

CHARLIE T. LEE, PETITIONER, VS. ROSITA DELA PAZ, RESPONDENT.*G.R. No. 183606. October 27, 2009*

Ponente: CHICO-NAZARIO, J.

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This is a Petition for Review on Certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure filed by petitioner Charlie T. Lee seeking the reversal and setting aside of the Decision[1] dated 25 January 2008 and Resolution[2] dated 1 July 2008 of the Court of Appeals in CA-G.R. SP No. 97334. In its assailed Decision, the Court of Appeals dismissed petitioner's Petition for Review under Rule 42 of the 1997 Revised Rules of Civil Procedure because of petitioner's failure to establish his claim of ownership and right of possession over portions of respondent Rosita dela Paz's[3] property. Thus, the Court of Appeals affirmed the Decision[4] dated 4 April 2005 of the Regional Trial Court (RTC) of Antipolo City, Branch 71, in Civil Case No. 04-361, reversing the Decision[5] dated 3 May 2004 of the Municipal Trial Court in Cities (MTCC), Branch 1, Antipolo City, in Civil Case No. 68-00, and ordering petitioner to vacate portions of respondent's property that petitioner occupied. In its questioned Resolution, the Court of Appeals refused to reconsider its earlier Decision.

The undisputed facts of the case are as follows:

On 29 October 1990, Gabriel Danga (Danga) executed a notarized Transfer of Rights[6] transferring to respondent, for the consideration of P150,000.00, all his rights, interest, and title over a parcel of agricultural land located in Barrio Pinagbarilan (later known as Barangay San Isidro and now Barangay San Juan), Antipolo City,[7] covered by Homestead Application No. V-38136 (E-V-33129) in Danga's name,[8] approved on 12 July 1948. According to the actual survey of the said property, it measured 143,417 square meters.[9]

However, Danga, previous to the transfer of his rights over the property to respondent, transferred the very same rights to Josefina delos Reyes (Delos Reyes). Delos Reyes was able to secure the issuance, on 1 December 1989, of an Order of Transfer of Homestead Rights in her favor, from then Director of Lands Abelardo Palad. Respondent instituted before Department of Environment and Natural Resources (DENR) Region IV an administrative case for the cancellation of the Order of Transfer of Homestead Rights in Delos Reyes' favor, docketed as DENR 4 Case No. 5723.

During an ocular inspection conducted pursuant to DENR 4 Case No. 5723, DENR Region IV observed that certain portions of the 143,417-square-meter property were occupied by petitioner and several other persons.

Thus, on 13 September 2000, respondent filed before the MTCC a Complaint for Forcible Entry with Prayer for Issuance of Preliminary Mandatory Injunction against petitioner, docketed as Civil Case No. 68-00. Respondent later amended her Complaint to implead other defendants, namely: Jesus E. Viola (Viola), Juanito Magsino (Magsino), Evelyn Pestano (Pestano), and Victorio Datu (Datu).

Respondent alleged in her Complaint that she became the owner of the 143,417-square-meter property by virtue of the Transfer of Rights dated 19 October 1990 executed in her favor by the former owner, Danga. Since the transfer, respondent possessed the property peacefully, publicly, and adversely. She introduced valuable

improvements thereon. She planted trees, and repaired Danga's old hut where she would occasionally stay to rest.

Respondent avowed that sometime in June 2000, petitioner and the other defendants in Civil Case No. 68-00 deprived her of possession of certain portions of her property. Taking advantage of respondent's absence due to her lingering sickness, petitioner and his co-defendants unlawfully entered said portions by means of stealth and strategy, and without respondent's knowledge and consent. Up to the present time, petitioner and his co-defendants remain in illegal possession of portions of respondent's property, despite respondent's repeated demands that possession of said portions be restored to her. Petitioner even went as far as assigning security men to the portions of the property he occupied to prevent respondent from recovering possession thereof.

In his Answer to respondent's Complaint, petitioner claimed to be the owner and occupant of the two parcels of land, which respondent averred to be part of her property. In fact, petitioner was already granted Free Patent Nos. 045802-91-204 and 045802-91-203 for these two parcels of land, and pursuant to which, he was issued Original Certificate of Title (OCT) Nos. P-619[10] and P-620[11] in his name on 3 June 1991. Additionally, the 143,417-square-meter property, which respondent was claiming, was still under the administration of the DENR, and had not yet been declared alienable and disposable; hence, the property was still public land.[12]

Petitioner further maintained that he never saw respondent occupy her alleged property. Respondent herself failed to introduce evidence of her prior physical possession of the property. Petitioner also did not receive from respondent any demand to vacate prior to the latter's filing of the Complaint for Forcible Entry before the MTCC.

Lastly, petitioner argued that respondent was guilty of forum shopping, because DENR 4 Case No. 5723 was still pending before DENR Region IV.

The three other defendants in Civil Case No. 68-00, namely, Viola, Magsino, and Pestano, asserted in their Answer that respondent had no cause of action against them, as respondent filed her Complaint for Forcible Entry before the MTCC more than two years after the afore-named defendants' occupation of their respective parcels of land. Respondent not only failed to allege prior physical possession of the parcels of land now occupied by the defendants, respondent also did not establish with certainty that said parcels were really within her property. The three defendants presented object evidence such as trees and other growing plants to prove their long possession of their respective parcels of land.

