

ANGELINA SORIENTE AND ALL OTHER PERSONS CLAIMING RIGHTS UNDER HER, PETITIONERS, VS. THE ESTATE OF THE LATE ARSENIO E. CONCEPCION, REPRESENTED BY NENITA S. CONCEPCION, RESPONDENTS.

G.R. No. 160239. November 25, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari[1] of the Order[2] dated October 3, 2003 of the Regional Trial Court of Mandaluyong City, Branch 213, National Capital Judicial Region in Civil Case No. MC-03-407-A, which affirmed the Decision dated April 8, 2003 of the Metropolitan Trial Court of Mandaluyong City, Branch 59 in Civil Case No. 17973, ordering petitioner to vacate the property, subject matter of this unlawful detainer case, and surrender the possession thereof to respondent.

The facts, as stated by the trial court,[3] are as follows:

Respondent Nenita S. Concepcion established that she was the registered owner of the lot occupied by petitioner Angelina Soriente at No. 637 Cavo F. Sanchez Street, Mandaluyong City, Metro Manila. The lot, with an area of 295 square meters, is covered by Transfer Certificate of Title (TCT) No. 12892[4] issued by the Register of Deeds of Metro Manila, District II.

During the lifetime of Arsenio E. Concepcion, who acquired the lot in 1978, he allowed and tolerated the occupancy of the lot by petitioner, who was already staying on the property. Petitioner was allowed to stay on the lot for free, but on a temporary basis until such time that Concepcion and/or his family needed to develop the lot.

After Arsenio E. Concepcion died on December 27, 1989, his family initiated steps to develop the lot, but petitioner's occupancy of the lot prevented them from pursuing their plan.

Verbal demands to vacate the lot was made on petitioner. Petitioner pleaded for time to transfer to another place, but she never left.

In June 2000, Elizabeth Concepcion-Dela Cruz, daughter of respondent, filed a complaint for conciliation proceedings before the barangay at the instance of respondent. However, the parties did not reach a settlement, which resulted in the issuance of a Certificate to File Action[5] dated February 17, 2001 by the Barangay Captain of Barangay Hagdan Bato Itaas, Mandaluyong City.

Respondent sent petitioner a demand letter dated September 22, 2000 by registered mail, demanding that she peacefully surrender the property and extending financial assistance for her relocation. Despite receipt of the demand letter, petitioner did not vacate the premises.

On April 27, 2001, respondent filed against petitioner a Complaint[6] for unlawful detainer with the Metropolitan Trial Court of Mandaluyong City, Branch 59 (trial court). The Complaint was docketed as Civil Case No. 17973.

The Complaint alleged that respondent was the registered owner of the subject property, while petitioner had no title to the property and her free occupancy thereof was merely tolerated by respondent. Moreover, petitioner was occupying the premises together with her family, and she had maintained borders for a fee. Respondent prayed that petitioner be ordered to vacate the lot, surrender the possession thereof to respondent, pay monthly rent of P5,000.00 from June 2000 until she vacates the premises, and pay actual, moral and exemplary damages, as well as litigation expenses.

It appears from the records of the case that petitioner Soriente, as a defendant in the lower court, did not file a separate Answer, but affixed her signature to the Answer filed by defendant Alfredo Caballero in another ejectment case, docketed as Civil Case No. 17974, which was filed by respondent against Caballero. Hence, respondent, through counsel, filed a Motion to Render Judgment[7] under Section 7, Rule 70 of the 1997 Revised Rules of Civil Procedure for Soriente's failure to file an Answer to the Complaint. Petitioner filed an Opposition to the Motion to Render Judgment.[8]

In an Order[9] dated December 5, 2001, the trial court denied the Motion to Render Judgment. It stated that the allegations of the Complaint in Civil Case No. 17973 and 17974 are similar, the only substantial difference being the time when defendants occupied the subject property allegedly through the tolerance of Arsenio Concepcion. The trial court believed that in signing the Answer filed in Civil Case No. 17974, Soriente intended to adopt the same as her own, as both defendants Caballero and Soriente had a common defense against plaintiff's (respondent's) separate claim against them. The trial court denied the Motion to Render Judgment in the interest of justice and considered that the two cases, including Civil Case No. 17932 against Severina Sadol, had been consolidated.

