

THE PARENTS-TEACHERS ASSOCIATION (PTA) OF ST. MATHEW CHRISTIAN ACADEMY, GREGORIO INALVEZ, JR., ROWENA LAYUG, MALOU MALVAR, MARILOU BARAQUIO, GARY SINLAO, LUZVIMINDA OCAMPO, MARIF...

G.R. No. 176518. March 02, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

As a general rule, the issuance of a writ of possession after the foreclosure sale and during the period of redemption is ministerial. As an exception, it ceases to be ministerial if there is a third party holding the property adversely to the judgment debtor.

In this case, we find that petitioners' right over the foreclosed property is not adverse to that of the judgment debtor or mortgagor. As such, they cannot seek the quashal or prevent the implementation of the writ of possession.

Factual Antecedents

The facts of this case as summarized by the Court of Appeals (CA) in its assailed Decision[1] dated November 29, 2006 are as follows:

Sometime in 2001, the spouses Denivin Ilagan and Josefina Ilagan (spouses Ilagan) applied for and were granted a loan by the [Metropolitan Bank and Trust Co.] in the amount of x x x (P4,790,000.00) [secured by] x x x a Real Estate Mortgage over the parcels of land covered by Transfer Certificates of Title with Nos. 300203, 285299, 278042, 300181, 300184, 300191, 300194, and 300202, respectively.

Upon default, an extrajudicial foreclosure was conducted with [Metropolitan Bank and Trust Co.] being the highest bidder x x x and for which a Certificate of Sale was issued in its favor.

During the period of redemption, the respondent Bank filed an Ex-Parte Petition for Issuance of a Writ of Possession docketed as LRC Case No. 6438 by posting x x x the required bond which was subsequently approved. x x x

[On June 30, 2005], the St. Mathew Christian Academy of Tarlac, Inc. filed a Petition for Injunction with Prayer for Restraining Order docketed as Special Civil Action No. 9793 against the respondent Bank and the Provincial Sheriff of Tarlac.

On August 16, 2005, the x x x Judge issued a Joint Decision in LRC Case No. 6438 and Special Civil Action No. 9793, the contents of which are x x x as follows:

JOINT DECISION

Metropolitan Bank x x x is now entitled to a writ of possession, it being mandatory even during the period of redemption.

The school, St. Mathew Christian [Academy] filed the petition for injunction on the ground that it cannot be ejected being a third party.

x x x St. Mathew Christian Academy is practically owned by the mortgagors, spouses Denivin and Josefina Ilagan. Firstly, the lease to St. Mathew by the Ilagans, as lessor, was for a period of one year from the execution of the lease contract in 1998. Therefore, the lease should have expired in 1999. However, since the lease continued after 1999, the lease is now with a definite period, or monthly, since the payment of lease rental is monthly. (Articles 1670 and 1687, Civil Code). Therefore, the lease expires at the end of each month.

Secondly, the lease was not registered and annotated at the back of the title, and therefore, not binding on third persons. (Article 1648, Civil Code)

Thirdly, the spouses are the owners or practically the owners of St. Mathew. Even if it has a separate personality, nevertheless, "piercing the veil of corporate entity" is resorted to for the spouses should not be allowed to commit fraud under the separate entity/personality of St. Mathew.

In connection with the allegation of the spouses Ilagans that the mortgage contract contains provision which is pactum commisorium, the Court does not agree. What is prohibited is the automatic appropriation without the public sale of the mortgaged properties.

The interest charges may be exorbitant, but it does not of itself cause the nullity of the entire contract of mortgage.

There is also no violation on the proscription on forum shopping. What is important is that, there is really no other case between the parties involving the same subject matter.

In fine, St. Mathew is not really a third person. It is bound by the writ of possession issued by this Court.

WHEREFORE, the writ of possession issued by this Court dated April 22, 2005 is hereby affirmed, Civil Case No. 9793 is dismissed. No costs.

