

**FELISA DANA, JOINED BY HER HUSBAND NORBERTO DANA,
PETITIONERS, VS. NERISSA TARTANA, RYAN TARTANA AND HIS
WIFE ALIAS “TESSA” TARTANA, DANNY SANICO AND GIL SANICO,
RESPONDENTS.**

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

The Case

This is a petition for review[1] under Rule 42 of the Rules of Court of the Decision[2] dated April 10, 2013 and Order[3] dated May 15, 2013 of the Regional Trial Court (RTC) Branch 16 of Roxas City in Civil Case No. V-31-11. The RTC ruled in the exercise of its appellate jurisdiction and found no reversible error in the findings of facts and law of the 1st Municipal Circuit Trial Court (MCTC), President Roxas-Pilar, President Roxas, Capiz, in the latter's decision[4] dated May 27, 2011, which dismissed the case for unlawful detainer filed by herein petitioners against herein respondents. Thereafter, the RTC denied petitioners' Motion for Reconsideration.

The Antecedent Facts

On April 14, 2010, the petitioners filed a complaint[5] for unlawful detainer against the respondents before the MCTC of President Roxas-Pilar, President Roxas, Capiz. They alleged in the complaint that they are the absolute and registered owners of Lot No. 1973-A-6-D (subject Lot), which is covered by TCT No. T-32512 and is particularly described and bounded as follows:

“A parcel of land (Lot 1973-A-6-D, Psd 06-052573, being a portion of Lot No. 1973-A-6, Psd.-06-046816, situated in the Brgy. Of San Nicolas, Municipality of Pilar, Province of Capiz, Island of Panay. Bounded on the NW., along line 1-2, by the Provincial Road; on the NE., along line 2-3, by Lot 1973-A-6-C; on the SE., along line 3-4, by Lot 1973-A-6-I; on the SW., along 4-5, by Lot 1973-A-6-E; and on the NW., along line 5-1, by Provincial Road. Cad. -248. Containing an area of ONE HUNDRED EIGHTY ONE (181) SQUARE METERS, more or less.”[6]

Petitioners also alleged that they have religiously paid real property taxes on the subject Lot[7] and claimed that the respondents were occupying the subject Lot and were able to build a house thereon and other structures only by mere tolerance of the petitioners and their predecessors-in-interest without the benefit of any contract, express or implied, and without any rent.[8]

They continued that since petitioners already needed the subject Lot, they sent demand letters to the respondents demanding the latter to vacate the subject Lot, to remove all structures built thereon, and to turn-over actual possession to the petitioners, within fifteen days from receipt of such demand letter.[9] When the demand letters remained unheeded, petitioners thus filed the complaint for unlawful detainer within one year from their last demand on March 19, 2010.[10]

In their Answer[11], respondents claimed that their occupation of a portion of Lot No. 1973, located in Brgy. San

Nicolas, Pilar Capiz, consisting of Three Hundred (300) Square Meters, is lawful. They claimed that they are the true and lawful owners of the portion of Lot No. 1973 as they inherited the same from the late Quintin Sanico, the father of herein respondents Nerissa S. Tartana and Gil Sanico.[12]

To bolster their claim of ownership, respondents presented a Deed of Absolute Sale dated December 3, 1962 between Saturnina Custodio as seller and Spouses Alejo and Estrella Arboleda as buyers and alleged that such deed transferred the property they are claiming from Saturnina Custodio to Spouses Arboleda. Thereafter, the Spouses Arboleda sold the same property to Quintin Sanico under a Deed of Sale dated September 3, 1977. As such, Quintin Sanico left such property to his heirs, including herein respondents.[13]

Respondents, moreover, alleged in their Answer that the Deeds of Absolute Sale, which transferred the ownership of a portion of Lot No. 1973 from Saturnina Custodio to Spouses Arboleda and later to Quintin Sanico, were registered with the Office of the Register of Deeds under Entry Nos. 34030 and 34031, respectively, in accordance with the provision of Act No. 3344.[14] They further alleged that after the portion of Lot No. 1973 was sold to Quintin Sanico, Saturnina Custodio fraudulently applied for a Free Patent with the Office of the Department of Environment and Natural Resources (DENR), Roxas City, thus she was issued an Original Certificate of Title No. P-7262, under Free Patent No. (VI-2) 4382, covering Lot No. 1973-A, consisting an area of Eleven Thousand Six Hundred Thirty Three (11,633) Square Meters, more or less, on April 25, 1980.[15]

