

ESPERANZA G. FRONDARINA, JOINED BY HER HUSBAND, PEDRO A. FRONDARINA, PETITIONERS, VS. NAPOLEON MALAZARTE AND LAURA P. MALAZARTE, RESPONDENTS.

G.R. NO. 148423. December 06, 2006

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

There is no standard by which the weight of conflicting evidence can be ascertained. We have no test of the truth of human testimony except its conformity to our knowledge, observation, and experience.[1]

The Case

This petition for review seeks to overturn the Decision of the Court of Appeals (CA) in CA-G.R. SP No. 61335 which sustained the Olongapo City Regional Trial Court's dismissal of the forcible entry complaint originally filed by petitioners Frondarina spouses against the respondent Malazarte spouses in Civil Case No. 2853 before the Olongapo City Municipal Trial Court in Cities (MTCC).

The Facts

Evidence culled from the records of the Olongapo City MTCC[2] shows that on July 22, 1970, Lot 5, Block 15-B, Gordon Heights Subdivision, Olongapo City (disputed lot), with an area of 450 square meters, was acquired by Flordelina Santos from Iluminado Amar. On June 17, 1971, Cirila Gongora, petitioner Esperanza Frondarina's sister, in turn, acquired the disputed lot from Santos, as shown in the Deed of Transfer of Possessory Right over a Lot (Exhibit "B"). On the same date, Gongora, as Esperanza Frondarina's predecessor-in-interest, filed a Miscellaneous Sales Application (MSA) (Exhibit "D") with the Bureau of Lands.

The disputed lot was also declared in Gongora's name for taxation purposes under Tax Declaration No. 32821 in 1970 (Exhibit "E"), under Tax Declaration No. 16-0611 in 1974 (Exhibit "F"), and under Tax Declaration No. 16-0431 in 1980 (Exhibit "G"). She also paid the real estate taxes due on said property as shown by the April 12, 1985 Official Receipt No. 7841503, representing real estate taxes on the property for the years 1980 to 1985 (Exhibit "H").

Petitioner Esperanza Frondarina, in turn, obtained the disputed lot from her sister, Cirila Gongora, on February 19, 1985, as evidenced by the Waiver and/or Renunciation of Rights to a Parcel of Land (Exhibit "A"). On July 1, 1985, said petitioner likewise filed an MSA with the Bureau of Lands over the disputed lot.

Petitioner Esperanza Frondarina also declared the disputed lot in her name in 1986 under Tax Declaration No. 004-3574 (Exhibit "J") and paid real estates taxes on the property for the years 1986 to 1988 (inclusive of Exhibits "K" to "K-3"). She also had the lot surveyed (inclusive of Exhibits "L," "L-1," "M," "N," "N-1," "N-2," and "O"), fenced it with four (4) strands of barbed wire, and tended two (2) mango and one (1) coconut trees and planted different kinds of vegetables on the lot.

Meanwhile, respondents Malazartes alleged that on March 1, 1988, they bought the said lot from Romeo Valencia (Exhibit "S"); and that they resided on the lot since May 1988. On the said date, respondents immediately started the construction of their house on the lot without a building permit—as their application was denied due to petitioners' complaint. They also admitted that an employee of the City Engineer's Office told them to stop the construction because of the complaint and absence of a building permit.

In the meantime, the records reveal that on March 18, 1988, after they allegedly bought the said lot, respondents threatened petitioners' caretaker, Lorenza Andrada. More so, according to petitioner Esperanza Frondarina, in her testimony, the respondents dug holes to put up posts, ripped the rear of the lot, and deposited hollow blocks to construct a house. On March 28, 1988, when confronted by petitioners Frondarinas on why they entered petitioners' lot, respondents replied that they got permission to enter the land from Mr. Valencia, as they had bought it from him. Petitioners then reported the matter to the City Engineer's Office; and Mr. Malik of said office went to the said place and told the respondents to stop the construction of the house as they had no building permit.

