

**PATROCENIO RIZO, REPRESENTED BY GEORGE SAMMONS,
PETITIONER, V. PEPITO VELASCO SUBSTITUTED BY MERDONIA V.
VELASCO, ZANDY VELASCO, GENE VELASCO, JOY VELASCO AND
VITA VELASCO, RESP...**

Ponente: DE GUIA-SALVADOR, R., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/24ca0885515f/>

DE GUIA-SALVADOR, R., J.:

Before Us is a Petition for Review of the Decision dated January 10, 2013[1] of the Regional Trial Court (RTC) of Masbate City, Branch 47, in Civil Case No. 6759, the dispositive portion of which states:

“WHEREFORE, in view of the foregoing, the appealed decision is affirmed in toto with cost against the Appellant.

SO ORDERED.”[2]

The Facts

The case stems from a Complaint for Forcible Entry with (Application for) Preliminary Injunction and Damages filed with the Municipal Circuit Trial Court (MCTC) of Aroroy-Baleno, Masbate, by petitioner and plaintiff therein, Patrocenio Rizo, represented by George Sammons (“Rizo” / “petitioner”), against respondent and defendant therein, Pepito Velasco (“Velasco” / “respondent”).[3] Subject of the suit is an agricultural land with an area of half an hectare, or 5,000 square meters (sq. m.) located at Lubigan, Ambolong, Aroroy, Masbate (“subject property”).[4]

Petitioner, as plaintiff, alleged that he purchased the property from Jose Cabarles Oliver, one of the heirs or children of the spouses Rosalio Oliver and Benita Cabarles, as part of the former’s hereditary share in the estate of his deceased parents.[5] The subject property was allegedly part of a land covered by Transfer Certificate of Title (TCT) No. T-13604, in the name of the said spouses Oliver.[6] Petitioner purchased the subject property on April 8, 1977.[7] The sale is allegedly evidenced initially by a Certification of even date, and later, by a Deed of Sale dated August 19, 2002.[8] Petitioner claimed that he had been in the exercise of ownership and possession of the property ever since.[9] However, on November 13, 2005, his possession was interrupted when respondent “with the help of hired laborers, unlawfully deprived (him) and his family of the use, possession and enjoyment of about 800 square meters of the subject realty by force and intimidation.”[10] Allegedly, respondent had refused to vacate the occupied portion despite demand, to the damage and prejudice of petitioner.[11]

In his Answer, respondent, as defendant, challenged the authority of petitioner’s agent, George Sammons, to file the complaint due to the alleged lack of a provision in his Special Power of Attorney (SPA) to sign the verification and certification of non-forum shopping on petitioner’s behalf.[12] Respondent further countered that it was petitioner who illegally occupied an area of 3,982 sq. m. that belongs to respondent, and that the latter allegedly was not the one who encroached on 800 sq. m. of petitioner’s property.[13] Respondent claimed that the 3,982 sq. m. is part of a bigger area he owned that is covered by TCT No. T-13605 registered in his name.[14]

Thus, respondent prayed that petitioner be ordered to vacate the said 3,982 sq. m. and pay rental arrears reckoned from the time of occupation to the time that possession is returned to respondent.[15]

During the preliminary conference held in the case, the parties agreed to a relocation survey, during which the court commissioned Engr. Antonio T. Belo, Jr., the Municipal Engineer of Aroroy, Masbate, to conduct the same.[16] The findings of Engr. Belo are as follows:

- That Lot 1911-B enclosed by bold black lines as shown in the attached sketch plan containing an area of 10,893 sq. m. was claimed by Mr. Pepito Velasco.
- That Lot 1 & Lot A enclosed by bold red lines as shown in the attached sketch plan containing a total area of 13,596 sq. m. was claimed by Mr. George Sammons.
- Lot 2 & Lot B enclosed by bold green lines as shown in the attached sketch plan containing a total area of 5,684 sq. m. was claimed by Mr. Patrocinio Rizo.
- That Lot A with dotted red marks as shown in the attached sketch plan containing a total area of 1,971 sq. m. within/inside the area claimed by Mr. Pepito Velasco and Mr. George Sammons.
- That Lot B with dotted green marks as shown in the attached sketch plan containing a total area of 2,013 sq. m. within/inside the area claimed by Mr. Pepito Velasco and Mr. George Sammons.
- That the total area in question (Lot A & Lot B) is 3,984 sq. m.[17]

The parties then proceeded with the submission of their respective position papers.

