

HEIRS OF THE LATE JOAQUIN LIMENSE, NAMELY: CONCESA LIMENSE, SURVIVING SPOUSE; AND DANILO AND JOSELITO, BOTH SURNAMED LIMENSE, CHILDREN, PETITIONERS, VS. RITA VDA. DE RAMOS, REST...

G.R. No. 152319. October 28, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[1] of the Court of Appeals dated December 20, 2001 in CA-G.R. CV No. 33589 affirming in toto the Decision[2] of the Regional Trial Court of Manila, Branch 15, dated September 21, 1990 in Civil Case No. 83-16128.

The antecedent facts are as follows:

Dalmacio Lozada was the registered owner of a parcel of land identified as Lot No. 12, Block No. 1074 of the cadastral survey of the City of Manila covered by Original Certificate of Title (OCT) No. 7036 issued at the City of Manila on June 14, 1927,[3] containing an area of 873.80 square meters, more or less, located in Beata Street, Pandacan, Manila.

Dalmacio Lozada subdivided his property into five (5) lots, namely: Lot Nos. 12-A, 12-B, 12-C, 12-D and 12-E. Through a Deed of Donation dated March 9, 1932,[4] he donated the subdivided lots to his daughters, namely: Isabel, Salud, Catalina, and Felicidad, all surnamed Lozada. The Deed of Donation was registered with the office of the Register of Deeds of Manila on March 15, 1932.

Under the said Deed of Donation, the lots were adjudicated to Dalmacio's daughters in the following manner:

- a. Lot No. 12-A in favor of Isabel Lozada, married to Isaac Limense;
- b. Lot No. 12-B in favor of Catalina Lozada, married to Sotero Natividad;
- c. Lot No. 12-C in favor of Catalina Lozada, married to Sotero Natividad; Isabel Lozada, married to Isaac Limense; and Salud Lozada, married to Francisco Ramos, in equal parts;
- d. Lot No. 12-D in favor of Salud Lozada, married to Francisco Ramos; and
- e. Lot No. 12-E in favor of Isabel Lozada, married to Isaac Limense, and Felicidad Lozada, married to Galicano Centeno.

By virtue of the Deed of Donation executed by Dalmacio Lozada, OCT No. 7036, which was registered in his name, was cancelled and, in lieu thereof, Transfer Certificates of Title (TCTs) bearing Nos. 40041, 40042, 40043, 40044, and 40045 were issued in favor of the donees, except TCT No. 40044, which remained in his name. These new TCTs were annotated at the back of OCT No. 7036.[5]

TCT No. 40043, which covered Lot No. 12-C, was issued in the name of its co-owners Catalina Lozada, married

to Sotero Natividad; Isabel Lozada, married to Isaac Limense; and Salud Lozada, married to Francisco Ramos. It covered an area of 68.60 square meters, more or less, was bounded on the northeast by Lot No. 12-A, on the southwest by Calle Beata, and on the northwest by Lot No. 12-D of the subdivision plan. In 1932, respondents' predecessor-in-interest constructed their residential building on Lot No. 12-D, adjacent to Lot No. 12-C.

On May 16, 1969, TCT No. 96886[6] was issued in the name of Joaquin Limense covering the very same area of Lot No. 12-C.

On October 1, 1981, Joaquin Limense secured a building permit for the construction of a hollow block fence on the boundary line between his aforesaid property and the adjacent parcel of land located at 2759 Beata Street, Pandacan, Manila, designated as Lot No. 12-D, which was being occupied by respondents. The fence, however, could not be constructed because a substantial portion of respondents' residential building in Lot No. 12-D encroached upon portions of Joaquin Limense's property in Lot No. 12-C.

Joaquin Limense demanded the removal of the encroached area; however, respondent ignored both oral and written demands. The parties failed to amicably settle the differences between them despite referral to the barangay. Thus, on March 9, 1983, Joaquin Limense, duly represented by his Attorney-in-Fact, Teofista L. Reyes, instituted a Complaint[7] against respondents before the Regional Trial Court (RTC) of Manila, Branch 15, for removal of obstruction and damages.

