SPOUSES CAMILO L. SABIO, AND MA. MARLENE A. LEDONIO-SABIO, PETITIONERS, VS. THE INTERNATIONAL CORPORATE BANK, INC. (NOW UNION BANK OF THE PHILIPPINES), GOLDENROD, INC., PAL EMPL...

G.R. No. 132709. September 04, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Before us is a petition for review on certiorari assailing the decision of the Court of Appeals in CA-G.R. CV No. 48870 which affirmed and modified the judgment of the Regional Trial Court of Makati, Branch 65, in Civil Case No. 18540, an action for specific performance and damages.

The object of the controversy is a portion of a vast tract of land measuring approximately 152,454 square meters, located at Tindig na Manga, Almanza, Las Piñas City. Designated as Lots 2 and 3, and 6 (formerly covered by two Certificates of Title, namely: TCT Nos. 65161 and 65162), this vast estate was registered in the name of Las Piñas Ventures, Incorporated (or LPVI).[1] In the early 1970's, the said property was the subject of several land registration, as well as civil, cases.

On May 25, 1973, the spouses Gerardo and Emma Ledonio, one of the parties in LRC Case No. PN-107 affecting the land, assigned to the spouses Camilo and Ma. Marlene Sabio (herein petitioners) all their rights, interests, title and participation over a contiguous portion of the subject property measuring 119,429 square meters, particularly that which was covered by TCT No. 65162.[2] For this purpose, a deed of assignment with assumption of mortgage was later executed by the Ledonio spouses in favor of the Sabio couple on November 23, 1981.[3]

Similarly, while the subject property was still the object of several pending cases, the International Corporate Bank, Inc. (or Interbank) acquired from the Trans-Resource Management and Development Corporation all of the latter's rights to the subject property by virtue of a deed of assignment executed between them on July 12, 1984.[4]

Sometime thereafter, or on March 6, 1985, the Sabios and Interbank settled their opposing claims by entering into a Memorandum of Agreement (or MOA) whereby the Sabios assigned, conveyed and transferred all their rights over the parcel covered by TCT No. 65162 to Interbank, with the express exception of a 58,000 square meter contiguous portion of said lot. The MOA also provided, to wit:

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> 2. That for and in consideration of the aforementioned assignment, conveyance and transfer by the FIRST PARTY (i.e., the Sabios), the latter (SECOND PARTY, i.e., Interbank) shall:
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> a. PAY to the FIRST PARTY the sum of SEVEN HUNDRED FIFTY THOUSAND PESOS (P750,000.00), Philippine Currency, receipt of which in full is hereby acknowledged by the FIRST PARTY from the SECOND PARTY;

b. Subject to the rights of the SECOND PARTY under the provisions of No. 4 hereunder, COMPLETE and PERFECT its ownership and title to the afore-described three (3) parcels of land with all the improvements thereon, situated at Tindig Na Manga (Almanza), Las Piñas, Rizal (now Metro Manila), covered by Transfer Certificate of Title No. S-65161-Metro Manila, Book T-328, Page 161 (formerly No. 190713-Rizal, Book T-1227, Page 113) and Transfer Certificate of Title No. S-65162-Metro Manila, Book T-328, Page 162 (formerly No. 190714-Rizal, Book T-1227, Page 114), AND, ASSIGN, CONVEY and TRANSFER unto and in favor of the FIRST PARTY a CONTIGUOUS PORTION of the afore-described parcel of land, with all the improvements thereon, covered by the aforementioned Transfer Certificate of Title No. S-65162-Metro Manila, Book T-328, Page 162 (formerly No. 190714-Rizal, Book T-1227, Page 114). The aforementioned CONTIGUOUS PORTION referred to in paragraph 1 hereof with an area of FIFTY EIGHT THOUSAND (58,000) SQUARE METERS, the exact location of which is, as far as practicable, as indicated in the sketch plan, which is hereto attached as Annex "D" and made an integral part hereof, LOT 6-B;

c. Bear and defray all costs, fees and expenses incidental to and/or connected with the segregation, survey, registration and delivery to the FIRST PARTY of a new transfer certificate of title in the name of the FIRST PARTY, free from all liens and encumbrances, over the afore-described parcel of land herein assigned, conveyed and transferred by the SECOND PARTY;

d. Constitute and grant and by these presents has CONSTITUTED and GRANTED without indemnity whatsoever in favor of the FIRST PARTY and of said parcel of land to be covered by a new transfer certificate of title in the name of the FIRST PARTY with an area of FIFTY EIGHT THOUSAND (58,000) SQUARE METERS, a permanent and perpetual RIGHT OF WAY sufficient for all the needs of said parcel of land through out the properties already owned and/or to be acquired by the SECOND PARTY, particularly the parcels of land covered by Transfer Certificate of Title No. 85717, Transfer Certificate of Title No. S-65161-Metro Manila, Book T-328, Page 161 (formerly No. 190703-Rizal, Book T-127, Page 113) and Transfer Certificate of Title No. S-65162-Metro Manila, Book T-328, Page 162 (formerly No. 190714-Rizal, Book T-1227, Page 114), it being understood that the right of way herein contemplated shall not be less than TEN (10) meters in WIDTH.[5]

The said MOA was annotated on TCT Nos. 65161 and 65162 on March 8, 1985 pursuant to paragraph 4 thereof. The same paragraph also granted Interbank the right to assign all its rights and interests outlined in the MOA, provided that all the obligations of Interbank specified in the aforequoted paragraphs 2.b, 2.c and 2.d shall also bind all of its assigns, heirs and successors. Subsequently, Interbank transferred all its rights and interests to the Las Piñas Ventures, Incorporated (or LPVI). In turn, the portion covered by TCT No. 65161 designated as Lot Nos. 2 and 3 were acquired from LPVI by the Ayala Group of Companies (herein respondents) through a merger between LPVI and Ayala Land, Incorporated (or ALI), in whose favor TCT Nos. T-41263 and T-41262 were issued on April 25, 1994.

Lot No. 6, then covered by TCT No. S-65162, was also subsequently transferred first to LPVI, then to ALI, and a new title, TCT No. T-41261, was issued also on April 25, 1994. Another contiguous parcel, then covered by TCT No. 85717, was acquired by the Ayala Group sometime in 1993, which was eventually subdivided and retitled in favor of ALI. This entire property became the site of what was known then as "Ayala Las Piñas Subdivision." Years later, this first class residential subdivision was renamed "Ayala Southvale."

Thereafter, a dispute arose concerning the 58,000 square meter contiguous portion subject of the MOA that was to be conveyed and transferred back to the Sabios by Interbank. Also in controversy was the permanent and perpetual right of way that Interbank was obligated to constitute in favor of the Sabios' 58,000 square meter portion. The Sabios were thereby constrained to institute an action for Specific Performance and Damages against Interbank, Goldenrod Incorporated, PAL Employees Savings and Loan Association, Incorporated or (PESALA) and the Ayala Group of Companies comprised of the Ayala Corporation, LPVI, Insular Life Assurance Company,

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Ltd., Filipinas Life Assurance Company, ALI, Ayala Property Ventures, Incorporated (or APVI), and the Bank of the Philippine Islands (or BPI). BPI was later dropped as a party-defendant.

The Regional Trial Court of Makati, Branch 64, in Civil Case No. 1854, summarized the Sabios' claims in their complaint, thus:

> Plaintiffs claimed that defendant Interbank was obligated to complete and perfect its ownership and title to the parcels of land so that Interbank could transfer to plaintiffs the absolute ownership and title over the contiguous portion.
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> They also claimed that one of the commitments of defendant Interbank which induced plaintiffs to execute the agreement without which plaintiffs would not have executed was that defendant Interbank would clear the contiguous portion of all occupants and wall-in the same, together with the parcels of land belonging to defendants. Allegedly, the property had already been cleared, by defendant Ayala Group, of occupants except for the contiguous portion thereof.
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> Plaintiffs alleged that defendants, particularly Ayala Group, failed to comply with their commitments and obligations in the MOA specifically those arising from the abovementioned provisions thereof. Hence, plaintiffs have been prevented from utilizing for productive purposes the land.
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> They further alleged that they were constrained to obtain a loan from Interbank (Exhs. E, E-1, F, F-1, G and G-1) where the contiguous portion of the property was used as collateral (Exhs. H, H-1, I, I-1, J and J-1) and this loan is now deemed paid (Exhs. K, L, M-2, N, O, P to P-2) and plaintiffs are now considered released. Plaintiffs claimed Actual and Compensatory damages in the amount of P500,000.00 and Exemplary Damages in the amount of P250,000.00.[6]

The defendants' answer was summed up by the trial court as follows:

> Defendants disclaimed liability. Defendants Ayala Corp., Ayala Life, ALI, APVI (collectively referred to as Ayala Group), PESALA, and LPVI, claimed that they were not privy to the MOA, the contract from which the alleged obligations arose. In the transactions they were each involved in, subsequent to the MOA, pursuant to which they each acquired the property which was originally transferred by the plaintiffs to defendant Interbank, said property acquired did not include the contiguous portion which plaintiffs claimed was the subject of non-compliance of the obligations agreed upon. On the contrary, in each transaction, the contiguous portion was expressly excluded in the corresponding contracts (Exhs. C-1, D-2, 2-Ayala, 5-6, 2-A-PESALA), hence, plaintiffs have no cause of action against them and even assuming that defendants were privy to the MOA, they would still have no obligation to clear the contiguous portion of the property as there was no express or implied provision in the MOA that the party to whom the property was transferred would clear the same.[7]

Sometime thereafter, the defendants submitted a Notice of Confession of Judgment and Motion for Partial Decision Against Answering Defendant for the alleged purpose of securing an entry of judgment against them while avoiding the formality, time and expense of ordinary proceedings. In particular, the defendants confessed judgment with regard to the plaintiff spouses' prayer emanating from the MOA, and asked that judgment be rendered directing the defendants to comply with their obligations as defined in the pertinent provisions of the MOA. Moreover, the defendants signified willingness to abide by the MOA, and complete and perfect title to the parcel of land, including that portion which was to be assigned to the plaintiff spouses. With regard to that 58,000 square meter parcel, the defendants also acknowledged the obligation to segregate that contiguous portion and deliver title thereto to the plaintiff spouses free from liens and encumbrances.