The respondents, however, continued the construction on the lot as shown in the photographs taken by petitioner Esperanza Frondarina on May 18, 1988 (Exhibits "T," "T-1," "T-2," and "T-3"). Aggrieved, on April 5, 1988, petitioners sent a letter request to City Engineer Nicolas D. de Leon (Exhibits "P," "P-1," and "S"); and on April 28, 1989, they also sent letters to then Mayor Richard Gordon and Atty. Ma. Ellen Aguilar about respondents' intrusion on their lot (Exhibits "R" and "Q," respectively).

Furthermore, the Olongapo City MTCC found that respondents' witness, Romeo Valencia, admitted that his possession of the disputed lot had already been questioned—for almost three (3) years—by petitioners before he sold it to respondents.[3] Thus, according to the MTCC, "it is very clear from the evidence that [petitioners] did not only have prior possession of the subject lot, but it is also clear that the possession of the land by [petitioners][4] was not adverse, uninterrupted, open and in the concept of owners."

The Ruling of the Olongapo City MTCC

Finding that the "totality of evidence preponderates in favor of [petitioners Frondarinas] who have sufficiently established their cause of action against [respondents Malazartes],"[5] the MTCC rendered its February 28, 2000 Decision in favor of petitioners, the fallo of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants, as follows:

- ordering the defendants and all and any other persons claiming under them to vacate the parcel of land located at No. 5 Latires Street, Gordon Heights, Olongapo City, also identified as Lot 5, Block 15-B, Gordon Heights Subdivision, Gordon Heights, Olongapo City, with an area of 450 square meters, declared in the name of plaintiff Esperanza G. Frondarina under Tax Declaration No. 004-3574 and more particularly described under paragraph 2 of the complaint, and to deliver its possession to the plaintiffs;
- ordering the defendants to remove from the subject premises all constructions that they built thereat;
- ordering the defendants, jointly and severally to pay unto the plaintiffs actual damages in the amount of P3,000.00 and reasonable rentals of P500.00 every month from the time of forcible entry on March 18, 1988 until the time defendants have vacated the premises and delivered possession thereof to the plaintiffs; and
- ordering the defendants to pay jointly and severally, unto the plaintiffs the sum of P15,000.00, as attorney's fees, plus costs.[6]

On April 26, 2006, respondents Malazartes filed a Notice of Appeal[7] from the adverse Decision of the Olongapo City MTCC with the Olongapo City Regional Trial Court (RTC) Branch 72.

The Ruling of the Olongapo City RTC

Upon respondents' appeal, the Olongapo City RTC Branch 72 arrived at factual findings[8] diametrically opposed to the facts culled by the Olongapo City MTCC. According to the trial court, it was convinced that respondents were in actual and physical possession of the disputed lot through their predecessor-in-interest, Romeo Valencia; because they bought it from him on March 1, 1988 and they started to occupy the disputed lot on March 18, 1988 according to the testimony of Laura Malazarte. The trial court said that "this [testimonial evidence] is the strong point in the evidence on record in favor of the [respondents]."

The trial court further discoursed that:

[P]laintiffs failed to prove, with preponderance of evidence, that they were in actual and physical possession of the subject land. The plaintiffs were not in personal actual and physical possession of the subject land. The plaintiffs' possession was through a caretaker. Esperanza Frondarina testified on this fact:

Q – Did you occupy the property after it was sold to you by your sister?

A – I have a caretaker, sir.

Q – What is the name of your caretaker Mrs. Witness?

A – Andrada sir.

(TSN, p. 4, Nov. 16, 1989).

The plaintiffs have only hearsay knowledge of who planted the two mango trees and one coconut tree.

Q – Mrs. Frondarina, do you know who planted this two mango trees and one (1) coconut tree?

A – Santos [Flordelina] from whom my sister bought the lot sir.

x x x

Q – You were there present when these trees were planted Mrs. Witness?

A – I was not present sir.

(TSN, pp. 11 to 12, Nov. 16, 1989).

The evidence of the plaintiffs in the imputed forcible entry sometime on March 18, 1988 was also hearsay. Mrs. Esperanza Frondarina's testimony went this way:

Q – You said that you have a caretaker of this lot on or about March 18, 1988, how was it possible for the Malazarte to enter your lot if you have a "bantay" there?