Joaquin Limense prayed that the RTC issue an order directing respondents, jointly and severally, to remove the portion which illegally encroached upon his property on Lot No. 12-C and, likewise, prayed for the payment of damages, attorney's fees and costs of suit.

Respondents, on the other hand, averred in their Answer[8] that they were the surviving heirs of Francisco Ramos,[9] who, during his lifetime, was married to Salud Lozada, one of the daughters of Dalmacio Lozada, the original owner of Lot No. 12. After subdividing the said lot, Dalmacio Lozada donated Lot No. 12-C in favor of his daughters Catalina, married to Sotero Natividad; Isabel, married to Isaac Limense; and Salud, married to Francisco Ramos. Being the surviving heirs of Francisco Ramos, respondents later became co-owners of Lot No. 12-C. Lot No. 12-C has served as right of way or common alley of all the heirs of Dalmacio Lozada since 1932 up to the present. As a common alley, it could not be closed or fenced by Joaquin Limense without causing damage and prejudice to respondents.

After trial on the merits, the RTC rendered a Decision[10] dated September 21, 1990 dismissing the complaint of Joaquin Limense. It ruled that an apparent easement of right of way existed in favor of respondents. Pertinent portions of the decision read as follows:

The Court finds that an apparent easement of right of way exists in favor of the defendants under Article 624 of the Civil Code. It cannot be denied that there is an alley which shows its existence. It is admitted that this alley was established by the original owner of Lot 12 and that in dividing his property, the alley established by him continued to be used actively and passively as such. Even when the division of the property occurred, the non-existence of the easement was not expressed in the corresponding titles nor were the apparent sign of the alley made to disappear before the issuance of said titles.

The Court also finds that when plaintiff acquired the lot (12-C) which forms the alley, he knew that said lot could serve no other purpose than as an alley. That is why even after he acquired it in 1969, the lot continued to be used by defendants and occupants of the other adjoining lots as an alley. The existence of the easement of right of way was therefore known to plaintiff who must respect the same in spite of the fact that his transfer certificate of title does not mention the lot of defendants as among those listed therein as entitled to such right of way. It is an established principle that actual notice or knowledge is as binding as registration.[11]

Aggrieved by said decision, Joaquin Limense filed a notice of appeal. The records of the case were transmitted to the Court of Appeals (CA). During the pendency of the appeal with the CA, Joaquin Limense died in 1999.[12]

The CA, Seventh Division, in CA-G.R. CV No. 33589, in its Decision[13] dated December 20, 2001 dismissed the appeal and affirmed in toto the decision of the RTC.

Frustrated by this turn of events, petitioners, as surviving heirs of Joaquin Limense, elevated the case to this Court via a Petition for Review on Certiorari[14] raising the following issues:

- DID THE HONORABLE COURT OF APPEALS COMMIT A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION, IN HOLDING, LIKE THE TRIAL COURT DID, THAT RESPONDENTS' LOT 12-D HAS AN EASEMENT OF RIGHT OF WAY OVER JOAQUIN LIMENSE'S LOT 12-C?
- DID THE HONORABLE COURT OF APPEALS COMMIT A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION, IN FAILING TO HOLD, LIKE THE TRIAL COURT DID, THAT THE PROTRUDING PORTIONS OF RESPONDENTS' HOUSE ON LOT 12-D EXTENDING INTO JOAQUIN LIMENSE'S LOT 12-C CONSTITUTE A NUISANCE AND, AS SUCH, SHOULD BE REMOVED?

Petitioners aver that the CA erred in ruling that since Lot No. 12-C was covered by two TCT's, i.e., TCT Nos. 40043 and 96886, and there was no evidence on record to show how Joaquin Limense was able to secure another title over an already titled property, then one of these titles must be of dubious origin. According to the CA, TCT No. 96886, issued in the name of Joaquin Limense, was spurious because the Lozada sisters never disposed of the said property covered by TCT No. 40043. The CA further ruled that a co-ownership existed over Lot No. 12-C between petitioners and respondents. Petitioners countered that TCT No. 96886, being the only and best legitimate proof of ownership over Lot No. 12-C, must prevail over TCT No. 40043.