Pursuant to Section 7 of the 1991 Revised Rule on Summary Procedure, the trial court set a preliminary conference on October 9, 2001 at 8:30 a.m. The preliminary conference was reset to November 15, 2001, and then to December 18, 2001 because the Motion to Render Judgment was still pending resolution. On December 18, 2001, the preliminary conference was reset to January 24, 2002 as prayed for by defendants on the ground that their common counsel was absent despite proper notice, and plaintiff (respondent) did not object to the resetting.[10]

On January 24, 2002, the scheduled preliminary conference was again reset to March 5, 2002 because no notice was sent to defendants' counsel, and plaintiff (respondent) and her counsel were both absent despite proper notice.

On March 5, 2002, the trial court reset the preliminary conference to April 16, 2002 on the ground that there was no notice sent to defendants' counsel.

In the scheduled preliminary conference held on February 18, 2003, only plaintiff's (respondent's) counsel and defendants Severina Sadol and Alfredo Caballero were present. Plaintiff's (respondent's) counsel submitted a secretary's certificate attesting to the existence of a board resolution authorizing him to enter into a compromise agreement. A representative of defendant (petitioner) Angelina Soriente appeared, but failed to submit a Special Power of Attorney authorizing her to enter into a compromise agreement. Counsel for defendants was not in court, and there was no proof of service on her for the hearing. However, defendants Sadol and Caballero informed the court that they informed their counsel of the hearing scheduled that day. In view of the absence of defendant Angelina Soriente or her authorized representative, plaintiff's (respondent's) counsel moved that the case be submitted for decision, and that he be given 15 days within which to submit his position paper.[11]

In its Order[12] dated February 18, 2003, the trial court granted the motion of plaintiff's (respondent's) counsel and considered the case against defendant (petitioner) Angelina Soriente submitted for decision in accordance with Section 7 of the Rules on Summary Procedure.[13]

On April 8, 2003, the trial court rendered a Decision[14] holding that respondent established by preponderance of evidence that she was entitled to the relief prayed for. The dispositive portion of the Decision reads:

WHEREFORE, judgment is hereby rendered ordering defendant Angelina Soriente and all other persons claiming rights under her to:

- Vacate the subject premises and surrender the possession thereof to plaintiff;
- Pay the amount of PESOS: FIVE THOUSAND (P5,000.00) per month as reasonable compensation for use and occupation of the premises as of June 2000 until she finally vacates the subject premises;
- Pay the amount [of] PESOS: THREE THOUSAND (P3,000.00) as attorney's fees; and
- Pay the litigation expenses and cost of suit.[15]

Petitioner appealed the trial court's Decision to the RTC of Mandaluyong City, Branch 213, raising the following issues:

- The lower court erred in holding that the plaintiff was able to establish that she is the registered owner of the lot occupied by the defendant-appellant instead of dismissing the complaint outright for lack of legal capacity to sue.
- The lower court erred in holding that the plaintiff was able to establish by preponderance of evidence that she is entitled to the relief prayed for despite lack of jurisdiction.
- The lower court erred in holding that this instant case subject of this appeal be decided in accordance with Section 7 of the Rules on Summary Procedure.[16]

In an Order[17] dated October 3, 2003, the RTC affirmed the trial court's Decision, disposing thus:

PRESCINDING FROM THE FOREGOING CONSIDERATIONS, judgment is hereby rendered AFFIRMING IN TOTO the decision dated April 8, 2003 rendered by the Metropolitan Trial Court, Branch 59, Mandaluyong City.[18]

The RTC held:

Case records readily disclosed that the ownership of the subject lot belongs to the late Arsenio E. Concepcion, married to herein Plaintiff-Appellee Nenita S. Concepcion, as evidenced by the Transfer Certificate of Title No. 12892 (Annex "A" in the complaint for Unlawful Detainer). This Certificate of Title shall be received as evidence in all courts of the Philippines and shall be conclusive as to all matters contained therein principally, the identity of the owner of the land covered thereby except as provided in the Land Registration Act. Said title can be attacked only for fraud within one year after the date of the issuance of the decree of registration. Such attack must be direct and not by a collateral proceeding. The title represented by the certificate cannot be changed, altered, modified, enlarged or diminished in a collateral proceeding such as this instant appeal from the decision rendered by the Metropolitan Trial Court of Mandaluyong City in an ejectment case. As should be known by Appellant Soriente through counsel, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. Prescription is unavailing not only against the registered owner Arsenio E. Concepcion but also against his hereditary successors because the latter merely steps into the shoes of the decedent by operation of law and are merely the continuation of the personalities of their predecessors-in-interest (*Barcelona v. Barcelona*, 100 Phil 251; PD 1529, Sec. 47). x x x

x x x x

Noteworthy to mention in the case at bar is the ruling laid down in *Calubayan v. Pascual*, 21 SCRA 146, where the Supreme Court [held] that a person who occupies the land of another at the latter's tolerance or permission,

without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against [him]. x x x[19]