Petitioner, as plaintiff, essentially reiterated in his Position Paper the allegations in his complaint.[18] Further, he posited that “there exists a case of double sale or sale of the around 2,013 sq. m. to two different individuals,” the petitioner and respondent.[19] Petitioner then called attention to a pending case assailing the purchase made by respondent from another heir of the Oliver spouses, Lucia Cabarles Oliver, through a Deed of Extrajudicial Settlement with Sale dated September 25, 1992.[20] Said case is a civil action for annulment of document, cancellation of TCT and damages, docketed as Civil Case No. 6213, pending before the RTC of Masbate.[21]

Petitioner admitted that respondent was the first to register the sale in his favor with the Registry of Deeds of Masbate.[22] However, petitioner posited that such registration was “not done in good faith” since respondent was allegedly “never unaware that (petitioner) has been in possession of around 2,013 sq. m. in the concept of owner (and) in good faith since 1977.”[23] Petitioner also presented evidence of payment of real property taxes on the property.[24] Finally, petitioner concluded that there was “no legal ground why (petitioner) should not be awarded with the possession de facto of the area denominated as Lot B in the sketch plan measuring 2,013 sq m.”[25]

For his part, respondent, as defendant, alleged in his Position Paper that petitioner has no cause of action.[26] Respondent cited the contradicting claims of petitioner, in that in the testimony of the surveyor, it appeared that the total area being claimed by petitioner was 13,596 sq. m. and an additional 5,684 sq. m., when in his complaint, he alleged having owned only 5,000 sq. m. or half a hectare.[27] Thereafter, respondent cited his evidence of ownership and possession, to wit: TCT No. T-13605 and Tax Declaration No. 09825 both registered in his name; and a Deed of Extrajudicial Settlement with Sale, among others.[28]

The MCTC Decision

In its Decision dated May 7, 2012, the MCTC dismissed the complaint, declared respondent (defendant therein) the owner of Lot B and ordered petitioner (plaintiff therein) to surrender possession of said Lot B in favor of

respondent.[29]

The court stated that it decided to pass upon the issue of ownership presented by the parties to determine the issue of possession and, in doing so, it found that although the petitioner claimed to have bought his property on April 8, 1977, it is yet to be registered, while the purchase made by respondent on September 25, 1992 had been registered on December 17, 2002, which even led to the issuance of TCT No. T-13605 in respondent's name.[30] The case that is pending with the RTC which purportedly seeks to assail the said sale to respondent was not considered, as it was still ongoing and had not attained finality.[31] Further, the court noted that petitioner himself had not filed a case to assail the issuance of TCT No. T-13605, if indeed petitioner believes that fraud attended such issuance.[32] Lastly, the court clarified that only Lot B is the portion that is being disputed in the case, as Lot A is in fact owned by George Sammons, who is not a party but a mere attorney-in-fact of petitioner.[33]

From this decision, petitioner filed an appeal with the RTC. In his appeal Memorandum before the RTC, he merely reiterated his allegations in his position paper with the MCTC.[34]

The RTC Decision

The RTC denied the appeal and affirmed the MCTC decision. The court agreed that there was a double sale involving around 2,013 sq. m. of the property, involving two different individual buyers and two different vendors who are co-heirs.[35] The RTC found that the private sale dated April 8, 1977 in favor of appellant “cannot be the legal basis to transfer whatever right in favor of the (petitioner),” because it did not identify the property subject of the transaction and at that time, the property of Rosalio Oliver had not been partitioned.[36] On the other hand, the Deed of Sale of a Portion of Land dated August 19, 2002 by Jose Oliver in favor of petitioner was found to have been “executed not in accordance with the partition by the heirs of Rosalio Oliver in 1992,” hence, it cannot bind the shares of heirs Lucia and Florendo.[37]

The RTC also found that the sale of August 19, 2002 in favor of petitioner was not registered in the Register of Deeds of Masbate;[38] that the real property tax payments made by petitioner only date from 2000 to 2008, but no tax payments were shown to have been made from 1977 and later.[39] The RTC further agreed with the MCTC that since respondent was the one with a title issued by the Register of Deeds, after complying with the legal requirements, then it is respondent who has the right of possession over Lot B.[40]

Hence, this petition for review.

Petitioner asserts that the registration made by respondent of his purchase was made with bad faith, as respondent was allegedly “never unaware of petitioner's claim, title and possession” of the property since 1977.[41] Petitioner charges that respondent should have been put into inquiry to “acquaint him with the defects in the title of his vendor.”[42]

Petitioner also alleges that he was in prior possession of the property, as his possession was only interrupted on November 13, 2005.[43] That respondent argues that it was petitioner who encroached on respondent's land allegedly shows that it was petitioner who was in prior possession.[44]

The Issue

For our resolution is the lone issue: Who between petitioner and respondent is entitled to the possession of the subject property, specifically, Lot B as designated by the court-appointed surveyor?