Respondents allege that it was possible that TCT No. 96886, in the name of Joaquin Limense, was obtained thru fraud, misrepresentation or falsification of documents because the donees of said property could not possibly execute any valid transfer of title to Joaquin Limense, as they were already dead prior to the issuance of TCT No. 96886 in 1969. Respondents further allege that petitioners failed to produce proof substantiating the issuance of TCT No. 96886 in the name of Joaquin Limense.

Apparently, respondents are questioning the legality of TCT No. 96886, an issue that this Court cannot pass upon in the present case. It is a rule that the validity of a torrens title cannot be assailed collaterally.[15] Section 48 of Presidential Decree (PD) 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 in accordance with law.

In the case at bar, the action filed before the RTC against respondents was an action for removal of obstruction and damages. Respondents raised the defense that Joaquin Limense's title could have been obtained through fraud and misrepresentation in the trial proceedings before the RTC. Such defense is in the nature of a collateral attack, which is not allowed by law.

Further, it has been held that a certificate of title, once registered, should not thereafter be impugned, altered, changed, modified, enlarged or diminished, except in a direct proceeding permitted by law. Otherwise, the reliance on registered titles would be lost. The title became indefeasible and incontrovertible after the lapse of one year from the time of its registration and issuance. Section 32 of PD 1529 provides that "upon the expiration of said period of one year, the decree of registration and the certificate of title shall become incontrovertible. Any person

aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or other persons responsible for the fraud." [16] It has, therefore, become an ancient rule that the issue on the validity of title, i.e., whether or not it was fraudulently issued, can only be raised in an action expressly instituted for that purpose. [17] In the present case, TCT No. 96886 was registered in 1969 and respondents never instituted any direct proceeding or action to assail Joaquin Limense's title.

Additionally, an examination of TCT No. 40043 would readily show that there is an annotation that it has been "CANCELLED." [18] A reading of TCT No. 96886 would also reveal that said title is a transfer from TCT No. 48866 [19] and not TCT 40043. Thus, it is possible that there was a series of transfers effected from TCT No. 40043 prior to the issuance of TCT No. 96886. Hence, respondents' position that the issuance of TCT No. 96886 in the name of Joaquin Limense is impossible, because the registered owners of TCT No. 40043 were already dead prior to 1969 and could not have transferred the property to Joaquin Limense, cannot be taken as proof that TCT No. 96886 was obtained through fraud, misrepresentation or falsification of documents.

Findings of fact of the CA, although generally deemed conclusive, may admit review by this Court if the CA failed to notice certain relevant facts that, if properly considered, would justify a different conclusion, and if the judgment of the CA is premised on a misapprehension of facts. [20] As with the present case, the CA's observation that TCT No. 96886 is of dubious origin, as TCT No. 40043 does not appear to have been disposed of by Catalina, Isabel and Salud Lozada, is improper and constitutes an indirect attack on TCT No. 96886. As we see it, TCT No. 96886, at present, is the best proof of Joaquin Limense's ownership over Lot No. 12-C. Thus, the CA erred in ruling that respondents and petitioners co-owned Lot No. 12-C, as said lot is now registered exclusively in the name of Joaquin Limense.

Due to the foregoing, Joaquin Limense, as the registered owner of Lot 12-C, and his successors-in-interest, may enclose or fence his land or tenements by means of walls, ditches, live or dead hedges, or by any other means without detriment to servitudes constituted thereon. [21]

However, although the owner of the property has the right to enclose or fence his property, he must respect servitudes constituted thereon. The question now is whether respondents are entitled to an easement of right of way.

