

IGLESIA NI CRISTO, PETITIONER, VS. HON. THELMA A. PONFERRADA, IN HER CAPACITY AS PRESIDING JUDGE, REGIONAL TRIAL COURT, BR. 104, QUEZON CITY, AND HEIRS OF ENRIQUE G. SANTOS, RES...

G.R. NO. 168943. October 27, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a Petition for Review on Certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 72686 and its Resolution[2] denying the motion for reconsideration of the said decision.

On October 24, 2001, Alicia, Alfredo, Roberto, Enrique and Susan, all surnamed Santos, and Sonia Santos-Wallin, represented by Enrique G. Santos, filed a complaint[3] for Quieting of Title and/or Accion Rein vindicatoria before the Regional Trial Court (RTC) of Quezon City against the Iglesia Ni Cristo (INC), defendant therein.

Plaintiffs alleged therein that, during his lifetime, Enrique Santos was the owner of a 936-square-meter parcel of land located in Tandang Sora, Quezon City covered by Transfer Certificate of Title (TCT) No. 57272 issued by the Register of Deeds on July 27, 1961 which cancelled TCT No. 57193-289. He had been in possession of the owner's duplicate of said title and had been in continuous, open, adverse and peaceful possession of the property. He died on February 9, 1970 and was survived by his wife, Alicia Santos, and other plaintiffs, who were their children. Thereafter, plaintiffs took peaceful and adverse possession of the property, and of the owner's duplicate of said title. When the Office of the Register of Deeds of Quezon City was burned on June 11, 1988, the original copy of said title was burned as well. The Register of Deeds had the title reconstituted as TCT No. RT-110323, based on the owner's duplicate of TCT No. 57272. Sometime in February 1996, plaintiffs learned that defendant was claiming ownership over the property based on TCT No. 321744 issued on September 18, 1984 which, on its face, cancelled TCT No. 320898, under the name of the Philippine National Bank, which allegedly cancelled TCT No. 252070 in the names of the spouses Marcos and Romana dela Cruz. They insisted that TCT Nos. 321744, 320898 and 252070 were not among the titles issued by the Register of Deeds of Quezon City and even if the Register of Deeds issued said titles, it was contrary to law. Enrique Santos, during his lifetime, and his heirs, after his death, never encumbered or disposed the property. In 1996, plaintiffs had the property fenced but defendant deprived them of the final use and enjoyment of their property.

Plaintiffs prayed that, after due proceedings, judgment be rendered in their favor, thus:

WHEREFORE, it is respectfully prayed that, after due hearing, judgment be rendered quieting the title of plaintiffs over and/or recover possession of their said property in the name of deceased Enrique Santos, covered by said TCT No. RT-110323(57272) of the Register of Deeds at Quezon City and that:

- The title of defendant, TCT No. 321744 be ordered cancelled by the Register of Deeds of Quezon City;

- The defendant be ordered to pay plaintiffs' claims for actual damages in the sum of P100,000.00;
- The defendant be ordered to pay plaintiffs' claims for compensatory damages in the sum of at least P1,000,000.00;
- The defendant be ordered to pay plaintiffs' claims for reimbursement of the lawyer's professional fees consisting of the aforesaid P50,000.00 acceptance fee and reimbursement of the said success fee in par. 10 above; and lawyer's expenses of P2,000.00 for each hearing in this case;
- The defendant be ordered to pay expenses and costs of litigation in the sum of at least P200,000.00.

Other reliefs that are just and equitable in the premises are, likewise, prayed for.[4]

As gleaned from the caption of the complaint, plaintiffs appear to be the heirs of Enrique Santos, represented by Enrique G. Santos. The latter signed the Verification and Certificate of Non-Forum Shopping which reads:

I, ENRIQUE G. SANTOS, of legal age, under oath, state that I am one of the children of the late Enrique Santos and I represent the heirs of said Enrique Santos who are my co-plaintiffs in the above-captioned case and that I directed the preparation of the instant complaint, the contents of which are true and correct to the best of my knowledge and the attachments are faithful reproductions of the official copies in my possession.

I hereby certify that I have not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, and to the best of my knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, and that I shall notify this Commission within three days from notice that a similar action or proceeding has been filed or is pending thereat.

IN WITNESS WHEREOF, I hereby affix my signature this 23rd day of October 2001 at Pasig City, Metro Manila.