Respondents then alleged that Lot No. 1973-A covered by OCT No. P-7262 was subjected to an Extrajudicial Partition among the co-heirs of Saturnina Custodio. After which, portion of Lot No. 1973-A was subdivided into several sub-lots, and later one parcel was sold to Felisa Danao only in 1999,[16] which is now Lot No. 1973-A-6-D.

Considering that the portion of Lot No. 1973 bought by Quintin Sanico is part of the portion covered by OCT No. P-7262 in the name of Saturnina Custodio, respondents claim that they are in possession of Lot No. 1973-A-6-D not by tolerance but in the concept of an owner. Thus, they claim better right over the property including right to possession of the same.[17]

On August 11, 2010, the MCTC appointed Mansueto A. Aguirre as Court Commissioner to conduct a relocation survey to determine whether or not the defendants (herein respondents) are in possession of of the lot subject matter of this case being claimed by the plaintiff (herein petitioners).[18]

Commissioner Aguirre submitted his Report[19] and stated therein that, “on September 15, 2010 a relocation survey was conducted after giving due notice to the parties concerned. The data and documents used where (sic) the one (sic) requested by the undersigned from the plaintiffs and defendants. The lot subject of this case was identified as Lot 1973-A-6-D, Psd-06-046816 with an area of 181 Sq.M., situated in Brgy. San Nicolas, Pilar, Capiz with TCT No. T-32512 registered in the name of Felisa Danao. That the lot bought by the defendants from Saturnina Custodio with an area of 300 Sq. M. cannot [be] physically identified on the ground except that it is a portion of Lot [No.] 1973, Pilar Cadastre. Neither the defendants can show any survey plan inspite of their claim that it was surveyed a long time ago. Xxx”[20]

After the parties' submission of their respective position papers[21] and affidavits, the MCTC dismissed the complaint and reasoned out that the petitioners should have filed an accion reivindicatoria since the issue of possession cannot be decided without deciding the issue on ownership, thus:

“WHEREFORE, judgment is hereby rendered:

1. Dismissing the case for failure of plaintiffs to prove their complaint and the issue of possession cannot be decided without deciding the issue on ownership and for having sought an erroneous remedy under the law;

2. Plaintiffs to pay defendants the amount of Thirty Thousand (P30,000.00) Pesos for litigation expenses and attorney's fees; and

3. Without pronouncement as to cost.

SO DECIDED.”[22]

Consequently, on appeal to the RTC, the latter ruled that petitioners' case makes out a case for unlawful detainer within the jurisdiction of the MCTC, contrary to the findings of the court a quo. However, the RTC found that petitioners failed to prove the allegations in their complaint as they failed to prove that the possession of respondents is by mere tolerance and that such tolerance was present from the very beginning. Thus, the RTC held:

“WHEREFORE, finding no reversible error in the findings of facts and law of the court a quo embodied in the Decision of May 27, 2011, the Court affirms the said findings of facts and law and orders the dismissal of the appeal.

Costs to appellants.

SO ORDERED.”[23]

Petitioners timely filed a Motion for Reconsideration[24] and questioned the finding that petitioner Felisa Danao's affidavit is not sufficient evidence but mere allegations and raised therein the propriety of the award of attorney's fees and litigation expenses. The RTC, however, denied such motion for lack of merit.