Petitioners contend that respondents are not entitled to an easement of right of way over Lot No. 12-C, because their Lot No. 12-D is not duly annotated at the back of TCT No. 96886 which would entitle them to enjoy the easement, unlike Lot Nos. 12-A-1, 12-A-2, 12-A-3, 12-A-4, 12-A-5, and 12-A-6. Respondents, on the other hand, allege that they are entitled to an easement of right of way over Lot No. 12-C, which has been continuously used as an alley by the heirs of Dalmacio Lozada, the residents in the area and the public in general from 1932 up to the present. Since petitioners are fully aware of the long existence of the said alley or easement of right of way, they are bound to respect the same.

As defined, an easement is a real right on another's property, corporeal and immovable, whereby the owner of the latter must refrain from doing or allowing somebody else to do or something to be done on his property, for the benefit of another person or tenement. [22]

Easements may be continuous or discontinuous, apparent or non-apparent.

Continuous easements are those the use of which is or may be incessant, without the intervention of any act of man. Discontinuous easements are those which are used at intervals and depend upon the acts of man. Apparent easements are those which are made known and are continually kept in view by external signs that reveal the use and enjoyment of the same. Non-apparent easements are those which show no external indication of their

existence.[23]

In the present case, the easement of right of way is discontinuous and apparent. It is discontinuous, as the use depends upon the acts of respondents and other persons passing through the property. Being an alley that shows a permanent path going to and from Beata Street, the same is apparent.

Being a discontinuous and apparent easement, the same can be acquired only by virtue of a title.[24]

In the case at bar, TCT No. 96886, issued in the name of Joaquin Limense, does not contain any annotation that Lot No. 12-D was given an easement of right of way over Lot No. 12-C. However, Joaquin Limense and his successors-in-interests are fully aware that Lot No. 12-C has been continuously used and utilized as an alley by respondents and residents in the area for a long period of time.

Joaquin Limense's Attorney-in-Fact, Teofista L. Reyes, testified that respondents and several other residents in the area have been using the alley to reach Beata Street since 1932. Thus:

Atty. Manuel B. Tomacruz:

Q:

Mrs. Witness, by virtue of that Deed of Donation you claim that titles were issued to the children of Dalmacio Lozada namely Salud Lozada, Catalina Lozada and Isabel Lozada, is that right?

A:

Yes, sir.

Q:

And after the said property was adjudicated to his said children the latter constructed their houses on their lots.

A:

Yes, sir.

Q:

As a matter of fact, the herein defendants have constructed their houses on the premises allotted to them since the year 1932?

A:

Yes, sir, they were able to construct their house fronting Beata Street.

Q:

And that house they have constructed on their lot in 1932 is still existing today?

A:

Yes, sir and they still used the alley in question and they are supposed to use Beata Street but they are not using Beata Street.

Q:

They are using the alley?

A:

Yes, sir, they are using the alley and they do not pass through Beata Street.

Q:

And they have been using the alley since 1932 up to the present?

A:

Yes, sir they have been using the alley since that time. That was their mistake and they should be using Beata Street because they are fronting Beata Strret.

Q:

As a matter of fact, it is not only herein defendants who have been using that alley since 1932 up to the present?

A:

Yes, sir they are using the alley up to now.

Q:

As a matter of fact, in this picture marked as Exh. "C-1" the alley is very apparent. This is the alley?

A:

Yes, sir.

Q:

And there are houses on either side of this alley?

A:

Yes, sir.

Q:

As a matter of fact, all the residents on either side of the alley are passing through this alley?

A:

Yes, sir, because the others have permit to use this alley and they are now allowed to use the alley but the Ramos's family are now [not] allowed to use this alley.[25]

In *Mendoza v. Rosel*,^[26] this Court held that:

Petitioners claim that inasmuch as their transfer certificates of title do not mention any lien or encumbrance on their lots, they are purchasers in good faith and for value, and as such have a right to demand from respondents some payment for the use of the alley. However, the Court of Appeals found, as a fact, that when respondents acquired the two lots which form the alley, they knew that said lots could serve no other purpose than as an alley. The existence of the easement of right of way was therefore known to petitioners who must respect the same, in spite of the fact that their transfer certificates of title do not mention any burden or easement. It is an established principle that actual notice or knowledge is as binding as registration.