SO ORDERED.[2]

Pending resolution of the motion for reconsideration of the said Joint Decision, herein petitioners Parents-Teachers Association (PTA) of St. Mathew Christian Academy (SMCA) and Gregorio Inalvez, Jr., Rowena Layug, Malou Malvar, Marilou Baraquo, Gary Sinlao, Luzviminda Ocampo, Marife Fernandez, Fernando Victorio, Ernesto Aganon, and Rizalino Manglicmot who are teachers and students of SMCA, filed a Motion for Leave to file Petition in Intervention[3] in Special Civil Action No. 9793, which was granted by the trial court in an Order dated November 10, 2005.[4] However, in a subsequent Order dated December 7, 2005, the trial court reversed its earlier Order by ruling that petitioners' intervention would have no bearing on the issuance and implementation of the writ of possession. Thus, it directed that the writ be implemented by placing respondent Metropolitan Bank and Trust Company (MBTC) in physical possession of the property.[5]

Without filing a motion for reconsideration, petitioners assailed the trial court's Order through a Petition for Certiorari and Prohibition before the CA. However, said petition was dismissed by the CA for lack of merit in its assailed Decision dated November 29, 2006. It held thus:

Considering that in this case the writ of possession had already been issued x x x petitioners' remedy was to file x x x a petition that the sale be set aside and the writ of possession cancelled. Instead, petitioners filed the instant Petition for Certiorari.

Moreover, no motion for reconsideration of the said Order directing the issuance of a writ of possession was filed neither was there any motion for reconsideration of the assailed Order of 7 December 2005 prior to the institution of the instant Petition for Certiorari to afford the respondent Court an opportunity to correct its

alleged error. The rule is that certiorari as a special civil action will not lie unless a motion for reconsideration is filed before the respondent tribunal to allow it to correct its imputed error. While there are exceptions to the rule, none has been invoked by petitioners.

WHEREFORE, premises considered, the instant Petition is hereby DISMISSED for lack of merit.

SO ORDERED.[6]

Petitioners filed a Motion for Reconsideration but the motion was denied in a Resolution dated January 29, 2007.

Hence, petitioners filed this Petition for Review on Certiorari.

Issues

- THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR WHEN IT FAILED AND REFUSED TO CONSIDER THE GROUNDS RELIED UPON IN THE PETITION BEFORE IT WHEN THE SAME ARE CLEARLY MERITORIOUS AND ARE BASED ON THE LAW AND JUSTICE;
- THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR WHEN IT FAILED AND REFUSED TO CONSIDER THAT THE REMEDY AVAILABLE TO HEREIN PETITIONERS IS THE SPECIAL CIVIL ACTION OF CERTIORARI AND NOT A PETITION TO SET ASIDE THE FORECLOSURE SALE IN LRC CASE No. 6438;
- THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR IN RULING THAT A MOTION FOR RECONSIDERATION IS STILL NEEDED BEFORE THE PETITIONERS COULD FILE A SPECIAL CIVIL ACTION OF CERTIORARI; and
- THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR IN NOT HOLDING THAT CONSIDERATIONS OF JUSTICE AND EQUITY, AND NOT TECHNICALITY, SHOULD BE THE BASES FOR THE RESOLUTION OF THE PETITION BEFORE IT.[7]

Our Ruling

The petition is bereft of merit.

Petitioners are not "Third Parties"
against whom the writ of possession
cannot be issued and implemented.

As a rule, it is ministerial upon the court to issue a writ of possession after the foreclosure sale and during the period of redemption.[8] Section 7 of Act No. 3135 explicitly authorizes the purchaser in a foreclosure sale to apply for a writ of possession during the redemption period by filing an ex parte motion under oath for that purpose "in the registration or cadastral proceedings if the property is registered, or in special proceedings in the case of property registered under the Mortgage Law" with the Regional Trial Court of the province or place where the real property or any part thereof is situated, in the case of mortgages duly registered with the Registry of Deeds. Upon filing of such motion and the approval of the corresponding bond, the law also directs in express terms the said court to issue the order for a writ of possession.[9]