However, the defendants also averred that fulfillment of its obligation under the MOA became impossible due to the plaintiff spouses' own acts. First, defendants posited that they were ready to deliver the title to the 58,000

square meter parcel and had, in fact, prepared the Deed of Conveyance[8] required by the Register of Deeds, but the plaintiffs themselves refused to sign the said deed unless the subject property was cleared of all squatters and other illegal occupants. The defendants nevertheless repudiated plaintiffs' claim that they (defendants) were obligated to clear the said property of all squatters and occupants, much less to fence the said property, arguing that no such obligation was imposed in the MOA. Secondly, the defendants noted that the property in question became the subject of an action for recovery of ownership filed by the Ledonio spouses against the Sabios. Consequently, the annotation of the notice of lis pendens caused to be registered by the Ledonios on the titles hampered the delivery of the title covering the 58,000 square meter portion to the Sabios.

The defendants further admitted the obligation to grant an easement of right of way under the MOA, manifesting that not only did the defendants constitute and grant such right of way, but that they were also willing and prepared to provide an alternative choice at the pleasure of the plaintiff spouses.[9] Moreover, the mortgage obligations of the plaintiff spouses annotated on the titles covering the 58,000 square meter portion had already been paid off by the defendants,[10] prompting the latter to seek a court order cancelling the Notice of Lis Pendens and annotation of the MOA on the titles covering the subject parcel of land.

The issues having been joined, the trial court focused on the primordial matter of contention, that is: Whether or not the defendants had the obligation to clear the subject 58,000 square meter portion of all occupants and to fence the said premises, before conveyance of the property can be considered as full compliance with the obligation imposed upon the defendants under the MOA. The trial court also sought to address the preliminary issue of whether or not an order directing the cancellation of the annotation of the MOA and notices of lis pendens on the titles covering the subject property was warranted.

The trial court ruled in favor of the defendants, finding that the MOA did not impose, whether expressly or impliedly, on Interbank and its transferees the obligation to clear the subject 58,000 square meter portion of squatters and other illegal occupants. Be that as it may, the trial court awarded actual and exemplary damages to the plaintiff spouses for losses they incurred due to the defendants' delay in complying with the MOA, considering that the defendants filed their confession of judgment only after the lapse of six (6) years from the filing of the action. More particularly, the trial court disposed as follows:

> In view of the foregoing, Defendant Ayala Group is ordered to pay plaintiffs Camilo and Marlene Sabio P500,000.00 in actual damages and P250,000.00 in exemplary damages. Plaintiffs, however, are directed to specifically comply with the obligations under the MOA by executing a Deed of Conveyance upon payment by the defendant of the foregoing amount. The Register of Deeds is directed to cancel the notice of lis pendens as regards this case, and the annotation of the subject Memorandum of Agreement, both of which are annotated on TCTs Nos. T-5331 to T-5334, the TCTs covering the contiguous portion of the property.
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> Costs against defendant Ayala Group.[11]

The opposing parties filed their respective motions for reconsideration, but both were denied by the trial court. Consequently, all the parties filed separate appeals before the Court of Appeals. Nevertheless, the trial court issued an order granting the defendants' motion for partial immediate execution pending appeal by directing the Register of Deeds to "immediately cancel and/or cause the cancellation of the notice of lis pendens and other annotations as regards this case and the annotation of the Memorandum of Agreement on TCT Nos. T-5331 to T-5334 and titles derived therefrom."[12]

Meanwhile, in their appeal before the Court of Appeals, the Sabios (plaintiffs-appellants) ascribed the following errors to the trial court:

> - The trial court erroneously disregarded the other provisions and parts of the MOA which could have evinced

the reasons for, and the circumstances attendant to, the execution of the said MOA.

- The trial court erred in not finding that the defendants-appellants (Ayala Group of Companies) are obligated to perfect and complete ownership and title to the entire property covered by TCT No. T-5331, including that portion which the defendant-appellants must assign, convey and transfer to the plaintiffs-appellants (Sabio spouses).

- The trial court erred in failing to appreciate the testimony of plaintiff-appellant Camilo L. Sabio to the effect that Interbank and Ayala Investment and Development Corporation would enter into a joint venture to develop the entire parcel, including the surrounding real estate, into a first class residential subdivision, necessitating the removal of all illegal occupants and enclosing the perimeters of the said property with a wall that would include the 58,000 square meter portion pertaining to the Sabio spouses.

- The trial court erred in its interpretation of the phrase "free from all liens and encumbrances" as appearing in the MOA, by invoking inapplicable jurisprudence when it is the intention of the parties to the MOA, in using said phrase, that should prevail.

- The trial court erred in not finding that all eighteen (18) parcels of land, comprising what was then known as the Ayala Las Piñas Subdivision, covered by eighteen (18) titles in the name of LPVI, are all servient estates referred to in paragraph 2.d of the MOA.

- The trial court erred in not ordering the defendants-appellants to cause the annotation of the easement of right of way on all eighteen (18) titles.

- The trial court erred in ordering the cancellation of the annotation of the MOA and Notices of Lis Pendens on LPVI's TCT Nos. T-5331 to 5334.

- The trial court erred in compelling the plaintiffs-appellants Sabios to sign the draft deed of conveyance when said document was a gross violation of paragraphs 2.b, 2.c, and 2.d of the MOA.

- While the trial court was right in concluding that the Sabio spouses suffered damages, their losses could not be compensated as actual damages, the same being incapable of accurate pecuniary estimation.

- The trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the order dated September 21, 1994 directing the cancellation of the annotation of the MOA and the Notices of Lis Pendens on LPVI's titles.[13]

In contrast, the defendants-appellants merely impugned the trial court's judgment for having awarded actual and exemplary damages to the plaintiffs-appellants Sabio spouses, while failing to award damages in their (defendants-appellants) favor.

On April 30, 1997, the Court of Appeals rendered the decision subject of the instant petition for review, affirming with modification the trial court's ruling. The Court of Appeals affirmed the trial court's conclusion that under the MOA, the Interbank and the defendants-appellants "did not assume the obligation to clear the subject contiguous portion of the land of occupants and to wall in the same."[14] The Court of Appeals further agreed with the trial court's ruling that since the intentions of the parties to the MOA were clearly worded in the provisions they expressly stipulated on, there was no reason to interpret the MOA differently.[15]

The Court of Appeals also rejected the Sabios' position that the purpose and spirit of the establishment of a right of way in their favor under paragraph 2.d was to grant them the same rights as any homeowner would have to freely pass through all the roads in the proposed subdivision. The Court of Appeals ruled that the phrase "permanent and perpetual right of way" must be construed in its ordinary and accepted signification, that is, to provide ingress to, and egress from, the dominant estate, as well as to provide adequate and convenient passage to

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and from the nearest highway. The defendants-appellants having complied with the obligation to establish the right of way, the Court of Appeals determined that there was no need to annotate the easement on the titles not affected by said road right of way. In fact, while the MOA mentioned only TCT Nos. 65161 and 65162, which were later replaced by TCT Nos. 5333 and 5331, no other titles were mentioned.

Finally, while the Court of Appeals ruled that the defendants-appellants are not entitled to damages, the said court reversed the trial court's award of damages to the Sabios, concluding that their claim for damages, whether actual or exemplary, was unsubstantiated and devoid of legal basis.

