

HEIRS OF DIONISIO MIJARES, NAMELY: ROMULO MIJARES, PAULINO MIJA-RES, HEIRS OF NILDA MIJARES ESPARES, NAMELY: MARIANO ESPARES, JR. AND MARNIL ESPARES PASAGUI, AND HEIRS OF DELIA ...

Ponente: SALAZAR-FERNANDO, J.

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SALAZAR-FERNANDO, J.:

Before this Court is an appeal from the Decision¹ dated September 24, 2013 of the Regional Trial Court, Fifth Judicial Region, Branch 47, Masbate City in Civil Case No. 6422 for Judicial Partition and Recovery of Hereditary Share with Preliminary Injunction and Damages entitled “THE HEIRS OF DIONISIO MIJARES, namely: ROMULO MIJARES, PAULINO MIJARES, The Heirs of NILDA MIJARES ESPARES, namely: MARIANO ESPARES, JR. and MARNIL ESPARES PASAGUI and the Heir of DELIA MIJARES JAVIER, LEONOR J. BALALAHUE, all rep. by ROMULO MIJARES or MARIANO ESPARES, JR. or MARNIL ESPARES PASAGUI, Plaintiffs, vs. THE HEIRS OF MAXIMINO BASAS, namely: JESUS, CRISANTA, LORETA , MAXIMINO, JR., WILFREDO, LEONIZA & ARMINGOL, all surnamed BASAS and SPS. TIBURCIO CUEVAS and ADELFA MAGBALON CUEVAS, Defendants.”, the dispositive portion of which reads:

“WHEREFORE, in the light of the foregoing, judgment is hereby rendered:

- a. Declaring the validity of the co-ownership over the land in question between the plaintiffs, Heirs of Dionisio Mijares and the defendants, Heirs of Maximino Basas;
- b. Ordering the partition of the property in question, equally between the Heirs of Dionisio Mijares and the Heirs of Maximino Basas;
- c. Ordering the appointment of a Commissioner [to] divide the property equally between the plaintiffs and the defendants; d. Ordering the defendants[,] Heirs of Maximino Basas and Spouses Tiburcio and Adelfa Cuevas[,] to deliver to the plaintiffs one half (½) of the property in question;
- e. Ordering the defendants, Heirs of Maximino Basas and Spouses Tiburcio and Adelfa Cuevas[,] to deliver to the plaintiffs one half (½) of the total fruits gathered from the property in question from the time of the filing of this complaint;
- f. Ordering the defendants to pay the plaintiffs PhP10,000.00 as attorney's fee;
- g. Ordering the defendants to pay the cost of this suit.

SO ORDERED.”[2]

The facts are:

On March 11, 2009 a Complaint[3] for Judicial Partition and Recovery of Hereditary Share with Preliminary Injunction and Damages was filed by plaintiffs-appellees, Heirs of Dionisio Mijares (Dionisio for brevity),

namely: Romulo Mijares, Paulino Mijares (heirs of Dioniso for brevity), the Heirs of Nilda Mijares Espares (Nilda for brevity), namely: Mariano Espares, Jr. and Marnil Espares Pasagui (heirs of Nilda for brevity) and the Heir of Delia Mijares (Delia for brevity) Javier, Leonor J. Balalaque against defendants Heirs of Maximino Basas (Maximino for brevity), namely: Jesus Basas, Crisanta Basas, Loreta Basas, Maximino Basas, Jr., defendant-appellant Wilfredo Basas (Wilfredo for brevity), defendants Leoniza Basas, and Armingol Basas (heirs of Maximino for brevity), and Spouses Tiburcio Cuevas and Adelfa Magbalon Cuevas (Spouses Cuevas for brevity), averring that: the late Dionisio and Maximino are the co-owners of a property located in Rizal, Dimasalang, Masbate (subject property for brevity) as found by the Regional Trial Court of Masbate, Branch 45 in a Decision[4] dated February 17, 1986 (1986 Decision for brevity); from the time the 1986 Decision was rendered, plaintiffs-appellees have been requesting defendants Heirs of Maximino, which include defendant-appellant Wilfredo, for an extra-judicial partition of the subject property, but they refused and failed to comply; plaintiffs-appellees recently discovered that the subject property is in the possession of defendants Spouses Cuevas so they demanded that the latter surrender the same to the former, but defendants Spouses Cuevas refused and failed to comply; the subject property yields an income from the harvest and sale of agricultural products amounting to P50,000.00; there is a need for the issuance of a Writ of Preliminary Injunction to enjoin defendants from entering, occupying, and possessing the subject property and from cultivating, harvesting, gathering, and selling the agricultural products thereon; plaintiffs-appellees are willing to put up the bond conditioned to pay defendants for any damages they may suffer by reason of the injunctive writ if it turns out later that plaintiffs-appellees are not entitled thereto; and, due to defendants' acts, plaintiffs-appellees experienced mental anguish, anxiety and besmirched reputation, and had to solicit the services of counsel to protect their rights and interests.