However, this rule is not without exception. In *Barican v. Intermediate*

Appellate Court,[10] we held that the obligation of a court to issue an ex parte writ of possession in favor of the purchaser in an extrajudicial foreclosure sale ceases to be ministerial once it appears that there is a third party in possession of the property who is claiming a right adverse to that of the debtor/mortgagor. This ruling was reiterated in *Policarpio v. Active Bank*[11] where we held that:

Ordinarily, a purchaser of property in an extrajudicial foreclosure sale is entitled to possession of the property. Thus, whenever the purchaser prays for a writ of possession, the trial court has to issue it as a matter of course. However, the obligation of the trial court to issue a writ of possession ceases to be ministerial once it appears that there is a third party in possession of the property claiming a right adverse to that of the debtor/mortgagor. Where such third party exists, the trial court should conduct a hearing to determine the nature of his adverse possession. (Emphasis supplied)

In this case, we find that petitioners cannot be considered as third parties because they are not claiming a right adverse to the judgment debtor. Petitioner-teachers and students did not claim ownership of the properties, but merely averred actual "physical possession of the subject school premises".[12] Petitioner-teachers' possession of the said premises was based on the employment contracts they have with the school. As regards the petitioner-students, *Alcuaz v. Philippine School of Business Administration*[13] and *Non v. Dames II*[14] characterized the school-student relationship as contractual in nature. As such, it would be specious to conclude that the teachers and students hold the subject premises independent of or adverse to SMCA. In fact, their interest over the school premises is necessarily inferior to that of the school. Besides, their contracts are with the school and do not attach to the school premises. Moreover, the foreclosure of the current school premises does not prevent the SMCA from continuing its operations elsewhere.

At this point, it is relevant to note that in the Joint Decision dated August 16, 2005, the trial court found that SMCA was not a third party and was therefore bound by the said writ of possession.[15] Consequently, it affirmed the issuance of the writ of possession.

MBTC thus correctly argued that petitioners did not have superior rights to that of SMCA over the subject property because their supposed possession of the same emanated only from the latter. Since petitioners' possession of the subject school premises stemmed from their employment or enrollment contracts with the school, as the case may be, necessarily, their right to possess the subject school premises cannot be adverse to that of the school and of its owners. As such, the petitioners cannot be deemed "third parties" as contemplated in Act No. 3135, as amended.

The lack of authority to sign the certificate of non-forum shopping attached to the Petition for Issuance of Writ of Possession was an insignificant lapse.

Petitioners further claim that the lack of authority to sign the certificate on non-forum shopping attached to the Petition for the Issuance of the Writ of Possession rendered the same worthless and should be deemed as non-existent.[16] MBTC asserts otherwise, citing *Spouses Arquiza v. Court of Appeals*[17] where we held that an application for a writ of possession is a mere incident in the registration proceeding which is in substance merely a motion,[18] and therefore does not require such a certification.

Petitioners' contention lacks basis. In *Green Asia Construction and Development Corporation v. Court of Appeals*,[19] where the issue of validity of the Certificate of Non-Forum Shopping was questioned in an application for the issuance of a Writ of Possession, we held that:

x x x it bears stressing that a certification on non-forum shopping is required only in a complaint or a petition which is an initiatory pleading. In this case, the subject petition for the issuance of a writ of possession filed by private respondent is not an initiatory pleading. Although private respondent denominated its pleading as a petition, it is more properly a motion. What distinguishes a motion from a petition or other pleading is not its form or the title given by the party executing it, but its purpose. The purpose of a motion is not to initiate

litigation, but to bring up a matter arising in the progress of the case where the motion is filed.[20] (Emphasis supplied)

It is not necessary to initiate an original action in order for the purchaser at an extrajudicial foreclosure of real property to acquire possession.[21] Even if the application for the writ of possession was denominated as a "petition", it was in substance merely a motion.[22] Indeed, any insignificant lapse in the certification on non-forum shopping filed by the MBTC did not render the writ irregular. After all, no verification and certification on non-forum shopping need be attached to the motion.[23]

Hence, it is immaterial that the certification on non-forum shopping in the MBTC's petition was signed by its branch head. Such inconsequential oversight did not render the said petition defective in form.

