

FELIMON IDANG, PETITIONER, VS. HON. COURT OF APPEALS, HON. ADORACION G. ANGELES, RTC, BRANCH 121, CALOOCAN CITY AND JUAN BATINGA, RESPONDENTS.*G.R. No. 110042. July 14, 1994*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-110042/>**MENDOZA, J.:**

Felimon Idang is the awardee of a house of the National Housing Authority at 48 Reparo Street, Bagong Barrio, Caloocan City. He leased a part of the house to Juan Batinga on a month-to-month basis for P50.00 a month. On April 22, 1987, he brought an action for recovery of possession and damages against Batinga on the ground that he needed the premises for himself and his family and that Batinga had failed to pay the rents since April 1984. The case was filed in the Regional Trial Court of Caloocan City which gave judgment for petitioner. On review, however, the Court of Appeals reversed and sustained the private respondent's position that petitioner had been divested of his right to occupy and possess the house in question for being an absentee owner. The appellate court cited the rule of the NHA that "an absentee owner has no right whatsoever to occupy his structure/dwelling unit not occupied by him at the time of census."

Petitioner did not appeal. Instead he brought an ejectment case against private respondent. The Metropolitan Trial Court of Caloocan City dismissed his complaint based on the decision in the possessory action declaring petitioner to have been "divested of his right to occupy and possess" the house by reason of absenteeism. On appeal the Regional Trial Court affirmed the decision. Upon petition for review the Court of Appeals affirmed the decision of the Regional Trial Court.

This petition is a petition for review on certiorari. Although it was given due course, upon further consideration we find no merit in the petition after all.

As already stated, the courts below dismissed petitioner's action on the ground of *res judicata*. Petitioner now seeks to avoid the force of the prior judgment in the possessory action on the ground that it is void. He claims that through the negligence of his counsel he was not able to present certain documents, consisting of light and water bills, which show that he was not an absentee owner and that if he was not home when the NHA conducted a census in 1978, it was because he was working outside, while his daughter was attending class in school.

Private respondent claims, however, that the documents (i.e., light and water bills) were actually considered below, although they were not given weight insofar as petitioner's claim that he was not an absentee owner was concerned. Indeed, it is possible for an owner to be up to date in the payment of city services and still be absent from the dwelling place in question because he has another dwelling place as it is claimed the petitioner has. On the other hand, the NHA receipts, which petitioner likewise says he was not able to submit below because of the gross negligence of his counsel, are irrelevant because they were issued only in 1992 after the decision in the possessory action had become final.

Indeed, the validity of the decision of the Regional Trial Court in the action for recovery of possession cannot be

assailed because in fact it was in favor of petitioner. It was the Court of Appeals which, reversing that decision, held petitioner to have lost the right to occupy and possess the property on the ground of absenteeism. Above all, the validity of the decision cannot be collaterally questioned in this case. Petitioner should have appealed from that decision but he did not. Neither did he bring an action for the annulment of the judgment against him.

FOR THE FOREGOING REASONS, the resolution of November 29, 1993 giving due course to the petition for review on certiorari is RECONSIDERED and RECALLED and the petition is DENIED for lack of merit for failure of petitioner to show any reversible error committed by the Court of Appeals.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

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