Every buyer of a registered land who takes a certificate of title for value and in good faith shall hold the same free of all encumbrances except those noted on said certificate. It has been held, however, that "where the party has knowledge of a prior existing interest that was unregistered at the time he acquired a right to the same land, his

knowledge of that prior unregistered interest has the effect of registration as to him." [27]

In the case at bar, Lot No. 12-C has been used as an alley ever since it was donated by Dalmacio Lozada to his heirs. It is undisputed that prior to and after the registration of TCT No. 96886, Lot No. 12-C has served as a right of way in favor of respondents and the public in general. We quote from the RTC's decision:

x x x It cannot be denied that there is an alley which shows its existence. It is admitted that this alley was established by the original owner of Lot 12 and that in dividing his property the alley established by him continued to be used actively and passively as such. Even when the division of the property occurred, the non-existence of the easement was not expressed in the corresponding titles nor were the apparent sign of the alley made to disappear before the issuance of said titles.

The Court also finds that when plaintiff acquired the lot (12-C) which forms the alley, he knew that said lot could serve no other purpose than as an alley. That is why even after he acquired it in 1969 the lot continued to be used by defendants and occupants of the other adjoining lots as an alley. x x x [28]

Thus, petitioners are bound by the easement of right of way over Lot No. 12-C, even though no registration of the servitude has been made on TCT No. 96886.

However, respondents' right to have access to the property of petitioners does not include the right to continually encroach upon the latter's property. It is not disputed that portions of respondents' house on Lot No. 12-D encroach upon Lot No. 12-C. Geodetic Engineer Jose Agres, Jr. testified on the encroachment of respondents' house on Lot No. 12-C, which he surveyed. [29] In order to settle the rights of the parties relative to the encroachment, We should determine whether respondents were builders in good faith.

Good faith is an intangible and abstract quality with no technical meaning or statutory definition; and it encompasses, among other things, an honest belief, the absence of malice and the absence of a design to defraud or to seek an unconscionable advantage. An individual's personal good faith is a concept of his own mind and, therefore, may not conclusively be determined by his protestations alone. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. The essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim, and absence of intention to overreach another. Applied to possession, one is considered in good faith if he is not aware that there exists in his title or mode of acquisition any flaw which invalidates it. [30]

Good faith is always presumed, and upon him who alleges bad faith on the part of the possessor rests the burden of proof. [31] It is a matter of record that respondents' predecessor-in-interest constructed their residential building on Lot No. 12-D, adjacent to Lot No. 12-C, in 1932. [32] Respondents' predecessor-in-interest owned the 1/3 portion of Lot No. 12-C at the time the property was donated to them by Dalmacio Lozada in 1932. The Deed of Donation executed by the late Dalmacio Lozada, dated March 9, 1932, specifically provides that:

I hereby grant, cede and donate in favor of Catalina Lozada married to Sotero Natividad, Isabel Lozada married to Isaac Simense and Salud Lozada married to Francisco Ramos, all Filipinos, of legal age, the parcel of land known as Lot No. 12-C, in equal parts. [33]

The portions of Lot No. 12-D, particularly the overhang, covering 1 meter in width and 17 meters in length; the stairs; and the concrete structures are all within the 1/3 share allotted to them by their donor Dalmacio Lozada and, hence, there was absence of a showing that respondents acted in bad faith when they built portions of their house on Lot No. 12-C.

Using the above parameters, we are convinced that respondents' predecessors-in-interest acted in good faith when they built portions of their house on Lot 12-C. Respondents being builders in good faith, we shall now discuss the

respective rights of the parties relative to the portions encroaching upon respondents' house.

Articles 448 and 546 of the New Civil Code provide:

Art. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and, in case of disagreement, the court shall fix the terms thereof.

