

FRANCISCO MADRID AND EDGARDO BERNARDO, PETITIONERS, VS. SPOUSES BONIFACIO MAPOY AND FELICIDAD MARTINEZ, RESPONDENTS.

G.R. No. 150887. August 14, 2009

Ponente: BRION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-150887/>

BRION, J.:

Before us is the Petition for Review on Certiorari[1] filed by petitioners Francisco Madrid and Edgardo Bernardo (petitioners-defendants) to reverse and set aside the Decision[2] dated July 16, 2001 and Resolution[3] dated November 19, 2001 of the Former Second Division of the Court of Appeals (CA) in CA-G.R. CV No. 47691 entitled "Spouses Bonifacio Mapoy and Felicidad Martinez v. Edgardo Bernardo and Francisco Madrid."

FACTUAL BACKGROUND

The facts of the case, based on the records, are summarized below.

The spouses Bonifacio and Felicidad Mapoy (respondents-plaintiffs) are the absolute owners of two parcels of land (the properties) known as Lot Nos. 79 and 80 of Block No. 27 of the Rizal Park Subdivision, located at No. 1400 Craig Street corner Maria Clara Street, Sampaloc, Manila, under Transfer Certificate of Title (TCT) Nos. 130064 and 130065 of the Registry of Deeds of Manila. The properties have a combined area of two-hundred seventy (270) square meters.

On April 4, 1988, the respondents-plaintiffs sought to recover possession of the properties through an accion publiciana filed with the Regional Trial Court (RTC) of Manila[4] against Gregorio Miranda and his family (Mirandas) and two other unnamed defendants. After the pre-trial conference, the unnamed defendants were identified as the present petitioners and summons were duly served on them. These defendants are referred to in this Decision as the petitioners-defendants. The Mirandas are no longer parties to the present case; they did not appeal the lower court decision to the CA.

The respondents-plaintiffs alleged that they acquired the properties from the spouses Procopio and Encarnacion Castelo under a Deed of Absolute Sale dated June 20, 1978. They merely tolerated the petitioners-defendants' continued occupancy and possession until their possession became illegal when demands to vacate the properties were made. Despite the demands, the petitioners-defendants continued to occupy and unlawfully withhold possession of the properties from the respondents-plaintiffs, to their damage and prejudice. Efforts to amicably settle the case proved futile, leaving the respondents-plaintiffs no recourse but to file a complaint for ejectment which the lower court dismissed because the respondents-plaintiffs should have filed an accion publiciana. Thus, they filed their complaint for accion publiciana, praying for recovery of possession of the properties and the payment of P1,000.00 as monthly rental for the use of the properties from January 1987 until the petitioners-defendants vacate the properties, plus P50,000.00 as moral and exemplary damages, and P30,000.00 as attorney's fees.

The Mirandas countered that Gregorio Miranda owned the properties by virtue of an oral sale made in his favor by the original owner, Vivencio Antonio (Antonio). They claimed that in 1948, Gregorio Miranda was Antonio's carpenter, and they had a verbal contract for Miranda to stay in, develop, fix and guard the properties; in 1972, Antonio gave the properties to Gregorio Miranda in consideration of his more than twenty (20) years of loyal service.

Petitioner-defendant Bernardo also asserted ownership over the portion he occupies based on an oral sale to him by Antonio. He alleged that he became a ward of Gregorio Miranda in 1965 when he was 10 years old and helped in the development of the properties; he helped construct a bodega and a house within the properties. He and Antonio met in 1975, and Antonio promised that the bodega would be given to him in gratitude for his work.

Petitioner-defendant Madrid, for his part, claimed that he started occupying a portion of the properties in 1974, and constructed a house on this portion in 1989 with the permission of Bernardo, the son of Gregorio Miranda.

On the basis of the length of their claimed occupation of the properties, the petitioners-defendants likewise invoked Section 6 of Presidential Decree No. 1517 (PD 1517), also known as the Urban Land Reform Law, which provides that legitimate tenants of 10 year or more, who have built their homes on these lands and who have continuously resided thereon for the past ten years, shall not be dispossessed of their occupied lands and shall be allowed the right of first refusal to purchase these lands within a reasonable time and at reasonable prices.

