

ANGELINE CATORES, PETITIONER, VS. MARY D. AFIDCHAO, RESPONDENT.

G.R. No. 151240. March 31, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision,[2] dated October 23, 2000, which affirmed the Decision[3] of the Regional Trial Court (RTC) of Baguio City, dated June 6, 1990.

The facts as narrated by the CA are as follows:

Plaintiff-appellee, Mary D. Afidchao [respondent], is the registered owner of a parcel of land with an area of 8,383 sq. meters situated in Residence Section "J," Sto. Tomas, Barangay Dontogan, Baguio City and covered by [Transfer Certificate of Title] TCT No. T-27839. The said parcel of land was purchased by plaintiff-appellee from its previous registered owners, spouses Isidoro and Nellie Balinsat on August 29, 1977.

Immediately thereafter, plaintiff-appellee declared the aforesaid property for tax purposes in her name under Tax Declaration No. 23347 and paid religiously the realty taxes thereon.

Sometime in June 1984, defendant-appellant, Angeline Catores [petitioner], occupied and entered a portion of the subject property by building her house thereon and making improvements therein such as levellings, riprapping, planting trees, fencing, etc. Thus, on August 2, 1984, plaintiff-appellee filed a case for Forcible Entry against defendant-appellant with the Municipal Trial Court [MTC] of Baguio which ordered a verification relocation survey of the subject property on January 7, 1985. Without, however, waiting for the result of the relocation survey, the MTC dismissed the complaint on February 5, 1985 on the ground that the real issue is one of legal possession and that the remedy is accion publiciana, adding that an administrative action like a verification relocation survey might resolve the matter.

The verification and relocation survey conducted by the Office of the Bureau of Lands of Baguio City pursuant to the aforementioned Order dated January 7, 1985 confirmed the allegation of plaintiff-appellee that defendant-appellant encroached on the former's titled property by constructing a house with a calculated size of 8' x 10' and by destroying some of the stonewallings within the subject property. Hence, plaintiff-appellee required defendant-appellant to vacate the portion illegally occupied and to remove the improvements made thereon, which the latter refused.

Consequently, on August 13, 1985, plaintiff-appellee filed a complaint for Accion Publiciana against defendant-appellant.

In her Answer, defendant-appellant raised the defenses inter alia that she has been in possession of the land in question as early as 1977; that the land in question is not within the property of anybody, including the plaintiff-appellee; and that her possession of the land in question is with color of title.[4]

The RTC's Ruling

On June 6, 1990, the RTC ruled in favor of respondent, giving great weight to the findings of Mr. Edilberto R. Quiaoit (Quiaoit), head of the survey team of the Bureau of Lands, who conducted the relocation verification survey of the subject property. Further, the RTC said that these findings of Quiaoit were corroborated by the geodetic engineer, Venancio Figueres[5] (Engr. Figueres), who conducted the subdivision survey of the subject property for respondent in December 1977. Hence, the trial court declared that these findings ought to prevail over those of geodetic engineer Jose Fernandez (Engr. Fernandez), petitioner's expert witness. The RTC also ratiocinated that as between respondent who had a title and a tax declaration over the subject property, who paid the taxes due thereon, and acquired the same by purchase from the original registered landowners, and petitioner who had no title or tax declaration, and was not shown to have acquired any title from the Sunrise Village Association, preponderance of evidence was in favor of respondent. Thus, the RTC disposed of this case in this wise:

WHEREFORE, judgment is rendered in favor of the plaintiff Mary Afidchao and against defendant Angeline Catores, as follows:

- Declaring the land in question consisting of about 2,138 sq. meters located at Residence Section J, Sto. Tomas, Barangay Dontogan, Baguio City, occupied by defendant Angeline Catores as part of the land owned by plaintiff Mary Afidchao covered by TCT 27839 and therefore plaintiff has a better right to possess the same as the owner of the land is entitled to the possession hereof as a consequence of her ownership;
- Declaring that the house, the levellings, plants, trees, fence, garden, riprapping and other improvements of defendant Angeline Catores on the land in question are inside the titled land of plaintiff Mary Afidchao covered by TCT 27839 and therefore defendant must vacate the premises of the land in question and restore possession thereof to plaintiff and remove her house and other structures provided the same can be done without damage to the plaintiff's titled land within 30 days from the time this Judgment becomes final and executory;
- Ordering defendant Angeline Catores to cease and desist from further disturbing the ownership and possession of plaintiff of the land in question which is part of plaintiff's titled land covered by TCT 27839 described in paragraph 2 of the Complaint.
- Dismissing the claim for Exemplary damages, Attorney's fees and litigation expenses of plaintiff there being no gross and evident bad faith shown on the part of defendant Angeline Catores;
- Dismissing the counterclaim of defendant Angeline Catores for Moral damages, Attorney's fees and litigation expenses for lack of merit; and
- Ordering defendant Angeline Catores to pay the costs of the suit.

SO ORDERED.[6]

Petitioner filed a Motion for Reconsideration,[7] which was, however, denied by the RTC because the matters treated therein had been fully considered, discussed and resolved in the RTC decision and the RTC found no cogent reason to change or disturb the same.[8] Aggrieved, petitioner appealed to the CA.[9]

After both parties had filed their respective briefs, on July 18, 1992, petitioner filed an Urgent Motion for New Trial and/or Reception of New Evidence[10] before the CA claiming that these pieces of newly discovered evidence could not have been discovered and produced before the RTC. Petitioner alleged that she did not get any cooperation from the Bureau of Lands-Baguio City. Respondent filed her Opposition[11] thereto, arguing that the pieces of evidence sought to be introduced were not, at all, newly discovered evidence for they were the same pieces of evidence submitted before the RTC. Moreover, respondent opined that the Motion was filed out of time because it should have been filed after judgment by the trial court but before the lapse of the period for perfecting

an appeal, and not after the appealed case had already been submitted for resolution. Finding merit in respondent's Opposition, the CA denied petitioner's Motion.[12]

The CA's Ruling

On October 23, 2000, the CA affirmed the RTC's ruling, holding that:

Admittedly, there is evidence to support the allegation of discrepancy in the technical description of the plaintiff-appellee's title. But this does not mean that the property covered by the title cannot be concretely located as to warrant the dismissal of the case. The title is just an evidence of ownership but it does not vest ownership. Moreover, it is an undisputed fact that other than the title itself, the actual location of a given property can still be identified by referring to the control map of the Bureau of Lands and/or by relocating the same using at least three existing monuments which are verified to be correct.

The foregoing may explain why despite the conflicting testimonies of Quiaoit and Engr. Figueres on whether or not there was a discrepancy in the technical description of plaintiff-appellee's title, they still arrived at the same conclusion - that the questioned lot being occupied by defendant-appellant is within the property of plaintiff-appellee. Quiaoit used both the control map of the Bureau of Lands and the existing monuments in making his findings, while Engr. Figueres, though he relied on the plaintiff-appellee's title, still made use of the existing monuments. Thus, plaintiff-appellee was able to concretely identify her property and accordingly proved that the questioned lot being occupied by defendant-appellant is within her property. The testimony of defendant-appellant's witness, Medino Balusdan, that the questioned lot being occupied by defendant-appellant is within the land owned by one Balinsat from whom, indisputably, plaintiff-appellee acquired the subject property, corroborates the said findings.

What further wreck havoc in the case of defendant-appellant are the admissions on cross-examination of her expert witness, Engr. Fernandez, that the subject properties adjoin each other thereby recanting his earlier testimony to the contrary; that he failed to conduct an ocular inspection on the subject properties and that he likewise failed to take into account the actual location of the monuments in formulating his findings.[13]

The CA likewise referred to the Report[14] of the ocular inspection of the subject property conducted on February 16, 1990, made by Atty. Ma. Clarita C. Tabin, Branch Clerk of Court of the RTC (Clerk of Court), in support of the CA's finding that indeed petitioner encroached into the property of respondent.