Hence, the Court of Appeals rendered judgment decreeing:

> WHEREFORE, the judgment appealed from is AFFIRMED with the MODIFICATION that the awards for actual and exemplary damages in favor of the plaintiffs are hereby SET ASIDE.
>
> SO ORDERED.[16]

After a careful and thorough disquisition of the facts of this case and the arguments raised in this petition, we find no reversible error on the part of the Court of Appeals. In this petition for review before us, petitioner attributed to the Court of Appeals ten (10) alleged errors:

> - The Court of Appeals acted contrary to law and jurisprudence in affirming the decision of the trial court directing the petitioners to affix their signatures to the draft deed of conveyance (Exhibits "CC" thru "CC-4", "EEEE" thru "EEEE-4" and "4-Ayala"), and in releasing respondents from their obligations under paragraphs 2.b, 2.c, and 2.d of the MOA. Petitioners are justified in refusing to affix their signatures to said draft.
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> - The Court of Appeals acted contrary to law and jurisprudence in affirming the ruling of the trial court that the mere execution of the draft deed of conveyance (Exhibits "CC" thru "CC-4", "EEEE" thru "EEEE-4" and "4-Ayala") prepared sometime in January 1990 by respondents Ayala Group of Companies, successors-in-interest of respondent The International Corporate Bank, Inc. (now Union Bank of the Philippines), pursuant to paragraph 4 of the MOA, as second party, for the signature of the petitioners as first party, constitutes sufficient and valid compliance with the commitment and obligation of the second party to "assign, convey and transfer unto and in favor of the first party" the aforementioned contiguous portion --- Lot 6-B, Psu-80886 (Exhibits "A-34", "II-1", "1-A-Ayala" and "6-A-Ayala") --- "with all the improvements thereon" as mandated by the provisions of paragraph 2.b of the MOA, despite the fact that, admittedly, said Lot 6-B, Psu 80886 (Exhibits "A-34", "II-1", "1-A-Ayala" and "6-A-Ayala") is still in the hostile and adverse actual occupation and possession of third parties. More so, because paragraph 2.b of the MOA mandates that respondents Ayala Group of Companies shall assign, convey and transfer unto and in favor of the petitioners not only the aforementioned Lot 6-B, Psu 80886 (Exhibits "A-34", "II-1", "1-A-Ayala" and "6-A-Ayala") but also "all the improvements thereon."
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> - The Court of Appeals acted contrary to law and jurisprudence in utterly disregarding the import and significance of the premises or "Whereases" of the MOA and the various annexes thereto forming integral parts thereof (Exhibits "A-6" thru "A-9", "A-10" thru "A-15", "A-16" thru "A-22", "A-23" thru "A-26", "A-27" thru "A-30", "A-31" thru "A-33", and, "A-35" thru "A-46"), evidencing the reasons behind and the circumstances surrounding the execution thereof, so that the court may be placed in the position/situation of the parties thereto at the time the agreement was executed.
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> - The Court of Appeals acted contrary to law and jurisprudence in not holding that --- as expressly agreed and stipulated in paragraph 2.b of the MOA (Exhibits "A" thru "A-5" and "1-Ayala") Psu-80886 (Exhibits "A-34", "II-1", "1-A-Ayala" and "6-A-Ayala") with all the improvements thereon, respondents Ayala Group of Companies are mandated to first "complete and perfect" their "ownership and title" to the entirety to the afore-described Lot 6, Psu 80886 with all the improvements thereon, earlier covered by T.C.T. No. S-65162-Metro Manila, Book T-328, Page 162, in the name of CPJ Corporation, later by T.C.T. No.

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T-5331-Las Piñas, Metro Manila, Book 27, Page 131 in the name of respondent Las Piñas Ventures, Inc. (Exhibits "KK" thru "KK-3" and "3-Ayala") and now covered by T.C.T. No. T-41261-Las Piñas, Metro Manila, Book 207, Page 61 in the name of respondent Ayala Land, Inc., including the aforementioned Lot 6-B, Psu-80886 (Exhibits "A-34", "II-1", "1-A-Ayala" and "6-A-Ayala") which respondents Ayala Group of Companies are committed and obligated to assign, convey and transfer unto and in favor of petitioners.

- The Court of Appeals acted contrary to law and jurisprudence in disregarding the legal effect upon paragraph IV of the second amended and supplemental complaint dated 23 April 1990 of the confession of judgment made on 18 June 1993 and the statement made by respondents Ayala Group of Companies on 05 November 1993 --- the first day of the hearing of the above-entitled case --- both of which constitute judicial admissions contemplated by Section 4, Rule 129, Part IV (New Rules of Evidence) of the Rules of Court.

- The Court of Appeals acted contrary to law and jurisprudence in disregarding the following intention of the parties to the MOA as evidenced by the annexes thereto (Exhibits "A-6" thru "A-9"; "A-10" thru "A-15"; "A-16" thru "A-22"; "A-23" thru "A-26"; and "A-35" thru "A-46") in the use of the phrase "free from all liens and encumbrances" in paragraph 2.c thereof: --- free from any and all liens/encumbrances and/or problems of whatever kind and nature, including adverse claims, notices of lis pendens, and/or claims of occupants/possessors who were not parties to any of the cases mentioned in the aforementioned documents referred to in the aforementioned annexes.

- The Court of Appeals acted contrary to law and jurisprudence in holding that the two "roads right of way" (Exhibits "6-B" and "6-C") --- confined and limited to Lot 10, Psu-80886 --- then covered by T.C.T. No. 85717 and later by T.C.T. No. T-5332-Las Piñas, Metro Manila, Book 27, Page 132 (Exhibits "LL" thru "LL-2" and "3-Ayala") in the name of respondent Las Piñas Ventures, Inc., --- proposed by respondents Ayala Group of Companies constitute sufficient and valid compliance with the mandate of paragraph 2.d of the MOA, and, in releasing respondents Ayala Group of Companies from their commitment and obligation of complying therewith.

- The Court of Appeals acted contrary to law and jurisprudence in affirming the decision of the trial court directing the cancellation of the annotation of the MOA and of the notices of lis pendens on the following Transfer Certificates of Title: T.C.T. No. T-5331-Las Piñas, Metro Manila, Book 27, Page 131 (Exhibits "KK" thru "KK-3" and "3-Ayala"); T.C.T. No. T-5332-Las Piñas, Metro Manila, Book 27, Page 132 (Exhibits "LL" thru "LL-2" and "3-A-Ayala"); T.C.T. No. T-5333 (Exhibits "MM" thru "MM-2" and "3-B-Ayala"); and T.C.T. No. T-5334-Las Piñas, Metro Manila, Book 27, Page 134 (Exhibits "NN" thru "NN-2" and "3-C-Ayala"); and, in not directing that the judgment in the above-entitled case be annotated on all the eighteen (18) Transfer Certificates of Title covering a total of eighteen (18) parcels of land earlier known as the "Ayala Las Piñas Subdivision" and now as "Ayala Southvale."

- The Court of Appeals acted contrary to law and jurisprudence in disregarding the legal effect upon paragraphs IV, XII, XIII and XIV of the second amended and supplemental complaint dated 23 April 1990 of the confession of judgment made on 18 June 1993 by respondents Ayala Group of Companies and their statement made on 05 November 1993 --- the first hearing of the above-entitled case --- both of which constitute judicial admissions contemplated by Section 4, Rule 129, Part IV (New Rules of Evidence) of the Rules of Court.

- In affirming the order issued by the trial court on 21 September 1994, acting with grave abuse of discretion amounting to lack or excess of jurisdiction, the Court of Appeals likewise acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

We shall deal with these alleged errors, not in numerical order, but by subject matter, for clarity and better articulation of the issues involved.

The first matter of contention is the Memorandum of Agreement (MOA) between the petitioners (spouses Sabio)

and Interbank.[17] The petitioners posit that while the MOA is explicit in requiring Interbank, and the respondents as its transferees, to complete and perfect ownership and title to the entire estate, including improvements thereon, the court a quo and the Court of Appeals failed to compel the respondents to abide by their commitment to assign, convey and transfer the subject 58,000 square meter portion to the petitioners free from all liens and encumbrances.

It is their contention that the presence of illegal occupants and the existence of unauthorized improvements on the subject parcel negates the respondents' claim that they have completed and perfected their ownership and title over said property. The fact that the subject parcel is possessed and occupied by squatters is a clear indication that the respondents were never in possession. Before the respondents can assign, convey and transfer title to the subject parcel, they must also be able to place the petitioners in possession thereof since possession is a necessary attribute of ownership.[18] Thus, for the petitioners, there must first be removal of the illegal occupants and unauthorized structures, and the subject parcel should be walled-in before said property is transferred by the respondents to them. Otherwise, such transfer and conveyance would be meaningless, illusory and impracticable.

The petitioners also contend that under the circumstances, any conveyance of the subject parcel by the respondents would not be "free from all liens and encumbrances" as stipulated in paragraph 2.c of said MOA. Their premise is that the presence of squatters and unauthorized improvements should be considered a lien or encumbrance on the subject parcel, even including such other problems as adverse claims, notices of lis pendens, and claims of other occupants and possessors who were not parties to the cases involving the subject parcel.