The trial court's Order did not violate the petitioner-students' right to quality education and academic freedom.

We disagree with petitioners' assertion that the students' right to quality education and academic freedom was violated. The constitutional mandate to protect and promote the right of all citizens to quality education at all levels[24] is directed to the State and not to the school.[25] On this basis, the petitioner-students cannot prevent the MBTC from acquiring possession of the school premises by virtue of a validly issued writ of possession.

There is likewise no violation of the so-called academic freedom. Article XIV, Section 5(2) of the Constitution mandates "that academic freedom shall be enjoyed in all institutions of higher learning." Academic freedom did not go beyond the concept of freedom of intellectual inquiry,[26] which includes the freedom of professionally qualified persons to inquire, discover, publish and teach the truth as they see it in the field of their competence subject to no control or authority except of rational methods by which truths and conclusions are sought and established in these disciplines. It also pertains to the right of the school or college to decide for itself, its aims and objectives, and how best to attain them - the grant being given to institutions of higher learning - free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint.[27] In *Garcia v. The Faculty Admission Committee, Loyola School of Theology*,[28] we held that:

[I]t is to be noted that the reference is to the 'institutions of higher learning' as the recipients of this boon. It would follow then that the school or college itself is possessed of such a right. It decides for itself its aims and objectives and how best to attain them. It is free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint. It has a wide sphere of autonomy certainly extending to the choice of students. This constitutional provision is not to be construed in a niggardly manner or in a grudging fashion. That would be to frustrate its purpose, nullify its intent. x x x It is the business of a university to provide that atmosphere which is most conducive to speculation, experiment and creation. It is an atmosphere in which there prevail the 'four essential freedoms' of a university - to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.

In this case, except for their bare allegation that "if the school will be ejected because of the writ of possession, the students will necessarily be ejected also"[29] and "thereby their learning process and other educational activities shall have been disrupted",[30] petitioners miserably failed to show the relevance of the right to quality education and academic freedom to their case or how they were violated by the Order granting the writ of possession to the winning bidder in the extrajudicial foreclosure sale.

The petitioners were accorded due process.

The petitioners argue that the court below did not conduct trial for the presentation of evidence to support its conclusion that the intervention would have no bearing on the issuance and implementation of the writ of

possession,[31] thereby depriving them of due process.

Petitioners' contention is without merit. It is settled that the issuance of a writ of possession is a ministerial duty of the court.[32] The purchaser of the foreclosed property, upon ex parte application and the posting of the required bond, has the right to acquire possession of the foreclosed property during the 12-month redemption period.[33]

This ex parte petition for the issuance of a writ of possession under Section 7 of Act No. 3135 is not, strictly speaking, a "judicial process" as contemplated in Article 433[34] of the Civil Code.[35] As a judicial proceeding for the enforcement of one's right of possession as purchaser in a foreclosure sale, it is not an ordinary suit by which one party "sues another for the enforcement of a wrong or protection of a right, or the prevention or redress of a wrong." [36]

In *Idolor v. Court of Appeals*, [37] we described the nature of the ex parte petition for issuance of possessory writ under Act No. 3135 to be a non-litigious proceeding and summary in nature. As an ex parte proceeding, it is brought for the benefit of one party only, and without notice to, or consent by any person adversely interested.[38] It is a proceeding where the relief is granted without requiring an opportunity for the person against whom the relief is sought to be heard.[39] It does not matter even if the herein petitioners were not specifically named in the writ of possession nor notified of such proceedings.[40] In *Sagarbarria v. Philippine Business Bank*, [41] we rejected therein petitioner's contention that he was denied due process when the trial court issued the writ of possession without notice.