Petitioner filed a Motion for Reconsideration[15] which the CA denied in its Resolution[16] dated December 19, 2001 for lack of merit.

Hence, this Petition raising the following grounds:

A.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN BASING ITS DECISION IN FAVOR OF AFIDCHAO ON THE PRINCIPLE THAT THE TITLE IS JUST AN EVIDENCE OF OWNERSHIP BUT DOES NOT VEST OWNERSHIP, WHICH PRINCIPLE IS TOTALLY IRRELEVANT TO THE CONTROVERSY.

B.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN DECIDING IN FAVOR OF AFIDCHAO, DESPITE THE FATAL DEFECT IN THE TECHNICAL DESCRIPTION OF AFIDCHAO'S TORRENS TITLE, THEREBY CONTRADICTING THE DOCTRINAL RULINGS OF THE SUPREME COURT IN MISA VS. COURT OF APPEALS (212 SCRA 217) AND LORENZANA FOOD CORPORATION VS. COURT OF APPEALS (231 SCRA 713).

C.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN HOLDING THAT TITLED PROPERTY CAN STILL BE IDENTIFIED BY MEANS OTHER THAN THE DEFECTIVE TECHNICAL DESCRIPTION THEREOF.

D.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN HOLDING THAT AFIDCHAO'S PROPERTY WAS IDENTIFIED BY REFERRING TO A SUPPOSED CONTROL MAP OF THE BUREAU OF LANDS, WHICH, HOWEVER, WAS NOT INTRODUCED AS EVIDENCE IN THE CASE.

E.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR [OF] LAW IN HOLDING THAT AFIDCHAO'S PROPERTY WAS IDENTIFIED BY WAY OF RELOCATION BASED ON THREE (3) EXISTING MONUMENTS THE INTEGRITY OF WHICH, HOWEVER, WAS ADMITTEDLY NEGATED.

F.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN HOLDING THAT AFIDCHAO'S PROPERTY WAS IDENTIFIED BY THE OBSERVATIONS OF THE BRANCH CLERK OF COURT IN A SUPPOSED REPORT THAT WAS NOT EVEN MENTIONED BY THE TRIAL COURT IN ITS DECISION.

G.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN FOCUSING AND RELYING ON SUPPOSED WEAKNESSES IN THE TESTIMONIES OF CATORES' WITNESSES, THEREBY CONTRADICTING THE DOCTRINAL RULING OF THE SUPREME COURT IN MISA VS. COURT OF APPEALS (212 SCRA 217) TO THE EFFECT THAT A PLAINTIFF WHO SEEKS TO RECOVER PROPERTY MUST RELY ON THE STRENGTH OF HIS TITLE AND NOT ON THE SUPPOSED WEAKNESS OF THE DEFENDANT'S CLAIM.

H.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN DECIDING IN FAVOR OF AFIDCHAO ON THE BASIS OF SUPPOSED BUT NON-EXISTENT WEAKNESS IN THE EVIDENCE OF CATORES.

I.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN CLOSING ITS EYES TO THE NEWLY-DISCOVERED [PIECES OF] EVIDENCE OF CATORES WHICH FURTHER STRENGTHEN HER POSITION THAT HER LOT IS NOT WITHIN THE LAND OF AFIDCHAO.

J.