THE RTC RULING

On July 21, 1994, the RTC-Manila, Branch 3, rendered its decision,[5] the dispositive portion of which states:

WHEREFORE, judgment is rendered, ordering the defendants and all persons claiming rights thereto to vacate the premises located at the corner of Ma. Clara and Craig Streets, Sampaloc, Manila, evidenced by TCT No. 130064 and 130065 and restore the same to the plaintiffs. The defendants are hereby ordered to pay plaintiff the sum of P10,000.00 as attorney's fees and the sum of P1,000.00 as reasonable rental for the use and occupation of the premises beginning from the filing of this complaint until they vacated the premises.

SO ORDERED.[6]

The RTC upheld the respondents-plaintiffs' right of possession as registered owners of the properties. It found no merit in the petitioners-defendants' claims of ownership via an oral sale given the absence of any public instrument or at least a note or memorandum supporting their claims. The RTC also found the petitioners-defendants' invocation of PD 1517 futile, since its Section 6 refers to a legitimate tenant who has legally occupied the lands by contract; the petitioners-defendants are mere squatters.

The petitioners-defendants elevated the RTC decision to the CA via an ordinary appeal under Rule 41 of the Rules of Court. The Mirandas did not join them, and thus failed to file a timely appeal. The petitioners-defendants objected to the RTC's ruling that the sale or promise of sale should appear in a public instrument, or at least in a note or memorandum, to be binding and enforceable. They argued that the RTC failed to consider the respondents-plaintiffs' bad faith in acquiring the properties since they knew of the defects in the title of the owner. They further argued that the CA should have noted Gregorio Miranda's occupancy since 1948, Bernardo's since 1966 and Madrid's since 1973. The petitioners-defendants further submitted that their continuous residence for more than ten (10) years entitled them to the rights and privileges granted by PD 1517. They also argued that the RTC should not have applied the pre-trial order to them, since they had not then been served with summons and were not present during the pre-trial.

THE CA RULING

The CA dismissed the appeal in its decision[7] of July 16, 2001, affirming as a consequence the RTC decision of July 21, 1994. The CA held that the certificate of title in the name of the respondents-plaintiffs serves as evidence of an indefeasible and incontrovertible title to the properties. The CA found that the petitioners-defendants never submitted any proof of ownership. Also, their reliance on their alleged continuous occupation is misplaced since petitioner-defendant Bernardo's occupation in the concept of owner started only in 1975 when Antonio allegedly gave him a portion of the properties as a gift, while petitioner-defendant Madrid's occupation could not have been in the concept of an owner, as he recognized Gregorio Miranda as the owner and paid him rents. The CA noted that the petitioners-defendants are not covered by PD 1517 because the law does not apply to occupants whose possession is by the owner's mere tolerance. The CA also observed that the RTC did not err in applying the pre-trial order to the petitioners-defendants because they derive the right of possession from the principal defendants, the Mirandas, who were duly represented at the pre-trial; they waived their right to pre-trial by failing to move that one be held.

The petitioners-defendants moved[8] but failed[9] to secure a reconsideration of the CA decision; hence, they came to us through the present petition.

THE PETITION and THE PARTIES' POSITIONS

The petitioners-defendants essentially reiterate the issues they raised before the CA, i.e., that the ruling court failed to consider: (1) the respondents-plaintiffs' bad faith in the acquisition of the properties; (2) the occupancy of Gregorio Miranda since 1948, Bernardo's since 1966, and Madrid's since 1973; and, (3) petitioners-defendants' continuous residence for more than ten (10) years entitling them to the rights and privileges granted by PD 1517. They also contend that the principle of indefeasibility of the certificate of title should not apply in this case because fraud attended the respondents-plaintiffs' acquisition of title. They again point out that the pre-trial order should not have been applied to them since they were not present during the pre-trial conference.

The respondents-plaintiffs counter-argue that the issues raised by the petitioners-defendants are essentially factual in nature and all have been well-considered and adequately refuted in the challenged CA decision.