A – My caretaker told me that she was being threatened.

Q – Who threatened her?

A – She told that she was threatened by the Malazarte and certain Mr. Valencia.

(TSN, p. 21, Nov. 16, 1988).

Moreover, the trial court reasoned that petitioners' pieces of evidence on the issues of possession and forcible entry were of "hearsay nature"– which could have been remedied by presenting their caretaker, Andrada, who, according to the trial court, was not presented as witness. Further, the Olongapo City RTC stated that petitioners did not explain why their caretaker could not testify– which led to its presumption that "if Andrada is presented,

her testimony will be adverse to the cause of [petitioners]." Thus, it found that the respondents were in personal, actual, and physical possession of the disputed lot; they did not commit forcible entry; and the evidence on record supported their cause.

On September 13, 2000, the Olongapo City RTC rendered a Decision in favor of respondents Malazartes:

WHEREFORE, judgment is hereby rendered reversing in toto the Decision in Civil Case No. 2853 and a new decision is issued dismissing the complaint. The plaintiffs are ordered to pay the defendants the sum of P6, 400.00 by way of attorney's fees; and the costs of this suit.[9]

Unconvinced, the Frondarina spouses filed a petition for review[10] with the CA on November 8, 2000 which was docketed as CA-G.R. SP No. 61335.

The Ruling of the Court of Appeals

Finding no reversible error in the Olongapo City RTC's ruling, the Court of Appeals (CA) on March 13, 2001 rendered a Decision affirming in toto[11] the September 13, 2000 Decision of the trial court.

The CA sustained the findings and conclusions of the Olongapo City RTC that petitioners Frondarina spouses failed to prove that they were in actual and physical possession of the disputed lot. It ruled that the Frondarina spouses' possession was through a caretaker, Lorenza Andrada, who did not appear as witness because of alleged threats made by respondents Malazartes and their predecessor-in-interest, Romeo Valencia. However, the court a quo concluded that petitioner Esperanza Frondarina's testimony on the alleged threat to her caretaker, Andrada, constituted hearsay evidence, as it was based on the personal knowledge of said petitioner. Thus, the CA declared that respondents Malazartes' imputed forcible entry was not supported by evidence on record.[12]

Aggrieved, petitioners Frondarina spouses filed the instant petition for review on July 11, 2001 raising the following issues:[13]

- - THE COURT OF APPEALS RENDERED THE DECISION IN GRAVE ABUSE OF ITS DISCRETION IN THE APPRECIATION OF FACTS;
- - THE AFFIRMING DECISION OF THE COURT OF APPEALS OMITTED PETITIONER'S PRIOR, ACTUAL POSSESSION ON THE DISPUTED PROPERTY, ESSENTIAL TO THE ISSUE IN FORCIBLE ENTRY;
- - THE APPELLATE DECISION RENDERS RECOGNITION OF PRIVATE RESPONDENTS' UNLAWFUL ENTRY AS LAWFUL, DISREGARDED THE MENACING ATTITUDE [OR] INTENT TO FORCIBLY ACQUIRE THE LAND BY FORCE.

The Court's Ruling

This petition for review is meritorious.

The preliminary matter to be addressed is whether the Court should entertain questions of fact in this petition.

A close perusal of the three issues presented for review before the Court readily reveals a lone issue—who between petitioners Frondarina spouses and respondents Malazarte spouses have prior possession of the disputed lot. Undeniably, this is a question of fact which is proscribed by Rule 45 of the 1997 Rules of Civil Procedure.

It is clear under Section 1, Rule 45 of the 1997 Rules of Civil Procedure that petitions for review on certiorari shall ONLY raise questions of law. Questions of fact are not permitted because generally, the findings of fact of the CA are final, conclusive, and cannot be reviewed on appeal. The reason behind the rule is that the Court is not a trier of facts and it is not its duty to review, evaluate, and weigh the probative value of the evidence adduced

before the lower courts.

