORE**, this petition is hereby **DENIED.**[50]

The Court of Appeals ruled that since petitioner already availed herself of the remedy of new trial, and raised the case before the Court of Appeals via petition for certiorari, she can no longer file a petition for annulment of judgment.[51]

De Pedro's motion for reconsideration was denied on December 3, 2010:[52]

> **WHEREFORE**, premises considered, the motion for

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43 Id. at 16 and 93-116.
44 105 Phil. 761, 766 [Per J. Concepcion, En Banc].
45 *Rollo,* p. 94.
46 Id. at 109.
47 Id.
48 Id. at 109 and 158.
49 Id. at 16 and 49–62. The Court of Appeals' decision, docketed as CA-G.R. SP. No. 96471, was penned by Presiding Justice Andres B. Reyes, Jr., with Associate Justices Ramon M. Bato, Jr., and Mario V. Lopez concurring.
50 Id. at 61.
51 Id. at 60.
52 Id. at 16 and 63–65.

reconsideration is **DENIED** for lack of merit.[53]

On January 13, 2011, De Pedro filed before this court a Rule 45 petition, seeking the reversal of the July 7, 2010 Court of Appeals decision and the December 3, 2010 Court of Appeals resolution.[54]

The issues in this case are:

I. Whether the trial court decision was void for failure of the trial court to acquire jurisdiction over the person of petitioner Aurora N. De Pedro; and

II. Whether filing a motion for new trial and petition for certiorari is a bar from filing a petition for annulment of judgment.

Petitioner argues that respondent's prayer for attorney's fees, appearance fees, exemplary damages, and costs of suit sought to establish personal obligations upon petitioner in favor of respondent.[55] Hence, the case filed by respondent before the Regional Trial Court was an action *in personam*, which required personal service upon her for the court's acquisition of jurisdiction over her person.[56] In this case, the Regional Trial Court allowed service of summons by publication instead of ordering that summons be served by substituted service.[57] Improper service of summons rendered the trial court decision null and void.[58] It means that the court could not acquire jurisdiction over the person of petitioner.[59]

Petitioner also argues that respondent's complaints were dismissible on the ground of *litis pendentia*, pointing to the alleged pending case between the same parties and involving same subject matter at the time when respondent filed its complaint before the Regional Trial Court in 1998.[60] The alleged pending case was filed in 1997 by petitioner and her spouse against respondent, seeking "enforce[ment] of their rights as owners, and claim[ing] damages for the unlawful and illegal acts of dispossession, terrorism and violence which they, their family and their close relatives were subjected to by [respondent]."[61]

On her ownership of the property, petitioner argues that she was able to obtain OCT No. P-691 in 1991 in strict and faithful compliance with all

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53 Id. at 65.
54 Id. at 12.
55 Id. at 19.
56 Id.
57 Id. at 20.
58 Id.
59 Id. at 25.
60 Id. at 28-29.
61 Id. at 29-30.

the requirements.[62] When the Register of Deeds lost the records pertaining to the property, the Regional Trial Court ordered the reconstitution of the title on September 23, 1997.[63] The same trial court issued the certificate of finality of the order on March 16, 2006.[64]

Moreover, petitioner refers to a counter-affidavit issued by a certain Jesus Pampellona, Deputy Public Land Inspector of CENRO-Antipolo, in the preliminary investigation of a case before the Department of Justice, docketed as I.S. No. 99-503 and entitled: "Rodrigo Sy v. Maximo Pentino, et al." Petitioner highlights Pampellona's statements that the free patent applicants for the property were found to be in "actual, public, adverse and continuous possession on the specific lots applied for by them with several improvements like the house of Mrs. Aurora de Pedro and several fruit[-]bearing trees with an average age of 20-25 years scattered within the twelve (12) hectares area applied for by the above named applicants;"[65] Based on the affidavit, Pampellona was "unaware, at the time, of any previous title issued in favor of any person or entity covering the subject lots above mentioned as there was at that time, no existing record, both in the CENRO, Antipolo, Rizal, or at the Land Management Bureau in Manila, attesting to the issuance of previous titles on the subject lots."[66]

Lastly, petitioner argues that the trial court decision was null and void, considering that petitioner's title was cancelled in contravention of Section 48 of Presidential Decree No. 1529, which prohibits collateral attack upon certificates of title.[67]

In its comment, respondent argues that the process server tried other forms of substituted service, including service by registered mail.[68]

Respondent also argues that petitioner was in evident malice and bad faith when she allegedly did not disclose in her petition other actions taken by her after the Regional Trial Court had denied her motion for new trial.[69] Particularly, petitioner filed a petition for certiorari before the Court of Appeals, pertaining to the trial court's denial of the motion for new trial.[70]

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62 Id. at 31.
63 Id. at 32.
64 Id. at 32.
65 Id.
66 Id. at 34.
67 Id. at 39.
68 Id. at 181. This statement is footnoted, thus: "According to the Officer's Return dated 22 February 1999, the messenger (sic) of Pasig City Post Office reported that there is no person in the residential address of petitioner De Pedro which readily shows that personal service including other forms of substituted service by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein as stated under the Rules even service by registered mail cannot be possibly done under the circumstances thus the resort to publication since it became apparent at that time that petitioner De Pedro's whereabouts was unknown."
69 Id. at 180.
70 Id. at 183.