Consequently, the petitioners assail the alleged failure of the court a quo and the Court of Appeals to: (1) consider the intention of the parties as manifested in the annexes to the MOA; and (2) to give significance to the premises and "whereas" clauses of the MOA in the interpretation of the phrase "free from all liens and encumbrances" in paragraph 2.c of the MOA.[19] These related matters concerning the intention of the parties to the MOA, the stipulations in the annexed documents, and the interpretation of the phrase "free from all liens and encumbrances" were earlier raised by the petitioners in their appeal before the Court of Appeals,[20] advancing the same arguments and premises already discussed in the case below.

The trial court dealt exhaustively on these issues, finding that:

> However, defendant Interbank has no obligation to clear the contiguous portion of the land of occupants and to wall-in the same for nothing in the MOA obligates Interbank to do so. Plaintiffs alleged that the clearing and walling-in of occupants was a "principal commitment" and "inducement" without which plaintiffs would not have executed the MOA. If such were the case, a provision to that effect should have been expressly stipulated in the MOA or at least implied therein. Plaintiff Camilo Sabio is a member of the bar who engaged in the practice of law for over twenty years and is currently holding public office. In drafting the MOA and/or agreeing to the stipulations in the same, a person of his stature could have been more circumspect. The occupants were already in the contiguous portion of the property when the MOA was executed and if plaintiffs had wanted to ensure that defendant Interbank would take responsibility for clearing the property of occupants, they could have specifically provided for it.
>
> Plaintiffs claimed that the obligation to clear and wall-in the occupants was implied in the provisions of the MOA, "to complete and perfect ownership and title to the land and to (transfer) to plaintiffs the contiguous portion with all improvements" and "to deliver the new TCT free from all liens and encumbrances." This court finds that there is no implication of that sort. "If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of the stipulations shall control. If the words appear contrary to the evident intention of the parties, the latter shall prevail over the former." (Art. 1370, Civil Code of the Philippines). The evidence does not show that the parties had intentions other than those commonly understood from the aforementioned terms in the MOA. The plaintiffs have failed to prove that the intention of

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> the parties was other than that expressed by the literal meaning of the terms of the MOA.
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> Plaintiffs further alleged that the obligations to clear and wall-in occupants and to secure the cancellation of the Notice of Lis Pendens regarding the case of "Ledonio v. Sabio" annotated on the TCTs of the contiguous portion of the property are included in the obligation "to deliver the new TCT free from all liens and encumbrances," and that the obligation to clear the occupants' shanties is deemed included in the obligation "to complete and perfect ownership and title to the land and to transfer to plaintiffs the contiguous portion with all improvements," the shanties being deemed included in the term "improvements." This allegation is untenable. "Words which may have different significations shall be understood in that which is most in keeping with the nature and object of the contract" (Art. 1375, Civil Code of the Philippines), otherwise, it is presumed the words were used in their primary and general acceptation.
>
> Occupation by the occupants of the contiguous portion of the property is not an encumbrance which defendant Interbank is obligated to clear the property from. The meaning of the words, "free from all encumbrance" does not include adverse possession of a third person. (Yuson and De Guzman v. Diaz, 42 Phil. 22 [1921]). An adverse possession by another is not an "encumbrance" in law and does not contradict the condition that the property be free from encumbrances; nor is it a "lien" which connotes security for a claim. Likewise, a Notice of Lis Pendens is not a lien or encumbrance. It is a mere cautional notice to a prospective buyer or mortgagee of a parcel of land under litigation, and cannot conceivably be the lien or encumbrance contemplated by law. (Underscoring ours)[21]

On appeal, the Court of Appeals affirmed and quoted with approval the above-stated findings and conclusion of the trial court, while adding that:

> Indeed, an assiduous examination of the MOA and its WHEREAS clauses yields no basis for a necessary inference that the Interbank undertook to clear the 58,000 sq. m. portion to be assigned to plaintiffs of occupants/squatters, and to "wall-in" the same before turning over the title thereto. The MOA was negotiated for more than one year (see TSN, December 3, 1993, pp. 17-19), and during the negotiations one hundred (100) to two hundred (200) squatter families were already occupying the 58,000 sq. m. portion (TSN, December 10, 1993, p. 15). Plaintiffs assert that unless the squatters are removed from the contiguous portion and the area is properly walled in to make their removal effective, the predominant purpose of paragraph 2-b to transfer ownership and title without plaintiffs having to spend a single cent would be illusory and meaningless; thus the complaint alleges that the removal of the occupants and the walling in of the 58,000 sq. m. portion was one of the principal commitments made by Interbank which induced plaintiffs to execute the MOA.
>
> In light of the above circumstances, it is highly inconceivable and illogical that the plaintiffs did not insist on expressly providing the necessary stipulations and in words that leave nothing to further interpretation. Plaintiff Sabio, a lawyer, took part personally and with the assistance of another lawyer, in the drafting of the MOA, and the negotiations took about a year, and no reason is suggested why he refrained from including therein specific language containing what he considers the principal commitment of the second party to remove the squatters and wall-in the 58,000 portion to be conveyed to him. That the commitment must be implied, or inferred by interpretation or be shown by evidence outside of the document convinces us that the plaintiffs' expectations were an afterthought. (Underscoring ours)[22]

It is a long-held cardinal rule that when the terms of an agreement are reduced to writing, it is deemed to contain all the terms agreed upon and no evidence of such terms can be admitted other than the contents of the agreement itself.[23] Accordingly, the trial court and the Court of Appeals referred to no other document but the MOA itself, the stipulations of which are deemed the law between the contracting parties. The lower courts found that nowhere in the MOA did Interbank commit to clear the subject parcel of squatters or illegal occupants. Neither was Interbank obliged to remove whatever unauthorized improvements were introduced in the said property. Nor is there any stipulation that would constrain the respondents to fence or wall-in the subject parcel along its

perimeters. There being no such obligation on the part of the respondents, they cannot be compelled by the courts, even on the petitioners' adamant insistence, to first rid the subject parcel of squatters, remove all improvements and fence the perimeter thereof, before conveyance or transfer can be effected.

Indeed, it is not the province of the courts to amend a contract by construction, or to make a new contract for the parties by interjecting material stipulations, or even to read into the contract words which it does not contain.[24] Since the MOA of the parties was reduced to writing, such agreement is deemed to contain all its terms and there cannot be, between the parties and their successors-in-interest, any evidence of the terms of the written agreement other than the contents of the agreement itself.[25]

Nevertheless, petitioners invoke the "whereas" clauses of the MOA, as well as the other documents that preceded the execution of the MOA, arguing that these will provide proof of the real intention of the parties when they executed the MOA. They strongly contend that these documents reflect their true intentions that Interbank, and its successors-in-interest, are obligated to clear the subject parcel of illegal occupants and structures, then fence its boundaries. At the outset, however, we note that petitioners, in their pleadings, never put in issue the allegation that the MOA failed to express the true intent of the parties thereto. Instead, they adopt inconsistent positions in regard to the MOA, that by itself, it is valid and binding on the parties and their successors-in-interest on the one hand, while they also seek the court's cognizance of extraneous documents to radically modify or add to the terms of the written agreement on the other hand.

We have uniformly held that it is only where a party puts in issue in the pleadings the failure of the written agreement to express the true intent of the parties thereto that said party may present evidence to modify, explain or add to the terms of the written agreement.[26] The fact that the terms of the MOA are explicit and leave no doubt as to the intention of the parties, coupled with petitioners' failure to contest the contract for failing to express the true intention of the parties, behooves the courts not to read into the MOA any other intention that would contradict its apparent import,[27] such that the literal meaning of its stipulations must control.[28]

Be that as it may, we shall, for the sake of discussion, peruse the documents referred to by petitioners as allegedly containing the factual and legal bases for their claim that respondents are obligated to first clear the subject parcel of all illegal occupants and structures, and then wall-in said property before there can be fulfillment of the stipulation to assign, transfer and convey the same to petitioners.

Going by chronological order, the first document is a Deed of Assignment[29] dated May 25, 1973 between the Ledonio spouses and petitioners, whereby the Ledonios absolutely assigned and transferred to the Sabios three (3) parcels of land for and in consideration of services rendered. There is no reference therein to illegal occupants, structures, and other obligations such as fencing in these properties.

The second document dated April 14, 1980 is an Agreement[30] between the CPJ Corporation, the spouses Epifanio and Cecilia Alano, and Trans-Resource Management and Development Corporation (or TRMDC), whereby CPJ Corporation sold to the Alanos and TRMDC, as financier of the Alanos, three (3) parcels of property, one of which later became the subject of the MOA between Interbank and petitioners. In the said document, the Alanos and TRMDC agreed to buy the property on an "As Is" basis, without warranty of any kind as to title and possession on the part of the seller, CPJ Corporation. The Alanos and TRMDC thereby admitted:

> full knowledge of all the legal incidents and adverse claims affecting the said properties which have been and are being asserted by opposing parties in the pending cases/litigations involving the subject properties, i.e., LRC Cases Nos. PN-107 (LRC Rec. No. N-30603) and N-6336 (LRC Rec. No. N-34761), and Civil Case No. 187222, of the Court of First Instance of Rizal, as well as by other third persons not parties in the said pending cases/litigations, in respect of which the SECOND PARTY hereby agree(s) to and will assume full and sole

> responsibility for the settlement or removal thereof and save free and harmless the FIRST PARTY from any and all liability resulting and arising therefrom; x x x."[31]

A related document was the Contract to Buy and Sell[32] between the Alano spouses and TRMDC arising from the agreement between CPJ Corporation, the Alanos and TRMDC. Therein, the Alanos committed to free the titles from all liens and encumbrances on or before a certain date, but with particular reference to the "litigation of any and all cases affecting the properties, x x x especially those cases mentioned under the Deed of Cession and Assignment dated April 14, 1980" executed by the same parties. Contrary to petitioners' suppositions, there is no mention of the presence and clearing of squatters from the premises as a condition. In both documents, instead, there are definite references to the pending cases/litigations as the source of the liens and encumbrances on the subject property, not including therein any other extrajudicial claims of ownership or possession.