OUR RULING

We resolve to deny the petition for lack of merit.

a. Accion Publiciana and Ownership

Accion publiciana, also known as accion plenaria de posesion,[10] is an ordinary civil proceeding to determine the better right of possession of realty independently of title.[11] It refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.[12]

The objective of the plaintiffs in accion publiciana is to recover possession only, not ownership.[13] However, where the parties raise the issue of ownership, the courts may pass upon the issue to determine who between or among the parties has the right to possess the property. This adjudication, however, is not a final and binding determination of the issue of ownership; it is only for the purpose of resolving the issue of possession, where the issue of ownership is inseparably linked to the issue of possession. The adjudication of the issue of ownership, being provisional, is not a bar to an action between the same parties involving title to the property.[14] The adjudication, in short, is not conclusive on the issue of ownership.[15]

In the present case, both the petitioners-defendants and the respondents-plaintiffs raised the issue of ownership. The petitioners-defendants claim ownership based on the oral sale to and occupation by Gregorio Miranda, their predecessor-in-interest, since 1948. On the other hand, the respondents-plaintiffs claim that they are the owners, and their ownership is evidenced by the TCTs in their names. Under this legal situation, resolution of these conflicting claims will depend on the weight of the parties' respective evidence, i.e., whose evidence deserves more weight.

b. Findings of Fact Below - Final and Conclusive

A weighing of evidence necessarily involves the consideration of factual issues - an exercise that is not appropriate for the Rule 45 petition that the petitioners-defendants filed; under the Rules of Court, the parties may raise only questions of law under Rule 45, as the Supreme Court is not a trier of facts.[16] As a rule, we are not duty-bound to again analyze and weigh the evidence introduced and considered in the tribunals below.[17] This is particularly true where the CA has affirmed the trial court's factual findings, as in the present case. These trial court findings, when affirmed by the CA, are final and conclusive and are not open for our review on appeal.[18]

In the present case, both the RTC and the CA gave more weight to the certificate of title the respondents-plaintiffs presented, and likewise found that the petitioners-defendants' possession of the properties was merely upon the respondents-plaintiffs' tolerance. We see no reason to doubt or question the validity of these findings and thus recognize their finality.

As a matter of law, a Torrens Certificate of Title is evidence of indefeasible title of property in favor of the person in whose name the title appears. The title holder is entitled to all the attributes of ownership of the property, including possession, subject only to limits imposed by law.[19] In the present case, the respondents-plaintiffs are indisputably the holders of a certificate of title against which the petitioners-defendants' claim of oral sale cannot prevail. As registered titleholders, they are entitled to possession of the properties.

c. Claim of Fraud - a Prohibited Collateral Attack

Registration of land under the Torrens system, aside from perfecting the title and rendering it indefeasible after the lapse of the period allowed by law, also renders the title immune from collateral attack.[20] A collateral attack transpires when, in another action to obtain a different relief and as an incident of the present action, an attack is made against the judgment granting the title.[21] This manner of attack is to be distinguished from a direct attack against a judgment granting the title, through an action whose main objective is to annul, set aside, or enjoin the enforcement of such judgment if not yet implemented, or to seek recovery if the property titled under the judgment had been disposed of.[22] To permit a collateral attack on respondents-plaintiffs' title is to water down the integrity and guaranteed legal indefeasibility of a Torrens title.[23]

The petitioners-defendants' attack on the validity of respondents-plaintiffs' title, by claiming that fraud attended its acquisition, is a collateral attack on the title. It is an attack incidental to their quest to defend their possession of the properties in an "accion publiciana," not in a direct action whose main objective is to impugn the validity of the judgment granting the title.[24] This is the attack that possession of a Torrens Title specifically guards against; hence, we cannot entertain, much less accord credit to, the petitioners-defendants' claim of fraud to impugn the validity of the respondents-plaintiffs' title to their property.

d. Claimed Protection under PD 1517

To qualify for protection under PD 1517 and avail of the rights and privileges granted by the said decree, the claimant must be: (1) a legitimate tenant of the land for ten (10) years or more; (2) must have built his home on the land by contract; and, (3) has resided continuously for the last ten (10) years. The "tenant" covered by PD

1517 is, as defined under Section 3(f) thereof, "the rightful occupant of land and its structures, but does not include those whose presence on the land is merely tolerated and without the benefit of contract, those who enter the land by force or deceit, or those whose possession is under litigation."