On November 19, 2010, defendants Spouses Cuevas filed their Answer with Counterclaim and Crossclaim and with Motion to Dismiss[5] denying the material allegations of the complaint, and by way of special and affirmative defenses, alleged that: they are the lessees of the subject property as evidenced by a Contract of Lease of Real Property[6]; plaintiffs-appellees do not have a cause of action because the 1986 Decision pertains to a different property as shown by the varying descriptions, boundaries, and sketch plans of the two properties; plaintiffs-appellees do not have a cause of action because their complaint is a collateral attack of OCT No. P-9535[7] under Free Patent No. 589189 issued on August 29, 1979 in the name of Maximino Basas; a direct attack of a title may be had only within one (1) year from the issuance of the title; in the event that the court finds for the plaintiffs-appellees, defendants Spouses Cuevas, by way of crossclaim, hold their co-defendants liable for the rental fee they had previously paid, damages and litigation expenses.

The parties thereafter filed their respective Pre-Trial Briefs.[8] On July 15, 2009, a Pre-Trial Conference was held[9] and a Motion to Declare Defendants In Default[10] was filed by plaintiffs-appellees where they alleged that aside from defendants Spouses Cuevas, the other defendants failed to file their Answer despite service of Summons and a copy of the Complaint on June 5, 2009. In an Order dated July 28, 2009, the lower court granted the motion and declared defendants, Heirs of Maximino, in default.[11] On September 9, 2009, defendant-appellant Wilfredo filed his Motion for the Lifting and Setting Aside of the Order of Default and for the Admission of the Answer,[12] which was granted in an Order dated October 6, 2009 due to improper service of summons.[13]

In his Answer,[14] defendant-appellant Wilfredo denied the material allegations of the complaint, and by way of special and affirmative defenses, alleged that: plaintiffs-appellees do not have a cause of action to institute any suit against him and his co-defendants because the former do not have any proprietary right or interest over the subject property which is owned in common by him and his co-defendants, Heirs of Maximino, as their inheritance from the late Maximino, as evidenced by a tax declaration[15] and a certificate of title[16] in

Maximino's name; defendants Heirs of Maximino have been in open, continuous, exclusive, and notorious possession of the subject property in the concept of an owner, thus negating plaintiffs-appellees' claim that a portion thereof pertains to their hereditary share from Dionisio; the action instituted by plaintiffs-appellees is a collateral attack of OCT No. P-9535 which has long become incontrovertible, indefeasible, and conclusive against the whole world; even assuming *arguendo* that the subject property is owned in common by the plaintiffs-appellees and defendants Heirs of Maximino, plaintiffs-appellees' cause of action is no longer tenable because acquisitive prescription had already set in favor of defendants Heirs of Maximino and defendant-appellant Wilfredo's successors-in-interest; while no prescription runs in favor of a co-owner or co-heir against his co-owners or co-heirs as long as he expressly or impliedly recognizes the co-ownership, when the late Maximino caused the issuance of a title over the entire subject property in his name alone, he in effect, repudiated the co-ownership; and, imprescriptibility of the action to demand partition cannot be invoked when one of the averred co-owners has claimed the property as the exclusive owner thereof and possessed it for a period sufficient to acquire it by prescription.