The bar on factual issues, however, admits of certain reasonable deviations like when the judgment is based on misappreciation of facts or when the findings of facts of the CA are conflicting or contrary to the trial court's own findings.[14]

The records manifest that the conclusions of facts of the CA and the Olongapo City RTC are both contradictory or conflicting with those of the Olongapo City MTCC. For this reason alone and so as to dispense equitable justice to those deserving, a departure from the "factual issue bar rule" is timely and in order.

To reiterate, the core issue in this instant petition is who between petitioners Frondarinas and respondents Malazartes are entitled to the possession of Lot 5, Block 15-B of the Gordon Heights Subdivision in Olongapo City.

After examining closely the transcripts of testimonies, the Court gives credence to petitioners' claim that they and their predecessors-in-interest had been in peaceful, physical possession of the said lot since 1971 for the following reasons:

1. Petitioner Esperanza Frondarina, housekeeper, resided at 81 Fendler Street, East Tapinac, Olongapo City;[15] while Romeo Valencia, driver of Olongapo City Councilor Jesus Danugrao, resided at Block 14, Gordon Heights, Olongapo City. Petitioners visited the lot three (3) to four (4) times a week[16] and had a caretaker in the person of Lorenza Andrada. Romeo Valencia claimed to have occupied the lot for 15 years from 1975 and had put up a riprap fence in 1980.[17] Thus, it is apparent that none of the parties actually resided at the said lot. The Court believes that the Frondarinas went to the lot three (3) or four (4) times a week and exercised acts of ownership and possession over it by fencing the sides of the lot with barbwire, planting vegetables like camote, okra, and others, and by tending two (2) mango trees and one (1) coconut tree planted by Esperanza's sister, Cirila Gongora;[18] and when they were not on the lot, their caretaker, Lorenza Andrada, a neighbor residing at an adjacent lot, oversaw the disputed lot. The actuations of petitioners Frondarinas are more in accordance with the usual course of human conduct and common experience. On the other hand, Mr. Romeo Valencia's claim that he occupied the lot for 15 years deserves scant consideration for it was not possible for him to be on the said lot most of the time because his job as Councilor Jesus Danugrao's driver took up most of his time.

2. Mr. Romeo Valencia testified that he checked with the Bureau of Lands and City Assessor if there was no owner of the lot before he occupied it in 1975; and he was told that the lot had not been declared in the name of any person.[19] This is false, for as early as 1970, the lot was declared for taxation with the City Assessor in the name of Cirila Gongora through Tax Declaration No. 32821 (Exhibit "E"), which became effective in 1970; and Tax Declaration No. 16-0611 (Exhibit "F"), which became effective in 1974. In addition, the said lot was registered with the Bureau of Lands on June 17, 1971 by Cirila Gongora, predecessor-in-interest of petitioners, through a Miscellaneous Sales Application (Exhibit "D"). Considering that Mr. Valencia made a false statement on an essential point material to the determination of the issue of possession, his testimony on all other matters is not worthy of belief and necessarily bereft of truth. It is a settled axiom that "if witnesses testify falsely as to any material fact of their own testimony, their testimony should be discarded as a whole and cannot be relied on for whatever purpose." [20] *Falsus in uno, falsus in omnibus* (false in one thing, false in everything).[21] Also long established is the fundamental precept that witnesses willfully falsifying the truth in one particular testimony, when upon oath, ought never to be believed upon the strength of their own testimony, whatever they may assert.[22] While there is a presumption that witnesses will generally declare the truth, this belief "ceases as soon as it manifestly appears that they are capable of perjury." [23] Considering that Mr. Valencia lied by stating that the lot was not registered in the name of another person with the Bureau of Lands and the Olongapo City Assessor

before he allegedly started possessing the same lot in 1975, then the Court rules that his testimony on the fact of possession of the lot does not constitute evidence of the truth of said allegations and consequently disregards the same testimony, because it is bereft of weight and credit.