When the petition for certiorari was denied, petitioner also filed a petition for review before this court, which was also denied.[71] For these reasons, petitioner's petition for review before this court deserves outright dismissal.[72]

I

The sheriff's return must show the details of the efforts exerted to personally serve summons upon defendants or respondents, before substituted service or service by publication is availed

Courts may exercise their powers validly and with binding effect if they acquire jurisdiction over: (a) the cause of action or the subject matter of the case; (b) the thing or the *res*; (c) the parties; and (d) the remedy.

Jurisdiction over the subject matter refers to the power or authority of courts to hear and decide cases of a general class.[73] It is conferred by the Constitution or by law.[74] It is not acquired through administrative issuances or court orders. It is not acquired by agreement, stipulation, waiver,[75] or silence.[76] Any decision by a court, without a law vesting jurisdiction upon such court, is void.

Jurisdiction over the thing or res is the power of the court over an object or thing being litigated. The court may acquire jurisdiction over the thing by actually or constructively seizing or placing it under the court's custody.[77]

Jurisdiction over the parties refers to the power of the court to make decisions that are binding on persons. The courts acquire jurisdiction over complainants or petitioners as soon as they file their complaints or petitions. Over the persons of defendants or respondents, courts acquire jurisdiction by a valid service of summons or through their voluntary submission.[78] Generally, a person voluntarily submits to the court's jurisdiction when he or she participates in the trial despite improper service of summons.

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71 Id. at 184.
72 Id. at 185.
73 *Heirs of Concha v. Lumocso*, 564 Phil. 580, 592–593 (2007) [Per C.J. Puno, First Division].
74 Id. at 593.
75 Id.
76 *Peralta-Labrador v. Bugarin*, 505 Phil. 409, 415 (2005) [Per J. Ynares-Santiago, First Division].
77 *Biaco v. Philippine Countryside Rural Bank*, 544 Phil. 45, 55 (2007) [Per J. Tinga, Second Division]. *See also Regner v. Logarta*, 562 Phil. 862 (2007) [Per J. Chico-Nazario, Third Division].
78 *Manotoc v. Court of Appeals*, 530 Phil. 454, 467 (2006) [Per J. Velasco, Jr., Third Division].

Courts[79] and litigants must be aware of the limits and the requirements for the acquisition of court jurisdiction. Decisions or orders issued by courts outside their jurisdiction are void. Complaints or petitions filed before the wrong court or without acquiring jurisdiction over the parties may be dismissed.[80]

Petitioner argued that the trial court did not acquire jurisdiction over her person because she was not properly served with summons. After the summons had returned unserved to petitioner because "there [was] no person in the said given address,"[81] the trial court allowed the publication of the summons to petitioner.

Jurisdiction over the parties is required regardless of the type of action — whether the action is *in personam*, *in rem*, or *quasi in rem.*

In actions *in personam*, the judgment is for or against a person directly.[82] Jurisdiction over the parties is required in actions *in personam* because they seek to impose personal responsibility or liability upon a person.[83]

Courts need not acquire jurisdiction over parties on this basis in *in rem* and *quasi in rem* actions. Actions *in rem* or *quasi in rem* are not directed against the person based on his or her personal liability.[84]

Actions *in rem* are actions against the thing itself. They are binding upon the whole world.[85] *Quasi in rem* actions are actions involving the status of a property over which a party has interest.[86] *Quasi in rem* actions are not binding upon the whole world. They affect only the interests of the particular parties.[87]

However, to satisfy the requirements of due process, jurisdiction over the parties in *in rem* and *quasi in rem* actions is required.

The phrase, "against the thing," to describe *in rem* actions is a metaphor. It is not the "thing" that is the party to an *in rem* action; only legal

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79 *See ACE Publication, Inc. v. Commissioner of Customs, et al.*, 120 Phil. 143 (1964) [Per J. Paredes, En Banc].

80 RULES OF COURT, Rule 16, secs. 1(a) and 1(b)

81 *Rollo*, p. 70.