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR OF LAW IN AFFIRMING INSTEAD OF REVERSING THE DECISION OF THE TRIAL COURT, ON THE BASIS OF THE AFORESTATED REVERSIBLE ERRORS OF LAW.[17]

Petitioner asseverates that a certificate of title is conclusive evidence, not only of ownership of the land referred to but also of the land's location, metes and bounds; that per testimony of Quiaoit, there was a discrepancy in the tie line as appearing in the technical description of respondent's title; that such discrepancy would mean the failure to

locate respondent's property with precision and exactitude, fatal to the identification of the property, and consequently, to respondent's cause; that in foreign jurisdictions, the certificate of title does not vest in the registered owner the title over the property in respect to which a wrong description was made; and that respondent should have first filed the proper application and/or petition for the administrative and/or judicial correction of the erroneous tie line. Petitioner claims that the survey and sketch plans made by Quiaoit were worthless, as the latter was not a geodetic engineer and he did not use the Original Plan Psu 184580 of Nellie Balinsat (Balinsat) which was not presented before the RTC. Rather, he used the Projection Map of the Bureau of Lands-Baguio City which did not show the tie points and tie lines of all properties in Baguio City. Further, the Report made by the Clerk of Court was unreliable as no hearing was conducted thereon by the RTC; hence, the parties were not able to interpose their respective objections thereto. The monuments referred to were also unreliable, as there were discrepancies in the testimonies of witnesses. Thus, the monuments in respondent's property had lost their integrity. Moreover, petitioner submits that the CA gravely erred in the appreciation of the pieces of evidence and the testimonies of witnesses. Finally, petitioner, citing *Lorenzana Food Corporation v. Court of Appeals*[18] and *Misa v. Court of Appeals*,[19] submits that errors in technical description and location impugn the integrity of Torrens titles and that, in an action for recovery, the property must be identified, and the plaintiff must rely on the strength of his title, and not on the weakness of the defendant's claim.[20]

For her part, respondent argues that the findings of fact of the RTC, as affirmed by the CA, must be accorded respect and great weight; that respondent concretely established that the subject property was well within her titled property; that petitioner merely quoted portions of the testimonies of witnesses to suit her claims and utterly disregarded the whole substance of said testimonies; that the entire testimony of Quiaoit revealed that, while there was an error in the tie line as appearing in the technical description of respondent's title, the area occupied by petitioner was within the property of respondent; that such factual finding was corroborated by Engr. Figueres' testimony; that petitioner herself and her witnesses, in their respective testimonies, established said finding because the names of the owners of the adjoining properties, as testified to by petitioner herself, tallied with the names of the owners of the adjoining properties of respondent's titled property; that petitioner's witness Medino Balusdan pointed out that the area claimed and occupied by petitioner was between the lot claimed by one R. Villena and Balinsat; and that petitioner did not dispute the fact that respondent acquired the subject property from the late Balinsat, hence, the area testified to by petitioner's witness was actually respondent's property. Respondent adds that the testimonies of Quiaoit and Engr. Figueres were confirmed during the ocular inspection conducted by the RTC, with the Clerk of Court as hearing officer. Respondent concludes that the subject property occupied and claimed by petitioner was well within the titled property of respondent by preponderance of evidence. While respondent reiterates her prayer before the RTC for the payment of damages, she prays for the denial of the instant Petition.[21]

Our Ruling

The instant Petition is bereft of merit.

Petitioner's reliance on *Lorenzana* and *Misa* is unavailing inasmuch as the facts therein are not similar to the facts in the case at bar. It must be noted that the actions filed in *Lorenzana* and *Misa* were for quieting of title, while here it is for *accion publiciana*. In *Lorenzana*, petitioners prayed that their error-filled titles should be adjudged superior to the regularly issued titles of the private respondents. On the other hand, *Misa* involved unregistered properties which were partitioned but, due to lack of evidence, were not particularly identified. Conversely, the subject property in this case is covered by TCT No. T-27839 issued in the name of respondent. To highlight the disparity, petitioner is not even a holder of any title over the subject property as duly observed by the RTC.