Defendant-appellant Wilfredo thereafter filed his Pre-trial Brief.[17] Thereafter, trial on the merits ensued.

Plaintiffs-appellees presented plaintiffs-appellees Leonor Bulalague (Leonor for brevity), and Romulo Mijares (Romulo for brevity), Melba Vallena (Vallena for brevity), and Noel Artillero (Artillero for brevity) as witnesses.

Plaintiff-appellee Leonor testified[18] that: the late Dionisio was her grandfather, being the second child of Dionisio's daughter Delia; she is one of the co-owners of the subject property that was purchased by the late Dionisio, as evidenced by a Deed of Sale; there was an agreement between Dionisio and Maximino that the subject property would be shared between them; the agreement was followed when Dionisio was still alive, but when he died on October 16, 1971, Maximino no longer gave Dionisio's share in the harvest; by virtue of the 1986 decision rendered by the Regional Trial Court of Masbate City, it was found that the subject property is owned in common by the heirs of Dionisio, one of whom is Leonor, or "Ning-ning Javier," as she was known when she was still single, and Maximino; even after the issuance of the 1986 decision, defendants Heirs of Maximino failed to comply with plaintiffs-appellees' request for partition; at present, defendants Spouses Cuevas are in possession of the subject property; due to defendants' refusal to return their share in the subject property, she developed high blood pressure, and experienced mental anguish because she was humiliated being one of the co-owners of the subject property; she was unaware that Maximino caused the issuance of the title of the subject property in his name; she was unsure when she learned of the 1986 decision because she was then in Manila; the property involved in the 1986 decision is the same subject property in their complaint for partition; and, she discovered that defendants Spouses Cuevas came into possession of the subject property because defendants mortgaged the property to defendants Sps. Cuevas.

Plaintiff-appellee Romulo, on the other hand, testified[19] that: on March 3, 1958 his father, the late Dionisio, bought the subject property as evidenced by a Deed of Sale; when Dionisio died on October 16, 1971, his mother received her share in the produce of the land until 1974; the case subject of the 1986 decision is for Annulment of Sale; by virtue of the 1986 decision, plaintiffs-appellees Heirs of Dionisio and defendants Heirs of Maximino were declared co-owners in equal share of the subject property; defendants then appealed the 1986 decision to the Court of Appeals; there is already a Certification from the Court of Appeals dismissing the appeal, making the 1986 decision final and executory; sometime in May 1986, after the 1986 decision was issued, he talked to Maximino before a police investigator asking him if they could divide the subject property pursuant to said decision; Maximino could not decide then because according to him, the one handling this matter was a certain Atty. Pugado; when Maximino died, Armingol Basas (Armingol for brevity) and defendant-appellant Wilfredo came to his house and told him that they should divide the property so long as plaintiff-appellee Romulo would

not ask for damages, but at that time defendants Spouses Cuevas were already leasing the subject property; when the Court of Appeals issued a resolution in plaintiffs-appellees' favor sometime in 1990 (1990 resolution) dismissing defendants' appeal of the 1986 decision, plaintiffs-appellees were not furnished with a copy of the same; while a copy of the 1990 resolution was sent to a certain Atty. Ramos who represented plaintiffs-appellees during the trial of the Annulment of Sale case, after the 1986 decision was issued on February 17, 1986, they did not contact Atty. Ramos anymore; and, it was only on April 4, 2008 when he was in the Court of Appeals that he was able to secure a copy of the 1990 resolution.

Ms. Vallena testified[20] that: she has been the OIC of the Municipal Assessor of Dimasalang, Masbate since June 2011; and, on February 20, 2012 plaintiff-appellee Romulo requested for a Certification pertaining to the property of the late Maximino which she obliged.

Lastly, Mr. Artillero testified[21] that: he is a records officer of the Register of Deeds of Masbate; he identified the computer-generated copy of the title of a parcel of land belonging to the late Maximino; and, there is no encumbrance on the title of Maximino except for a notice of lis pendens.