82 *Domagas v. Jensen*, 489 Phil. 631, 641 (2005) [Per J. Callejo, Sr., Second Division].

83 *See Domagas v. Jensen*, 489 Phil. 631 (2005) [Per J. Callejo, Sr., Second Division].

84 *Biaco v. Philippine Countryside Rural Bank*, 544 Phil. 45, 55 (2007) [Per J. Tinga, Second Division]. *See also Regner v. Logarta*, 562 Phil. 862 (2007) [Per J. Chico-Nazario, Third Division].

85 *See Muñoz v. Yabut*, G.R. No. 142676, June 6, 2011, 650 SCRA 344 [Per J. Leonardo-De Castro, First Division].

86 *Domagas v. Jensen*, 489 Phil. 631, 642 (2005) [Per J. Callejo, Sr., Second Division].

87 Id.

or natural persons may be parties even in *in rem* actions. "Against the thing" means that resolution of the case affects interests of others whether direct or indirect. It also assumes that the interests — in the form of rights or duties — attach to the thing which is the subject matter of litigation. In actions *in rem*, our procedure assumes an active vinculum over those with interests to the thing subject of litigation.

Due process requires that those with interest to the thing in litigation be notified and given an opportunity to defend those interests. Courts, as guardians of constitutional rights, cannot be expected to deny persons their due process rights while at the same time be considered as acting within their jurisdiction.

Violation of due process rights is a jurisdictional defect. This court recognized this principle in *Aducayen v. Flores.*[88] In the same case, this court further ruled that this jurisdictional defect is remedied by a petition for certiorari.[89]

Similarly in *Vda. de Cuaycong v. Vda. de Sengbengco*,[90] this court held that a decision that was issued in violation of a person's due process rights suffers a fatal infirmity.[91]

The relation of due process to jurisdiction is recognized even in administrative cases wherein the standard of evidence is relatively lower. Thus, in *Montoya v. Varilla*:[92]

> The cardinal precept is that where there is a violation of basic constitutional rights, courts are ousted from their jurisdiction. The violation of a party's right to due process raises a serious jurisdictional issue which cannot be glossed over or disregarded at will. Where the denial of the fundamental right of due process is apparent, a decision rendered in disregard of that right is void for lack of jurisdiction.[93]

An action for annulment of certificate of title is *quasi in rem.* It is not an action "against a person on the basis of his personal liability,"[94] but an action that subjects a person's interest over a property to a burden. The action for annulment of a certificate of title threatens petitioner's interest in the property. Petitioner is entitled to due process with respect to that interest. The court does not have competence or authority to proceed with

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88 151-A Phil. 556 (1973) [Per J. Fernando, En Banc]. This case involves an action for sum of money.
89 Id. at 560.
90 110 Phil. 113 (1960) [Per J. Concepcion, En Banc].
91 Id. at 118.
92 595 Phil. 507 (2008) [Per J. Chico-Nazario, En Banc].
93 Id. at 520–521.
94 *Biaco v. Philippine Countryside Rural Bank*, 544 Phil. 45, 55 (2007) [Per J. Tinga, Second Division]. *See also Regner v. Logarta*, 562 Phil. 862 (2007) [Per J. Chico-Nazario, Third Division].

an action for annulment of certificate of title without giving the person, in whose name the certificate was issued all the opportunities to be heard.

Hence, regardless of the nature of the action, proper service of summons is imperative. A decision rendered without proper service of summons suffers a defect in jurisdiction. Respondent's institution of a proceeding for annulment of petitioner's certificate of title is sufficient to vest the court with jurisdiction over the *res*, but it is not sufficient for the court to proceed with the case with authority and competence.

Personal service of summons is the preferred mode of service of summons.[95] Thus, as a rule, summons must be served personally upon the defendant or respondent wherever he or she may be found. If the defendant or respondent refuses to receive the summons, it shall be tendered to him or her.[96]

If the defendant or respondent is a domestic juridical person, personal service of summons shall be effected upon its president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel wherever he or she may be found.[97]

Other modes of serving summons may be done when justified. Service of summons through other modes will not be effective without showing serious attempts to serve summons through personal service. Thus, the rules allow summons to be served by substituted service only for justifiable causes and if the defendant or respondent cannot be served within reasonable time.[98] Substituted service is effected "(a) by leaving copies of the summons at the defendant's residence with some person of suitable age and discretion then residing therein, or (b) by leaving the copies at defendant's office or regular place of business with some competent person in charge thereof."[99]

Service of summons by publication in a newspaper of general circulation is allowed when the defendant or respondent is designated as an unknown owner or if his or her whereabouts are "unknown and cannot be ascertained by diligent inquiry."[100] It may only be effected after unsuccessful attempts to serve the summons personally, and after diligent inquiry as to the defendant's or respondent's whereabouts.

