

FIVE STAR MARKETING CO., INC., REPRESENTED BY ITS PRESIDENT SALVADOR BOOC, PETITIONER, VS. JAMES L. BOOC, RESPONDENT.*G.R. NO. 143331. October 05, 2007*

Ponente: AZCUNA, J.

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Before the Court is a petition for review on certiorari assailing the Decision[1] of the Regional Trial Court (RTC), Branch 4, Iligan City dated April 25, 2000 in Civil Case No. 5023 which set aside the Decision[2] of the Municipal Trial Court in Cities (MTCC), Branch 1, Iligan City dated November 10, 1999 in Civil Case No. (10808-AF) I-1201; and the RTC's Order[3] dated May 30, 2000 denying petitioner's motion for reconsideration.

The antecedents are as follows:

Petitioner is a corporation duly organized and existing under Philippine laws,[4] the incorporators of which include the children of the late Antonio Booc and Ong Chuy Tiok, namely, Sheikding, Rufino, Felisa, Salvador, Jose, and Roque.[5] Said corporation came into existence in 1979, when the heirs of the late Nicolas Abarca offered to sell to the heirs of the late Antonio Booc Lot 69-A located in Quezon Avenue, Iligan City.[6] Considering that the siblings were to contribute unequal shares of the purchase price, they decided to create a corporation, Five Star Marketing Company, Inc., the petitioner herein, whose shares of stock reflected the amount of their contribution in purchasing the subject property.[7] On December 12, 1979, the heirs of Nicolas Abarca and petitioner executed a Deed of Sale[8] where the former sold Lot 69-A to petitioner for the sum of P50,000. Consequently, Transfer Certificate of Title No. T-19209 (a.f.)[9] was issued in the name of petitioner.

In 1982, when the existing structure in the subject property was completely razed by fire, petitioner constructed thereon a four-storey building financed mainly by a loan secured from Northern Mindanao Development Bank using the subject property as collateral.[10] The entire ground floor and the fourth floor were allotted to Rufino, the second floor to the family matriarch, Ong Chuy Tiok, and the third floor to Sheikding, all of whom occupied the same rent-free.[11]

Sometime in the late 1980, on the insistence of Ong Chuy Tiok, James Booc, the son of Sheikding and respondent herein, was allowed to use one-half of the ground floor for his business rent-free. In 1993, petitioner and respondent entered into an Agreement[12] wherein the latter became the lessee of the space formerly occupied by Rufino and that of De Leon Gun Store.

Several years later, the board of directors of petitioner passed and approved a resolution[13] terminating the free-rental privilege given to all the occupants of the building. It stressed that the privileges shall be good only up to March 31, 1999, after which, the building will be open for lease with the following rates.

Ground floor door 1 P 50,000

Ground floor door 2 40,000

2nd floor 50,000

3rd floor 40,000

4th floor 30,000

Roof deck 15,000[14]

On March 15, 1999, petitioner notified all the occupants that it had withdrawn all privileges granted to them. It likewise notified them of the rental rates of the units concerned and further required any interested occupant to negotiate and enter into a lease agreement with petitioner.[15] Respondent was informed that the rental rate for ground floor, door 2, is P40,000.00 per month effective April 1, 1999.[16] However, respondent did not enter into a lease contract with petitioner and, despite repeated demands, failed to vacate the premises.[17]

Thus, on May 25, 1999, petitioner filed an action for unlawful detainer against respondent before the MTCC, Iligan City. The same was docketed as Civil Case No. (10808-AF) I-1201 and raffled to Branch 1.

Petitioner prayed, thus:

WHEREFORE, premises considered, the plaintiff most respectfully prays of this Honorable Court, after due hearing, judgment be rendered in favor of the plaintiff and against the defendant by:

- a) Ordering the defendant to vacate the above-described premises, and return the possession thereof to the plaintiff;
- b) Ordering the defendant to pay the monthly rentals of P40,000.00 of said premises from April 1999 until the defendant delivers possession of the premises to the plaintiff, as and by way of actual and compensatory damages;
- c) Ordering the defendant to pay the amount of P20,000.00, as and by way of attorney's fees plus P2,000.00 per court appearance;
- d) To pay costs of suit.