The fourth contract is a Deed of Assignment with Assumption of Mortgage[33] between Gerardo and Emma Ledonio as assignors, and the Sabio couple as assignees, executed by said parties on November 23, 1981. By the very nature of the contract, the only obligation that the Sabios assumed from the Ledonios were those under the mortgage in favor of the Philippine National Bank. Again, there was no mention of illegal occupants and structures, and therefore, no imposition to rid the property subject of the said mortgage of such persons and structures.

Then, there were executed on June 28, 1984, by and between TRMDC and Interbank, the Memorandum of Agreement[34] and the Addendum thereto.[35] In the former, the property subject of this petition was among those assigned, transferred and conveyed to Interbank (covered by TCT Nos. S-65161 and 65162), on the condition that there be settlement within one (1) year of all the attending liens and problems enumerated as follows:

> LIENS
>
> Entry No. 67527/L.P. No. 1753: NOTICE OF LIS PENDENS: By virtue of the notice of lis pendens presented and filed by Camilo L. Sabio, counsel for the plaintiffs, notice is hereby given that an action/petition for review has been commenced and is now pending in the Court of First Instance of Rizal in Civil/LRC Rec. No. 19722, entitled "Gerardo G. Ledonio, et al. versus Eduardo C. Guico," involving the property described herein.
>
> Entry No. 69433/L.P. No. 1763: NOTICE OF LIS PENDENS: By virtue of the notice of lis pendens presented and filed by Camilo L. Sabio, counsel for the intervenor, notice is hereby given that an action/petition for intervention has been commenced and is now pending in the Court of First Instance of Rizal in Civil/LRC Rec. No. 657, 758, 976 entitled "E. Mayuga, F. Baltazar, et al. vs. F. Baltazar, S. Ledonio, et al.," involving the property described herein.
>
> Entry No. 69434/L.P. No. 1762: NOTICE OF LIS PENDENS: By virtue of the notice of lis pendens presented and filed by Camilo L. Sabio, counsel for the plaintiff/defendants, notice is hereby given that an action/petition for review has been commenced and is now pending in the Court of First Instance of Rizal in Civil/LRC Rec. No. 657, 758, 976 entitled "E. Mayuga, F. Baltazar, et al. versus F. Baltazar, G. Ledonio, et al.," involving the property described herein.
>
> Entry No. 25081/T-190713: ADVERSE CLAIM - In an affidavit duly subscribed and sworn to, the spouses EPIFANIO J. ALANO and CECILIA P. ALANO, claim among other things, that the property described in this certificate of title is the subject of a Letter-Agreement executed by the herein owner and the adverse claimants.
>
> Entry No. 65120/L.P. No. 1140: LIS PENDENS: By virtue of a notice of lis pendens, presented and filed by Camilo L. Sabio, counsel for the Respondent-Counter-Petitioners, notice is hereby given that an action has been commenced and is now pending in the Court of First Instance of Rizal in LRC Case No. P-107, LRC Rec. No. N-30603, entitled "GERARDO G. LEDONIO, et al. versus CPJ CORPORATION, et al.," involving the

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land described in this certificate of title.

Entry No. 38000/S-65161: AGREEMENT - In favor of SPS. EPIFANIO J. ALANO, SR. and CECILIA P. ALANO and TRANS-RESOURCE MANAGEMENT & DEVELOPMENT CORPORATION, in an instrument duly executed by the herein registered owner agrees to sell, transfer and convey unto SPS. EPIFANIO J. ALANO, SR. and CECILIA P. ALANO and TRANS-RESOURCE MANAGEMENT & DEVELOPMENT CORPORATION for the sum of P5,250,000.00 subject to the terms and conditions set forth in Doc. No. 133, Page No. 28, Book No. II; Series of 1980 of Notary Public for Makati, Metro Manila, Ma. Cynthia Q. Halaqueña.

Entry No. 40608/S-65161: CONTRACT TO BUY AND SELL - By virtue of an instrument duly executed by and between EPIFANIO J. ALANO and CECILIA P. ALANO and TRANS-RESOURCE MANAGEMENT & DEVELOPMENT CORPORATION, the former have agreed to sell unto the latter the property described herein for a total consideration of FOURTEEN MILLION FOUR HUNDRED SIXTY SEVEN THOUSAND SEVEN HUNDRED TEN PESOS (P14,467,710.00) subject to the terms and conditions set forth in Doc. No. 148, Page 31, Book II; Series of 1980 of Notary Public for Makati, Metro Manila, Ma. Cynthia Q. Halaqueña.[36]

In paragraph 2.c of the MOA, the parties stipulated that Interbank shall render full and free assistance to TRMDC in "exploring, negotiating and consummating appropriate settlement agreements with the parties/claimants concerned, including defraying the required cost of such settlements with view to cleaning/settling all of said liens/problems within the prescribed period," but with specific reference to the liens and problems enumerated in the preceding paragraph. Clearly, the claims of third parties such as squatters were not among those enumerated as liens or problems affecting the subject property. Neither was Interbank obligated under the terms of said agreement to clear the subject property of illegal occupants, there being no specific mention of their presence therein. On the other hand, the Addendum to the MOA between TRMDC and Interbank is a mere amendment to the computations of the principal debt and interests of TRMDC loan with Interbank. There is nothing in said document that even touches on the subject of claims, liens and problems affecting the property.

In furtherance of their stipulations in the MOA and Addendum thereto, TRMDC executed a Deed of Assignment[37] on July 12, 1984 in favor of Interbank involving, among others, the parcel subject of this petition. Said documents cited the MOA entered into by the same parties, reiterating TRMDC's undertaking "to assign, transfer and convey absolute ownership and title in fee simple" over the properties described therein "free from any and all liens/encumbrances and/or problems of whatever kind and nature" within a specified period of time. While the phrase, "problems of whatever kind and nature" may be broadly construed, the succeeding paragraph stressed that TRMDC is obligated to execute a Deed of Assignment pending its accomplishment and/or compliance with its obligations under the MOA and Addendum to the MOA. Thus, the obligations of TRMDC were effectively limited to those specifically enumerated in the two preceding documents which, as mentioned earlier, did not include clearing the property of squatters and unauthorized structures.

Finally, the MOA between petitioners and Interbank, as previously discussed, did not make mention of squatters and illegal structures. Neither did they stipulate that Interbank was obligated to clear the subject property of such occupants and structures, and neither did the said MOA impose on Interbank the obligation to wall-in the subject property.

In fine, there is no factual or legal basis for petitioners' claim that the respondents are obligated to rid the subject property of squatters and unauthorized structures. Neither is there any provision in the cited documents that sustains petitioners' contention. Consequently, the court a quo and the Court of Appeals did not err in finding that respondents were not under compulsion to clear the subject property of squatters and unauthorized structures under the MOA, inasmuch as there was no obligation to fence the perimeter of the subject property. The terms of

the MOA and the preceding contracts are clear and leave no doubt as to their meaning; hence, they cannot be interpreted in a way that would please the petitioners, but should rather be fulfilled according to the literal sense of their stipulations.[38]

However, petitioners would argue that there was no necessity to make specific provisions with respect to the removal of the occupants and structures from, and walling-in of, the subject property. To them, it was sufficient that both parties knew the actual condition of the property. Petitioner Camilo Sabio testified to that effect, stating that the real intention or agreement of the parties was that the obligation to complete and perfect ownership and title included the removal of all squatters and unauthorized structures, and to fence the perimeter of the subject property.