On May 8, 2012, plaintiffs-appellees submitted their Memorandum[22] in support of their prayer for the issuance of a preliminary injunction, to which defendant-appellant Wilfredo and defendants Spouses Cuevas filed their respective Oppositions.[23] In an Order dated June 14, 2012, the lower court denied plaintiffs-appellee's prayer for a preliminary injunction for lack of merit.[24]

On September 12, 2012, plaintiffs-appellees filed their Formal Offer of Exhibits,[25] to which defendant-appellant Wilfredo and defendants Spouses Cuevas filed their Comment[26] and Opposition,[27] respectively. In an Order dated September 25, 2012, the lower court admitted the offered exhibits as evidence.[28]

For their part, defendants presented defendant-appellant Wilfredo and defendant Tiburcio Cuevas (Tiburcio) as their witnesses. Defendant-appellant Wilfredo testified[29] that: he suffered sleepless nights because of the partition case and wished to recover damages as a consequence thereof; his family has been in possession of the subject property for more than 40 years or since 1972; and, currently, defendants Spouses Cuevas are in possession of the subject property as lessees.

Defendant Tiburcio testified[30] that: he executed a Judicial Affidavit[31] in relation to this case; the lease contract executed in their favor over the subject property is not notarized; the lease contract was for the period March 1, 1995[32] to September 1, 2006; and, the lease remained valid beyond September 1, 2006 because of cash advances he paid to defendant-appellant Wilfredo.

Thereafter, defendant-appellant Wilfredo and defendants Spouses Cuevas filed their respective Formal Offer of Documentary Exhibits,[33] to which plaintiffs-appellees filed their Comment.[34] The lower court admitted the said exhibits.[[35]&[36]]

After the parties submitted their Memoranda,[37] the lower court rendered the assailed Decision[38] granting the complaint for judicial partition. The lower court noted that the 1986 decision already settled that plaintiffs-appellees Heirs of Dionisio and defendants Heirs of Maximino are co-owners of the subject property, giving the former a right to demand, claim, and possess through judicial partition their share in the same. The lower court did not sustain defendant-appellant Wilfredo's argument that the suit for partition is a collateral attack on their title because the action does not seek to nullify the same. In addition, the lower court found that prescription did not begin to run in favor of Maximino despite the fact that he repudiated the co-ownership openly because of the 1986 decision recognizing plaintiffs-appellees as co-owners of the subject property. Pursuant to the 1986 decision, the lower court ruled that defendants Heirs of Maximino do not have a right to lease the subject

property in its entirety to defendants Spouses Cuevas.

Undaunted, defendant-appellant Wilfredo filed the present appeal^[39] raising this assignment of error:^[40]

In support of the lone assigned error:

THE TRIAL COURT GRAVELY ERRED IN ORDERING THE PARTITION OF THE PROPERTY COVERED BY OCT NO. P-9555 (sic.).

The appeal lacks merit.

After a careful examination of the records of the case, as well as the law and jurisprudence pertinent thereto, this Court finds that the lower court correctly granted the complaint for judicial partition and recovery of hereditary share.

First, there is no merit in defendant-appellant Wilfredo's contention that the suit for partition is in effect a collateral attack on their title over the subject property. The pertinent law prohibiting a collateral attack of a title issued pursuant to the Torrens System is Section 48 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, which provides that:

SECTION 48. Certificate not subject to collateral attack. — A certificate of title shall not be subject to collateral attack. It can not be altered, modified, or cancelled except in a direct proceeding in accordance with law. (Emphasis supplied.)

The rationale for the proscription is easily discernible. A certificate of title accumulates in one document a precise and correct statement of the exact status of the fee held by its owner.^[41] However, while the perceived advantages of the Torrens system of registration of land titles have helped stabilize land ownership in the Philippines, it remains imperfect in that it remains susceptible to fraud, either in the original registration proceedings or in subsequent transactions.^[42] This is the reason why the law gives recourse to a victim of such fraud by giving him a chance to impugn, alter, change, modify, enlarge or diminish such title, but only in a direct proceeding permitted by law. Otherwise, all the securities in registered titles would be lost.^[43]

An action is an attack on a title when its object is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed.^[44] The attack is direct when the object of the action or proceeding is to annul or set aside such judgment, or enjoin its enforcement.^[45] 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.^[46]

The issue that confronts this Court therefore, is whether a suit for partition is a collateral attack of OCT No. P-9535 in the name of Maximino. This Court rules in the negative.