Petitioner filed this petition raising the following issues:

I

THE REGIONAL TRIAL COURT ERRED IN AFFIRMING THE DECISION OF THE LOWER COURT IN HOLDING THAT THE PLAINTIFF WAS ABLE TO ESTABLISH THAT SHE IS THE REGISTERED OWNER OF THE LOT OCCUPIED BY THE DEFENDANT-APPELLANT INSTEAD OF DISMISSING THE COMPLAINT OUTRIGHT FOR LACK OF LEGAL CAPACITY TO SUE.

II

THE REGIONAL TRIAL COURT ERRED IN AFFIRMING THE DECISION OF THE LOWER COURT IN HOLDING THAT THE PLAINTIFF WAS ABLE TO ESTABLISH BY PREPONDERANCE OF EVIDENCE THAT SHE IS ENTITLED TO THE RELIEF PRAYED FOR DESPITE LACK OF JURISDICTION.

III

THE REGIONAL TRIAL COURT ERRED IN HOLDING THAT THIS INSTANT CASE SUBJECT OF THIS APPEAL BE DECIDED IN ACCORDANCE WITH SECTION 7 OF THE RULES ON SUMMARY PROCEDURE.[20]

Petitioner appealed from the RTC's decision directly to this Court on pure questions of law. There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts.[21]

Moreover, Republic v. Sandiganbayan[22] ruled:

x x x A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.[23]

The Court notes that petitioner raised both questions of fact and law in her petition. The Court shall resolve only the pertinent questions of law raised.

First, petitioner questioned respondent Nenita Concepcion's capacity to sue as a representative of the Estate of her husband, Arsenio Concepcion, alleging absence of proof of the issuance of the requisite letters testamentary or letters of administration evidencing her legal capacity to sue in behalf of the Estate of Arsenio Concepcion in contravention of Section 4, Rule 8 of the 1997 Rules of Civil Procedure, thus:

Sec. 4. Capacity. -- Facts showing the capacity of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party, must be averred. A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.

Petitioner asserts that lack of legal capacity to sue is a ground for dismissal under Section 1 (d) of Rule 16 of the

Revised Rules of Court, and considering that a motion to dismiss is a prohibited pleading under the summary procedure, the trial court failed to exercise its duty to order the outright dismissal of the complaint as mandated under Section 4[24] of the 1991 Revised Rule on Summary Procedure.

Petitioner's contention lacks merit.

Section 4, Rule 8 of the 1997 Rules of Civil Procedure provides:

Sec. 4. Capacity. - x x x A party desiring to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued in a representative capacity, shall do so by specific denial, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.[25]

Based on the provision cited above, the RTC correctly ruled:

The argument is not tenable. This court, upon cursory reading of the provisions of Rule 8, Section 4 of the Rules of Court, in relation to the Rules on Summary Procedure, finds it relevant to note x x x that although a Motion to Dismiss or a Motion for Bill of Particulars cannot be availed of to challenge the capacity of the party under the Rules on Summary Procedure, the Defendant-Appellant should have at least SPECIFICALLY DENIED such capacity of the party in the Answer, which should have included such supporting particulars as are peculiarly within the pleader's knowledge. The case records clearly disclosed that no such specific denial was made by the appellant and this court believes that the lower court had carefully and dutifully taken into account the applicable rules particularly Section 4 of the Revised Rules on Summary Procedure, in relation to Section 4, Rule 8 of the Rules of Court and pertinent jurisprudence, before rendering the assailed decision dated April 8, 2003. The presumption of the regular performance of duties applies in this case and the same shall prevail over mere allegations of the herein Defendant-Appellant.[26]

Further, as the successor-in-interest of the late Arsenio E. Concepcion and co-owner of the subject property, respondent Nenita S. Concepcion is entitled to prosecute the ejectment case not only in a representative capacity, but as a real party-in-interest. Article 487 of the Civil Code states, "Any one of the co-owners may bring an action in ejectment." Hence, assuming that respondent failed to submit the proper documents showing her capacity to sue in a representative capacity for the estate of her deceased husband, the Court, in the interest of speedy disposition of cases, may deem her capacitated to prosecute the ejectment case as a real party-in-interest being a co-owner of the subject property considering that the trial court has jurisdiction over the subject matter and has also acquired jurisdiction over the parties, including respondent Nenita S. Concepcion.