However, the Court of Appeals correctly concluded that petitioner Camilo Sabio's testimony in this regard cannot be taken advantage of "to inject into the agreement any understanding which is contradictory to or at variance with the terms thereof without violating the parol evidence rule x x x." The rule is that "when the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be between the parties and their successors-in-interest, no evidence of such terms other than the contents of the written agreement."[39]

There are exceptions to said rule, however, such as when:

- There is an intrinsic ambiguity, mistake or imperfection in the writing;

- The written agreement fails to express the true agreement and intent of the parties thereto;

- The validity of the written agreement is in question; and

- There exists other terms agreed by the parties or their successors-in-interest after the execution of the written agreement.[40]

In the instant case, the MOA between the Sabios and Interbank was never assailed for any intrinsic ambiguity, mistake or imperfection in the writing by any of the parties. More importantly, petitioners never alleged in any of their pleadings that the MOA failed to express the true agreement and intent of the parties thereto. In fact, petitioner Camilo Sabio would be hard put to question the very contents of the MOA since he admittedly participated in the drafting of the MOA with the assistance of legal counsel.[41] Even if he would belatedly complain that the MOA did not state the true intentions of the parties, he is estopped from doing so. Indeed, the Court of Appeals noted, it is highly inconceivable and illogical that petitioner Camilo Sabio, an experienced lawyer who personally took part in the preparation of the MOA with the assistance of another lawyer, in the course of negotiations that lasted about a year, "did not insist on expressly providing the necessary stipulations and in words that leave nothing to further interpretation."[42]

He cannot now insist that the court should accept his bare testimony that there was a verbal understanding between the parties to the MOA, such that there was no necessity to make specific provisions concerning the removal of illegal occupants and structures, nor even to fence the subject parcel of land. His testimony may have been unrebutted, but unsubstantiated testimony offered as proof of verbal agreements which tend to vary the terms of a written agreement is inadmissible under the parol evidence rule.[43]

Furthermore, the validity of the MOA was never questioned. In fact, the petitioners are vigorously pursuing its execution, albeit in a manner that departs from the stipulations contained therein. Since no fraud or mistake that would vitiate the validity of the MOA has been alleged, parol evidence cannot be admitted to incorporate additional contemporaneous conditions which are not mentioned at all in the written agreement.[44] Neither have petitioners shown that after the execution of the MOA, the parties and their successors-in-interest agreed to terms

other than those appearing in the MOA.

In sum, there is no justification in the instant case to admit parol evidence to support the petitioners' claims. It is a cardinal rule of evidence, not just one of technicality but of substance, that the written document is the best evidence of its own contents. It is also a matter of both principle and policy that when the written contract, by agreement of the parties, is established as the repository of their stipulations, any other evidence is excluded and the same cannot be used as a substitute for such contract, nor even to alter or contradict them. Although the parol evidence rule is inflexible, it admits of four (4) exceptions, as earlier discussed. Since none of these exceptions was ever put in issue in the pleadings, in accordance with Rule 130, Section 9 of the Rules of Court, the parol evidence rule must be strictly adhered to in this instant case. Therefore, the stipulations of the contract being the law between the parties, the courts have no recourse but to enforce them as they were agreed upon and written.[45]

With more reason do we agree with the findings of the Court of Appeals that the existence of squatters and unauthorized structures in the subject property is not covered by the phrase "liens and encumbrances." The word "lien," by common acceptation, refers to a legal claim or charge on property to secure the payment of a debt or obligation, and which may often be used interchangeably with the word "encumbrance." We adopt this Court's definition of the words "lien" and "encumbrance" as set forth in People v. RTC,[46] and quoted in the impugned decision of the Court of Appeals, viz:[47]

> In People v. RTC (178 SCRA 299), the Supreme Court held that not all claims against a property can be considered a lien within the contemplation of law; it was held:
>
> x x x. A "lien" is a qualified right or a propriety interest, which may be exercised over the property of another. It is a right which the law gives to have a debt satisfied out of a particular thing. It signifies a legal claim or charge on property, either real or personal, as a collateral or security for the payment of some debt or obligation.
>
> Similarly, an encumbrance is a burden upon land, depreciative of its value, such as lien, easement, or servitude, which, though adverse to (the) interest of (the) landowner, does not conflict with his conveyance of (the) land in fee.
>
> The following are considered encumbrances: A claim, lien, charge, or liability attached to and binding real property; e.g., a mortgage, judgment lien, lease, security interest, easement or right of way, accrued and unpaid taxes. A lien is already an existing burden or charge on the property while a notice of lis pendens, as the very term connotes, is only a notice or warning that a claim or possible charge on the property is pending determination by the court.[48]

Petitioners have failed to show how squatters and unauthorized structures can fall under the definition of "liens and encumbrances." The documents relied upon by petitioners themselves enumerate the liens and encumbrances and other claims on the subject property. However, no such burdens on the property concerning the squatters appear in said documents. The courts cannot supply or read into these documents words which they clearly do not contain. All things considered, the Court of Appeals did not err in concluding that the possession of squatters or any other persons occupying the subject property without any legal right whatsoever, cannot and should not be considered a "lien or encumbrance" as commonly defined and accepted.

The second object of contention is the Deed of Conveyance proposed by respondents, but rejected by petitioners.[49] In said document, respondents Ayala Corporation, in accordance with the pertinent provisions of the MOA between Interbank and the Sabios, stipulated that:

> WHEREAS, the FIRST PARTY had already completed the segregation of the said 58,000-square meter

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> portion of Lot 6 (Psd-80888) in accordance with the Bureau of Land's approved survey plan, a copy of which is hereto attached as Annex "C". As such, the FIRST PARTY is now in a position to comply with its obligation under Section 5 of the said Deed of Sale (Annex "B") to convey the property to the SECOND PARTY, now described as follows:
>
> Lot 6-B, Psd-13-008573, TCT No. T-5331
> of Las Piñas Registry of Deeds
>
> "A PARCEL OF LAND (Lot 6-B of the subdivision plan Psd-13-008573, being a portion of Lot 6, Psu-80886, (Swo-20609), LRC Record No. 43516), situated in Barrio Almanza Dos, Las Piñas, Metro Manila. Bounded on the NW., & NE., along lines 1 to 6 by Lot 8; on the SE., along line 6-7 by Lot 10 both of plan Psu-80886); and on the S., & W., along lines 7-8-1 by Lot 6-A of the subdivision plan. x x x containing an area of FIFTY EIGHT THOUSAND (58,000) SQ. METERS."

NOW, THEREFORE, for and in consideration of the foregoing, the FIRST PARTY Transfers, Assigns, Cedes and Conveys unto the SECOND PARTY the said 58,000-square-meter portion of Lot 6-B, Psd-13-008573, covered by TCT No. T-5331 of Las Piñas Registry of Deeds and described in the above fourth WHEREAS clause.

That as part of the consideration of this Conveyance, the SECOND PARTY binds himself to file a Notice of Withdrawal of the case entitled "Sps. Camilo and Ma. Marlene A. Ledonio vs. The International Corporate Bank, et al., docketed as Civil Case No. 18540 of the Regional Trial Court of Makati, Branch 145.[50]

The Sabios, however, refused to sign said deed of conveyance on the ground that it was grossly violative of the law and the MOA,[51] more particularly arguing that:

> - Mere execution of the deed of conveyance does not constitute sufficient and valid compliance with par. 2.b of the MOA;
>
> - Ayala Corporation failed to "complete and perfect ownership and title" to the subject property since it was never in actual occupation, possession, control and enjoyment of said property;
>
> - Under the law, symbolic delivery by mere execution of the deed of conveyance is not sufficient since actual possession, control and enjoyment is a main attribute to ownership.

We do not agree, for the law is clear on this matter. Under Article 1498 of the Civil Code, "when the sale is made through a public instrument, the execution thereof shall be equivalent to the delivery of the object of the contract, if from the deed the contrary does not appear or cannot be inferred." Possession is also transferred, along with ownership thereof, to the petitioners by virtue of the deed of conveyance.[52]

Parallel to our ruling in Dulay Enterprises, Inc. v. Court of Appeals,[53] we find that petitioners' contention that respondents "never acquired ownership over the subject property since the latter was never in possession of the subject property nor was the property ever delivered" is totally without merit. Under the aforementioned Article 1498, the mere execution of the deed of conveyance in a public document is equivalent to the delivery of the property. Since the execution of the deed of conveyance is deemed equivalent to delivery, prior physical delivery or possession is not legally required.

It is well-established that ownership and possession are two entirely different legal concepts.[54] Just as possession is not a definite proof of ownership, neither is non-possession inconsistent with ownership.[55] Thus, it is of no legal consequence that respondents were never in actual possession or occupation of the subject property. They, nevertheless, perfected and completed ownership and title to the subject property.

Notwithstanding the presence of illegal occupants on the subject property, transfer of ownership by symbolic delivery under Article 1498 can still be effected through the execution of the deed of conveyance. As we held in

Power Commercial and Industrial Corp. v. Court of Appeals,[56] the key word is control, not possession, of the subject property. Considering that the deed of conveyance proposed by respondents did not stipulate or infer that petitioners could not exercise control over said property, delivery can be effected through the mere execution of said deed.

Petitioners, as owners, have several options. Among these, they could file ejectment suits against the occupants, or to amicably secure the latter's evacuation of the premises. Whatever mode petitioners choose, it signifies their control and their intention as owners "to obtain for themselves and to terminate said occupants' actual possession thereof."[57] It is sufficient that there are no legal impediments to prevent petitioners from gaining physical possession of the subject property. As stated above, prior physical delivery or possession is not legally required and the execution of the deed of sale or conveyance is deemed equivalent to delivery. This deed operates as a formal or symbolic delivery of the property sold and authorizes the buyer or transferee to use the document as proof of ownership. Nothing more is required.