Hence, this petition with the following assignment of errors:

“THE REGIONAL TRIAL COURT GRAVELY ERRED:

A) IN DECLARING THAT APPELLANTS FAILED TO PROVE THEIR OVERT ACTS OF TOLERANCE OF APPELLEE'S POSSESSION OVER THE SUBJECT LOT, ENOUGH TO CONVINCE THE COURT THAT THE LATTER'S ORIGINAL POSSESSION WAS LEGAL;

B) IN AFFIRMING THE FINDINGS OF FACTS AND LAW OF THE FIRST LEVEL COURT AS EMBODIED IN ITS DECISION DATED MAY 27, 2011;

C) IN DENYING FOR LACK OF MERIT THE MOTION FOR RECONSIDERATION OF THE PETITIONERS AS STATED IN THE ORDER DATED MAY 15, 2013;

D) IN AWARDING ATTORNEY'S FEES AND LITIGATION EXPENSES IN FAVOR OF THE RESPONDENTS EVEN WITHOUT FACTUAL AND LEGAL BASIS AND WAS NOT DISCUSSED IN THE BODY OF THE DECISION.”[25]

Petitioners aver in their Petition that Lot No. 1973-A-6-D is registered in the name of Felisa Danao under TCT No. T-32512 and this fact is never disputed in the lower courts, thus being the lawful owners, petitioners are entitled to possession of the property. They impute error on the RTC, which found that they were not able to prove their and their predecessors' tolerance despite petitioner Felisa Danao's statement in her affidavit that respondents themselves told her that Saturnina Custodio, her grandmother, allowed the respondents to stay in the subject Lot, and despite her statement that she actually granted the requests of respondents to stay on the said property. Petitioners also aver that respondents' claim of ownership is untenable since the portion of Lot No. 1973, which respondents alleged to have inherited from Quintin Sanico, cannot be identified as evidenced by the Relocation Survey Report of the court-appointed commissioner.

Respondents in their Comment[26], as already intimated, assert their right of possession over the subject Lot as

they have been in open, notorious and exclusive possession of the same in the concept of an owner by virtue of the registered Deeds of Sale which transferred a portion of Lot No. 1973 from Saturnina Custodio to Spouses Arboleda, then to their father Quintin Sanico. Such portion bought by Quintin Sanico includes the subject Lot which petitioners are claiming. Thus, respondents conclude that petitioners could not have allowed former's occupation of the property by mere tolerance since they, the respondents, are occupying the same as owners since 1962.

The Issue

Based on the above assignment of errors and contentions, the main issue to be resolved is who has better right of physical possession over Lot No. 1973-A-6-D.

The resolution of this main issue necessarily will answer the sub-issues raised by herein petitioners in their petition for review.

Our Ruling

We find for the petitioners.

We observe in this case that both parties assert their right to possess Lot No. 1973-A-6-D by virtue of their claim of ownership. The petitioners anchor their claim of ownership by virtue of the TCT No. T-32512, while respondents trace their ownership by virtue of Deed of Sale dated September 3, 1977, which sold a portion of Lot No. 1973 to Quintin Sanico, and registered under Act No. 3344.

Noteworthy is the rule in our jurisdiction that in an unlawful detainer case, the sole issue for resolution is physical or material possession of the property involved, independent of any claim of ownership by any of the parties. However, where the issue of ownership is raised, the courts may pass upon the issue of ownership in order to determine who has the right to possess the property. However, this adjudication is only an initial determination of ownership for the purpose of settling the issue of possession, the issue of ownership being inseparably linked thereto.[27]

We observe that the MCTC actually noted the issue of ownership raised by the parties but concluded that the issue of possession cannot be decided without deciding the issue on ownership, so it dismissed the case. Meanwhile, the RTC noted that petitioners' complaint makes out a case for unlawful detainer. However, the RTC failed to provisionally rule on who has a better right of possession of the property based on ownership. The RTC simply concluded that petitioners failed to prove their act of tolerance.

Thus, We opine that the issue of ownership must be passed upon provisionally before the issue of possession is determined.

Petitioners are armed with a transfer certificate of title as evidence of their ownership. It has been consistently held that Torrens System was adopted in this country because it was believed to be the most effective measure to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.[28] Thus, a title issued under the Torrens System is entitled to all the attributes of property ownership, which necessarily includes possession.[29] Petitioner, having a Torrens title over the subject Lot, is the rightful owner and is entitled to possession thereof.