Other relief and remedies as may be just and equitable under the premises are likewise prayed for.[18]

In his answer, respondent raised several defenses among which being that petitioner has no cause of action for ejectment against respondent; that petitioner has no legal personality to sue; that the court has no jurisdiction over the subject matter; and that the premises in question have been occupied by the respondent for free since the erection of the building, they being the share of his father Sheikding; and that respondent and his father filed a case in the Securities and Exchange Commission against petitioner and against the president of petitioner corporation.[19]

During the preliminary conference on July 13, 1999, the MTCC directed the parties to explore the possibility of an amicable settlement. Consequently, the preliminary conference was reset to August 3, 1999.

On July 24, 1999, respondent, through counsel, sent petitioner a telegram asking for a postponement of the preliminary conference set on August 3, 1999.[20] On July 26, 1999, respondent's counsel filed a Motion to Reset[21] the preliminary conference set for August 3, 1999 to August 24, 1999, allegedly due to an unpostponable personal engagement.

Petitioner, through counsel, opposed the motion arguing that the motion violated the provision of Sec. 11, Rule 13 of the 1997 Rules of Civil Procedure,[22] hence, it is considered as not filed; that it is a dilatory motion, a prohibited pleading pursuant to Sec. 19 of the Revised Rule on Summary Procedure;[23] and that no motion for

postponement of the preliminary conference shall be allowed except on meritorious grounds.[24]

On August 3, 1999, the scheduled preliminary conference pushed through. Petitioner and its counsel appeared but respondent and his counsel failed to appear despite due notice.

On August 18, 1999, the MTCC issued an Order[25] denying respondent's motion to reset on the grounds that it failed to comply with the required explanation why service was not done personally pursuant to Sec. 11, Rule 13 of the Rules[26] and that counsel failed to establish that his motion is meritorious. Consequently, the court ruled on the basis of the facts alleged in the complaint. The dispositive portion of the order reads as follows:

WHEREFORE, finding the defendant's motion to reset the preliminary conference not sufficiently impressed with merit, the same is hereby denied. The court shall now render judgment as may be warranted by the facts alleged in the complaint pursuant to Sec. 7 & 8, Rule 70 of the Revised Rules of Court of Appeals.

SO ORDERED.

A Verified Motion for Reconsideration,[27] dated September 13, 1999, was filed by respondent, followed by a Supplement to the Motion for Reconsideration,[28] dated September 15, 1999, which the MTCC denied in its Order[29] dated October 12, 1999.

On November 10, 1999, the MTCC rendered a Decision[30] in favor of petitioner and against respondent, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against defendant, ordering that:

- Defendant vacate the premises in question, and return possession thereof to the plaintiff;
- Defendant to pay plaintiff monthly rental of P40,000.00 for the said premises from April 1999 until possession thereof is restored to the plaintiff;
- Defendant to pay plaintiff the sum of P3,000.00 as and for attorney's fees;
- Defendant to pay the cost of suit.

SO ORDERED.

The MTCC reasoned that respondent's stay on the property is merely by tolerance of petitioner. Since there is no lease agreement between the parties and respondent is not paying any rental for the subject premises, respondent's occupancy on the subject premises is entirely dependent upon the will of petitioner. As such, respondent is liable to surrender the premises and to pay reasonable compensation for their use.

Respondent appealed the decision to the RTC, assigning the following errors:

[1]

THE LOWER COURT GRIEVOUSLY ERRED IN DECIDING EX-PARTE THE UNLAWFUL DETAINER SUIT IN FAVOR OF THE APPELLEE BASED SOLELY ON THE ALLEGATIONS IN THE COMPLAINT – ALLEGATIONS WHICH MISERABLY FAILED TO SHOW COMPLIANCE WITH THE TWIN JURISDICTIONAL REQUIREMENTS OF A DEMAND TO PAY RENTALS IN ARREARS AND A DEMAND TO VACATE

[2]

THE LOWER COURT GRIEVOUSLY ERRED IN DENYING APPELLANT'S FIRST MOTION FOR CONTINUANCE OF THE PRE-TRIAL AND IN DENYING APPELLANT'S MOTION FOR

