

EVELYN ONG, ELIZABETH QUIAMCO, JOSEPHINE REJOLLO AND ELEONOR ORTEGA, PETITIONERS, VS. COURT OF APPEALS AND SPOUSES RICHARD AND NILDA CABUCOS, RESPONDENTS.*G.R. No. 142056. April 19, 2001*

Ponente: BELLOSILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-142056/>**BELLOSILLO, J.:**

PEDRO and JOSEFA QUIAMCO, spouses, owned a residential lot and a house standing thereon situated in Barrio Carreta, Cebu City, covered by TCT No. RT-3781. They had six (6) children, namely, Trinidad, Avelina, Amelia, Camilo, Pedro and Darius, all surnamed Quiamco. Pedro died in 1973 and Josefa in 1981.

On 18 January 1985 the Quiamco children above-named executed an Extra-Judicial Declaration of Heirs with a Deed of Donation stating that they were the only surviving heirs of their deceased parents and that they were transferring by way of donation the house and lot embraced in TCT No. RT-3781 to their sister Trinidad Quiamco who duly accepted it. Consequently, TCT No. 93046 was issued in the name of Trinidad Quiamco. Thereafter, their brother Darius Quiamco died. Nevertheless, Trinidad allowed his surviving wife Elizabeth Quiamco and their children Evelyn Ong, Josephine Rejollo and Eleonor Ortega, petitioners herein, to occupy the house and lot.

On 19 August 1994 respondent-spouses Richard and Nilda Cabucos purchased the house and lot from Trinidad. Subsequently, TCT No. 130676 was issued in their names. In 1995 they demanded that petitioners vacate the premises within ten (10) days from notice. Petitioners refused. The matter had to be referred to the barangay for amicable settlement but the parties failed to arrive at an agreement. Consequently, respondents filed four (4) complaints against petitioners for illegal detainer before the Municipal Trial Court of Cebu City. Respondents alleged that they had already purchased subject property from Trinidad and that petitioners' possession of the property was by their mere tolerance.

Petitioners contended that in 1972 the spouses Pedro and Josefa Quiamco had verbally donated the subject property to them on condition that they would take care of the old couple. Since then petitioners had been in uninterrupted, open, continuous and peaceful possession of the property and religiously paying the realty taxes therefor.

The trial court opined that petitioners' claim of donation could not stand against the ownership of respondents as evidenced by a certificate of title. On 14 May 1996 it rendered judgment ordering petitioners and any of their representatives to peacefully vacate the house and lot; to pay respondents jointly and severally P500.00 a month as rental beginning 15 May 1995 until possession could be completely turned over to respondents; and, to pay respondents jointly and severally P5,000.00 as attorney's fees and P1,000.00 as litigation expenses, and to pay the costs of suit.[1] On 14 May 1997 the Regional Trial Court of Cebu City affirmed the decision of the Municipal Trial Court.[2] On 22 March 1999 the Court of Appeals likewise affirmed the decision of the Regional Trial Court.[3] On 24 January 2000 reconsideration was denied.[4] Petitioners insist that they had acquired ownership of subject property by acquisitive prescription as shown by their uninterrupted, open, continuous and peaceful

possession since 1972 up to the present, as well as by donation.

Petitioners now come to us by way of certiorari under Rule 65 of the Rules of Court imputing grave abuse of discretion amounting to excess of jurisdiction on the part of the Court of Appeals. But they have not substantiated their claim. In fact, it is not unlikely that they merely availed of such remedy because their period within which to appeal from the decision of the Court of Appeals had already expired. They received copy of the Court of Appeal's Resolution denying their Motion for Reconsideration on 28 January 2000, thus they had until 12 February within which to appeal to this Court. They did not do so but opted to come to us on certiorari. Their petition was posted on 21 February 2000.[5] But certiorari, this Court emphasizes, is not a substitute for lost appeal.[6] Even on the merits, the petition must fail as it does not provide any reason for this Court to disagree with the uniform ruling of the three (3) lower courts. Petitioners' alleged possession of subject property since 1972 cannot render nugatory the right of respondents as holders of a certificate of title. Prescription does not run against registered land. A title, once registered, cannot be defeated even by adverse, open and notorious possession.[7] The subject property was previously titled in the name of spouses Pedro and Josefa Quiamco, then transferred to Trinidad, and later to respondents. Moreover, in asserting ownership by donation, petitioners were in effect assailing the title of respondents. The Court of Appeals correctly brushed aside this argument of petitioners by invoking our ruling that a Torrens title cannot be collaterally attacked; the issue on its validity can only be raised in an action expressly instituted for that purpose.[8] Having failed to show any right to possess subject property, petitioners must surrender possession to respondents as the new owners and rightfully entitled thereto.

WHEREFORE, the petition is DISMISSED. The Decision of the Court of Appeals affirming that of the Regional Trial Court, which in turn affirmed that of the Municipal Trial Court, is AFFIRMED. Petitioners, their relatives, and all persons claiming rights thereto and title under them are ordered to vacate the house and lot originally covered by TCT RT-3781, later by TCT No. 93046, now by TCT No. 130676 in the name of respondent-spouses Richard and Nilda Cabucos, situated in Barrio Carreta, Cebu City, and presently owned by the same respondent-spouses Richard and Nilda Cabucos as registered owners thereof; to pay jointly and severally the same respondent-spouses P500.00 a month as rental beginning 15 May 1995 until possession thereof is completely turned over to them, to pay jointly and severally the same respondent-spouses P5,000.00 as attorney's fees, and P1,000.00 as litigation expenses, and to pay the costs of suit.

SO ORDERED.

Mendoza, Quisumbing, Buena and De Leon, Jr., JJ., concur.

[1] Decision penned by Judge Olegario R. Sarmiento Jr., MTC-Br. 2, Cebu City; CA Rollo, p. 192.

[2] Decision penned by Judge Ferdinand J. Marcos of RTC-Br. 20, Cebu City; id., p. 201.

[3] Decision penned by Justice Angelina Sandoval-Gutierrez (now Supreme Court Associate Justice) with the concurrence of Justices Romeo A. Brawner and Martin S. Villarama Jr.; Rollo, pp. 116-117.

[4] Rollo, p. 126.

[5] Id., p. 1.

[6] *Bernardo v. Court of Appeals*, G. R. No. 106153, 14 July 1997, 275 SCRA 413.

[7] *Heirs of Leopoldo Vencilao, Sr. v. Court of Appeals*, G. R. No. 123713, 1 April 1998, 288 SCRA 574.

[8] *Co v. Court of Appeals*, G. R. No. 93687, 6 May 1991, 196 SCRA 705.

ABOUT BATAS.ORG

Study smarter at BATAS.org

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

The complete Philippine law library - free for everyone.

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

Audio case-brief lectures.

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

Bar review built on the science of memory.

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

The full law-school curriculum.

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

Mock exams that tell you where you stand.

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

A study planner that keeps you on pace.

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

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

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

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

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