3. Petitioner Esperanza Frondarina's testimony revealed acts that are consistent with one who has been deprived of possession by force, strategy, and stealth by respondents as follows:

a. Petitioner immediately confronted respondents why they unlawfully entered their land on March 18, 1988, and asked them why respondents were building a riprap and digging holes in the ground and why they deposited hollow blocks in the premises. Respondents simply replied that they acquired their rights over the said lot from a certain Valencia;

b. After respondents unlawfully entered petitioners' land on March 18, 1988, petitioners verbally reported the incident to the Office of the City Engineer and when the latter ordered one of its employees to go to the premises to investigate, said employee told respondents to stop any construction as they were not granted a building permit. Notwithstanding the warning from the City Engineer's Office, respondents continued with their construction without any building permit;

c. On April 5, 1988, through a letter request, petitioners informed the Office of the City Engineer of the defiance of respondents and said office told petitioners that respondents were backed up by influential people;^[24]

d. On April 29, 1988, petitioner sent a letter to then Mayor Richard Gordon about their problem with the respondents (Exhibit "R"); and on the same date, petitioners complained to the City Legal Officer, Atty. Ma. Ellen Aguilar (Exhibit "Q"); and

e. When nothing happened to their written complaints, petitioners filed the Complaint for ejectment with the Olongapo City MTCC.

The aforementioned acts of petitioners were all in accordance with the behavior of a person who had been illegally and unfairly deprived of possession, and these clearly demonstrated that they had actually been in possession of said lot prior to respondents' forcible entry.

The appellate court completely disregarded petitioners' claim of possession simply because their caretaker, Ms. Lorenza Andrada, was not able to testify to corroborate petitioners' claim of possession. The court a quo gave short shrift of the justification for non-appearance of Ms. Andrada—that she was threatened by Mr. Valencia, the predecessor-in-interest of the Malazartes.

However, the Court finds that the threats on caretaker Lorenza Andrada to prevent her from testifying were substantiated by petitioner Esperanza Frondarina and policeman Eduardo Labrador; and the Court is convinced that Ms. Andrada was intimidated by respondents to prevent her from testifying, the latter knowing the importance of such parol evidence. Thus, the presumption that "evidence willfully suppressed would be adverse if produced" would not apply to the case at bar because it was not petitioners who restrained Ms. Andrada from testifying but respondents themselves; hence, petitioners had every reason to have the caretaker's testimony adduced as evidence.

Moreover, despite the inability of Ms. Andrada to testify, there was ample documentary and parol evidence to support petitioners' claim of possession. Petitioners Frondarinas' physical possession of the disputed lot was strongly corroborated by PO3 Labrador, who stated under oath that he saw petitioner Esperanza in possession of the lot. This jibes with petitioner Esperanza Frondarina's story that she used to go to the lot at least three (3) times a week; and that on days petitioner Esperanza Frondarina was not in actual possession of the lot, Ms. Andrada

oversaw it and exercised acts of possession in representation of petitioners. More importantly, the undisputed pieces of documentary proof like the tax declarations, tax receipts, and miscellaneous sales applications, which antedate those of respondents, unquestionably demonstrate the truth and factual basis of petitioners' claim of possession. Mr. Valencia's testimony on his alleged occupation of the said lot must give way to the clearly established facts that petitioners and their predecessors-in-interest had been in possession of the lot much earlier than respondents and Mr. Valencia. Under the admitted facts rule, "evidence of whatever description must yield to the extent that it conflicts with admitted or clearly established facts." [25] The Court gives superior credit to petitioners' witnesses whose testimonies on material points are in accord with facts already established, rather than to respondents and witness Romeo Valencia whose testimonies were shown to be false or "bereft of weight and credence." [26]

On the allegation that the inability of caretaker Andrada to testify prejudiced the claim of petitioners that respondents Malazartes committed acts of forcible entry in the subject lot, we find that undisputed documentary evidence—the letters to City Engineer De Leon (Exhibit "P"), to City Legal Officer Aguilar (Exhibit "Q"), and to then Mayor Gordon (Exhibit "R"), and the complaint for ejectment; as well as the convincing testimonies of petitioner Esperanza Frondarina and PO3 Labrador and the admission against interest made by respondent Laura Malazarte that she and Napoleon Malazarte entered the land only on March 18, 1998 and constructed their house on the lot despite the absence of a mayor's permit—can only lead to the inference that they entered the land by strategy and stealth. We find strong "circumstantial evidence" from established facts to warrant the conclusion that, indeed, respondents committed forcible entry on the disputed lot.