Here in the present case, we similarly reject petitioners' contention that the trial court should have conducted a trial prior to issuing the Order denying their motion to intervene.[42] As it is, the law does not require that a petition for a writ of possession may be granted only after documentary and testimonial evidence shall have been offered to and admitted by the court.[43] As long as a verified petition states the facts sufficient to entitle the petitioner to the relief requested, the court shall issue the writ prayed for. There is no need for petitioners to offer any documentary or testimonial evidence for the court to grant the petition.[44]

The proper remedy for the petitioners is a separate, distinct and independent suit, provided for under Act No. 3135.

Petitioners assert that Section 8 of Act No. 3135 specifically refers to "the debtor" as the party who is required to file a petition for the cancellation of the writ of possession in the same proceeding in which possession was requested.[45] As they are not the debtors referred to in the said law, petitioners argue that the filing of a petition for the cancellation of the writ of possession in the same proceeding in which possession was requested, does not apply to them.[46] Hence, they allege that it was improper for the CA to conclude that the Petition for Certiorari was the wrong remedy in the case where the writ of possession was issued.[47]

Respondent, on the other hand, avers that certiorari is available only when there is grave abuse of discretion amounting to lack or excess of jurisdiction and there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law.[48] In the instant case, the respondent argues that the court merely granted the Writ of Possession in accordance with settled jurisprudence[49] and that the remedy of certiorari does not lie because there is an available remedy which is an appeal.[50]

We hold that the CA correctly held that the proper remedy is a separate, distinct and independent suit provided for in Section 8 of Act No. 3135[51] viz:

SEC. 8. The debtor may, in the proceedings in which possession was requested, but not later than thirty days after the purchaser was given possession, petition that the sale be set aside and the writ of possession canceled,

specifying the damages suffered by him, because the mortgage was not violated or the sale was not made in accordance with the provisions hereof, and the court shall take cognizance of this petition in accordance with the summary procedure provided for in section one hundred and twelve of Act Numbered Four hundred and ninety-six; and if it finds the complaint of the debtor justified, it shall dispose in his favor of all or part of the bond furnished by the person who obtained possession. Either of the parties may appeal from the order of the judge in accordance with section fourteen of Act Numbered Four hundred and ninety-six; but the order of possession shall continue in effect during the pendency of the appeal.

In *De Gracia v. San Jose*,^[52] we held that:

x x x the order for a writ of possession issues as a matter of course upon the filing of the proper motion and the approval of the corresponding bond. No discretion is left to the court. And any question regarding the regularity and validity of the sale (and the consequent cancellation of the writ) is left to be determined in a subsequent proceeding as outlined in section 8. Such question is not to be raised as a justification for opposing the issuance of the writ of possession, since, under the Act, the proceeding for this is *ex parte*. (Emphasis supplied)

Since the writ of possession had already been issued in LRC Case No. 6438 per Order dated November 29, 2005, the proper remedy is an appeal and not a petition for certiorari,^[53] in accordance with our ruling in *Metropolitan Bank and Trust Company v. Tan*^[54] and *Government Service Insurance System v. Court of Appeals*.^[55] As long as the court acts within its jurisdiction, any alleged errors committed in the exercise of its discretion will amount to nothing more than mere errors of judgment, correctable by an appeal if the aggrieved party raised factual and legal issues; or a petition for review under Rule 45 of the Rules of Court if only questions of law are involved.

As a general rule, a motion for reconsideration must be filed before resort to the special civil action of certiorari is made.

As a general rule, a motion for reconsideration should precede recourse to certiorari in order to give the trial court an opportunity to correct the error that it may have committed. The said rule is not absolute and may be dispensed with in instances where the filing of a motion for reconsideration would serve no useful purpose, such as when the motion for reconsideration would raise the same point stated in the motion^[56] or where the error is patent for the order is void^[57] or where the relief is extremely urgent, as in cases where execution had already been ordered where the issue raised is one purely of law.^[58]

In the case at bar, the petitioners stated in their Petition for Certiorari and Prohibition before the CA as follows:^[59]

18. Respondent sheriff and his deputies are now set to implement the said writ of possession and are now poised to evict the students and teachers from their classrooms, grounds and school facilities;

19. Petitioners did not anymore file a motion for reconsideration of said order x x x and is proceeding directly to this Honorable Court because the filing of a motion for reconsideration would serve no useful purpose x x x Besides the relief sought is extremely urgent as the respondent sheriff is set to implement the questioned orders x x x and the circumstances herein clearly indicate the urgency of judicial intervention x x x hence, this petition.