In the case of *Heirs of Maligaso v. Sps. Encinas*,[30] the Supreme Court held that a certificate of title gives rise to a reasonable presumption that a party occupying a property as against the holder of the title is staying therein only by mere tolerance, to wit:

“The respondents’ title over such area is evidence of their ownership thereof. That a certificate of title serves

as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein and that a person who has a Torrens title over a land is entitled to the possession thereof are fundamental principles observed in this jurisdiction. Alternatively put, the respondents' title and that of their predecessors-in-interest give rise to the reasonable presumption that the petitioners have no right over the subject area and that their stay therein was merely tolerated."

This being so, it is the respondents' burden to prove their claim of ownership in order to rebut the reasonable presumption that it was only by mere tolerance that they are occupying the subject Lot, considering that respondents are deemed to have knowledge of the ownership of such Lot by petitioner Felisa Danao and her predecessor Saturnina Custodio pursuant to the certificates of title issued to their names.

To discharge this burden, respondents tried to collaterally attack TCT No. T-32512, when they claimed that the mother title where such TCT originated from was fraudulently secured by petitioners' predecessor Saturnina Custodio. They claimed that property under the OCT No. P-7262, covering Lot No. 1973-A, issued to Saturnina Custodia, was already sold to Quintin Sanico and registered under Act No. 3344.

Clearly, this collateral attack cannot be countenanced. We bear to emphasize that a Torrens Certificate of title is indefeasible and binding upon the whole world unless and until it has been nullified by a court of competent jurisdiction. Under existing statutory and decisional law, the power to pass upon the validity of such certificate of title at the first instance properly belongs to the Regional Trial Courts in a direct proceeding for cancellation of title.[31] Thus, a certificate of title cannot be subject to a collateral attack and can be altered, modified or cancelled only in a direct proceeding in accordance with law.[32]

Be that as it may, since it is within our jurisdiction to look into the errors of facts committed by the lower courts, We now determine whether the claim of ownership raised by respondents deserves merit.

It is undisputed that respondents are occupying Lot No. 1973-A-6-D as they claim ownership over the same, considering their allegation that this lot is part of the portion sold by Saturnina Custodio to the Arboledas which was subsequently sold to Quintin Sanico.

Very clear from respondents' Answer is their claim of ownership on "a portion of Lot No. 1973" by virtue of the Deed of Sale dated September 3, 1977 registered in accordance with Act No. 3344 in the Office of the Register of Deeds.

From this assertion then, the respondents' ownership of the portion of Lot No. 1973 which they are claiming is limited to what have been described in the deed of sale between the Arboledas and Quintin Sanico. We can only give effect to Deed of Sale dated September 3, 1977 as regards the property described therein. Hence, respondents' burden is to present evidence that the portion of Lot No. 1973 which they are claiming includes the subject Lot registered in the name of petitioner Felisa Danao.

Notably, respondents failed to present a survey plan that indicates the metes and bounds of the portion of Lot No. 1973 which they claim to be part of the portion sold by the Arboledas to Quintin Sanico, in order to show that Lot No. 1973-A-6-D covered by TCT No. 32512 is part of such portion.

Absent any evidence that demonstrates that the subject Lot is part of the portion bought by Quintin Sanico, We have no means to determine that, indeed, respondents have a rightful claim over the same.

We also note the difference between the subject property sold by Saturnina Custodio to the Arboledas and the property sold by the Arboledas to Quintin Sanico. Thus, We share the same view with the petitioners who noted in their position paper submitted before the MCTC the following observation:

“xxx what was sold by the spouses Arboleda unto Quintin Sanico is a DIFFERENT portion of the lot which is very much DIFFERENT from the lot the spouses Arboleda bought from Saturnina Custodio. This difference is glaring to the naked eyes upon examination of the boundaries described in the two (2) Deeds of Sale (Exhs. “1” & “2”). To be precise, the portion of Lot 1973 that was bought by the spouses Arboleda from Saturnina Custodio in 1962 (Exh. “2”) is bounded as follows: _”on the N., by Provincial Road; on the E., by Lot 1973 portion; on the S., by Lot 1969; and on the W., by Lot 1969”, while the portion of the same Lot 1973 that was sold by the spouses Arboleda unto Quintin Sanico in 1977 (Exh. “1”) is described and bounded as follows: “A portion (northeastern) of Lot No. 1973 x x x. Bounded on the N., by the Prov. Road; on the E., by Lot 1973 portion; on the S., by Lot 1973 (portion); and on the W., by the Barangay Road to Barangay Sinamongan.”[33]

It is clear that the subect property of the Deed of Sale dated December 3, 1962 (sale between Custodio and Arboledas) and the property subject of the Deed of Sale dated September 3, 1977 (sale between Arboledas and Sanico) pertain to different lots. Hence, it is fair to deduce that the property Quintin Sanico bought from the Arboledas is different from the property which Saturnina Custodio applied for a free patent and was covered by OCT No. P-7262, which in turn, included Lot No. 1973-A-6-D covered by TCT No. 32512.

With this difference, there is indeed doubt on whether the portion bought by Quintin Sanico included the property covered by OCT No. P-7262 issued in the name of Saturnina Custodio.

Further, respondents alleged that the property sold to Quintin Sanico was covered by tax declarations. Notably again, the Tax Declaration No. 5760, pertaining to Exh. “3” of respondents, indicates that the same lot is Cad. Lot No. 1973-D. And, the OCT No. P-7262 actually pertains to Lot No. 1973-A, where Lot No. 1973-A-6-D covered by TCT No. 32512 was originally part of.

Furthermore, the lower courts failed to account the Report of court-appointed commissioner Mansueto Aguirre which stated that, “Lot 1973-A-6-D, Psd-06-046816 with an area of 181 Sq.M., situated in Brgy. San Nicolas, Pilar, Capiz with TCT No. T-32512 is registered in the name of Felisa Danao. That the lot bought by the defendants from Saturnina Custodio with an area of 300 Sq. M. cannot (be) physically identified on the ground except that it is a portion of Lot No. 1973, Pilar Cadastre. Neither the defendants can show any survey plan inspite of their claim that it was surveyed a long time ago.”[34]

It is clear from the foregoing that respondents were not able to proffer any evidence that the lot they inherited from Quintin Sanico necessarily includes Lot No. 1973-A-6-D. The commissioner's Report, the difference in the technical descriptions of the properties of the Deeds of Sale they presented, the tax declarations, and the absence of any survey plan speak against respondents' claim of ownership over the subject Lot. Granting that indeed respondents own a particular portion of Lot No. 1973, they failed to give evidence that such portion includes Lot No. 1973-A-6-D, covered by TCT No. 32512.

Since respondents failed to discharge their own burden to prove that Lot No. 1973-A-6-D is included in the portion of Lot No. 1973 that Quintin Sanico bought, their claim of ownership fails. The reasonable presumption that they have no right over the subject Lot and that their stay therein was merely tolerated remains un rebutted.

Accordingly, We opine that the RTC actually erred in finding that the tolerance by petitioners or the latter's predecessors-in-interest was not sufficiently proven because tolerance is presumed when a particular property is covered by a Torrens Title. And, prescinding from the foregoing discussion, the respondents failed to rebut such presumption.

Assuming ex gratia argumenti that the alleged tolerance needs to be proven, We rule that petitioners sufficiently discharged this burden considering the affidavit of petitioner Felisa Danao, which stated the following under oath:

“xxx

4. Formerly, the mother sub-lot (Lot No. 1973-A) was owned by, and registered to Saturnina Custodio, my grandmother and thereafter, Lot No. 1973-A was subdivided into six (6) smaller lots namely: Lot No. 1973-A-1, 1973-A-2, 1973-A-3, 1973-A-4, 1973-A-5, and 1973-A-6.