RECONSIDERATION

On January 14, 2000, the RTC issued an Order[31] setting aside the decision appealed from, as well as the order denying respondent's motion for reconsideration and consequently remanding the case to the court of origin. The RTC opined that in denying respondent's motion to reset the preliminary conference, the MTCC gave more weight to procedural technicalities than in hearing and deciding the case on the merits. The RTC reiterated that judgment by default is frowned upon because it is something which is only a little less than a denial of due process. Also, the RTC added that the MTCC should have passed upon the issue of ownership considering that ownership is indispensable to the resolution of the issue of possession. The fallo reads:

WHEREFORE, premises considered, the default judgment appealed from is hereby set aside, and the Order of the Court a quo, dated October 12, 1999 denying the appellant's motion for reconsideration is also set aside.

Let the records of the above-entitled complaint be remanded to the court of origin, MTCC Branch 01, for further proceeding.

SO ORDERED.

Petitioner then filed a Motion to Set Aside Order[32] assailing the order of the RTC for being contrary to law, insisting that it was not given the opportunity to submit its own memorandum as required by the rules. On February 4, 2000, the RTC issued a Resolution[33] in favor of petitioner, the dispositive portion of which reads:

WHEREFORE, the Court finds the motion to be impressed with merit and hereby sets aside the questioned order of the Court dated January 14, 2000 and in its stead, allows the plaintiff appellee to submit its memorandum within fifteen (15) days from receipt hereof.

SO ORDERED.[34]

Petitioner subsequently filed a motion for the issuance of a writ of execution pending appeal, which motion was denied by the RTC in its Order[35] dated March 29, 2000. Petitioner then filed a petition for mandamus[36] before the Court of Appeals (CA) questioning the said order, but the petition was later dismissed by the appellate court.

On March 31, 2000, petitioner filed its appeal memorandum.[37]

On April 25, 2000, the RTC rendered a Decision[38] reiterating its January 14, 2000 order. The dispositive portion of which reads:

WHEREFORE, premises considered, the default judgment appealed from is hereby set aside, and the Order of the Court a quo, dated October 12, 1999 denying the appellant's motion for reconsideration is also set aside.

Let the record of the above-entitled complaint be remanded to the court of origin, MTCC Branch 01, for further proceeding.

SO ORDERED.

The RTC opined that respondent had been in effect denied his day in court; that procedural laws are technicalities which are adopted not as ends in themselves but means conducive to the realization of law and justice.[39]

Petitioner filed a Motion for Reconsideration[40] which was denied in the assailed Order[41] dated May 30, 2000.

Hence, this petition, raising the following issues:

(A)

WHETHER OR NOT THE LOWER COURT GRIEVOUSLY ERRED IN HOLDING THAT RESPONDENT WAS DENIED HIS DAY IN COURT BY THE COURT A QUO IN SPITE OF RESPONDENT AND HIS COUNSEL'S UNJUSTIFIED FAILURE TO APPEAR DURING THE PRELIMINARY CONFERENCE WHICH IS MANDATORY UNDER THE RULE ON SUMMARY PROCEDURE;

(B)

WHETHER OR NOT THE LOWER COURT CAN SET ASIDE THE ORDER DATED OCTOBER 12, 1999 OF THE COURT A QUO BY MERE CONCLUSION.

(C)

WHETHER OR NOT THE LOWER COURT CAN SET ASIDE THE DECISION OF THE COURT A QUO DATED NOVEMBER 10, 1999, WITHOUT JUSTIFIED CONCLUSION OF ITS OWN VOID ORDER OF JANUARY 14, 2000 (ANNEX "N")

(D)

WHETHER OR NOT THE LOWER COURT SHOULD HAVE DECIDED THE CASE BASED ON THE RECORD, PLEADINGS, OR MEMORANDA FILED PURSUANT TO THE RULES INSTEAD OF REMANDING (THE) CASE TO THE COURT OF ORIGIN FOR FURTHER PROCEEDINGS, THAT WOULD ONLY UNDULY PROLONG AND DELAY THE RESOLUTION OF THIS SIMPLE EJECTMENT SUIT.