The Court's Ruling

We find the petition devoid of merit.

The petition raises issues revolving around the factual findings of the lower courts. The rule is long and well-settled that the conclusions and findings of fact of trial court are entitled to great weight and respect on appeal.[45] They are not to be disturbed except for the most compelling reason[46] such as (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; or (5) when the trial court has ignored or overlooked certain facts or circumstances, of weight and significance which, if considered, would alter the result of the case.[47] Our perusal of the record yielded no strong and cogent reasons as would warrant a deviation from the lower court's factual findings.

In this case, the petition raises two factual issues: first, petitioner contends that there is bad faith in respondent's registration of his purchase of the subject property, as he was supposed to have known about petitioner's prior occupation; and second, petitioner was in prior occupation before having been disturbed of such possession by respondent.[48]

We are unswayed by petitioner's contentions.

From the rollo, it is notable that the Answer of respondent raised the defense of his ownership of the subject property. Specifically, respondent countered that it was petitioner who illegally occupied an area of 3,982 sq. m. of respondent's titled property, with such 3,982 sq. m. being part of a bigger area he owned that is covered by TCT No. T-13605, registered in his name.[49] Thus, respondent prays for petitioner's ejectment therefrom. Later on, through a court-commissioned survey conducted by Engr. Belo, the Municipal Engineer of Aroroy, Masbate, the area being contested, subject of this controversy, was determined and pinpointed to be Lot B, with an area of 2,013 sq. m.[50]

Such counterclaim made by respondent for petitioner's own ejectment based on a defense of ownership put the case under the category of ejectment cases wherein the issue of possession had become intimately intertwined with the issue of ownership. Stated differently, the parties in this case both have asserted each other's ownership of the contested property, based on the purchases they allegedly made from different heirs of the original owner, the late Spouses Oliver. That the issue of ownership had become crucial to the determination of the issue of possession is evident even in the very petition itself, where the petitioner even assails the validity of respondent's title.

It bears stressing that the determination of whether a case is one for forcible entry or another depends on the allegations of the complaint.[51] It is axiomatic that what determines the nature of an action as well as which court has jurisdiction over it are the allegations in the complaint and the character of the relief sought.[52]

To consider a case as one for forcible entry, the complaint must aver facts constitutive of forcible entry, as outlined in Rule 70 of the Rules of Court; otherwise, the case should either be accion publiciana or accion reivindicatoria.[53] Under Section 1 of the said rule, those facts should be as follows: the complainant must be one who has been deprived of possession of any land or building, by force, intimidation, threat, strategy or stealth, and who must institute the summary action for forcible entry within a year from such unlawful deprivation.

In the instant case, petitioner properly alleged facts constitutive of forcible entry. He alleged that: a) he purchased the subject property on April 8, 1977;[54] b) he had been in exercise of ownership and possession of the property ever since;[55] c) his possession was interrupted on November 13, 2005, when respondent "with the help of hired laborers, unlawfully deprived (him) and his family of the use, possession and enjoyment of about 800 square meters of the subject realty by force and intimidation;"[56] and d) respondent had refused to vacate the occupied portion despite demand, to the damage and prejudice of petitioner.[57]

In other words, in an ejectment suit, like one for forcible entry as in this case, the only issue is possession de facto or physical or material possession and not possession de jure.[58] However, there may be instances when the question of ownership is raised as an incident in an ejectment case by the parties, such as where the resolution of the issue of possession hinges on a determination of the validity and interpretation of the document of title or any other contract on which the claim of possession is premised. In such a situation, where a determination of such a question of ownership is necessary for a proper and complete adjudication of the issue of possession, the inferior courts are “conditionally vested with adjudicatory power over the issue of title or ownership” but only for the purpose of determining the issue of possession.[59] The parties are not precluded nor barred from filing another action involving the title to the real property in the proper venue.[60] As Section 7, Rule 70 of the Rules of Court expressly provides, the judgment rendered in an action for forcible entry or unlawful detainer shall be effective with respect to the possession only and in no wise bind the title or affect the ownership of the land or building.[61]

In the case at bar, the conflicting allegations of ownership between the parties had to be addressed in order to determine who among them has the right to possession de facto of the real property. On this matter, We agree with the findings of the lower courts and uphold the same. Between the two parties, it was respondent who was able to produce a valid certificate of title that covers the disputed portion, Lot B. Further, it was found by both lower courts that although the sale made by one heir to petitioner was earlier in date, the sale made to respondent by another set of heirs was first to be registered with the Register of Deeds, as in fact such registration resulted in the issuance of TCT No. T-13605 (Exhibit “1”)[62] in favor of respondent. Under the Civil Code,

Art. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith. (1473) (Emphasis supplied.)