Service of summons by extraterritorial service is allowed after leave

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95 *Manotoc v. Court of Appeals*, 530 Phil. 454, 467–468 (2006) [Per J. Velasco, Jr., Third Division].
96 RULES OF COURT, Rule 14, sec. 6.
97 RULES OF COURT, Rule 14, sec. 11.
98 RULES OF COURT, Rule 14, sec. 7.
99 RULES OF COURT, Rule 14, sec. 7.
100 RULES OF COURT, Rule 14, sec. 14.

of court when the defendant or respondent does not reside or is not found in the country or is temporarily out of the country.[101]

If a defendant or respondent voluntarily appears in trial or participates in the proceedings, it is generally construed as sufficient service of summons.[102]

In this case, summons was served by publication.

A look into the content of the sheriff's return will determine if the circumstances warranted the deviation from the rule preferring personal service of summons over other modes of service. The sheriff's return must contain a narration of the circumstances showing efforts to personally serve summons to the defendants or respondents and the impossibility of personal service of summons. Citing *Hamilton v. Levy,*[103] this court said of substituted service in *Domagas v. Jensen*:[104]

> The pertinent facts and circumstances attendant to the service of summons must be stated in the proof of service or Officer's Return; otherwise, any substituted service made in lieu of personal service cannot be upheld. This is necessary because substituted service is in derogation of the usual method of service. It is a method extraordinary in character and hence may be used only as prescribed and in the circumstances authorized by statute. Here, no such explanation was made. Failure to faithfully, strictly, and fully comply with the requirements of substituted service renders said service ineffective.[105]

This court also said in *Manotoc v. Court of Appeals:*

> The date and time of the attempts on personal service, the inquiries made to locate the defendant, the name/s of the occupants of the alleged residence or house of defendant and all other acts done, though futile, to serve the summons on defendant must be specified in the Return to justify substituted service. The form on Sheriff's Return of Summons on Substituted Service prescribed in the Handbook for Sheriffs published by the Philippine Judicial Academy requires a narration of the efforts made to find the defendant personally and the fact of failure.
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> However, in view of the numerous claims of irregularities in

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101 RULES OF COURT, Rule 14, secs. 15–16.
102 RULES OF COURT, Rule 14, sec. 20.
103 398 Phil. 781 (2000) [Per J. Ynares-Santiago, First Division].
104 489 Phil. 631 (2005) [Per J. Callejo, Sr., Second Division].
105 *Domagas v. Jensen*, 489 Phil. 631, 646 (2005) [Per J. Callejo, Sr., Second Division], *citing Hamilton v. Levy*, 398 Phil. 781, 791–792 (2000) [Per J. Ynares-Santiago, First Division].

> substituted service which have spawned the filing of a great number of unnecessary special civil actions of certiorari and appeals to higher courts, resulting in prolonged litigation and wasteful legal expenses, the Court rules in the case at bar that the narration of the efforts made to find the defendant and the fact of failure written in broad and imprecise words will not suffice. The facts and circumstances should be stated with more particularity and detail on the number of attempts made at personal service, dates and times of the attempts, inquiries to locate defendant, names of occupants of the alleged residence, and the reasons for failure should be included in the Return to satisfactorily show the efforts undertaken. That such efforts were made to personally serve summons on defendant, and those resulted in failure, would prove impossibility of prompt personal service.
>
> Moreover, to allow sheriffs to describe the facts and circumstances in inexact terms would encourage routine performance of their precise duties relating to substituted service—for it would be quite easy to shroud or conceal carelessness or laxity in such broad terms.[106]

A sheriff's return enjoys the presumption of regularity in its issuance if it contains (1) the details of the circumstances surrounding the sheriff's attempt to serve the summons personally upon the defendants or respondents; and (2) the particulars showing the impossibility of serving the summons within reasonable time.[107] It does not enjoy the presumption of regularity if the return was merely pro forma.

Failure to state the facts and circumstances that rendered service of summons impossible renders service of summons and the return ineffective. In that case, no substituted service or service by publication can be valid.

This court in *Manotoc* explained that the presumption of regularity in the issuance of the sheriff's return does not apply to patently defective returns. Thus:

> The court *a quo* heavily relied on the presumption of regularity in the performance of official duty. It reasons out that "[t]he certificate of service by the proper officer is *prima facie* evidence of the facts set out herein, and to overcome the presumption arising from said certificate, the evidence must be clear and convincing."
>
> The Court acknowledges that this ruling is still a valid doctrine. *However, for the presumption to apply, the Sheriff's Return must show that serious efforts or attempts were exerted to personally serve the summons and that said efforts failed. These facts must be specifically narrated in the Return.* To reiterate, it must clearly show that the substituted service must be made on a person of suitable age and discretion living in the dwelling

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106 *Manotoc v. Court of Appeals*, 530 Phil. 454, 473–474 (2006) [Per J. Velasco, Jr., Third Division].
107 *See Gomez v. Court of Appeals*, 469 Phil. 38, 51–52 (2004) [Per J. Austria-Martinez, Second Division].