Malilin Jr. v. Castillo^[47] is especially helpful in that the Supreme Court categorically held that a complaint for partition is not a collateral attack on the title sought to be partitioned, to wit:

In his complaint for partition, consistent with our ruling in Roque regarding the nature of an action for partition, petitioner seeks first, a declaration that he is a co-owner of the subject properties; and second, the conveyance of his lawful shares. He does not attack respondent's titles. Petitioner alleges no fraud, mistake, or any other irregularity that would justify a review of the registration decree in respondent's favor. His theory is that although the subject properties were registered solely in respondent's name, but since by agreement between them as well as under the Family Code, he is co-owner of these properties and as such is entitled to the conveyance of his shares. On the premise that he is a co-owner, he can validly seek the partition of the properties in co-ownership and the conveyance to him of his share. (Emphasis supplied.)

In this case, plaintiffs-appellees' complaint for partition and delivery of hereditary share⁴⁸ before the lower court

did not allege any fraud, mistake, or irregularity in the issuance of OCT No. P-9535. In fact, not once did plaintiffs-appellees claim that the entire subject property covered by OCT No. P-9535 is theirs. They also never assailed its validity. They merely asked the lower court to partition the subject property because they are co-owners who are entitled to half thereof. While undeniably, OCT No. P-9535 is registered solely in the name of Maximino, the title's validity is not being impugned because after all, the late Maximino in fact owned half of the subject property. This Court is therefore inclined to rule as it so rules that the action for partition before the lower court is not a collateral attack on OCT No. P-9535.

Secondly, defendant-appellant Wilfredo invokes acquisitive prescription as an argument to exclude plaintiffs-appellees from recovering half of the subject property. According to defendant-appellant Wilfredo, by Maximino's act of registering the title over the subject property solely in his name, the latter effectively repudiated the co-ownership between him and Dionisio. Coupled with defendants' alleged possession since 1972, defendant-appellant Wilfredo argues that acquisitive prescription had already set in their favor.

Defendant-appellant Wilfredo's assertions fail to convince this Court. Prescription is a mode of acquiring ownership and other real rights over immovable property.[49] It is concerned with lapse of time in the manner and under conditions laid down by law, namely: that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse.[50] Acquisitive prescription is either ordinary or extraordinary. Ordinary acquisitive prescription requires possession in good faith and with just title for ten years, while extraordinary prescription requires uninterrupted adverse possession for thirty years without need of title or good faith.[51]

In this case, evidence of Maximino's alleged act of repudiation of the co-ownership is his act of registering the subject property solely in his name as reflected by OCT No. P-9535, under Free Patent No. 589189 issued on August 29, 1979.[52] However, Maximino's possession for purposes of prescription cannot be characterized by good faith since as early as 1975,[53] the Annulment of Sale case had already been pending, thus putting Maximino on notice that plaintiffs-appellees were claiming half of the subject property as co-owners thereof. In fact, at the time Maximino registered the subject property solely in his name in 1979, the 1986 decision had already been issued affirming plaintiffs-appellees' claim of ownership. Thus, since Maximino's possession is not characterized as one done in good faith, extraordinary acquisitive prescription requires that his adverse, uninterrupted possession last for thirty (30) years. Maximino and his successors failed to meet this legal requirement.