Second, petitioner questions whether respondent has established by a preponderance of evidence that she is entitled to the relief prayed for, which is the ejectment of petitioner from the subject property. Petitioner contends that respondent admitted in her Complaint that her right to the subject property arose only in 1978, when the late Arsenio E. Concepcion acquired the same. Petitioner alleges that to the contrary, substantial evidence exists that she and her predecessors-in-interest have continuously and openly occupied and possessed, in the concept of owner, the subject property since time immemorial.

The Court holds that the RTC correctly affirmed the ejectment of petitioner from the property.

To make out a case of unlawful detainer under Section 1,[27] Rule 70 of the Rules of Court, the Complaint must allege that the defendant is unlawfully withholding from the plaintiff the possession of certain real property after the expiration or termination of the former's right to hold possession by virtue of a contract, express or implied, and that the action is being brought within one year from the time the defendant's possession became unlawful.[28]

The Complaint alleged that petitioner occupied the subject property by tolerance of the late Arsenio Concepcion. While tolerance is lawful, such possession becomes illegal upon demand to vacate by the owner and the possessor

by tolerance refuses to comply with such demand.[29] Respondent sent petitioner a demand letter dated September 22, 2000 to vacate the subject property, but petitioner did not comply with the demand. A person who occupies the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against him.[30] Under Section 1, Rule 70 of the Rules of Court, the one-year period within which a complaint for unlawful detainer can be filed should be counted from the date of demand, because only upon the lapse of that period does the possession become unlawful.[31] Respondent filed the ejectment case against petitioner on April 27, 2001, which was less than a year from the date of formal demand. Clearly, therefore, the action was filed within the one-year period prescribed for filing an ejectment or unlawful detainer case.

The sole issue for resolution in an unlawful detainer case is physical or material possession.[32] All that the trial court can do is to make an initial determination of who is the owner of the property, so that it can resolve who is entitled to its possession absent other evidence to resolve ownership.[33] Courts in ejectment cases decide questions of ownership only if it is necessary to decide the question of possession.[34] The reason for this rule is to prevent the defendant from trifling with the summary nature of an ejectment suit by the simple expedient of asserting ownership over the disputed property.[35]

In this case, the trial court found that respondent owns the property on the basis of Transfer Certificate of Title No. 12892,[36] which was "issued in the name of Arsenio E. Concepcion, x x x married to Nenita L. Songco." It is settled rule that the person who has a Torrens title over a land is entitled to possession thereof.[37] Hence, as the registered owner of the subject property, respondent is preferred to possess it.[38]

The validity of respondent's certificate of title cannot be attacked by petitioner in this case for ejectment. Under Section 48 of Presidential Decree No. 1529, a certificate of title shall not be subject to collateral attack.[39] It cannot be altered, modified or cancelled, except in a direct proceeding for that purpose in accordance with law.[40] The issue of the validity of the title of the respondents can only be assailed in an action expressly instituted for that purpose.[41] Whether or not the petitioner has the right to claim ownership over the property is beyond the power of the trial court to determine in an action for unlawful detainer.[42]

Although petitioner alleges that substantial evidence exists that she and her predecessors-in-interest had continuously and openly occupied and possessed, in the concept of owner, the subject property since time immemorial, petitioner failed to present evidence to substantiate her allegation. Whereas respondent holds a Torrens title over the subject property; hence, she is entitled to the possession of the property.[43]

The court's adjudication of ownership in an ejectment case is merely provisional, and affirmance of the trial court's decision would not bar or prejudice an action between the same parties involving title to the property, if and when such action is brought seasonably before the proper forum.[44]

Lastly, petitioner contends that the lower court erred in deciding this case in accordance with Section 7 of the Rules on Summary Procedure, thus:

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

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

If a sole defendant shall fail to appear, the plaintiff shall be entitled to judgment in accordance with Section 6 hereof. This Rule shall not apply where one of two or more defendants sued under a common cause of action who had pleaded a common defense shall appear at the preliminary conference.[45]

Section 6 of the 1991 Revised Rules on Summary Procedure, which is referred to by Section 7 above, states:

SEC. 6. Effect of failure to answer. - Should the defendant fail to answer the complaint within the period above provided, the court, motu proprio, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: Provided, however, That the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the applicability of Section 4, Rule 18 of the Rules of Court, if there are two or more defendants.

Petitioner asserts that considering that the cases against her, defendants Caballero and Sadol were consolidated, and she and defendant Caballero signed and filed one common Answer to the Complaint, thus, pleading a common defense, the trial court should not have rendered judgment on her case based on Section 7 of the 1991 Revised Rules on Summary Procedure when she failed to appear in the preliminary conference.