Stated differently, those whose possession or occupation of land is devoid of any legal authority or those whose contracts of lease are already terminated, or had already expired, or whose possession is under litigation are not considered "tenants" under the decree. Conversely, a legitimate tenant is one who is not a usurper or an occupant by tolerance.[25] The petitioners-defendants whose occupation has been merely by the owner's tolerance obviously fall outside the coverage of PD 1517 and cannot seek its protection.

e. The Pre-Trial-based Objection

Without doubt, the petitioners-defendants, having been belatedly served summons and brought into the case, were entitled to a pre-trial as ordained by Section 2, Rule 18 of the Rules of Court. Unless substantial prejudice is shown, however, the trial court's failure to schedule a case for new trial does not render the proceedings illegal or void ab initio.[26] Where, as in this case, the trial proceeded without any objection on the part of the petitioners-defendants by their failure to bring the matter to the attention of the RTC, the petitioners-defendants are deemed to have effectively forfeited a procedural right granted them under the Rules. Issues raised for the first time on appeal and not raised timely in the proceedings in the lower court are barred by estoppel.[27] Points of law, theories, issues and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal.[28] To consider the alleged facts and arguments raised belatedly would amount to trampling on the basic principles of fair play, justice, and due process.

In arriving at this conclusion, we considered, as the CA did, that the petitioners-defendants anchored their right to possess the property on the defenses raised by the original defendant, Gregorio Miranda, their predecessor-in-interest. While belatedly summoned, the petitioners-defendants did not raise a substantial matter in their answer differently from those propounded by Gregorio Miranda; they merely echoed Miranda's positions and arguments. Thus, no prejudice could have resulted to the petitioners-defendants, especially after they entered trial and had the opportunity to fully ventilate their positions.

f. Attorney's Fees

As a general rule, the appellate court may only pass upon errors assigned by the parties. By way of exception, even unassigned errors may be taken up by the court on appeal if they involve (1) errors affecting the lower court's jurisdiction over the subject matter, (2) plain errors not specified, and (3) clerical errors.[29] In the present case, we note that the award of attorney's fees appears only in the dispositive portion of the RTC decision without any elaboration, explanation, and justification. The award stood there all by itself. We view this as a plain legal error by the RTC that must be rectified.

Article 2208 of the Civil Code enumerates the instances justifying the grant of attorney's fees; in all cases, the award must be reasonable, just and equitable. Attorney's fees as part of damages are not meant to enrich the winning party at the expense of the losing litigant. They are not awarded every time a party prevails in a suit because of the policy that no premium should be placed on the right to litigate.[30] The award of attorney's fees is the exception rather than the general rule. Thus, findings reflecting the conditions imposed by Article 2208 are necessary to justify an award; attorney's fees mentioned only in the dispositive portion of the decision without any prior justification in the body of the decision is a baseless award that must be struck down.[31]

WHEREFORE, premises considered, we here DENY the petition for lack of any reversible error, and

consequently AFFIRM the decision of July 16, 2001 of the Court of Appeals in CA-G.R. CV No. 47691, with the MODIFICATION that the attorney's fees awarded to respondents-plaintiffs are hereby DELETED. Costs against the petitioners-defendants.

SO ORDERED.

[*]Carpio-Morales, (Chairperson), [**]Carpio, [***]Chico-Nazario, and [****]Leonardo-De Castro, JJ., concur.

· Died on May 12, 1992 during the pendency of the case in the trial court. He was substituted by his widow, Macrina Generalao Vda. de Madrid, as defendant; rollo, p. 35.

[*] Designated Acting Chairperson of the Second Division effective August 1, 2009 per Special Order No. 670 dated July 28, 2009.

[**] Designated additional Member of the Second Division effective August 1, 2009 per Special Order No. 671 dated July 28, 2009.

[***] Designated additional Member of the Second Division effective June 3, 2009 per Special Order No. 658 dated June 3, 2009.

[****] Designated additional Member of the Second Division effective May 11, 2009 per Special Order No. 635 dated May 7, 2009.

[1] Filed under Rule 45 of the Rules of Civil Procedure.

[2] Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Ma. Alicia Austria-Martinez (former member of this Court) and Hilarion L. Aquino (now retired), concurring; rollo, pp. 30-42.

[3] Id., p. 61.

[4] Docketed as Civil Case No. 88-44149.

[5] Rollo, pp. 116-119.

[6] Id., p. 119.

[7] Id., pp. 30-42.

[8] Id., pp. 43-60.

[9] Id., p. 61.

[10] Bejar v. Caluag, G.R. No. 171277, February 17, 2007, 516 SCRA 84, 90; Barredo v. Santiago, 102 Phil. 127, 130 (1957).