Circumstantial or presumptive evidence is defined as "the existence of the principal facts x x x only inferred from one or more circumstances which have been established directly." It is further explained as "an inference of a fact from other facts proved, and the fact thus inferred and assented to by the mind is said to be presumed, that is to say, it is taken for granted until the contrary is proved." [27] In effect, the absence of Andrada's testimony did not do any damage to petitioners' cause of action—as ample circumstantial evidence is extant on record sufficient to convince the Court that respondents committed acts of forcible entry.

4. The chain of transfers from the original owner of the lot—Mr. Iluminado Amar—to petitioner Frondarinas readily reveals possession of the said lot since July 22, 1970:

- a. On July 22, 1970, Iluminado Amar executed a Deed of Transfer of Possessory Right (Exhibit "C") in favor of Flordelina Santos;
- b. On June 17, 1971, Flordelina Santos executed a Deed of Transfer of Possessory Right Over a Lot (Exhibit "B") in favor of Cirila Gongora; and
- c. On February 19, 1985, Cirila Gongora executed a Waiver and/or Renunciation of Rights to a Parcel of Land (Exhibit "A") in favor of petitioner Esperanza Frondarina.

On the other hand, the Deed of Renunciation and Quitclaim (Exhibit "5"), executed by Romeo Valencia on March 1, 1988 in favor of the spouses Malazartes, pales in comparison with the three (3) successive transfers—which started on July 22, 1970—that eventually resulted in the transfer of said rights in favor of petitioner Esperanza Frondarina. The first in time is the first in right. Thus, the much earlier conveyance by Iluminado Amar on July 22, 1970, without doubt, prevails over the Deed of Renunciation and Quitclaim executed on March 1, 1988 in favor of the Malazartes.

5. The tax declarations and tax receipts of petitioners and their predecessors-in-interest are dated much earlier than those of Romeo Valencia and respondents Malazartes.

The following tax declarations over the said lot support petitioners' position, thus:

- Tax Declaration No. 32821 (Exhibit "E") in the name of Cirila Gongora, predecessor-in-interest of petitioners. This declaration became effective in 1970;
- Tax Declaration No. 16-0611 (Exhibit "F") also in the name of Cirila Gongora which became effective in 1974;
- Tax Declaration No. 16-0431 (Exhibit "G") in the name of Cirila Gongora which became effective in 1980; and
- Tax Declaration No. 004-3574 (Exhibit "J") in the name of petitioner Esperanza Frondarina which became effective in 1986.

On the other hand, respondents Malazartes could only present Tax Declaration No. 004-5057 (Exhibit "3") in the name of Romeo Valencia, which became effective in 1985 and Tax Declaration No. 004-5228 (Exhibit "7") in the names of respondents Malazartes, which became effective in 1988.

Clearly, the tax declarations of petitioners and that of their predecessors-in-interest are earlier than and superior to those of respondents, and these buttress petitioners' claim that they had been in actual and peaceful possession of the said lot prior to respondents' intrusion in 1988. Simply put, tax declarations are clear manifestations and strong indications of possession and occupation of a parcel of land.

In the same vein, the old tax receipts of petitioners are evidential and suggestive demonstration of their possession of the subject lot in the concept of an owner—consider Tax Receipt No. 7841503 (Exhibit "H") in the name of Cirila Gongora (predecessor-in-interest of petitioners) which reflects the tax payments from 1980-1985; and Tax Receipts Nos. 014949 (Exhibit "K"), 014899 (Exhibit "K-1"), 022657 (Exhibit "K-2"), and 022620 (Exhibit "K-3"), all in the name of Esperanza Frondarina, showing real estate tax payments for the years 1986 to 1988. Juxtaposed with petitioners' receipts are Tax Receipts Nos. 013487 (Exhibit "4") and 013435 (Exhibit "4-A") in the name of Romeo Valencia issued for the year 1987, and Tax Receipt No. 024196 (Exhibit "8") for real estate taxes paid for 1988. Undeniably, the tax payments over the disputed lot by the Frondarinas are much earlier than those made by the Malazartes. These pieces of denotative evidence tend to show that petitioners had been in possession of the said lot not later than 1980.

