

**SPOUSES ROLANDO C. ABAQUIN & TRINIDAD R. LACUATA,
REPRESENTED BY THEIR ATTORNEY-IN-FACT ILDEFONSA LACUATA
PELINDARIO, PLAINTIFFS-APPELLEES, VS. SPOUSES ROLANDO
ICASAS & EVELYN I...**

Ponente: BATO, JR., J.

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BATO, JR., J.:

On appeal is the Decision[1] dated May 8, 2003 of the Regional Trial Court of Parañaque City, Branch 274, in Civil Case No. 98-0447, an accion publiciana case involving a parcel of land located at the corner of Sampaguita and Everlasting Streets, United Parañaque Subdivision IV, Barangay Marcelo, Parañaque City.

Spouses Rolando C. Abaquin and Trinidad R. Lacuata, (hereinafter referred to as the “appellees”), are the registered owners of the disputed lot as evidenced by Transfer Certificate of Title No. (S-27387) 95054 and declared for taxation purposes under Tax Declaration No. E-006-09253. Appellees claim that sometime in 1983, when they were already residing abroad, spouses Rolando Icasas and Evelyn Icasas (“appellants” for brevity), occupied the said parcel of land without their consent and built thereon a “carinderia”. Appellees discovered the unauthorized occupancy of the appellants sometime in 1990 when they visited the Philippines. Through their lawyer, appellees demanded that appellants vacate the same. In 1998, appellees again visited the Philippines and found that appellants were still occupying their lot. Acting through their counsel, appellees again sent another demand letter to appellants on March 4, 1998 regarding their unauthorized occupancy and gave them the opportunity to buy the lot at the prevailing market value. Receiving no response to their March 4, 1998 demand letter, appellees sent two successive letters to the appellants reiterating their demand for the appellants to vacate from the lot in question. When appellees’ final demand letter was not heeded by the appellants, the instant case was instituted by the appellees before the trial court on November 24, 1998.

In answer to the appellees’ complaint, appellants claimed that they are the tenants of the so-called Rodriquez Estate which is the real owner of the subject parcel of land, hence, appellees title over the disputed lot is spurious.

The appellants did not show-up during the pre-trial conference. Thus, on motion of the appellees, the trial court declared the appellants as in default and appellees were allowed to adduce their evidence ex-parte.

After due proceedings, the assailed decision in favor of the appellees was promulgated with the following dispositive portion:

“Wherefore, the foregoing considered, decision is hereby rendered for the plaintiffs and against the defendants ordering the latter, and/or their representatives to –

; (1) Vacate the parcel of land described and covered by Transfer Certificate Of Title No. (S-27387) 95054 and to surrender possession thereof to the plaintiffs; 2.

(2) Pay the plaintiffs P1,000.00 a month for and as rentals on reasonable compensation for the use of the subject lot from the date of demand in August, 1990 until they vacate the same;

(3) Pay the plaintiffs the sum of P50,000.0 and P2,000.00 per Court appearance by way of attorney's fees;

(4) Pay the costs of suit.

SO ORDERED.”[2]

Hence this appeal wherein appellants contend that:

“The Court a quo erred:

WHEN IT HELD:

1. That the plaintiffs were able to prove the ownership of the lot in question by being the registered owner as shown in TCT# (S-227387) 95054.
2. That Tax Declaration No. E-006-09243 proves the ownership of the land in question.
3. That plaintiffs were able to prove that defendants occupied the property in 1983.
4. The Order dated November 5, 2002 submitting the case for resolution due to the failure of the defendants and their counsel to appear on the scheduled date of hearing, November 5, 2002, has no proof of receipt of the notice/order setting the hearing on the aforesaid date.”[3]

The focal point of this appeal is to determine who between the parties has the better right to possess the subject property.

Accion publiciana, which is a plenary action to recover possession, is proper where the issue is who has the better and legal right to possess or to whom possession de jure pertains.[4] In the case at bar, after a scrutiny of the evidence before us, we affirm the trial court's decision that the appellees have the better right to be in possession of the disputed lot.