5. Lot 1973-A-6 was then covered by Transfer Certificate of Title No. T-32498 (Bottom portion of Exh. "A") registered in the names of Nelson Vargas, Shirley Moral, Generoso Arboleda, Felisa Danao, Delsa Bermejo, Eddie Crispino and Marilou Cajurao and it was further subdivided into SEVEN (7) sub-lots as shown by the Subdivision Plan Psd 06-046816 (description in Exh. "A") that gave birth to Lot 1973-A-6-D (Felisa Danao with an area of 181 sq.m.);

6. By reason of the subdivision/partition, Lot 1973-A-6-D was registered in my name Felisa Danao and on June 24, 2002, Transfer Certificate of Title No. T-32512 was issued in my favor;

7. But, before I become a co-owner of Lot 1973-A-6, I found out that the defendants were in actual possession of the same and I informed them that we are acquiring the lot. The defendants replied to me that they were able to possess the lot because they asked permission from my grandmother Saturnina Custodio and will be vacating the said lot and will be transferring to the lot they inherited from Quintin Sanico who bought it from spouses Alejo and Estrella Arboleda which has an area of 300 square meters which is also a portion of Lot 1973 but, in the meantime, they be allowed to possess thereon;

8. I and my co-owners decided to subdivide/partition the lot (Lot 1973-A-6), and I informed the defendant Nerissa Tartana of the partition and the subdivision survey; During the subdivision survey, the defendants were present and it was found out that their house stands on the lot (Lot 1973-A-6-D) adjudicated unto me; Again, the defendants asked me that they be allowed to occupy the lot (Lot 1973-A-6-D) and will vacate until August 2002 to which I agreed and I tolerated the defendants to possess my lot (Lot 1973-A-6-D), but the defendants did not comply with their promise to vacate the lot in August 2002 that compelled me to send a demand to vacate unto Nicnic Sanico (Exh. "7-A") who is also known as Neressa Sanico; Upon receipt of the demand letter, defendants again asked for mercy and plead that they be continued to occupy the said lot. To which I again agreed because I pitied them who are not yet ready to transfer to their lot and I do not need my lot;

9. In September 2003, I demanded for Neressa Tartana (Exh. "7") to vacate the lot but the latter again pleaded mercy for their continued occupancy thereof and I agreed to the plea of defendant Neressa Tartana out of pity and for human considerations and extended my tolerance unto them;

xxxx

xxxx."[35]

The above testimonial evidence is clear that the respondents themselves admitted that it was Saturnina Custodio who allowed them to occupy the subject Lot, and that they promised to later on transfer to the portion which Quintin Sanico bought from the Arboledas. It is also clear that petitioner Felisa Danao allowed them to stay in the subject Lot because they pleaded for time to vacate until August 2002. And, when August of 2002 came respondents again pleaded to be allowed to stay. As such, respondents know that their occupation of the subject Lot was through the permissions given by Saturnina Custodio and petitioner Felisa Danao, and that their possession thereof was merely being tolerated.

Considerably, petitioner Felisa Danao's affidavit showed the overt acts on her part which are indicative of her permission to occupy the subject Lot.

These statements in her affidavit also remained un rebutted by respondents since the latter actually did not raise evidence contrary to the statements made by Felisa Danao. What defendant Nerissa Tartana, in her own affidavit, tried to prove was the deed of sale between Quintin Sanico and the Arboledas and the fraudulent application for free patent done by Saturnina Custodio. Respondent Nerissa Tartana, did not deny that she made statements that it

was Saturnina Custodio who allowed them to occupy the subject Lot and that she pleaded to petitioner Felisa Danao to be allowed to continue to occupy the said Lot. These statements in petitioner Felisa Danao's affidavit are declarations which naturally calls for action or comment if not true. Respondents' silence on these declarations, though it should have been proper or possible for them to deny the same, can be considered evidence against them. Respondents' inaction results in an admission by silence.[36]

A written testimony done under oath is credible enough to be considered as preponderant evidence considering that the statements therein were left un rebutted. Thus, We opine that the RTC erred in not giving due weight and credence to the affidavit executed by petitioner Felisa Danao.