> or residence of defendant. Otherwise, the Return is flawed and the presumption cannot be availed of. As previously explained, the Return of Sheriff Cañelas did not comply with the stringent requirements of Rule 14, Section 8 on substituted service. (Emphasis supplied)
>
> In the case of *Venturanza v. Court of Appeals,* it was held that "x x x the *presumption of regularity in the performance of official functions by the sheriff is not applicable in this case where it is patent that the sheriff's return is defective."* (Emphasis supplied) While the Sheriff's Return in the Venturanza case had no statement on the effort or attempt to personally serve the summons, the Return of Sheriff Cañelas in the case at bar merely described the efforts or attempts in general terms lacking in details as required by the ruling in the case of *Domagas v. Jensen* and other cases. It is as if Cañelas' Return did not mention any effort to accomplish personal service. Thus, the substituted service is void.[108]

In this case, the sheriff's return states:

> OFFICER'S RETURN
>
> I HEREBY CERTIFY that on the 15th and 18th day of February, 1999, I have served a copy of the summons with complaint and annexes dated January 29, 1999 issued by Regional Trial Court, Fourth Judicial Region, Branch 74, Antipolo City upon defendants in the above-entitled case on the following, to wit;
>
> 1. AURORA N. DE PEDRO – Unserved for the reason that according to the messenger of Post Office of Pasig their [sic] is no person in the said given address.[109]

This return shows no detail of the sheriff's efforts to serve the summons personally upon petitioner. The summons was unserved only because the post office messenger stated that there was no "Aurora N. De Pedro" in the service address. The return did not show that the sheriff attempted to locate petitioner's whereabouts. Moreover, it cannot be concluded based on the return that personal service was rendered impossible under the circumstances or that service could no longer be made within reasonable time.

The lack of any demonstration of effort on the part of the sheriff to serve the summons personally upon petitioner is a deviation from this court's previous rulings that personal service is the preferred mode of service, and that the sheriff must narrate in his or her return the efforts made to effect personal service. Thus, the sheriff's return in this case was defective. No substituted service or service by publication will be allowed based on such defective return.

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[108] *Manotoc v. Court of Appeals*, 530 Phil. 454, 476 (2006) [Per J. Velasco, Jr., Third Division].
[109] *Rollo*, pp. 14, 50–52, 74, and 97.

The issuance of a judgment without proper service of summons is a violation of due process rights. The judgment, therefore, suffers a jurisdictional defect. The case would have been dismissible had petitioner learned about the case while trial was pending. At that time, a motion to dismiss would have been proper. After the trial, the case would have been the proper subject of an action for annulment of judgment.

Petitioner learned about the action for annulment of title only after trial. Instead of filing an action for annulment of judgment, however, she filed a motion for new trial without alleging any proper ground. Rule 37 of the Rules of Court provides that a party may move and the court may grant a new trial based on the following causes:

> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.[110]

Petitioner insisted in her motion for new trial that the trial court did not acquire jurisdiction over her person. She did not allege that fraud, accident, mistake, or excusable negligence impaired her rights. Neither did she allege that she found newly discovered evidence that could have altered the trial court decision. When her motion for new trial was denied, she filed a petition for certiorari, insisting that her motion for new trial should have been granted on the ground of lack of jurisdiction over her person. The Court of Appeals denied the petition for her failure to allege any ground for new trial. We cannot attribute error on the part of the Court of Appeals for this denial because, indeed, lack of jurisdiction is not a ground for granting a new trial.

What cannot be denied is the fact that petitioner was already notified of respondent's action for annulment of petitioner's title when she filed a motion for new trial and, later, a petition for certiorari. At that time, petitioner was deemed, for purposes of due process, to have been properly notified of the action involving her title to the property. Lack of jurisdiction could have already been raised in an action for annulment of judgment.

Thus, when petitioner erroneously filed her motion for new trial and petition for certiorari instead of an action for annulment of judgment, she was deemed to have voluntarily participated in the proceedings against her title. The actions and remedies she chose to avail bound her. Petitioner's

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[110] RULES OF COURT, Rule 37, sec. 1.

failure to file an action for annulment of judgment at this time was fatal to her cause. We cannot conclude now that she was denied due process.