(Sgd.)

ENRIQUE G. SANTOS

SUBSCRIBED AND SWORN to before me this 23rd day of October 2001 at Pasig City, affiant exhibiting to me his CTC No. 07303074 issued at Sta. Cruz, Laguna on April 16, 2001.

(Sgd.)

PETER FRANCIS G. ZAGALA

Notary Public

Until December 31, 2002

PTR No. 0287069

Issued on 1-10-01

At Pasig City[5]

Defendant moved to dismiss plaintiffs' complaint on the following grounds: (1) plaintiffs failed to faithfully comply with the procedural requirements set forth in Section 5, Rule 7 of the 1997 Rules of Civil Procedure; (2) the action (either Quieting of Title or Accion Rein vindicatoria) had prescribed, the same having been filed only on October 24, 2001 beyond the statutory ten-year period therefor; and (3) that the complaint is defective in many respects.[6]

Defendant asserted that the case involved more than one plaintiff but the verification and certification against forum shopping incorporated in the complaint was signed only by Enrique Santos. Although the complaint alleges that plaintiffs are represented by Enrique Santos, there is no showing that he was, indeed, authorized to so represent the other plaintiffs to file the complaint and to sign the verification and certification of non-forum

shopping.[7] Thus, plaintiffs failed to comply with Section 5, Rule 7 of the Rules of Court. Defendant cited the ruling of this Court in *Loquias v. Office of the Ombudsman*.^[8]

Defendant maintained that the complaint is defective in that, although there is an allegation that Enrique Santos represents the other heirs, there is nothing in the pleading to show the latter's authority to that effect; the complaint fails to aver with particularity the facts showing the capacity of defendant corporation to sue and be sued; and the pleading does not state the address of plaintiffs. Defendant likewise averred that the complaint should be dismissed on the ground of prescription. It argued that plaintiffs anchor their claim on quieting of title and considering that they are not in possession of the land in question, their cause of action prescribed after ten years. On the other hand, if the supposed right of plaintiffs is based on *accion reivindicatoria*, prescription would set in after 10 years from dispossession. In both cases, defendant asserts, the reckoning point is 1984 when defendant acquired TCT No. 321744 and possession of the land in question.

In their Comment^[9] on the motion, plaintiffs averred that the relationship of a co-owner to the other co-owners is fiduciary in character; thus, anyone of them could effectively act for another for the benefit of the property without need for an authorization. Consequently, Enrique Santos had the authority to represent the other heirs as plaintiffs and to sign the verification and certification against forum shopping.^[10] On the issue of prescription, plaintiffs argued that the prescriptive period for the actions should be reckoned from 1996, when defendant claimed ownership over the property and barred plaintiffs from fencing their property, not in 1984 when TCT No. 321744 was issued by the Register of Deeds in the name of defendant as owner.

In its reply, defendant averred that absent any authority from his co-heirs, Enrique Santos must implead them as plaintiffs as they are indispensable parties. In response, plaintiffs aver that a co-owner of a property can execute an action for quieting of title without impleading the other co-owners.

The trial court issued an Order^[11] denying defendant's motion to dismiss. It declared that since Enrique Santos was one of the heirs, his signature in the verification and certification constitutes substantial compliance with the Rules. The court cited the ruling of this Court in *Dar v. Alonzo-Legasto*.^[12] The court, likewise, held that prescription had not set in and that failure to state the address of plaintiffs in the complaint does not warrant the dismissal of the complaint.

Defendant filed a motion for reconsideration, which the court likewise denied in an Order^[13] dated July 10, 2002.

Unsatisfied, defendant, as petitioner, filed a Petition for Certiorari and Prohibition with Prayer for the Issuance of a Temporary Restraining Order and/or Preliminary Injunction^[14] before the CA, raising the following issues:

I.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION WHEN SHE HELD THAT THE CERTIFICATION OF NON-FORUM SHOPPING SIGNED BY ENRIQUE G. SANTOS ALONE IS A SUBSTANTIAL COMPLIANCE WITH SECTION 5, RULE 7 OF THE 1997 RULES OF CIVIL PROCEDURE, IN CLEAR CONTRAVENTION OF THE RULES OF COURT, AND THE RULING IN *LOQUIAS V. OFFICE OF THE OMBUDSMAN*, G.R. NO. 1399396 (SIC), AUGUST 16, 2000, 338 SCRA 62, AND *ORTIZ V. COURT OF APPEALS*, G.R. NO. 127393, 299 SCRA 708 (DECEMBER 4, 1998).