Defendant-appellant Wilfredo claims that from the time OCT No. P-9535 was issued on August 29, 1979, the defendants have been in open and interrupted possession for over 30 years now.[54] However, what defendant-appellant Wilfredo fails to consider is that from August 29, 1979 to February 17, 1986,[55] when the plaintiffs-appellees were declared as co-owners of the subject property, only a period of 6 ½ years had lapsed, or 23 ½ years short of the required 30 years to acquire the subject property by extraordinary acquisitive prescription. It must be emphasized that from February 17, 1986, whatever possession Maximino may have exercised over the subject property cannot be characterized as adverse, because from such time, Maximino had already been placed on notice that he and plaintiffs-appellees Heirs of Dionisio are co-owners in equal share of the subject property, to wit:

“WHEREFORE, and in view of the foregoing, judgment is hereby rendered in favor of the defendants and against the plaintiffs, declaring:

1. That the deed of sale executed by Nicolas Basas in favor of Maximino Basas and Dionisio Mijares is valid and binding among all the parties; and
2. That the land under litigation is owned in common by Dionisio Mijares, now his heirs, namely: Romulo

Mijares, Paulino Mijares, Nilda Mijares and Ningning Javier and Maximino Basas in equal shares.

No pronouncement as to damages and costs.

Complaint dismissed.

SO ORDERED.”[56]

In other words, Maximino's possession as a co-owner is likened to that of a trustee and cannot be regarded as adverse to the other co-owners, his possession being beneficial to all of them.[57]

Neither can it be said that plaintiffs-appellees are guilty of laches as to warrant the reversal of the assailed decision. Laches is the negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it has abandoned it or declined to assert it.[58] It does not involve mere lapse or passage of time, but is principally an impediment to the assertion or enforcement of a right, which has become under the circumstances inequitable or unfair to permit.[59]

In this case, while it is true that the 1986 decision has already become final and executory, as evidenced by the Entry of Judgment,[60] it cannot be said that its non-execution is tantamount to plaintiffs-appellees' abandonment of their rights. In fact, it must be noted that in their Complaint, plaintiffs-appellees reiterated that ever since the issuance of the 1986 decision, they had been requesting from the defendants that they divide the property, but the latter refused to do so.[61] Atty. Mijares, counsel for plaintiffs-appellees, during the hearing on February 22, 2012, also explained in open court that the 1986 decision was not executed despite it being final and executory because there were so many attempts for an amicable settlement.[62] Even plaintiff-appellee Romulo testified to this effect.[63] Interestingly enough, these allegations were not refuted by defendants. This Court therefore cannot, in conscience, construe the lapse of time of enforcing the 1986 decision as laches on the part of plaintiffs-appellees, especially since the latter also allege that they were unaware of the finality of the 1986 decision because of non-receipt of the 1990 resolution of this Court which dismissed defendants' appeal of the 1986 decision.[64] According to plaintiff-appellee Romulo, while the 1990 resolution was sent to a certain Atty. Ramos who represented plaintiffs-appellees during the trial of the Annulment of Sale case, after the 1986 decision was issued, they no longer contacted Atty. Ramos.[65] Plaintiff-appellee Romulo claimed that it was only on April 4, 2008 when he was in the Court of Appeals that he was able to secure a copy of the 1990 resolution.[66] Again, defendants never refuted this, nor did they present any proof that Atty. Ramos remained the counsel for or was at least an authorized representative of plaintiffs-appellees during the appeal of the 1986 decision, or that plaintiffs-appellees themselves were furnished with a copy of the 1990 resolution.

Indeed, plaintiffs-appellees' right to partition the subject property and recover their hereditary share, proceeds from their right as co-owners thereof, as settled and recognized in the 1986 decision. To be sure, even defendants do not deny the existence, nor do they assail the validity of the 1986 decision which has already attained finality. In any event, the oft-repeated rule that each co-owner may demand at any time the partition of the common property implies that an action to demand partition is imprescriptible and cannot be barred by laches.[67]

All told, this Court finds no cogent reason to depart from the ruling of the lower court granting the complaint for partition and recovery of hereditary share.

WHEREFORE, premises considered, the instant appeal is DENIED. The assailed Decision dated September 24, 2013 of the Regional Trial Court, Branch 47, Masbate City in Civil Case No. 6422 is hereby AFFIRMED.

SO ORDERED.

Gonzales-Sison, M., and Cruz, R. A., JJ., concur.

[*] It appears that this is a typographical error and should have been spelled as “Maximino”.

[1] Rollo, pp. 50-53. Penned by Judge Maximino R. Ables

[2] Rollo, pp. 52-53.