Art. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

In *Spouses Del Campo v. Abesia*,^[34] this provision was applied to one whose house, despite having been built at the time he was still co-owner, overlapped with the land of another. In that case, this Court ruled:

The court a quo correctly held that Article 448 of the Civil Code cannot apply where a co-owner builds, plants or sows on the land owned in common for then he did not build, plant or sow upon the land that exclusively belongs to another but of which he is a co-owner. The co-owner is not a third person under the circumstances, and the situation is governed by the rules of co-ownership.

However, when, as in this case, the ownership is terminated by the partition and it appears that the house of defendants overlaps or occupies a portion of 5 square meters of the land pertaining to plaintiffs which the defendants obviously built in good faith, then the provisions of Article 448 of the new Civil Code should apply. x x x^[35]

In other words, when the co-ownership is terminated by a partition, and it appears that the house of an erstwhile co-owner has encroached upon a portion pertaining to another co-owner, but the encroachment was in good faith, then the provisions of Article 448 should apply to determine the respective rights of the parties. In this case, the co-ownership was terminated due to the transfer of the title of the whole property in favor of Joaquin Limense.

Under the foregoing provision, petitioners have the right to appropriate said portion of the house of respondents upon payment of indemnity to respondents, as provided for in Article 546 of the Civil Code. Otherwise, petitioners may oblige respondents to pay the price of the land occupied by their house. However, if the price asked for is considerably much more than the value of the portion of the house of respondents built thereon, then the latter cannot be obliged to buy the land. Respondents shall then pay the reasonable rent to petitioners upon such terms and conditions that they may agree. In case of disagreement, the trial court shall fix the terms thereof. Of course, respondents may demolish or remove the said portion of their house, at their own expense, if they so decide.^[36]

The choice belongs to the owner of the land, a rule that accords with the principle of accession that the accessory follows the principal and not the other way around.^[37] Even as the option lies with the landowner, the grant to him, nevertheless, is preclusive. He must choose one. He cannot, for instance, compel the owner of the building to instead remove it from the land.^[38]

The obvious benefit to the builder under this article is that, instead of being outrightly ejected from the land, he

can compel the landowner to make a choice between two options: (1) to appropriate the building by paying the indemnity required by law, or (2) to sell the land to the builder.[39]

The *raison d'être* for this provision has been enunciated, thus:

Where the builder, planter or sower has acted in good faith, a conflict of rights arises between the owners, and it becomes necessary to protect the owner of the improvements without causing injustice to the owner of the land. In view of the impracticability of creating a state of forced co-ownership, the law has provided a just solution by giving the owner of the land the option to acquire the improvements after payment of the proper indemnity, or to oblige the builder or planter to pay for the land and the sower the proper rent. He cannot refuse to exercise either option. It is the owner of the land who is authorized to exercise the option, because his right is older, and because, by the principle of accession, he is entitled to the ownership of the accessory thing.[40]

In accordance with *Depra v. Dumlao*,[41] this case must be remanded to the trial court to determine matters necessary for the proper application of Article 448 in relation to Article 546. Such matters include the option that petitioners would take and the amount of indemnity that they would pay, should they decide to appropriate the improvements on the lots.

Anent the second issue, although it may seem that the portions encroaching upon respondents' house can be considered a nuisance, because it hinders petitioners' use of their property, it cannot simply be removed at respondents' expense, as prayed for by petitioner. This is because respondents built the subject encroachment in good faith, and the law affords them certain rights as discussed above.

WHEREFORE, the petition is DENIED, the Decision of the Court of Appeals dated December 20, 2001 in CA-G.R. CV No. 33589 is AFFIRMED with the following MODIFICATIONS:

1. No co-ownership exists over Lot No. 12-C, covered by TCT No. 96886, between petitioners and respondents.
2. The case is REMANDED to the Regional Trial Court, Branch 15, Manila, for further proceedings without further delay to determine the facts essential to the proper application of Articles 448 and 546 of the Civil Code.