Plainly, the petitioners have the burden to substantiate that their immediate resort to the appellate court is based on any of the exceptions to the general rule. They have to show the urgent and compelling reasons for such recourse. The afore-cited allegations of the petitioners in their petition before the CA did not dispense with the

burden of establishing that their case falls under any of the exceptions to the general rule. Unlike the case of *Ronquillo v. Court of Appeals*[60] cited by the petitioners, where not only was a writ of execution issued but petitioner's properties were already scheduled to be sold at public auction on April 2, 1980 at 10:00 a.m., the herein petitioners failed to show the specificity and imminence of the urgency confronting their immediate recourse to the appellate court.

We therefore hold that the CA correctly found the necessity for a prior resort to a motion for reconsideration prior to the institution of the Petition for Certiorari.

Considerations of equity do not apply in the instant case.

The petitioners claim that the challenged decision of the CA would show that the petition was decided on the basis of pure technicality and that the appellate court did not pass upon the merits of the petition.[61] They further assert that considerations of justice and equity and not technicality, should be the bases for the resolution of the petition.[62] MBTC, on the other hand, argues that equity may not apply if there is applicable law and jurisprudence.

In *San Luis v. San Luis*,[63] we expounded on the concept of justice by holding that:

More than twenty centuries ago, Justinian defined justice "as the constant and perpetual wish to render everyone his due." That wish continues to motivate this Court when it assesses the facts and the law in every case brought to it for decision. Justice is always an essential ingredient of its decisions. Thus when the facts warrant, we interpret the law in a way that will render justice, presuming that it was the intention of the lawmaker, to begin with, that the law be dispensed with justice.

While equity which has been aptly described as "justice outside legality" is applied only in the absence of, and never against, statutory law or judicial rules of procedure.[64] Positive rules prevail over all abstract arguments based on equity contra legem.[65] For all its conceded merit, equity is available only in the absence of law and not as its replacement.[66]

In this case, justice demands that we conform to the positive mandate of the law as expressed in Act No. 3135, as amended. Equity has no application as to do so would be tantamount to overruling or supplanting the express provisions of the law.

In our Resolution[67] dated June 4, 2007, we issued a Temporary Restraining Order enjoining respondent to desist from implementing the Writ of Possession. We also required petitioners to post a cash or surety bond in the amount of P50,000.00 within five days from notice, otherwise the temporary restraining order shall be automatically lifted. The petitioners posted a cash bond in the amount of P50,000.00 on June 27, 2007 pursuant to our June 4, 2007 Resolution.[68]

WHEREFORE, premises considered, the Petition for Review on Certiorari is DENIED for lack of merit. The temporary restraining order heretofore issued is hereby LIFTED and SET ASIDE. The Decision of the Court of Appeals dated November 29, 2006 and its Resolution dated January 29, 2007 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] CA rollo, pp. 190-197; penned by Associate Justice Arturo G. Tayag and concurred in by Associate Justices

Remedios A. Salazar-Fernando and Noel G. Tijam.

[2] Id. at 191-194.

[3] Id. at 65-66.

[4] Id. at 74.

[5] Id. at 75.

[6] Id. at 195-196.

[7] Rollo, p. 14.

[8] Development Bank of the Philippines v. Prime Neighborhood Association, G.R. Nos. 175728 & 178914, May 8, 2009, 587 SCRA 582.

[9] Sulit v. Court of Appeals, 335 Phil. 914, 924 (1997).