II.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION IN APPLYING THE RULING IN *DAR, ET. AL. V. HON. ROSE MARIE ALONZO-LEGASTO, ET. AL.*, G.R.

NO. 143016, AUGUST 30, 2000 TO THE INSTANT CASE.

III.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION WHEN SHE HELD THAT THE AUTHORITY OF ENRIQUE G. SANTOS TO REPRESENT HIS CO-HEIRS IN THE FILING OF THE COMPLAINT AGAINST THE "INC" IS A MATTER OF EVIDENCE.

IV.

WHETHER OR NOT RESPONDENT JUDGE GRAVELY ERRED AND ABUSED HER DISCRETION WHEN SHE HELD THAT THE ACTION FOR QUIETING OF TITLE AND/OR ACCION REINVINDICATORIA (CIVIL CASE NO. Q-01-45415) HAS NOT YET PRESCRIBED.[15]

Petitioner averred that, of the plaintiffs below, only plaintiff Enrique Santos signed the verification and certification of non-forum shopping. Under Section 5, Rule 7 of the 1997 Rules of Civil Procedure, all the plaintiffs must sign, unless one of them is authorized by a special power of attorney to sign for and in behalf of the others. Petitioner argues that the bare claim of Enrique Santos that he signed the verification and certification in his behalf and of the other plaintiffs who are his co-heirs/co-owners of the property does not even constitute substantial compliance of the rule. Contrary to the ruling of the trial court, the absence or existence of an authority of Enrique Santos to sign the verification and certification for and in behalf of his co-plaintiffs is not a matter of evidence. The defect is fatal to the complaint of respondents and cannot be cured by an amendment of the complaint. The trial court erred in applying the ruling of this Court in *Dar v. Alonzo-Legasto*. [16]

Petitioner maintained that the action of respondents, whether it be one for quieting of title or an accion reivindicatoria, had prescribed when the complaint was filed on October 24, 2001. Petitioner asserts that this is because when respondents filed their complaint, they were not in actual or physical possession of the property, as it (petitioner) has been in actual possession of the property since 1984 when TCT No. 321744 was issued to it by the Register of Deeds. This is evident from the nature of a reivindicatory action itself - which is an action whereby plaintiff alleges ownership over the subject parcel of land and seeks recovery of its full possession. By their action, respondents thereby admitted that petitioner was in actual possession of the property, and as such, respondents' action for quieting of title or accion reivindicatoria may prescribe in ten (10) years from 1984 or in 1994, it appearing that it acted in good faith when it acquired the property from the registered owner, conformably with Article 555(4) of the New Civil Code.

On April 7, 2005, the CA rendered the assailed decision [17] dismissing the petition, holding that the RTC did not commit grave abuse of its discretion amounting to lack or excess of jurisdiction in denying petitioner's motion to dismiss. As the Court held in *DAR v. Alonzo-Legasto* [18] and in *Gudoy v. Guadalquiver*, [19] the certification signed by one with respect to a property over which he shares a common interest with the rest of the plaintiffs (respondents herein) substantially complied with the Rules. As to the issue of prescription, the appellate court held that the prescriptive period should be reckoned from 1996, when petitioner claimed ownership and barred respondents from fencing the property.

Petitioner is now before this Court on petition for review on certiorari, raising the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN RULING THAT THE CERTIFICATION OF NON-FORUM SHOPPING SIGNED BY RESPONDENT ENRIQUE G. SANTOS ALONE IS A SUBSTANTIAL COMPLIANCE WITH SECTION 5, RULE 7 OF THE 1997 RULES OF CIVIL PROCEDURE AND IN APPLYING THE CASE OF *GUDOY V. GUADALQUIVER*, 429 SCRA 723,

WITHOUT REGARD TO MORE RECENT JURISPRUDENCE.

II.

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT HELD THAT THE AUTHORITY OF RESPONDENT ENRIQUE G. SANTOS TO REPRESENT HIS CO-HEIRS IN THE FILING OF THE COMPLAINT AGAINST THE PETITIONER IS A MATTER OF EVIDENCE.