Petitioner maintains that respondent's motion to reset the preliminary conference and his subsequent motion for reconsideration of its denial are violative of the Rules on Summary Procedure and the Rules of Court, particularly Rule 70, Sec. 13 regarding prohibited pleadings and motions.

Petitioner also argues that it is no longer necessary to delve into the issue of ownership since respondent already acknowledged that fact that it is the registered owner of the subject property.

Finally, petitioner insists that under the Rules on Summary Procedure, the MTCC no longer conducts hearing for the reception of testimonial evidence and the adjudication of ejectment cases is done merely on the basis of affidavits and such position papers as may be required by the court. Consequently, the RTC may decide the case without remanding the case to the MTCC. To rule otherwise would only delay the final adjudication of the present case.

The petition is meritorious.

The instant case arose from an ejectment case commenced by the petitioner before the MTCC which was later elevated to the RTC on appeal under Rule 40 of the Rules of Court. Aggrieved by the RTC's reversal of the MTCC decision, petitioner directly elevated the case to this Court on pure questions of law.

The Court, in *Murillo v. Consul*,^[42] *Suarez v. Villarama, Jr.*^[43] and *Velayo-Fong v. Velayo*,^[44] had the occasion to clarify the three modes of appeal from decisions of the RTC, namely: a) ordinary appeal or appeal by writ of error, where judgment was rendered in a civil or criminal action by the RTC in the exercise of its original jurisdiction; b) petition for review, where judgment was rendered by the RTC in the exercise of its appellate jurisdiction; and c) petition for review to this Court. The first mode of appeal is governed by Rule 41, and is taken to the CA on questions of fact or mixed questions of fact and law. The second mode, covered by Rule 42, is brought to the CA on questions of fact, of law, or mixed questions of fact and law. The third mode, provided for by Rule 45, is elevated to this Court only on questions of law.

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a

question of fact when the doubt arises as to the truth or falsity of the alleged facts.[45] For a questions to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances.[46]

In the present case, petitioner comes before this Court raising a pure question of law. It impugns the propriety of decision of the RTC which would remand the ejectment case to the MTCC for the reception of evidence and for further proceedings on the issue of ownership of the subject property. Petitioner further assails the finding of the RTC that the respondent was denied due process when the MTCC decided on the basis of the complaint alone for failure of the respondent and his counsel to appear during the preliminary conference. Otherwise stated, the issues are: the effect of the non-appearance of defendant and counsel during the preliminary conference of an ejectment case and the propriety of remanding the case for further proceedings.

Clearly, petitioner raises only questions of law which require the interpretation and application of the rules of procedure laid down by the Rules of Court. However, considering that the assailed decision was rendered by the RTC in the exercise of its appellate jurisdiction as it was brought before it from the MTCC, petitioner should have elevated the case to the CA under Rule 42 via the second mode of appeal, instead of appealing directly before this Court under Rule 45.

Section 4[47] of Circular 2-90 in effect provides that an appeal taken either to this Court or to the CA by the wrong mode or inappropriate mode shall be dismissed. This rule is now incorporated in Section 5, Rule 56 of the Rules of Court. Moreover, the filing of the case directly with this Court departs from the hierarchy of courts. Normally, direct resort from the lower courts to this Court will not be entertained unless the appropriate remedy cannot be obtained in the lower tribunals.[48]

Petitioner, therefore, availed itself of the wrong or inappropriate mode of appeal. On this score alone, the petition could have been outrightly dismissed.[49] Nevertheless, in the interest of justice and in view of the erroneous conclusion of the trial judge clearly shown in the RTC decision, this Court shall proceed to address the issues involving a well-settled question of law.[50]