[10] G.R. No. L-79906, June 20, 1988, 162 SCRA 358, 363, citing IFC Service Leasing and Acceptance Corporation v. Nera, 125 Phil. 595, 598 (1967); Tan Soo Huat v. Ongwico, 63 Phil. 746 (1936).

[11] G.R. No. 157125, September 19, 2008, 566 SCRA 27, 32.

[12] Rollo, p. 123.

[13] 244 Phil. 8, 20 (1988).

[14] G.R. No. 89317, May 20, 1990, 185 SCRA 523.

[15] CA rollo, p. 133

[16] Rollo, pp. 125-126.

[17] 498 Phil 793, 802-803 (2005).

[18] Rollo, pp. 146-147.

[19] G.R. No. 163735, November 24, 2006, 508 SCRA 79.

[20] Id. at 84.

[21] Id.

[22] Id.

[23] Metropolitan Bank and Trust Company v. Bance, G.R. No. 167280, April 30, 2008, 553 SCRA 507, 519.

[24] Constitution, Article XIV, Section 1.

[25] University of the Philippines v. Judge Ayson, 257 Phil. 580, 587 (1989).

[26] Joaquin G. Bernas, S.J., The 1987 Constitution of the Republic of the Philippines: A Commentary 2003 edition, p. 1253.

[27] Tangonan v. Judge Paño, 221 Phil. 601, 612 (1985).

[28] 160-A Phil. 929, 943-944 (1975). Citations omitted.

[29] Rollo, p. 126

[30] Id.

[31] Id.

[32] Rayo v. Metropolitan Bank and Trust Company, G.R. No. 165142, December 10, 2007, 539 SCRA 571, 579.

[33] Act No. 3135, Section 7.

[34] Art. 433. Actual possession under claim of ownership raises a disputable presumption of ownership. The true owner must resort to judicial process for the recovery of the property.

[35] Rayo v. Metropolitan Bank and Trust Company, supra at 579-580.

[36] Id.

[37] 490 Phil 808, 816 (2005).

[38] Sagarbarria v. Philippine Business Bank, G.R. No. 178330, July 23, 2009.

[39] Spouses Santiago v. Merchants Rural Bank of Talavera, Inc., 493 Phil 862, 869 (2005).

[40] Rayo v. Metropolitan Bank and Trust Company, supra note 32 at 581.

[41] Supra.

[42] CA rollo, p. 75.

[43] Oliveros v. Presiding Judge, RTC, Br. 24, Biñan, Laguna, G.R. No. 165963, September 3, 2007, 532 SCRA 109, 120.

[44] Spouses Santiago v. Merchants Rural Bank of Talavera, Inc., supra at 870.

[45] Rollo, p. 129.

[46] Id. at 130.

[47] Id. at 129

[48] Id. at 149.

[49] Id.

[50] Id

[51] CA rollo, p. 196.

[52] 94 Phil 623, 625-626 (1954).

[53] Rollo, pp. 31-32.

[54] G.R. No. 159934, June 26, 2008, 555 SCRA 502, 512.

[55] 251 Phil. 222 (1989).

[56] Fortich-Celdran v. Celdran, 125 Phil 903, 908 (1967).

[57] Vigan Electric Light Co., Inc. v. Public Service Commission, 119 Phil 304, 313-314 (1964).

[58] Central Bank of the Philippines v. Hon. Cloribel, 150-A Phil. 86, 100 (1972).

[59] CA rollo, p. 18.

[60] 217 Phil. 269, 277-278 (1984).

[61] Rollo, p. 131.

[62] Id.

[63] G.R. No. 133743 & 134029, February 6, 2007, 514 SCRA 294, 313, citing *Alonzo v. Intermediate Appellate Court*, 234 Phil. 267, 276 (1987).

[64] *Zabat, Jr. v. Court of Appeals*, 226 Phil. 489, 495 (1986).

[65] Id.

[66] *Tirazona v. Philippine EDS Techno-Service, Inc. (PET, Inc.)*, G.R. No. 169712, January 20, 2009, 576 SCRA 625, 626.

[67] Rollo, p. 71.

[68] Id. at 77.

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