Given the foregoing, We find that petitioners' right to possess Lot No. 1973-A-6-D prevails. Petitioners, being the lawful and registered owners of the subject Lot, have all the rights to evict herein respondents from the said property considering that the respondents who occupy the subject Lot owned by petitioners with the latter's tolerance or permission, without any contract between them, are necessarily bound by an implied promise that they will vacate upon demand. Respondents failed to vacate the subject Lot after petitioners' demand, so the former's subsequent stay over the property have become unlawful; as such, a summary action for unlawful detainer was properly availed of by the petitioners, and the same should have been resolved in their favor.

Consequently, since it is the petitioners who have proven their right to the de facto possession of the subject Lot, the attorney's fees and litigation expenses awarded to herein respondents have no more basis. And, since We find that the allegations of the complaint are true, that is, the petitioners have the rightful possession over the subject Lot and that the respondents unjustifiably failed to vacate the same after demand, We award to the petitioners their prayer for attorney's fees in the amount of Fifty Thousand Pesos (Php50,000.00) and for reasonable rent in the amount of One Thousand Pesos (Php1,000.00) per month, counted from the last demand or from March 19, 2010, as reasonable compensation for the use and occupation of the subject Lot.

WHEREFORE, the instant appeal is GIVEN DUE COURSE. The RTC's Branch 16, Roxas City Decision and Order dated April 10, 2013 and May 15, 2013, respectively, are hereby REVERSED and SET ASIDE.

Accordingly, We GRANT the possession de facto of Lot No. 1973-A-6-D to petitioners Spouses Danao. Respondents are hereby ORDERED to VACATE Lot No. 1973-A-6-D and SURRENDER its material possession to herein petitioners.

Moreover, respondents are ORDERED to PAY the petitioners an amount of Fifty Thousand Pesos (Php50,000.00) as attorney's fees, and the amount of One Thousand Pesos (Php1,000.00) per month, counted from March 19, 2010 until the finality of this Decision, as reasonable rent for the use and occupation of Lot No. 1973-A-6-D, and to pay the petitioners twelve percent (12%) interest on the total judgment award from the finality of this Decision until the total award is fully paid.

SO ORDERED.

Hernando, and Azcarraga-Jacob, JJ., concur.

[1] Rollo, pp. 4-20.

[2] Rollo, pp. 307-314.

[3] Rollo, pp. 328-330.

[4] Rollo, pp. 262-271.

- [5] Rollo, pp. 190-196.
- [6] Ibid., p. 191.
- [7] Ibid., p. 191-192.
- [8] Ibid., p. 192.
- [9] Ibid.
- [10] Id.
- [11] Rollo, pp. 209-215.
- [12] Ibid., p. 210.
- [13] Ibid., p. 210-211.
- [14] Ibid.
- [15] Ibid., p. 211.
- [16] Ibid., p. 212.
- [17] Ibid.
- [18] Rollo, pp. 234-236.
- [19] Ibid.
- [20] Id.
- [21] Plaintiffs' Position Paper, Rollo, pp. 237-247; Defendants' Position Paper, Rollo, pp. 248-256.
- [22] See Decision dated May 27, 2011, Rollo, p. 271.
- [23] See Decision dated April 10, 2013, Rollo, p. 314.
- [24] Rollo, pp. 315-323.
- [25] Rollo, p. 10.
- [26] Rollo, pp. 331-336.
- [27] Spouses Pascual v. Spouses Coronel, G.R. No. 159292, July 12, 2007.
- [28] Spouses Esmaguel v. Coprada, G.R. No. 152423, December 15, 2010, citing Rodriguez v. Rodriguez, G.R. No. 175720, September 11, 2007.
- [29] Corpuz v. Spouses Agustin, G.R. No. 183822, January 18, 2012.
- [30] G.R. No. 182716, June 20, 2012.
- [31] Co v. Militar, G.R. No. 149912, January 29, 2004.
- [32] Ibid.
- [33] See page 5 of Plaintiffs' Position Paper, Rollo, p. 241.
- [34] See Annex "E" of Petition, Rollo, pp. 234-236. Emphasis supplied.

[35] Rollo, pp. 246-247.

[36] Section 32, Rule 130 of the Rules of Court.

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