III.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN HOLDING THAT THE ACTION FOR QUIETING OF TITLE AND/OR ACCION REINVINDICATORIA (CIVIL CASE NO. Q-01-45415) HAS NOT YET PRESCRIBED.[20]

Petitioner reiterated its arguments in support of its petition in the CA as its arguments in support of its petition in the present case.

Sections 4 and 5, Rule 7 of the Revised Rules of Court on verification and certification against forum shopping read:

Sec. 4. Verification. - Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit.

A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.

A pleading required to be verified which contains a verification based on "information and belief" or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

Sec. 5. Certification against forum shopping. - The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

The purpose of verification is simply to secure an assurance that the allegations of the petition (or complaint) have been made in good faith; or are true and correct, not merely speculative. This requirement is simply a condition affecting the form of pleadings, and noncompliance therewith does not necessarily render it fatally defective. Indeed, verification is only a formal, not a jurisdictional requirement.[21]

The issue in the present case is not the lack of verification but the sufficiency of one executed by only one of plaintiffs. This Court held in *Ateneo de Naga University v. Manalo*, [22] that the verification requirement is deemed substantially complied with when, as in the present case, only one of the heirs-plaintiffs, who has

sufficient knowledge and belief to swear to the truth of the allegations in the petition (complaint), signed the verification attached to it. Such verification is deemed sufficient assurance that the matters alleged in the petition have been made in good faith or are true and correct, not merely speculative.

The same liberality should likewise be applied to the certification against forum shopping. The general rule is that the certification must be signed by all plaintiffs in a case and the signature of only one of them is insufficient. However, the Court has also stressed in a number of cases that the rules on forum shopping were designed to promote and facilitate the orderly administration of justice and thus should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective. The rule of substantial compliance may be availed of with respect to the contents of the certification. This is because the requirement of strict compliance with the provisions merely underscores its mandatory nature in that the certification cannot be altogether dispensed with or its requirements completely disregarded.[23]

The substantial compliance rule has been applied by this Court in a number of cases: *Cavile v. Heirs of Cavile*,[24] where the Court sustained the validity of the certification signed by only one of petitioners because he is a relative of the other petitioners and co-owner of the properties in dispute; *Heirs of Agapito T. Olarte v. Office of the President of the Philippines*,[25] where the Court allowed a certification signed by only two petitioners because the case involved a family home in which all the petitioners shared a common interest; *Gudoy v. Guadalquiver*,[26] where the Court considered as valid the certification signed by only four of the nine petitioners because all petitioners filed as co-owners pro indiviso a complaint against respondents for quieting of title and damages, as such, they all have joint interest in the undivided whole; and *Dar v. Alonzo-Legasto*,[27] where the Court sustained the certification signed by only one of the spouses as they were sued jointly involving a property in which they had a common interest.

It is noteworthy that in all of the above cases, the Court applied the rule on substantial compliance because of the commonality of interest of all the parties with respect to the subject of the controversy.

Applying the doctrines laid down in the above cases, we find and so hold that the CA did not err in affirming the application of the rule on substantial compliance. In the instant case, the property involved is a 936-square-meter real property. Both parties have their respective TCTs over the property. Respondents herein who are plaintiffs in the case below have a common interest over the property being the heirs of the late Enrique Santos, the alleged registered owner of the subject property as shown in one of the TCTs. As such heirs, they are considered co-owners pro indiviso of the whole property since no specific portion yet has been adjudicated to any of the heirs. Consequently, as one of the heirs and principal party, the lone signature of Enrique G. Santos in the verification and certification is sufficient for the RTC to take cognizance of the case. The commonality of their interest gave Enrique G. Santos the authority to inform the RTC on behalf of the other plaintiffs therein that they have not commenced any action or claim involving the same issues in another court or tribunal, and that there is no other pending action or claim in another court or tribunal involving the same issues. Hence, the RTC correctly denied the motion to dismiss filed by petitioner.

Considering that at stake in the present case is the ownership and possession over a prime property in Quezon City, the apparent merit of the substantive aspects of the case should be deemed as a special circumstance or compelling reason to allow the relaxation of the rule.