Verily, it has been settled jurisprudence that although tax declarations or real estate payments of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of an owner.[28] Based on the tax declarations and tax receipts of both parties, we rule that petitioners have sufficiently adduced convincing evidence of possession over the disputed lot.

6. The Miscellaneous Sales Application (Exhibit "D") filed by predecessor-in-interest Cirila Gongora on June 17, 1971 is much ahead in time than the Miscellaneous Sales Application filed by Romeo Valencia (predecessor-in-interest of Malazartes) on October 14, 1977. Thus, the earlier filing of sales application by the predecessor-in-interest of petitioners—Cirila Gongora—indicates petitioners' occupation and possession of the disputed lot ahead of Romeo Valencia's alleged occupation and possession of it.

In the light of the foregoing reasons, the Court rules that petitioners have established their right to physical possession over the subject lot.

Considering that respondents were informed by petitioners that the disputed lot was owned by them and had the right of possession over said lot, but still, respondents persisted in building their house on it, respondents are therefore declared builders in bad faith and shall lose their house without any right to reimbursement.

WHEREFORE, the petition is GRANTED. The March 13, 2001 Decision of the Court of Appeals in CA-G.R. SP No. 61335 and the September 13, 2000 Decision of the Olongapo City Regional Trial Court in Civil Case No.

192-0-2000 are REVERSED and SET ASIDE; and the February 28, 2000 Decision of the Olongapo City MTCC in Civil Case No. 2853 is hereby REINSTATED.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, and Carpio-Morales, JJ., concur.
Tinga, J., on official leave.

[1] III V. Francisco, CRIMINAL EVIDENCE 146 (1947), citing I MOORE ON FACTS 35.

[2] CA rollo, pp. 39-42.

[3] TSN, May 2, 1991, pp. 7-5.

[4] "Defendants" is replaced with "petitioners" as the Olongapo City MTCC's ruling was in favor of the plaintiffs—the petitioners in the instant case.

[5] Supra note 2, at 42.

[6] Id. at 43.

[7] Records, p. 347.

[8] CA rollo, pp. 69-70.

[9] Id. at 70.

[10] Id. at 7-22.

[11] The Decision was penned by Associate Justice Eliezer R. delos Santos, with Associate Justices Godardo A. Jacinto and Bernardo P. Abesamis concurring, rollo, pp. 18-23, at 23.

[12] Id. at 21-22.

[13] Id. at 8.

[14] Sampayan v. The Hon. Court of Appeals, et al., G. R. No. 156360, January 14, 2005, 448 SCRA 220, 229, citations omitted.

[15] TSN, November 16, 1988, p. 2.

[16] TSN, March 13, 1996, p. 9.

[17] TSN, December 5, 1990, pp. 12-13.

[18] Supra note 15, at 13.

[19] TSN, May 2, 1991, p. 3.

[20] Supra note 1, at 1437.

[21] H. Black, et al., BLACK'S LAW DICTIONARY 603 (6th ed., 1990), citing Hargrave v. Stockloss, 127 N.J.L. 262, 21 A.2d 820, 823 and Dawson v. Bertolini, 70 R.I. 325, 38 A.2d 765, 768.

[22] Supra note 1, at 1431, citing U.S. v. Osgood, 27 Fed. Cas. No. 15971-a, p. 304.

[23] Id. at 1432.

[24] Supra note 2, at 36.

[25] Id. at 1466, citing I MOORE ON FACTS, supra at 11-15.

[26] Id. at 1468.

[27] Perry's Adm'x v. Inter-Southern Life Ins. Co., 248 Ky. 491, 58 S.W. (2d) 906, 907.

[28] Republic v. Kalaw, G.R. No. 155138, June 8, 2004, 431 SCRA 401, 413, citing Republic v. Court of Appeals, G.R. No. 108926, July 12, 1996, 258 SCRA 712, 720.

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