II

Petitioner is already barred from filing a petition for annulment of judgment

A petition for annulment of judgment is a recourse that is equitable in character.[111] It is independent of the case[112] and is "allowed only in exceptional cases as where there is no available or other adequate remedy."[113]

An action for annulment of judgment may be filed to assail Regional Trial Court judgments when resort to other remedies can no longer be had through no fault of petitioner. Section 1 of Rule 47 of the Rules of Civil Procedure provides:

> Section 1. *Coverage.* – This Rule shall govern the annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available through no fault of the petitioner.

An action for annulment of judgment may be based on only two grounds: 1) extrinsic fraud; and 2) lack of jurisdiction. Section 2 of Rule 47 of the Rules of Court states:

> Section 2. *Grounds for Annulment.* – The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.
>
> Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

Lack of jurisdiction being a valid ground for annulment of judgments, circumstances that negate the court's acquisition of jurisdiction — including

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111 *Heirs of Maura So v. Obliosca, et al.*, 566 Phil. 397, 406 (2008) [Per J. Nachura, Third Division; J. Ynares-Santiago (Chairperson), JJ. Austria-Martinez, Corona {in lieu of J. Chico-Nazario per Special Order No. 484 dated January 11, 2008}, and Reyes concurring]; *See also City Government of Tagaytay v. Hon. Guerrero, et al.*, 616 Phil. 28, 46 (2009) [Per J. Nachura, Third Division; J. Ynares-Santiago (Chairperson), JJ. Chico-Nazario, Velasco, Jr., and Peralta concurring].

112 *Macalalag v. Ombudsman*, 468 Phil. 918, 923 (2004) [Per J. Vitug, Third Division; JJ. Sandoval-Gutierrez, Corona, and Carpio-Morales concurring], *citing Canlas v. Court of Appeals*, 247 Phil. 118 (1988) [Per J. Sarmiento, Second Division].

113 *Heirs of Maura So v. Obliosca, et al.*, 566 Phil. 397, 406 (2008) [Per J. Nachura, Third Division], *citing Orbeta v. Sendiong*, 501 Phil. 478, 489 (2005) [Per J. Tinga, Second Division].

defective service of summons — are causes for an action for annulment of judgments.[114]

However, this court had an occasion to say that an action for annulment of judgment "may not be invoked (1) where the party has availed himself of the remedy of new trial, appeal, petition for relief, or other appropriate remedy and lost; or (2) where he has failed to avail himself of those remedies through his own fault or negligence."[115] Thus, an action for annulment of judgment is not always readily available even if there are causes for annulling a judgment.

In this case, petitioner's main grounds for filing the action for annulment are lack of jurisdiction over her person, and *litis pendentia*. These are the same grounds that were raised in the motion for new trial filed before and denied by the Regional Trial Court.

Applying the above rules, we rule that the Court of Appeals did not err in denying petitioner's petition for annulment of the Regional Trial Court's judgment. Petitioner had already filed a motion for new trial and petition for certiorari invoking lack of jurisdiction as ground.

Petitioner's filing of the petition for annulment of judgment after she had filed a motion for new trial and lost, with both actions raising the same grounds, reveals an intent to secure a judgment in her favor by abusing and making a mockery of the legal remedies provided by law.

This kind of abuse is what this court tries to guard against when it limited its application, and stated in some of the cases that an action for annulment of judgment cannot be invoked when other remedies had already been availed.

As this court explained in *Macalalag v. Ombudsman*:[116]

> Rule 47, entitled "Annulment of Judgments or Final Orders and Resolutions," is a new provision under the 1997 Rules of Civil Procedure albeit the remedy has long been given imprimatur by the courts. The rule covers "annulment by the Court of Appeals of judgments or final orders and resolutions in civil actions of Regional Trial Courts for which the ordinary remedies of new trial, appeal, petition for relief or other appropriate remedies could no longer be availed of through no fault of the petitioner." An action for annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled is

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114 *Manotoc v. Court of Appeals*, 530 Phil. 454 (2006) [Per J. Velasco, Jr., Third Division].

115 *Heirs of Maura So v. Obliosca, et al.*, 566 Phil. 397, 406 (2008) [Per J. Nachura, Third Division], *citing Macalalag v. Ombudsman*, 468 Phil. 918, 923 [Per J. Vitug, Third Division].

116 *Macalalag v. Ombudsman*, 468 Phil. 918 (2004) [Per J. Vitug, Third Division].