Forcible entry and unlawful detainer cases are summary proceedings designed to provide for an expeditious means of protecting actual possession or the right to the possession of the property involved. It does not admit of a delay in the determination thereof. It is a “time procedure” designed to remedy the situation.[51] Stated in another way, the avowed objective of actions for forcible entry and unlawful detainer, which have purposely been made summary in nature, is to provide a peaceful, speedy and expeditious means of preventing an alleged illegal possessor of property from unjustly continuing his possession for a long time, thereby ensuring the maintenance of peace and order in the community; otherwise, the party illegally deprived of possession might feel the despair of long waiting and decide as a measure of self-protection to take the law into his hands and seize the same by force and violence. And since the law discourages continued wrangling over possession of property for it involves perturbation of social order which must be restored as promptly as possible, technicalities or details of procedure which may cause unnecessary delays should accordingly and carefully be avoided.[52]

In accordance with the above objective, the Revised Rules on Summary Procedure set forth the steps to expeditiously dispose of the cases covered by the rules, as in ejectment. Specifically, the rules prohibit dilatory motions for postponements without justifiable cause; and make the appearance of parties and their counsels, during the preliminary conference, mandatory.

Pertinent provisions of the Rules on Summary Procedure, provide:

Sec. 6. Effect of failure to answer. – Should the defendant fail to answer the complaint within the period above

provided, the court, *motu proprio*, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein xxx.

SEC. 7 Preliminary conference; appearance of parties. – Not later than thirty (30) days after the last answer is filed, a preliminary conference shall be held. The rules on pre-trial in ordinary cases shall be applicable to the preliminary conference unless inconsistent with the provisions of this Rule.

The failure of the plaintiff to appear in the preliminary conference shall be a cause for the dismissal of his complaint. The defendant who appears in the absence of the plaintiff shall be entitled to judgment on his counter-claim in accordance with Section 6 hereof, all cross-claims shall be dismissed.

If the sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof. This rule shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.[53]

Applying the foregoing provisions, the MTCC was indeed empowered to decide the case on the basis of the complaint filed by the petitioner. The Court once pronounced in the case of *Tubiano v. Razo*[54] that the MTC and the RTC were correct in declaring the decision submitted for decision based solely on the complaint, upon failure of the petitioner (respondent herein) to appear at the preliminary conference.[55] The word “shall” used in the above cited provision makes the appearance of the parties mandatory. The Court excuses the non-appearance only in cases where there is a justifiable cause offered for the failure to attend.

The record reveals that both the respondent and his counsel failed to appear at the preliminary conference scheduled on August 3, 1999. The only explanation offered to justify their non-appearance was the counsel’s unpostponable personal engagement in Manila, without specification as to the details thereof. Assuming that the counsel’s justification is acceptable, the same should be applied only as an explanation for the his non-appearance. However, no explanation at all was offered with respect to the respondent’s failure to appear. At the very least, the respondent should have attended the preliminary conference notwithstanding the absence of his counsel. Absent any clear justification for the party and counsel’s non-appearance, the defiance of the lawful order of the court as well as the well-entrenched rule laid down by the rules of procedure on the effect of non-appearance, cannot be allowed.

This Court cannot ignore the fact that even on appeal to the RTC, the respondent likewise failed to offer a sufficient explanation for defying the Rules. It is thus unfortunate that the RTC ruled in his favor on the sole ground that Rules may be liberally applied especially when its strict observance will result in the denial of due process.

Rules of procedure are essential to the proper, efficient and orderly dispensation of justice. Such rules are to be applied in a manner that will help secure and not defeat justice.[56] Thus, the Court had the occasion to rule against the dismissal of appeals based solely on technicalities, especially so when the appellant had substantially complied with the formal requirements. Substantial compliance warrants a prudent and reasonable relaxation of the rules of procedure. Circumspect leniency will give the appellant the fullest opportunity to establish the merits of his complaint rather than to lose life, liberty, honor or property on technicalities.[57] The Rules are relaxed when rigidity would result in a defeat of equity and substantial justice.[58]

To reiterate, respondent offered no explanation for his defiance of the rules on preliminary conference. Neither did he exert effort to substantially comply by appearing before the court even without his counsel. Thus, there is no reason to affirm the theory of the RTC on the relaxation of the Rules.