Petitioner's only bid at assailing respondent's title is to allege that the latter's registration of the sale to him was not done in good faith, i.e., that the respondent was allegedly aware of the prior sale to and possession of petitioner. Aside from this bare assertion, however, petitioner presented no evidence to substantiate respondent's alleged knowledge or bad faith. On the contrary, it appears from the records that respondent made his purchase while relying on his vendors' clean title. Further, the petitioner neither appealed nor challenged the RTC's findings that: a) the sale by Jose Oliver in favor of petitioner dated April 8, 1977 (Exhibit “A”)[63] could not have identified the property the latter was purchasing since, at that time, the property of Rosalio Oliver had not been partitioned by the heirs;[64] b) the sale dated August 19, 2002 (Exhibit “B”),[65] also from Jose Oliver in favor of petitioner, was not executed in accordance with the partition of the heirs of Rosalio Oliver and, therefore, could not have bound the shares of Lucia and Florencio Oliver, who later on sold their shares to respondent after the partition on September 25, 1992.[66]

At any rate, Our finding herein as to the ownership of the subject Lot B is only provisional and should not foreclose nor prejudice any action by the parties to ascertain or remove clouds on their own titles or assail, invalidate, annul or declare as void the others' titles, if such be deemed necessary or meritorious by any of them. This decision is only binding as to the issue of possession de facto of the subject property, with the issue of ownership having been provisionally resolved only to determine the issue of possession.

WHEREFORE, in view of the foregoing, the Petition for Review is DENIED. The Decision dated January 10, 2013 of the Regional Trial Court of Masbate City, Branch 47, in Civil Case No. 6759, is AFFIRMED.

SO ORDERED.

Garcia and Bueser, JJ., concur.

[1] Rollo, pp. 41-45; penned by Judge Maximo R. Ables.

[2] Id. at 45.

[3] Id. at 46-48.

[4] Id. at 46.

[5] Id.

[6] Id.

[7] Id.

[8] Id. at 46-47, 50, 52-53.

[9] Id. at 47.

[10] Id.

[[11]] Id.

[12] Id. at 77.

[13] Id.

[14] Id.

[15] Id. at 78.

[16] Id. at 36.

[17] Id. at 36-37, 70-71.

[18] Id. at 54-55.

[19] Id. at 56.

[20] Id. at 57.

[21] Id.

[22] Id.

[23] Id.

[24] Id.

[25] Id. at 58.

[26] Id. at 84.

- [27] Id. at 83-84.
- [28] Id. at 84-85.
- [29] Id. at 35-40; penned by Judge Igmedio Emilio F. Camposano.
- [30] Id. at 37-38.
- [31] Id. at 39.
- [32] Id.
- [33] Id. at 39-40.
- [34] Id. at 95-102.
- [35] Id. at 43.
- [36] Id.
- [37] Id.
- [38] Id. at 44.
- [39] Id.
- [[40]] Id. at 44-45.
- [41] Id. at 16, 19-21.
- [42] Id. at 21.
- [43] Id.
- [44] Id.
- [45] AHS/ Philippines, Inc. vs. Court of Appeals, 257 SCRA 319, 329
- [46] Heirs of Felicidad Canque vs. Court of Appeals, 275 SCRA 741, 751
- [47] Far East Bank and Trust Company vs. Court of Appeals, 256 SCRA 15, 19
- [48] Rollo, pp. 16-21.
- [49] Id. at 77.
- [50] Id. at 70-71.
- [51] De la Cruz v. Court of Appeals, G.R. No. 139442, December 6, 2006.
- [52] Ten Forty Realty and Development Corp. v. Cruz, G.R. No. 151212, September 10, 2003.
- [53] Serdoncillo v. Spouses Benolirao, G.R. No. 118328, October 8, 1998.
- [54] Rollo, p. 46.
- [55] Id. at 47.
- [56] Id.
- [57] Id.

[58] Spouses Diu v. Ibajan, G.R. No.132657, January 19, 2000.

[59] Oronce v. Court of Appeals, G.R. No. 125766, October 19, 1998; RULES OF COURT, Rule 70, Sec. 16.

[60] Id.; Spouses Refugia v. Court of Appeals, G.R. No. 118284, July 5, 1996.

[61] Id.

[62] Rollo, p. 87.

[63] Id. at 62.

[64] Id. at 43.

[65] Id. at 63-64.

[66] Id. at 43.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.