[3] Records, pp. 1-4.

[4] Records, pp. 44-50.

[5] Records, pp. 17-22.

[6] Records, p. 25.

[7] Records, pp. 146-148. N.B. In numerous instances, OCT No. P-9535 was erroneously referred to as OCT No. P-9555.

[8] Records, pp. 31-33; 34-36.

[9] Records, pp. 51-53.

[10] Records, pp. 55-56.

[11] Records, p. 57.

[12] Records, pp. 58-61.

[13] Records, p. 70.

[14] Records, pp. 62-66.

[15] Records, p. 67.

[16] Records, p. 68.

[17] Records, pp. 71-73.

[18] TSN dated November 22, 2011.

[19] TSN dated February 22, 2012.

[20] TSN dated July 4, 2012.

[21] Id.

[22] Records, pp. 104-111.

[23] Records, pp. 112-115; 152-155.

[24] Records, p. 164.

[25] Records, pp. 169-171.

[26] Records, pp. 204-205.

- [27] Records, pp. 207-209.
- [28] Records, p. 206.
- [29] TSN dated November 14, 2012.
- [30] TSN dated March 12, 2013.
- [31] Records, pp.216-229.
- [32] There was a typographical error in the TSN where the year 1975 appears to be the start of the lease, contrary to the lease contract which reflects the year 1995. See Records, p. 230.
- [33] Records, pp. 212-214; 250-252.
- [34] Records, p. 253.
- [35] Records, p. 256.
- [36] Records, p. 257.
- [37] Records, pp. 258-264; 265-272.
- [38] Records, pp. 275-278.
- [39] Records, p. 279; Rollo, pp. 38-49.
- [40] Rollo, p. 44.
- [41] *Spouses Zaragoza v. Court of Appeals et al.*, G.R. No. 106401, September 29, 2000, citing *Halili vs. Court of Industrial Relations*, 257 SCRA 174, 184 (1996).
- [42] *Manotok IV et al. v. Heirs of Barque*, G.R. No. 162335 & 162605, December 18, 2008.
- [43] *Supra* note 41. See also *Halili vs. Court of Industrial Relations*, 257 SCRA 174, 184 (1996); *Constantino vs. Espiritu*, 45 SCRA 557, 562 (1972); *Co vs. Court of Appeals*, 196 SCRA 705, 711 (1991).
- [44] *Malilin Jr. v. Castillo*, G.R. No. 136803, June 16, 2000.
- [45] *Id.* See also *Davao Newtown Development Corporation v. COSLAP*, G.R. No. 141523, June 8, 2005.
- [46] *Id.* citing *Co v. Court of Appeals*, 196 SCRA 705 (1991).
- [47] *Supra* note 44.
- [48] Records, pp. 1-4.
- [49] *Calicdan v. Cendana*, G.R. No. 155080, February 5, 2004.
- [50] *Id.*
- [51] *Id.* citing *Gesmundo v. Court of Appeals*, 378 Phil. 1099, 1107 [1999].
- [52] *Supra* note 7.
- [53] Records, p. 74.
- [54] Rollo, p. 46.
- [55] Rollo, pp. 74-80.

[56] Rollo, p. 80.

[57] Aguirre v. Court of Appeals, G.R. No. 122249, January 29, 2004, citing Salvador vs. Court of Appeals, 243 SCRA 239 (1995).

[58] Id. citing Ignacio vs. Basilio, 366 SCRA 15, 23 (2001); Lim Tay vs. Court of Appeals, 293 SCRA 634, 659 (1998).

[59] Id. citing Philippine Bank of Communications vs. Court of Appeals, 289 SCRA 178, 186 (1998).

[60] Rollo, p. 82.

[61] Records, pp. 1-4.

[62] TSN dated February 22, 2012, pp. 14-15

[63] Supra note 19.

[64] Id.

[65] Id.

[66] Id.

[67] Supra note 57 citing Deiparine vs. Court of Appeals, 299 SCRA 668, 679 (1998); Sandoval vs. Court of Appeals, 243 SCRA 239, 250 (1995).

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