The contention lacks merit.

The Court notes that the ejectment case filed by respondent against petitioner was docketed in the trial court as Civil Case No. 17973, the case against Alfredo Caballero was docketed as Civil Case No. 17974, while the case against Severina Sadol was docketed as Civil Case No. 17932. These cases were consolidated by the trial court.

Under Section 7 of the 1991 Revised Rules on Summary Procedure, if a sole defendant shall fail to appear in the preliminary conference, the plaintiff shall be entitled to judgment in accordance with Section 6 of the Rule, that is, the court shall render judgment as may be warranted by the facts alleged in the Complaint and limited to what is prayed for therein. However, "[t]his Rule (Sec. 7) shall not apply where one of two or more defendants sued under a common cause of action, who had pleaded a common defense, shall appear at the preliminary conference." Petitioner claims that the preceding provision applies to her as a defendant, since the ejectment cases were consolidated by the trial court, and she and Caballero filed the same Answer to the Complaint; hence, the trial court should not have rendered judgment against her when she failed to appear in the preliminary conference.[46]

The Court holds that the italicized provision above does not apply in the case of petitioner, since she and Caballero were not co-defendants in the same case. The ejectment case filed against petitioner was distinct from that of Caballero, even if the trial court consolidated the cases and, in the interest of justice, considered the Answer filed by Caballero in Civil Case No. 17974 as the Answer also of petitioner since she affixed her signature thereto.

Considering that petitioner was sued in a separate case for ejectment from that of Caballero and Sadol, petitioner's failure to appear in the preliminary conference entitled respondent to the rendition of judgment by the trial court on the ejectment case filed against petitioner, docketed as Civil Case No. 17973, in accordance with Section 7 of the 1991 Revised Rules on Summary Procedure.

WHEREFORE, the petition is DENIED. The Order dated October 3, 2003 of the Regional Trial Court of Mandaluyong City, Branch 213, National Capital Judicial Region in Civil Case No. MC-03-407-A is AFFIRMED.

No costs.

SO ORDERED.

Corona, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Judge Amalia F. Dy; rollo, pp. 35-43.

[3]MTC Decision, Records, pp. 45-46.

[4]Annex "A," id. at 5.

[5] Annex "B", id. at 6.

[6] Records, pp. 1-3.

[7] Id. at 13-15.

[8] Id. at 20-27.

[9] Id. at 32-33.

[10] Joint Order dated December 18, 2001, records, p. 35.

[11] Joint Order dated February 18, 2003, records, p. 44.

[12] Id.

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

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

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

[14] Records, pp. 45-47.

[15] Id. at 46-47.

[16] RTC Order, rollo, p. 36.

[17] Rollo, pp. 35-43.

[18] Id. at 42-43.

[19] Id. at 39.

[20] Id. at 16.

[21] Ramos v. Pepsi-Cola Bottling Co. of the Philippines, et al., 125 Phil. 701, 705 (1967).

[22] 426 Phil. 104 (2002).

[23] *Id.* at 110.

[24] SEC. 4. Duty of Court. - After the court determines that the case falls under summary procedure, it may, from an examination of the allegations therein and such evidence as may be attached thereto, dismiss the case outright on any of the grounds apparent therefrom for the dismissal of a civil action

[25] Emphasis supplied.

[26] Rollo, p. 40.

[27] SECTION 1. Who may institute proceedings, and when. - Subject to the provisions of the next succeeding section, x x x a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

[28] *Barbosa v. Hernandez*, G.R. No. 133564, July 10, 2007, 527 SCRA 99.

[29] *Pangilinan v. Aguilar*, 150 Phil. 166, 176 (1972).

[30] *Id.*

[31] *Lopez v. David, Jr.*, G.R. No. 152145, March 30, 2004, 426 SCRA 535, 542.

[32] *Arambulo v. Gungab*, G.R. No. 156581, September 30, 2005, 471 SCRA 640, 649.

[33] *Id.*

[34] *Id.*

[35] *Id.*

[36] Records, p. 5.

[37] *Arambulo v. Gungab*, *supra* note 32, at 649-650.

[38] *Id.* at 649.

[39] *Apostol v. Court of Appeals*, 476 Phil 403, 414 (2004).

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Pangilinan v. Aguilar*, *supra* note 29, at 145.

[44] *Id.*

[45] Emphasis supplied.

[46] Italics supplied.

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