Verily, as enunciated in *Lorenzana*[22] and *Misa*,[23] it may be reiterated that under Rule 45 of the 1997 Rules of

Civil Procedure, as amended, our jurisdiction over cases brought to us from the CA is limited to reviewing and correcting errors of law committed by said court. This Court is not a trier of facts. Thus, it is not our function to review factual issues and to examine, evaluate or weigh the probative value of the evidence presented by the parties. We are not bound to analyze and weigh all over again the evidence already considered in the proceedings below.[24] Necessarily, the jurisprudential doctrine that findings of the CA are conclusive on the parties and carry even more weight when they coincide with the factual findings of the trial court must remain undisturbed.[25]

In this case, it is evident that petitioner asks this Court to undertake the re-examination and re-evaluation of the pieces of evidence presented before the courts below, and reverse the uniform factual findings of both the RTC and the CA in favor of respondent. However, we can do so only in any of the following instances:

(1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record[26]

and petitioner has failed to show that this case falls within any of the aforementioned exceptions.

Notwithstanding the apparently numerous issues raised by petitioner, the ultimate question is simply: Did petitioner encroach on the subject property covered by respondent's title?

The petitioner posits that the resolution of the issue will involve the alteration, correction or modification of TCT No. T-27839 issued in the name of respondent. However, the rectification of the title may be made only through a proper action filed for that purpose. It should be borne in mind that Section 48, Presidential Decree (P.D.) No. 1529, provides that "a certificate of title shall not be subject to collateral attack." It cannot be altered, modified, or cancelled except in a direct proceeding filed in accordance with law. This was our pronouncement in *De Pedro v. Romasan Development Corporation*,[27] and in *Caraan v. Court of Appeals*,[28] we defined a collateral attack in this wise:

When is an action an attack on a title? It is when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed. The attack is direct when the object of an action or proceeding is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.[29]

In the action for recovery filed by respondent in the trial court, petitioner's Answer[30] did not directly impugn the validity of respondent's title. Rather, she alleged that the area which she occupied was not within the titled property of respondent. Thus, her petition in the instant case is replete with claims of errors in the technical description as appearing in the title of respondent and even in that of her predecessors-in-interest. However, these allegations constitute a collateral attack against respondent's title, which cannot be allowed in an accion publiciana. In sum, the defenses and grounds raised by petitioner ascribe errors in respondent's title that would require a review of the registration decree made in respondent's favor.[31] Unfortunately for the petitioner, we cannot do so in the present action which is simply for recovery of possession.

What we said in *De Pedro* and *Caraan*, citing *Ybañez v. Intermediate Appellate Court*,[32] is squarely in point:

It was erroneous for petitioners to question the Torrens Original Certificate of Title issued to private respondent over Lot No. 986 in Civil Case No. 671, an ordinary civil action for recovery of possession filed by the registered owner of the said lot, by invoking as affirmative defense in their answer the Order of the Bureau of Lands, dated July 19, 1978, issued pursuant to the investigatory power of the Director of Lands under Section 91 of Public Land Law (C.A. 141 as amended). Such a defense partakes of the nature of a collateral attack against a certificate of title brought under the operation of the Torrens system of registration pursuant to Section 122 of the Land Registration Act, now Section 103 of P.D. 1259. The case law on the matter does not allow a collateral attack on the Torrens certificate of title on the ground of actual fraud. The rule now finds expression in Section 48 of P.D. 1529 otherwise known as the Property Registration Decree.[33]

Moreover, the CA did not err when it partially relied on the Report of the Clerk of Court, the duly appointed hearing officer for the ocular inspection by virtue of RTC Order[34] dated November 10, 1989, upon agreement of all the parties. Petitioner did not interpose any objection to such appointment nor to the conduct of the inspection, as it is on record that petitioner's counsel participated in said inspection.[35] When the Clerk of Court made her observation that the boundaries pointed to by petitioner were within the area of respondent's property, petitioner's counsel did not object to such observation.[36] The RTC's failure to mention the Report in its Decision is of no moment. When petitioner appealed to the CA, the appealed case was thereby thrown wide open for review by the CA. Given this power, the CA has the authority to either affirm, reverse or modify the appealed decision of the trial court,[37] because, unlike this Court, the CA has the power to review factual matters. The Report forms part of the records of this case which must have been taken into consideration by the CA in its resolution of the case filed before it.