Petitioners cannot deny that the deed of conveyance can effectively transfer ownership as it constitutes symbolic or constructive delivery of the subject property. Neither can they negate the fact that as owners, they can exercise control over the said property. Respondents are not obligated to remove the occupants before conveying the subject property to petitioners.

Petitioners argue that for them to have to spend to clear the subject property of illegal occupants and structures would violate par. 2.c of the MOA, which imposed on Interbank and its successors-in-interest the burden to bear all costs, fees and expenses incidental to segregation, survey, registration and delivery of a new title to the petitioners. It is patently clear that expenses for removal of illegal occupants and structures are not among those listed in said paragraph 2.c. The Court of Appeals noted that the obligation to defray all the costs and fees was connected with the delivery to petitioners of a new certificate of title, free from all liens and encumbrances. Had the parties to the MOA intended for Interbank and its successors-in-interest to be obligated to shoulder the expense of clearing the subject property of squatters and illegal structures, language to that effect could have easily and logically have been employed. As it happened, petitioners omitted to include this as a condition when they drafted the MOA. If the parties thereto really intended to impose on Interbank and its successors-in-interest the obligation to eject the squatters from the subject property and defray the cost therefor, it should have been stated in the MOA. The terms of the MOA are so clear as to leave no room for any other interpretation.[58]

There is also no truth to petitioners' allegation that the deed of conveyance merely transferred to the Sabios all the rights and participation of respondents over the subject property. The Deed of Conveyance clearly states that "the FIRST PARTY (respondent Ayala Corporation) Transfers, Assigns, Cedes and Conveys unto the SECOND PARTY (Sabios) the said 58,000 square-meter portion of Lot 6-B, Psd-13-008573, covered by TCT No. T-5331 of Las Piñas Registry of Deeds and described in the above fourth WHEREAS clause." Thus, the deed of conveyance complied with par. 2.b of the MOA, which provided that the said property shall be assigned and conveyed after Interbank and its successors-in-interest shall complete and perfect ownership and title to said property.

Another object of contention is the stipulated permanent and perpetual right-of-way, which under par. 2.d of the MOA shall be "sufficient for all the needs of said parcel of land throughout the properties already owned and/or to be acquired by the SECOND PARTY" (Interbank) particularly the parcels of land covered by TCT No. 85717, TCT No. S-65161, and TCT No. S-65162, which right-of-way shall not be less than ten (10) meters wide." Petitioners contend that "it is the purpose and spirit of the MOA that (they) shall have the same right to pass through the Ayala Corporation's proposed subdivision like any other homeowner therein."[59]

Respondents counter that the right-of-way it has proposed is one with a definite lane and width and which is the most convenient route to the main access road that connects Ayala-Las Piñas to the Ayala-Alabang Road. Moreover, at petitioners' option, respondents were willing to provide another access road to service the subject property.[60] The proposed right-of-way is particularly described in TCT No. T-5332, containing an area of approximately 370,868 square meters.[61]

We agree with the Court of Appeals that the phrase "permanent and perpetual right of way" should be construed in its ordinary and accepted signification, i.e., to provide ingress to and egress from the dominant estate, or to provide passage in going to the highway from the dominant estate and back. The MOA itself does not provide that petitioners shall have free access to all the roads within the proposed subdivision that respondents would establish on the estate. Had the parties intended that petitioners be given such access, the same should have been incorporated in the MOA. Once again, the courts cannot read into the MOA any other intention that would contradict the apparent agreement. The courts cannot embellish the precise stipulations of the MOA just for the convenience of petitioners.

An easement is an abnormal restriction on respondents' property rights, and the imposition thereof must be tempered and limited to the ordinary needs of petitioners' property, not to satisfy their caprices. The law requires that the right-of-way must be at the point least prejudicial to the servient estate, and when applicable, where the distance from the dominant estate to a public highway may be the shortest.[62]

While the proposed right-of-way traversed respondents' properties, the same should not encroach into the latter's proposed subdivision roads. Petitioners' access to all the subdivision roads like any homeowner therein is not a necessity and goes beyond mere convenience on their part. Otherwise, that would be stretching the purpose and meaning of a right-of-way beyond its legal and general acceptation. The fact is that respondents did not lack in satisfying the requirements in par. 2.d of the MOA. Instead of the minimum width of 10 meters, the proposed right-of-way is twenty-five (25) meters wide,[63] more than double the stipulated minimum width. There is really no reason for petitioners to complain and want for more.

While this may already be moot and academic, petitioners raise the issue that respondents' confession of judgment[64] did not deny certain allegations contained in paragraphs IV, XII, XIII, and XIV of the former's second amended and supplemental complaint;[65] hence, they constitute express judicial admissions which the courts should have considered.[66]

While respondents denominated their pleading as a confession of judgment, it is more in the nature of a motion for partial judgment on the pleadings or a summary judgment. Indeed, respondents asked the court a quo to render partial judgment based on their admission of the genuineness and contents of certain documentary evidence offered by both parties. It is clear that respondents made no admission that would support any of petitioners' contentions that deviate from the very stipulations in the MOA. There can be no implied admission of allegations which are extraneous to the contents of the documents expressly admitted by respondents. Their specific denials of certain allegations in petitioners' complaint still stand in their answer. In fact, respondents did not state anything that would contradict their earlier defenses and arguments already on record. It was a mere reiteration of their stand that the MOA, as worded, be implemented literally and without further delay.

It cannot also be said that respondents are deemed to have admitted the allegations in Camilo Sabio's testimony as to the circumstances surrounding the execution of the MOA. As petitioners themselves noted, respondents' counsel declared in open court that: (a) they were "ready to agree and admit all the documentary evidence that the counsel (Atty. Sabio) has anyway enumerated in his pre-trial brief" x x x; (b) "it's very clear that this case could be decided based on the pleadings and documentary evidence" x x x; and (c) "it is admitted by the defendants and

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we are ready to admit the documentary evidence that they'll be presenting."[67] Clearly, respondents only admitted all the documentary evidence, not the testimonial evidence offered by petitioners.

We stated earlier that this issue is already moot and academic for the supposed judicial admissions referred to by petitioners, had they been considered by the lower court, would not alter the outcome of this case. The lower court's conclusions, insofar as the implementation of the MOA is concerned, are more than amply supported by documentary evidence. Apart from those matters expressly admitted by respondents, there can be no implied admissions which the lower court could properly recognize. Besides, as earlier discussed, the documents themselves are the best evidence of the agreements between the parties in the absence of compelling evidence to the contrary.

Related to the issue of the confession of judgment is petitioners' claim for damages. The trial court found that petitioners are entitled to P500,000.00 in actual damages and P250,000.00 in exemplary damages. On appeal, however, the Court of Appeals reversed the trial court's ruling, finding the awards for actual and exemplary damages in favor of petitioners unwarranted, and setting the same aside.

Petitioners have failed, in this petition, to present any persuasive proof that they are entitled to the damages awarded by the trial court. As found by the Court of Appeals, the claim for actual damages remained unsubstantiated and unproven. It is well-settled that actual or compensatory damages must be duly proved and proved with reasonable degree of certainty.[68] It is the fundamental principle of the law on damages that while one injured by a breach of contract shall be awarded fair and just compensation commensurate with the loss sustained as a consequence of the defendant's acts or omission, a party is entitled only to such compensation for the pecuniary loss that he has duly proven. Actual damages cannot be presumed and cannot be based on just flimsy, remote, speculative and nonsubstantial proof.[69]

Petitioners also failed to establish that the delay in the implementation of the MOA was the sole responsibility of respondents. In fact, no factual basis was presented to support the claim for not only actual or compensatory damages, but also for exemplary damages. Petitioners failed to show that respondents acted in a wanton, fraudulent, reckless or malevolent manner that would warrant the award of exemplary damages.[70]

Anent the directive to cancel the annotation of the MOA and the Notices of Lis Pendens on TCT Nos. T-5331, T-5332, T-5333 and T-5334,[71]petitioners argue that the maintenance of the annotation of the MOA and the notices of lis pendens is necessary to protect their rights should the property be sold to third persons for value. They also stress that the MOA expressly mandates the annotation of the MOA on TCT Nos. S-65161 and S-65162.[72]

The Court of Appeals found that:

> With respect to the annotation of the MOA, paragraph 4 of the MOA itself expressly provides that the obligations assumed under paragraphs 2.b, 2.c and 2.d thereof (par. 2.d contains the right of way provision) shall be binding upon all the assigns, heirs and successors of the parties, and that the MOA shall be annotated on TCT No. 65161 and TCT No. 65162, which became eventually TCT No. 5333 and TCT No. 5331. No mention is made of the other titles to be owned and/or acquired by defendant-appellant, and the omission cannot be supplied by construction.[73]

We agree. Indeed, the MOA only require that it be annotated on TCT Nos. 65161 (now 5333) and 65162 (now 5331). Thus, there should be no reason to extend this requirement to other titles not mentioned in the MOA.