Appellants' defense that the appellees' title to the disputed lot was acquired through fraud and is therefore spurious must fail for the simple reason that the validity of a Torrens Title cannot be assailed collaterally. In *Ybañez vs. Intermediate Appellate Court*,[5] the Supreme Court reiterated the doctrine on the indefeasibility of a Torrens Title in this wise:

“It was erroneous for petitioners to question the Torrens Original Certificate of Title issued to private respondent over Lot No. 986 in Civil Case No. 671, an ordinary civil action for recovery of possession filed by the registered owner of the said lot, x x x. Such a defense partakes of the nature of a collateral attack against a certificate of title brought under the operation of the Torrens system of registration pursuant to Section 122 of the Land Registration Act, now Section 103 of P.D. 1259. The case law on the matter does not allow a collateral attack on the Torrens certificate of title on the ground of actual fraud.¹¹ The rule now finds expression in Section 48 of P.D. 1529 otherwise known as the Property Registration Decree.

The certificate of title serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein. After the expiration of the one (1) year period from the issuance of the decree of registration upon which it is based, it becomes incontrovertible. The settled rule is that a decree of registration and the certificate of title issued pursuant thereto may be attacked on the ground of actual fraud within one (1) year from the date of its entry and such an attack must be direct and not by a collateral proceeding. The validity of the certificate of title in this regard can be threshed out only in an action expressly filed for the purpose.”[6]

In fine, whatever right of possession appellants may have over the disputed property cannot prevail over that of appellees because appellants are not the registered owners of the disputed property, while appellees are. If, as appellants alleged, fraud had vitiated the issuance of TCT No. (S-27387) 95054 in appellees' name, then their remedy is not this present appeal attacking collaterally by way of an affirmative defense such Torrens Title.

Indeed, the longstanding rule is that the person who has a Torrens Title over a land is entitled to possession thereof.[7]

Appellants' argument that the appellees' right to possess the disputed lot has already prescribed must likewise fail. The case of *Cutanda vs. Heirs of Roberto Cutanda*[8] cited by the appellants wherein the Supreme Court ruled that the remedy of *accion publiciana* must be availed of within ten years from dispossession, is not applicable in the present case. In the *Cutanda* case, the subject realty was an unregistered land while the present case involves a land registered under the Torrens System. Instead, what is applicable to the present case is the ruling of the Supreme Court in the case of *Tuason & Co. vs. Aguirre*[9] cited in the case of *Mateo vs. Diaz*[10] that "an action to recover possession of a registered land never prescribes in view of the provision of Section 44 of Act No. 496 to the effect that no title to registered land in derogation to that of a registered owner shall be acquired by prescription or adverse possession".

As a last ditch effort to achieve their cause, appellants contend that they were not able to present their evidence in the trial court because of the actuations of their former lawyer. Hence, they were not given their day in court. Appellants also contend that there is no evidence to prove that their former lawyer indeed received the notice of hearing scheduled on November 5, 2002.

First, it has long been settled that a client is bound by the action of his counsel in the conduct of a case and cannot be heard to complain that the result might have been different had he proceeded differently.[11] We see no reason to depart from this settled rule. Second, under Rule 131, Section 3(v) of the Rules of Court, there is a presumption that a letter duly directed and mailed was received in the regular course of the mail. In the present case, the bare denial of the appellants that there is doubt whether their former lawyer received the November 5, 2002 notice of hearing cannot prevail over the ruling of the trial court that appellants' lawyer was notified through registered mail as evidenced by Registry Receipt No. 0026155 dated October 24, 2002. Third, even if we consider the evidence of the appellants in reviewing this case, just the same, we still rule in favor of the appellees for reasons already discussed above. Fourth, by virtue of this appeal, appellants cannot now bewail that they have been deprived of their day in court.

WHEREFORE, the appeal is hereby DENIED. The Decision dated May 8, 2003 rendered by the Regional Trial Court of Parañaque City, Branch 274, is AFFIRMED.

SO ORDERED.

Sabio, Jr., and Maambong, JJ., concur.

[1] Records, pp. 208-210.

[2] *Ibid*, p. 210.

[3] Appellant's Brief, Rollo, pp. 7-12, 7.

[4] *Arcal vs. Court of Appeals*, 285 SCRA 34, 45 [1998].

[5] 466 SCRA 743 [1991].

[6] *Ibid*, pp. 748-749 .

[7] *Javelosa vs. Court of Appeals*, 265 SCRA 493, 504 [1996].

[8] 335 SCRA 418, 426 [2000].

[9] 7 SCRA 109 [1963].

[10] 374 SCRA 33, 40 [2002].

[11] Ragudo vs. Fabella Estate Tenants Association, Inc., 466 SCRA 136, 145 [2005].

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