Time and again, this Court has held that rules of procedure are established to secure substantial justice. Being instruments for the speedy and efficient administration of justice, they may be used to achieve such end, not to derail it. In particular, when a strict and literal application of the rules on non-forum shopping and verification will result in a patent denial of substantial justice, these may be liberally construed.[28] The ends of justice are

better served when cases are determined on the merits - after all parties are given full opportunity to ventilate their causes and defenses - rather than on technicality or some procedural imperfections.[29]

Indeed, this Court strictly applied the rules on verification and certification against forum shopping as in the cases of *Loquias v. Office of the Ombudsman*[30] and *Tolentino v. Rivera*.[31] However, in both cases, the commonality of interest between or among the parties is wanting. In *Loquias*, the co-parties were being sued in their individual capacities as mayor, vice mayor and members of the municipal board. In *Tolentino*, the lone signature of Tolentino was held insufficient because he had no authority to sign in behalf of the Francisco spouses. In such case, the Court concluded that Tolentino merely used the spouses' names for whatever mileage he thought he could gain. It is thus clear from these cases that the commonality of interest is material in the relaxation of the Rules.

Anent the issue of the authority of Enrique G. Santos to represent his co-heirs/co-plaintiffs, we find no necessity to show such authority. Respondents herein are co-owners of the subject property. As such co-owners, each of the heirs may properly bring an action for ejectment, forcible entry and detainer, or any kind of action for the recovery of possession of the subject properties. Thus, a co-owner may bring such an action, even without joining all the other co-owners as co-plaintiffs, because the suit is deemed to be instituted for the benefit of all.[32]

We uphold the validity of the complaint because of the following circumstances: (1) the caption of the instant case is *Heirs of Enrique Santos v. Iglesia ni Cristo*:[33] (2) the opening statement of the complaint states that plaintiffs are the heirs of Enrique Santos and likewise names the particular heirs of the latter who instituted the complaint below;[34] (3) the case involves a property owned by the predecessor-in-interest of plaintiffs therein;[35] and (4) the verification signed by Enrique G. Santos clearly states that he is one of the children of the late Enrique Santos and that he represents the heirs of said Enrique Santos.[36]

On the issue of prescription of action, petitioner avers that the action of respondents is one to quiet title and/or *accion reivindicatoria*, and that respondents asserted ownership over the property and sought the recovery of possession of the subject parcel of land. It insists that the very nature of the action presupposes that respondents had not been in actual and material possession of the property, and that it was petitioner which had been in possession of the property since 1984 when it acquired title thereon. The action of respondent prescribed in ten years from 1984 when petitioner allegedly dispossessed respondents, in accordance with Article 555(4) of the New Civil Code.

The contention of petitioner has no merit. The nature of an action is determined by the material allegations of the complaint and the character of the relief sought by plaintiff, and the law in effect when the action was filed irrespective of whether he is entitled to all or only some of such relief.[37] As gleaned from the averments of the complaint, the action of respondents was one for quieting of title under Rule 64 of the Rules of Court, in relation to Article 476 of the New Civil Code. The latter provision reads:

Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is, in truth and in fact, invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

A cloud is said to be a semblance of a title, either legal or equitable, or a cloud of an interest in land appearing in some legal form but which is, in fact, unfounded, or which it would be inequitable to enforce.[38] An action for quieting of title is imprescriptible until the claimant is ousted of his possession.[39]

The owner of a real property, as plaintiff, is entitled to the relief of quieting of title even if, at the time of the commencement of his action, he was not in actual possession of real property. After all, under Article 477 of the New Civil Code, the owner need not be in possession of the property. If on the face of TCT No. 321744 under the name of plaintiff, its invalidity does not appear but rests partly in pais, an action for quieting of title is proper.[40]

In the present case, respondents herein, as plaintiffs below, alleged in their complaint, that their father, Enrique Santos, was the owner of the property based on TCT No. 57272 issued on July 27, 1961; and that, after his death on February 9, 1970, they inherited the property; Enrique Santos, during his lifetime, and respondents, after the death of the former, had been in actual, continuous and peaceful possession of the property until 1994 when petitioner claimed ownership based on TCT No. 321744 issued on September 18, 1984 and barred respondents from fencing their property.

Petitioner's claim that it had been in actual or material possession of the property since 1984 when TCT No. 321744 was issued in its favor is belied by the allegations in the complaint that respondents had been in actual and material possession of the property since 1961 up to the time they filed their complaint on October 24, 2001.