Petitioners also take exception to the refusal of the lower court to annotate the judgment in the case below on all eighteen (18) titles covering the parcels of land comprising Ayala Southvale Subdivision. The underlying

intention of petitioners is to have the easement of right-of-way annotated on all of the titles. Respondents counter that there is no such need because the right-of-way has been delineated and segregated and, hence, there is no reason to annotate the same on the titles that are not affected thereby.

Again, we find no merit in petitioners' contention, especially since the easement of right-of-way as offered by respondent is more than adequate for the needs of the subject property, and that it was properly constituted without imposing unnecessary burden on the other properties of respondents. There can really be no justification for annotation on the titles that are not subject to the easement.

Finally, we come to the tenth and last error assigned by petitioners, i.e., that the trial court erred in ordering the cancellation of the notice of lis pendens on TCT Nos. T-5331 to T-5334 and all titles derived therefrom. In its Resolution,[74] the Court of Appeals held that:

> Nevertheless, the appellant's argument that the trial court committed grave abuse of discretion in ordering the cancellation of the notices of lis pendens before finality of the assailed judgment in the absence of "good reasons" to justify execution pending appeal is untenable. The order of cancellation of the notices of lis pendens was not issued by the trial court under Section 2, Rule 38 of the Rules of Court regarding execution pending appeal which requires the existence of "good reasons", but under Section 24 of Rule 14 and Section 77 of PD 1529 which allow the trial court to cancel notice of lis pendens even before final resolution of the case on the merits upon finding that the notice "is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be registered." (Underscoring ours)

We find no cogent reason to disturb the ruling of the Court of Appeals in this regard. In light of the foregoing discussion, the trial court did not abuse, gravely or otherwise, its discretion when it allowed the cancellation of the annotations. Accordingly, neither did the Court of Appeals err when it affirmed the order of the trial court on the finding that there was no longer any necessity to protect the rights of petitioners over the titles that were either not affected by the easement or not mentioned in the MOA.

WHEREFORE, in view of all the foregoing, the instant petition for review is DENIED and the Decision of the Court of Appeals dated April 30, 1997 in CA-G.R. CV No. 48870 is AFFIRMED in toto. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Puno, and Pardo, JJ., concur.
Kapunan, J., took no part being related to one of the parties.

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[1] Exhs. "KK" to "KK-3," TCT No. T-5331, Records, pp. 1986 to 1989; Exhs. "LL" to "LL-2," TCT No. T-5332, Records, pp. 1940-1942.

[2] Exhs. "A-27" to "A-30," Records, pp. 42-45.

[3] Exhs. "A-31" to "A-33," Records, pp. 46-48.

[4] Exhs. "A-6" to "A-9," Records, pp. 21-24.

[5] Memorandum of Agreement; Exhs. "A" to "A-5," Records, pp. 15-20.

[6] CA Decision; Rollo, p. 203.

[7] CA Decision; Rollo, pp. 203-204.

[8] Exhs. "EEEE" to "EEEE-4" or "4-Ayala," Records, pp. 1979-1983.

[9] Exhs. "6" to "6-C (Ayala)," Records, p. 1476.

[10] Exhs. "3-A (Ayala)" or "LL,", Records, pp. 1940 to 1942; "3-B (Ayala)" or "MM," Records, pp. 1943 to 1945; "3-C (Ayala)" or "NN," Records, pp. 1946 to 1948.

[11] RTC Decision dated June 7, 1994; Records, pp. 1653 to 1659.

[12] RTC Order dated September 21, 1994; Records, p. 1894.

[13] CA Decision, p. 3; Rollo, pp. 203-204.

[14] CA Decision, p. 15; Rollo, p. 215.

[15] CA Decision, p. 19; Rollo, p. 219.

[16] CA Decision, p. 27; Rollo, p. 227.

[17] Exh. "A" to "A-5", Records, pp. 15-20.

[18] Fourth Assigned Error.

[19] Third and Sixth Assigned Errors.

[20] Assigned errors I, II, III and IV in the plaintiffs-petitioners' appeal before the Court of Appeals.

[21] Rollo, pp. 216-218.

[22] Ibid., p. 218.

[23] Ortañez v. Court of Appeals, 266 SCRA 561, 565 (1997) citing Section 9, Rule 130 of the Revised Rules of Court.

[24] Cuizon v. Court of Appeals, 260 SCRA 645, 667 (1996).

[25] De Mesa v. Court of Appeals, 317 SCRA 24, 32 (1999).

[26] Mactan Cebu International Airport Authority v. Court of Appeals, 263 SCRA 736, 742 (1996).

[27] Cruz v. Court of Appeals, 293 SCRA 239, 252 (1998).

[28] Baylon v. Court of Appeals, 312 SCRA 502, 509 (1999).

[29] Exhs. "A-27" to "A-30", Records, pp. 42-45.

[30] Exhs. "A-35" to "A-46", Records, pp. 1897-1908.

[31] Exh. "A-39", paragraph 3(b), Records, p. 1901.

[32] Exhs. "A-10" to "A-15", Records, pp. 25-30.

[33] Exhs. "A-31" to "A-33", Records, pp. 46-48.

[34] Exhs. "A-16" to "A-22", Records, pp. 31-37.

[35] Exhs. "A-23" to "A-26", Records, pp. 38-41.

[36] Exh. "A-20", Records, p. 35.

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[37] Exhs. "A-6" to "A-9", Records, pp. 21-24.

[38] Salvatierra v. Court of Appeals, 261 SCRA 45, 56-57 (1996); Tanguilig v. Court of Appeals, 266 SCRA 78, 83 (1997).

[39] Section 9, Rule 130, Revised Rules of Court, par. 1.

[40] CKH Industrial and Development Corporation v. Court of Appeals, 272 SCRA 333, 346-347 (1997).

[41] TSN, December 3, 1993, pp. 18-21; Rollo, p. 95.

[42] Court of Appeals Decision, Rollo, p. 218.

[43] Aerospace Chemical Industries, Inc. v. Court of Appeals, 315 SCRA 92, 107 (1999).

[44] Ortañez v. Court of Appeals, 266 SCRA 561, 566 (1997).

[45] Valarao v. Court of Appeals, 304 SCRA 155, 164 (1999).

[46] 178 SCRA 299, 307-308 (1989). 178 SCRA 299, 307-308 (1989).

[47] Rollo, p. 220, Court of Appeals Decision, p. 20.

[48] Ibid., p. 220.

[49] Exhs. "EEEE" to "EEEE-4", or "4-Ayala", Records, pp. 1979-1983.

[50] Exh. "EEEE-3", Records, p. 1982.

[51] First and Second Assigned Errors.

[52] Ong Ching v. Court of Appeals, 239 SCRA 341, 347 (1994).

[53] 225 SCRA 678, 686-687 (1993); Garcia v. Court of Appeals, 312 SCRA 180, 190 (1999).

[54] Painaga v. Cortes, 202 SCRA 245, 249 (1991).

[55] Heirs of George Bofill v. Court of Appeals, 237 SCRA 451, 459 (1994).

[56] 274 SCRA 597, 610 (1997).

[57] Ibid.

[58] Article 1370, Civil Code; Ang v. Court of Appeals, 170 SCRA 286, 295 (1989); Sy v. Court of Appeals, 131 SCRA 116, 124 (1984).

[59] Seventh Assigned Error.

[60] Exhs. "6-B" and "6-C" (Ayala), Records, p. 1476.

[61] Exh. "3-A" (Ayala) or Exhs. "LL" to "LL-2", Records, pp. 1940-1942.

[62] Sta. Maria v. Court of Appeals, 285 SCRA 351, 362 (1998); Cristobal v. Court of Appeals, 291 SCRA 122, 129 (1998).

[63] TSN, December 10, 1993, pp. 26-27.

[64] Dated June 18, 1993; Records, pp. 1193-1199.

[65] Dated April 23, 1990; Records, pp. 360-401.

[66] Fifth and Ninth Assigned Errors.

[67] TSN, November 5, 1993, pp. 2-3.

[68] Lufthansa German Airlines v. Court of Appeals, 243 SCRA 600, 615 (1995).

[69] Ong v. Court of Appeals, 301 SCRA 387, 400 (1999); Luxuria Homes, Inc. v. Court of Appeals, 302 SCRA 315, 327 (1999).

[70] Cervantes v. Court of Appeals, 304 SCRA 25, 33 (1999).

[71] Exhs. "KK" to "KK-3", or "3-Ayala", Records, pp. 1986-1989; "LL" to "LL-2", or "3-A-Ayala", Records, pp. 1940-1942; "MM" to "MM-2", or "3-B-Ayala", Records, pp. 1943-1945; "NN" to "NN-2", or "3-C-Ayala", Records, pp. 1946-1948.

[72] Eighth Assigned Error.

[73] CA Decision, Rollo, p. 223.

[74] Dated February 18, 1988, Rollo, pp. 229-230.

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