[11] Bejar v. Caluag, id.; Sps. Cruz v. Torres, 374 Phil. 529, 533 (1999); Bishop of Cebu v. Mangaron, 6 Phil. 286, 291 (1906); Ledesma v. Marcos, 9 Phil. 618, 620 (1908).

[12] Encarnacion v. Amigo, G.R. No. 169793, September 15, 2006, 502 SCRA 172, 179; Lopez v. David, Jr., G.R. No.152145, March 30, 2004, 426 SCRA 535, 543.

[13] Natalia Realty, Inc. v. Court of Appeals, 440 Phil. 1, 25 (2002).

[14] Rivera v. Rivera, 453 Phil. 404, 412 (2003).

[15] Umpoc v. Mercado, G.R. No. 158166, January 21, 2005, 449 SCRA 220, 238.

- [16] Mitsubishi Motors Phils. Corporation v. Simon, G.R. No. 164081, April 16, 2008, 551 SCRA 555, 560; Ochoa v. Apeta, G.R. No. 146259, September 13, 2007, 533 SCRA 235, 238.
- [17] Diokno v. Cacdac, G.R. No. 168475, July 4, 2007, 526 SCRA 440, 460-461; Manotok Realty, Inc. v. CLT Realty Development Corporation, G.R. Nos. 123346, 134385 & 148767, November 29, 2005, 476 SCRA 305, 335.
- [18] Puen v. Sta. Ana Agro-Aqua Corporation, G.R. No. 156051, January 28, 2008, 542 SCRA 493, 501; Child Learning Center, Inc. v. Tagorio, G.R. No. 150920, November 25, 2005, 476 SCRA 236, 241.
- [19] See Baloloy v. Hular, G.R. No. 157767, September 9, 2004, 438 SCRA 80, 92 and CIVIL CODE, Article 428.
- [20] Herce, Jr. v. Municipality of Cabuyao, Laguna, G.R. No. 166645, November 11, 2005, 474 SCRA 797, 807.
- [21] Teoville Homeowners Association, Inc. v. Ferreira, G.R. No. 140086, June 8, 2005, 459 SCRA 459, 474.
- [22] Ibid.
- [23] Republic v. Guerrero G.R. No. 133168, March 28, 2006, 485 SCRA 424, 441; Tichangco v. Enriquez, G.R. No. 150629, June 30, 2004, 433 SCRA 324, 337.
- [24] Ugale v. Gorospe, G.R. No. 149516, September 11, 2006, 501 SCRA 376, 386; Caraan v. Court of Appeals, G.R. No. 140752, November 11, 2005, 474 SCRA 543, 550; Baloloy v. Hular, *supra* note 19.
- [25] Delos Santos v. Court of Appeals, G.R. No. 127465, October 25, 2001, 368 SCRA 226, 229; Bermudez v. Intermediate Appellate Court, G.R. No. L-73206, August 6, 1986, 143 SCRA 351, 355; Zansibarian Residents Asso. v. Municipality of Makati, G.R. No. L-62136, February 28, 1985, 135 SCRA 235, 239.
- [26] Martinez v. de la Merced, G.R. No. 82039, June 20, 1989, 174 SCRA 182.
- [27] Heirs of Dicman v. Cariño, G.R. No. 146459, June 8, 2006, 490 SCRA 240, 263; Cruz v. Fernando, Sr., G.R. No. 145470, December 9, 2005, 477 SCRA 173, 182.
- [28] Valdez v. China Banking Corporation, G.R. No. 155009, April 12, 2005, 455 SCRA 687, 696; Philippine Ports Authority v. City of Iloilo, 453 Phil. 927, 938 (2003).
- [29] Heirs of Ignacia Aguilar-Reyes v. Mijares, G.R. No. 143826, August 28, 2003, 410 SCRA 97, 111; Cojuangco, Jr. v. Court of Appeals, G.R. No. 119398, July 2, 1999, 309 SCRA 602, 614.
- [30] Country Bankers Insurance Corporation v. Lianga Bay and Community Multi-purpose Cooperative, Inc. 425 Phil. 511, 525 (2002); Ibaan Rural Bank, Inc. v. Court of Appeals, 378 Phil. 707, 714 (1999).
- [31] Spouses Samatra v. Vda. de Pariñas, 431 Phil. 255, 267 (2002); Development Bank of the Philippines v. Court of Appeals, G.R. No. 118180, September 20, 1996, 262 SCRA 245, 253.

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.