SO ORDERED.

Quisumbing,[*] Carpio, (Chairperson), Chico-Nazario, and Abad,**] JJ., concur.

[*] Designated to sit as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura per Special Order No. 755 dated October 12, 2009.

[**] Designated to sit as an additional member in lieu of Associate Justice Presbitero J. Velasco, Jr. per Special Order No. 753 dated October 12, 2009.

[1] Penned by Associate Justice Rebecca de Guia-Salvador, with Associate Justices Eugenio S. Labitoria and Teodoro P. Regino, concurring; rollo, pp. 29-35.

[2] *Id.* at 52-55.

[3] Records, p. 231.

[4] *Id.* at 14-19.

[5] *Id.* at 231.

- [6] Id. at 183.
- [7] Id. at 1-5.
- [8] Id. at 10-13.
- [9] In their answer, respondents referred to Francisco Ramos as "Francisco Ramos, Sr."
- [10] Records, pp. 311-314.
- [11] Id. at 314.
- [12] Rollo, p. 27.
- [13] Id. at 29-35.
- [14] Id. at 9-25.
- [15] Vda. de Gualberto v. Go, G.R. No. 139843, July 21, 2005, 463 SCRA 671, 677.
- [16] Seville v. National Development Company, 403 Phil. 843, 859 (2001).
- [17] Tanenglian v. Lorenzo, G.R. No. 173415, March 28, 2008, 550 SCRA 348, 380.
- [18] Records, p. 239.
- [19] Id. at 183.
- [20] Fuentes v. Court of Appeals, 335 Phil. 1163, 1168 (1997).
- [21] New Civil Code, Art. 430.
- [22] Quimen v. Court of Appeals, 326 Phil. 969, 976 (1996), citing 3 Sanchez Roman 472.
- [23] New Civil Code, Art. 615.
- [24] New Civil Code, Art. 622.
- [25] TSN, May 9, 1990, pp. 13-15.
- [26] 74 Phil. 84 (1943). (Emphasis supplied).
- [27] Private Development Corporation of the Philippines v. Court of Appeals, G.R. No. 136897, November 22, 2005, 475 SCRA 591, 607.
- [28] Rollo, p. 55.
- [29] TSN, May 21, 1986.
- [30] Elvira T. Arangote v. Spouses Martin and Lourdes S. Maglunob, and Romeo Salido, G.R. No. 178906, February 18, 2009; Heirs of Marcelino Cabal v. Cabal, G.R. No. 153625, July 31, 2006, 497 SCRA 301, 315-316.
- [31] New Civil Code, Art. 527; Ballatan v. Court of Appeals, 363 Phil. 408, 419 (1999).
- [32] Direct Examination of Ms. Rita Vda. de Ramos by Atty. Meneses, TSN, October 12, 1987, p. 11.
- Q: How about the land which was donated to the defendants therein, namely Lot No. 12-D, what happened to this land?
- A: That is where our house is located.

Q: When did you construct your house on that land?

A: Sometime in 1932.

Q: And that house is still existing today?

A: Yes, sir.

[33] Records, p. 228. (Emphasis supplied.)

[34] No. L-49219, April 15, 1988, 160 SCRA 379.

[35] *Spouses Del Campo v. Abesia*, supra, at 382-383.

[36] *Id.* at 383.

[37] *Ochoa v. Apeta*, G.R. No. 146259, September 13, 2007, 533 SCRA 235, 241.

[38] *Philippine National Bank v. De Jesus*, 458 Phil. 454, 459 (2003).

[39] *Tecnogas Philippines Manufacturing Corp. v. Court of Appeals*, 335 Phil. 471, 482 (1997).

[40] *Rosales v. Castelltort*, G.R. No. 157044, October 5, 2005, 472 SCRA 144, 161.

[41] 221 Phil. 168 (1985), cited in *Macasaet v. Macasaet*, G.R. Nos. 154391-92, September 30, 2004, 439 SCRA 625.

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