The Court notes that the decision and order of the RTC are for remanding the case to the MTCC on the mistaken conclusion that there was denial of due process for failure of the respondent to present his evidence. As discussed

above, the decision of the MTCC on the basis of petitioner's complaint is fully warranted. Furthermore, the RTC should have decided the case on the merits, as an appeal before it, and not prolong the determination of the issues by remanding it to the MTCC. It must be emphasized that in cases governed by the Rules on Summary Procedure, no hearing is conducted; rather, the parties are required to submit their respective position papers. On appeal to the RTC, the parties are required to submit their memoranda. The RTC should have decided the appeal on the basis of the records elevated by the MTCC, as well as the memoranda of the parties. To remand it is a superfluity and contrary to the summary nature of the case. Finally, had the RTC decided the case in the manner required, the result could only have been to affirm the MTCC decision, since respondent did not contest it on the merits.

All told, therefore, the decision and order of the RTC must be set aside and the decision of the MTCC must stand, there being no contrary evidence presented by respondent, and the fact of ownership by petitioner of the building being undisputed.

WHEREFORE, premises considered, the instant petition is GRANTED. The Decision of the Regional Trial Court dated April 25, 2000 and its Order dated May 30, 2000 are hereby ANNULLED and SET ASIDE. The Decision of the Municipal Trial Court in Cities dated November 10, 1999 is REINSTATED and AFFIRMED.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Penned by Judge Gerardo D. Paguio, rollo, pp. 28-31.

[2] Penned by Judge Albert B. Abragan, rollo, pp. 65-67.

[3] Rollo, pp. 39-40.

[4] Records, p. 83.

[5] Id. at 152.

[6] Id. at 152-154.

[7] Id. at 154.

[8] Id. at 44-45.

[9] Id. at 84.

[10] Id. at 154.

[11] Id. at 155.

[12] Id. at 169.

[13] Id. at 85.

[14] Ibid.

[15] Rollo, p. 2.

[16] Id. at 2.

[17] Id. at 3.

[18] Id. at 2-3.

[19] Id. at 212.

[20] Id. at 213.

[21] Id. at 42.

[22] Sec. 11. Priorities in modes of service and filing. — Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed.

[23] Sec.19. Prohibited Pleadings and Motions.

[24] Rule 70, Sec. 8. Preliminary conference; appearance of parties. —

x x x

No postponement of the preliminary conference shall be granted except for highly meritorious grounds and without prejudice to such sanctions as the court in the exercise of sound discretion may impose on the movant.

[25] Rollo, pp. 49-50.

[26] Supra note 22.

[27] Rollo, pp. 51-59.

[28] Id. at 60-61.

[29] Id. at 64.

[30] Id. at 65-67.

[31] Id. at 99-101.

[32] Id. at 103-110.

[33] Id. at 111-112.

[34] Id. at 112.

[35] Id. at 150-152.

[36] Docketed as CA-G.R. SP No. 58845.

[37] Rollo, pp. 113-129.

[38] Id. at 28-31.

[39] Id. at 30.

[40] Id. at 32-38.

[41] Id. at 39-40.

[42] Resolution of the Court En Banc in UDK-9748, March 1, 1990.

[43] G.R. No. 124512, June 27, 2006, 493 SCRA 74.

[44] G.R. No. 155488, December 6, 2006, 510 SCRA 320.

[45] Id. at 329; Suarez v. Villarama, Jr., supra at 80.

[46] Id.

[47] Sec. 4. Erroneous Appeals – An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.

[48] Suarez v. Villarama, Jr., supra at 81-82.

[49] Neplum, Inc. v. Orbeso, G.R. No. 141986, July 11, 2002, 384 SCRA 466.

[50] Suarez v. Villarama, Jr., supra. at 82; Neplum, Inc. v. Orbeso, id.

[51] Don Tino Realty and Development Corporation v. Florentino, G.R. No. 134222, September 10, 1999, 314 SCRA 197.

[52] Refugia v. Court of Appeals, G.R. No. 118284, July 5, 1996, 258 SCRA 347.

[53] Emphasis supplied.

[54] 390 Phil. 863 (2000).

[55] Id. at 868.

[56] Jaro v. Court of Appeals, G.R. No. 127536, February 19, 2002, 377 SCRA 282.

[57] Id.

[58] Villamor v. Heirs of Tolang, G.R. No. 144689, June 9, 2005, 460 SCRA 26.

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