As the registered owner is entitled to the possession of the property from the time the title thereof was issued in her favor,[38] and preponderance of evidence being in favor of respondent, there can be no other conclusion but that respondent should be placed in possession thereof. All told, the CA committed no reversible error in rendering the assailed Decision.

WHEREFORE, the instant Petition is DENIED. This is without prejudice to the filing by petitioner of the appropriate action before the proper forum for the correction of what she claims are errors in the certificate of title. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Carpio Morales,[*]Chico-Nazario, and Peralta, JJ., concur.

[*]Additional member in lieu of Associate Justice Ma. Alicia Austria-Martinez per Special Order No. 602 dated March 20, 2009.

[1] Dated January 17, 2002; rollo, pp. 3-37.

[2] Particularly docketed as CA-G.R. CV No. 29528; penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Quirino D. Abad Santos, Jr. and Salvador J. Valdez, Jr., concurring; rollo, pp. 127-136.

[3] Particularly docketed as Civil Case No. 640-R; rollo, pp. 66-75.

[4] Rollo, pp. 128-130. (Citations omitted.)

[5] Also referred to as Venancio Figuerres in other pleadings and documents.

[6] Rollo, pp. 74-75.

- [7] Records, pp. 216-219.
- [8] Id. at 223.
- [9] Id. at 224.
- [10] CA rollo, pp. 119-125.
- [11] Id. at 190-196.
- [12] Id. at 198.
- [13] Rollo, pp. 132-133. (Citations omitted.)
- [14] Records, pp. 194-195.
- [15] CA rollo, pp. 225-246.
- [16] Id. at 256.
- [17] Supra note 1, at 17-19.
- [18] G.R. No. 105027, April 22, 1994, 231 SCRA 713.
- [19] G.R. No. 97291, August 5, 1992, 212 SCRA 217.
- [20] Petitioner's Memorandum dated July 18, 2007; rollo, pp. 233-283.
- [21] Respondent's Memorandum dated July 30, 2007; rollo, pp. 347-360.
- [22] Supra note 18, at 722.
- [23] Supra note 19, at 221.
- [24] Manotok Realty, Inc. v. CLT Realty Development Corporation, G.R. Nos. 123346, 134385, and 148767, November 29, 2005, 476 SCRA 305, 334-335, citing Asia Trust Development Bank v. Concepts Trading Corporation, 404 SCRA 449 (2003); Omandam v. Court of Appeals, 349 SCRA 483 (2001).
- [25] Valdez v. Reyes, G.R. No. 152251, August 17, 2006, 499 SCRA 212, 215, citing Development Bank of the Philippines v. Perez, 442 SCRA 238 (2004); Morandarte v. Court of Appeals, 436 SCRA 213 (2004); Pleyto v. Lomboy, 432 SCRA 329 (2004); Mindanao State University v. Roblett Industrial & Construction Corp., 431 SCRA 458 (2004).
- [26] Sps. Casimiro v. Court of Appeals, 433 Phil. 219, 224-225 (2002).
- [27] G.R. No. 158002, February 28, 2005, 452 SCRA 564, 575.
- [28] G.R. No. 140752, November 11, 2005, 474 SCRA 543.
- [29] Caraan v. Court of Appeals, id. at 549, citing Mallilin, Jr. v. Castillo, 389 Phil. 153 (2000). (Emphasis supplied.)
- [30] Records, pp. 16-17.
- [31] Mallilin, Jr. v. Castillo, supra note 28, at 165.
- [32] G.R. No. 68291, March 6, 1991, 194 SCRA 743.
- [33] Id. at 748. (Citations omitted.)

[34] Records, p. 181.

[35] TSN, February 16, 1990.

[36] Id. at 17.

[37] Heirs of Carlos Alcaraz v. Republic, G.R. No. 131667, July 28, 2005, 464 SCRA 280, 294-295.

[38] Apostol v. Court of Appeals, G.R. No. 125375, June 17, 2004, 432 SCRA 351, 359.

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