Admittedly, respondents interposed the alternative reivindicatory action against petitioner. An accion reivindicatoria does not necessarily presuppose that the actual and material possession of the property is on defendant and that plaintiff seeks the recovery of such possession from defendant. It bears stressing that an accion reivindicatoria is a remedy seeking the recovery of ownership and includes jus possidendi, jus utendi, and jus fruendi as well. It is an action whereby a party claims ownership over a parcel of land and seeks recovery of its full possession.[41] Thus, the owner of real property in actual and material possession thereof may file an accion reivindicatoria against another seeking ownership over a parcel of land including jus vindicandi, or the right to exclude defendants from the possession thereof. In this case, respondents filed an alternative reivindicatory action claiming ownership over the property and the cancellation of TCT No. 321744 under the name of petitioner. In fine, they sought to enforce their jus utendi and jus vindicandi when petitioner claimed ownership and prevented them from fencing the property.

Since respondents were in actual or physical possession of the property when they filed their complaint against petitioner on October 24, 2001, the prescriptive period for the reivindicatory action had not even commenced to run, even if petitioner was able to secure TCT No. 321744 over the property in 1984. The reason for this is that

x x x one who is in actual possession of a piece of land claiming to be the owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the reason for the rule being, that his undisturbed possession gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession.[42]

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The decision of the Court of Appeals in CA-G.R. SP No. 72686 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Mario L. Guariña III, with Associate Justices Marina L. Buzon and Santiago Javier Ranada, concurring; rollo, pp. 21-28.

[2] Rollo, p. 39.

- [3] Id. at 60-65.
- [4] CA rollo, pp. 24-25.
- [5] Id. at 26.
- [6] Id. at 72.
- [7] Id. at 73.
- [8] 392 Phil. 596 (2000).
- [9] CA rollo, pp. 81-89.
- [10] Id. at 83-84.
- [11] Penned by Judge Thelma A. Ponferrada; rollo, pp. 117-118.
- [12] 393 Phil. 734, 738 (2000).
- [13] Rollo, pp. 139-144.
- [14] Id. at 40-56.
- [15] Id. at 45-46.
- [16] Supra note 12.
- [17] Supra note 1.
- [18] Supra note 12.
- [19] G.R. No. 151136, May 27, 2004, 429 SCRA 722, 726.
- [20] Rollo, p. 7.
- [21] Estares v. Court of Appeals, G.R. No. 144755, June 8, 2005, 459 SCRA 604, 616.
- [22] G.R. No. 160455, May 9, 2005, 458 SCRA 325, 333-334, citing Torres v. Specialized Packaging Development Corporation, 433 SCRA 455, 463-464 (2000).
- [23] Heirs of Agapito T. Olarte v. Office of the President of the Philippines, G.R. No. 165821, June 21, 2005, 460 SCRA 561; Cavile v. Heirs of Clarita Cavile, 448 Phil. 302, 311 (2003).
- [24] Supra.
- [25] Supra.
- [26] Supra note 19.
- [27] Supra note 12.
- [28] Ateneo de Naga University v. Manalo, supra note 22, at 336.
- [29] Id.
- [30] Supra note 8.
- [31] G.R. No. 149665, January 25, 2006, 480 SCRA 87.

[32] Celino v. Heirs of Alejo and Teresa Santiago, G.R. No. 161817, July 30, 2004, 435 SCRA 690, 694 citing Sering v. Plaza, 166 SCRA 85, 86 (1988); Tolentino, Civil Code (1983).

[33] Rollo, p. 60

[34] Id.

[35] Id. at 61.

[36] Id. at 65.

[37] Barangay Piapi v. Talip, G.R. No. 138248, September 7, 2005, 469 SCRA 409; Hilario v. Salvador, G.R. No. 160384, April 29, 2005, 457 SCRA 815; Serdoncillo v. Benolirao, 358 Phil. 83 (1998).

[38] Shults v. Shults, 42 NE 800 (1958).

[39] Sapto v. Fabiana, 103 Phil. 683 (1958); Ordoñez v. Court of Appeals, G.R. No. 84046, July 30, 1990, 188 SCRA 109.

[40] Gaves v. Ashburn, 215 US 331, 30 S.Ct. 168.

[41] Capacete v. Baroro, 453 Phil. 392, 402 (2003).

[42] Vda. de Cabrera v. Court of Appeals, 335 Phil. 19 (1997).

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