> rendered. *The concern that the remedy could so easily be resorted to as an instrument to delay a final and executory judgment, has prompted safeguards to be put in place in order to avoid an abuse of the rule. Thus, the annulment of judgment may be based only on the grounds of extrinsic fraud and lack of jurisdiction, and the remedy may not be invoked (1) where the party has availed himself of the remedy of new trial, appeal, petition for relief or other appropriate remedy and lost therefrom, or (2) where he has failed to avail himself of those remedies through his own fault or negligence.*[117] (Emphasis supplied)

Similarly, this court ruled in *Sigma Homebuilding Corporation v. Inter-Alia Management Corporation, et al.*:[118]

> A petition for annulment of judgment is an extraordinary remedy and is *not to be granted indiscriminately by the Court. It is allowed only in exceptional cases and cannot be used by a losing party to make a mockery of a duly promulgated decision long final and executory. The remedy may not be invoked where the party has availed himself of the remedy of new trial, appeal, petition for relief or other appropriate remedy and lost,* or where he has failed to avail himself of those remedies through his own fault or negligence.
>
> Litigation must end sometime. It is essential to an effective and efficient administration of justice that, once a judgment becomes final, the winning party should not be deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that undesirable result. Thus, we deem it fit to finally put an end to the present controversy.[119] (Emphasis supplied)

Thus, an action for annulment of judgment "will not so easily and readily lend itself to abuse by parties aggrieved by final judgments."[120] Petitioner cannot abuse the court's processes to revive a case that has already been rendered final against her favor, for the purpose of securing a favorable judgment. An action for annulment of judgment cannot be used by petitioner who has lost her case through fault of her own, to make "a complete farce of a duly promulgated decision that has long become final and executory."[121]

III

Filing an action for annulment of title is not a violation of Section 48

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117 Id. at 922–923, *cited in Republic v. "G" Holdings, Inc.*, 512 Phil. 253, 262–263 (2005) [Per J. Corona, Third Division].

118 584 Phil. 233 (2008) [Per J. Corona, First Division].

119 Id. at 239–240.

120 *Fraginal v. Heirs of Toribia*, 545 Phil. 425, 432 (2007) [Per J. Austria-Martinez, Third Division].

121 *Republic v. "G" Holdings, Inc.*, 512 Phil. 253, 262 (2005) [Per J. Corona, Third Division].

of Presidential Decree No. 1529

Petitioner insists that the annulment of her title was a violation of Section 48 of Presidential Decree No. 1529, which provides:

> Sec. 48. *Certificate not subject to collateral attack.* – A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

Petitioner is mistaken. In *Sarmiento, et al. v. Court of Appeals*,[122] this court said:

> An action is deemed an attack on a title when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed. The attack is direct when the object of the action is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.[123]

An action for annulment of certificate of title is a direct attack on the title because it challenges the judgment decree of title.

In *Goco v. Court of Appeals*,[124] this court said that "[a]n action for annulment of certificates of title to property [goes] into the issue of ownership of the land covered by a Torrens title and the relief generally prayed for by the plaintiff is to be declared as the land's true owner."[125]

Hence, there was no violation of Section 48 of Presidential Decree No. 1529 when petitioner's title was declared null and void by the Regional Trial Court.

Petitioner, however, points to the following statement made by this court in another case involving these same parties:[126]

> The resolution of the issue will not involve the alteration, correction or modification either of OCT No. P-691 under the name of petitioner Aurora de Pedro, or TCT No. 236044 under the name of respondent corporation. If the subject property is found to be a portion of

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122 507 Phil. 101 (2005) [Per J. Chico-Nazario, Second Division].
123 Id. at 113.
124 G.R. No. 157449, April 6, 2010, 617 SCRA 397 [Per J. Brion, Second Division].
125 Id. at 405, *citing Heirs of Abadilla v. Galarosa*, 527 Phil. 264 (2006) [Per J. Austria-Martinez, First Division].
126 *Spouses De Pedro v. Romasan Development Corporation and Manuel Ko*, 492 Phil. 643 (2005) [Per J. Callejo, Sr., Second Division].

> the property covered by OCT No. P-691 but is included in the technical description of the property covered by TCT No. 236044, the latter would have to be corrected. On the other hand, if the subject property is found to be a portion of the property covered by TCT No. 236044, but is included in the property covered by OCT NO. P-691, then the latter title must be rectified. However, the rectification of either title may be made only via an action filed for the said purpose, comformably with Section 48 of Act No. 496
>
> . . . .
>
> A. The action of the petitioners against respondents, based on the material allegations of the complaint, if one for recovery of possession of the subject property and damages. However, such action is not a direct but a collateral attack of TCT No. 236044. Neither did the respondents directly attack OCT No. P-691 in their answer to the complaint. Although the respondents averred in said answer, by way of special and affirmative defenses, that the subject property is covered by TCT No. 236044 issued in the name of the respondent corporation, and as such the said respondent is entitled to the possession thereof to the exclusion of the petitioners, such allegations does not constitute a direct attack on OCT No. P-691, but is likewise a collateral attack thereon...[127]

Petitioner misreads the import of what we said in that case. That case involves petitioner's action for recovery of possession and damages against respondents. It also involved respondent's allegations that the property was covered by a certificate of title in its name and, therefore, its entitlement to the possession of the property. It does not involve an action for annulment of title.

When this court said that "such action is not a direct but a collateral attack of TCT No. 236044" or that "such allegations does [sic] not constitute a direct attack on OCT No. P-691, but is likewise a collateral attack thereon," we were referring to both parties' action for and allegations of possessory rights over the property. This court was not referring to an action for annulment of title, which is the case involved here. To reiterate, an action for annulment constitutes a direct attack on a certificate of title.

IV

The requisites of *litis pendentia* are not satisfied when respondent filed its action for annulment of title

Petitioner argued that the case for annulment of title was dismissible on the ground of *litis pendentia* because there was a pending civil case filed

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[127] *Rollo*, pp. 39-40.

by her against respondent.

The requisites of *litis pendentia* are: "(a) identity of parties, or interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action, will, regardless of which party is successful, amount to res judicata in the action under consideration.[128]

Although both cases involve the same parcel of land, petitioner was not able to show that there was identity of the relief prayed for. A review of the complaint in the said civil case shows that it was a case for damages, for alleged improper conduct of respondent relating the property. The action filed by respondent was an action for annulment of petitioner's title.

Petitioner was also not able to show that the relief prayed for in both cases were founded on the same facts. Petitioner's complaint for damages was founded on the alleged misconduct of respondent. Respondent's action for annulment of title was founded on the alleged irregularity in the issuance of petitioner's title.

Hence, the petitioner was not able to show that all the requisites for *litis pendentia* are present. Respondent's action for annulment of title cannot be dismissed on this ground.

V

A certificate of title does not vest ownership

Petitioner argues that her certificate of title was erroneously declared null and void because based on OCT No. P-691, she is the real owner of the property.

It is true that certificates of title are indefeasible and binding upon the whole world. However, certificates of title do not vest ownership.[129] They merely evidence title or ownership of the property.[130] Courts may, therefore, cancel or declare a certificate of title null and void when it finds that it was issued irregularly.

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128 *Guevara v. BPI Securities Corporation*, 530 Phil. 342, 358–359 (2006) [Per J. Chico-Nazario, First Division], *citing Jaban v. City of Cebu*, 467 Phil. 458, 471 (2004) [Per J. Callejo, Sr., En Banc].

129 *Carino v. Insular Government*, 212 US 449, 457–460.

130 Id.

In this case, the trial court ruled based on the committee report that the free patents and original certificate of title issued to petitioner were irregularly issued, and, therefore, invalid.

The principle of "bar by prior judgment" is embodied in Rule 39, Section 47(b) of the Rules of Court:

> **Section 47.** *Effect of judgments or final orders.* — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:
>
> . . . .
>
> (b) In other cases, *the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been missed in relation thereto, conclusive between the parties and their successors in interest,* by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity[.] (Emphasis supplied)

In this case, the trial court, by annulling petitioner's certificate of title and declaring its issuance irregular, directly adjudged petitioner's certificate of title as void. Because petitioner failed to appeal and cause the annulment of the trial court's judgment as to her title's validity, this question is already barred. This judgment has already attained finality and can no longer be litigated.

This court explained in *FGU Insurance Corporation v. Regional Trial Court*[131] the doctrine of finality of judgment, thus:

> Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down.[132]

In any case, even if petitioner's original certificate of title was not irregularly issued as she claims, her original certificate of title was issued later than the title from which respondent's title originated. As a rule, original titles issued earlier prevail over another original title issued later.[133]

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131 G.R. No. 161282, February 23, 2011, 644 SCRA 50 [Per J. Mendoza, Second Division].

132 Id. at 56.

133 *Carpo v. Ayala Land, Inc.*, G.R. No. 166577, February 3, 2010, 611 SCRA 436, 458 [Per J. Leonardo-De Castro, First Division; C.J. Puno (Chairperson), JJ. Carpio-Morales, Bersamin, and Villarama, Jr., concurring].

Therefore, petitioner's later-issued title cannot prevail over respondent's title, which was derived from an earlier issued original certificate of title.

WHEREFORE, the petition is **DENIED**. The Court of Appeals July 7, 2010 decision in CA G.R. SP. No. 96471 is **AFFIRMED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.

MARIA LOURDES P. A. SERENO
Chief Justice