Datu, the other defendant in Civil Case No. 68-00, alleged in his Answer that he was the bonafide and lawful possessor and occupant of two parcels of land in Barrio San Isidro (formerly known as Barrio Pinagbarilan and now known as Barangay San Juan), Antipolo City. He had been in peaceful, continuous, and adverse possession of said parcels of land for a period of 15 years. He denied that these parcels of land were within respondent's property. Also, the Complaint for Forcible Entry was filed by respondent beyond the one year period set by law.

Before the MTCC could render judgment in Civil Case No. 68-00, DENR Region IV issued on 30 October 2000 its Resolution[13] in DENR 4 Case No. 5723, finding that:

In the case of the first transfer of right in favor of [Delos Reyes], we are of the considered opinion that the same is bereft of validity. Firstly, the transfer of right was done sans the consent of the Secretary of Environment and Natural Resources; secondly, then Director of Lands, Abelardo Palad is no longer allowed under Executive Order No. 192 to issue an Order for the transfer of rights involving public land applications; and thirdly, [Delos Reyes] is not qualified nor an eligible homesteader about to succeed transferor, [Danga], as contemplated for (sic) under Section 20 of the Public Land Act.

x x x x

It is evident from the records of the case that the transfer of right executed by [Danga] in favor of Josefina

delos Reyes was never sanctioned nor had the prior consent or approval of the Secretary of Environment and Natural Resources.

x x x x

On the other side of the fence, this Office is impressed by the fact that [herein respondent] laid her claims over the land in dispute. Although, the adverted transfer of rights may have been executed in a much later date, we believe, however, that this fact will not militate against her claims thereon. The findings in the ocular inspection that she was ascertained an occupant of the contested area is a clear act of an exercise of dominion to the exclusion of others. x x x. We opine that [respondent's] overt act in occupying controverted land and filing instant protest for the cancellation of the transfer of rights in favor of [Delos Reyes], speaks well of a claimant who is in a better position to fit in the shoes of grantee, Gabriel Danga.

x x x While some appear to have occupied and cultivated portions thereof in the persons of Messrs. [herein petitioner], Juanito Magsino, Jesus Viola and Mrs. Evelyn Pestano, these undertaking, however, will not merit any scant consideration. As we have herein clarified, and to reiterate with, well settled is the doctrine that "the approval of the application for the homestead has the effect of segregating the land from the public domain and divesting the Bureau of Lands of the control and possession of the same." Applying the same rule in this particular instance, we hold that the property in question is no longer considered a public land where the actual possession and cultivation are condition sine qua non. (Emphases supplied.)

The DENR Region IV finally adjudged:

WHEREFORE, In Light of All Foregoing Considerations, it is hereby resolved, as it is resolved, that the claim of [herein respondent] Rosita dela Paz over Lot 10008, Mcad 585, situated in Brgy. San Juan, Antipolo City, BE GIVEN DUE COURSE. Consequently, the Order of Transfer of [Homestead] Rights issued on [1 December 1989] by then Director, Abelardo Palad, and the subsequent Homestead Application of Josefina delos Reyes, is hereby declared CANCELLED and without force and effect.

[Respondent] Rosita dela Paz, is hereby ORDERED to file her Homestead Application over said Lot 10008, within sixty (60) days upon approval of the Order of Transfer of Rights by the Secretary of Environment and Natural Resources.[14] (Emphases supplied.)

Since no appeal or motion for reconsideration of the foregoing DENR Region IV Resolution had been filed, it became final and executory per Order[15] of DENR Region IV dated 22 June 2001. Following the directive of the DENR Region IV in the said Resolution, respondent, after being issued a Transfer of Homestead Rights[16] on 20 March 2002, filed her homestead application,[17] still under Danga's original Homestead Application No. V-38136 (E-V-33129). The Community Environment and Natural Resources Office (CENRO) of DENR Region IV, however, issued on 15 July 2003 an Order[18] rejecting and/or canceling from the records respondent's homestead application because respondent assigned a portion of the property covered thereby in favor of Remedios dela Paz (Remedios) and Emiliana M. Camino.

Respondent then filed a Free Patent Application covering the 143,417-square-meter property. However, considering respondent's assignment of a portion of her property to Remedios, respondent submitted a request for the subdivision of said property, together with the proposed Subdivision Plan. On 23 September 2003, the DENR Regional Technical Director approved respondent's Subdivision Plan. Subsequently, on 10 December 2003, Free Patent No. 045802-03-4722 and the corresponding OCT No. P-46[19] were issued in respondent's name, while Free Patent No. 045802-03-4723 and the resulting OCT No. P-47[20] were issued in Remedios' name, covering their respective subdivided portions of the property.

On 3 May 2004, the MTCC rendered its Decision in favor of petitioner and other defendants in Civil Case No. 68-00. The MTCC dismissed respondent's Complaint for Forcible Entry on the ground that respondent failed to

prove prior physical possession of the parcels of land in question. Prior physical possession of the property by the plaintiff is an indispensable requirement in the successful prosecution of a forcible entry case.

Respondent's appeal of the aforesaid MTCC Decision before the RTC was docketed as Civil Case No. 04-361. Respondent presented before the RTC the free patent and certificate of title issued in her name for the property. The RTC, in its Decision dated 4 April 2005, favored respondent and, in effect, reversed and set aside the appealed MTCC Decision. The RTC gave great weight and consideration to the DENR Region IV Resolution dated 30 October 2000 in DENR 4 Case No. 5723. The RTC ordered petitioner and his co-defendants in Civil Case No. 68-00 to vacate the portions of respondent's property that they were occupying.

Petitioner and his co-defendants in Civil Case No. 04-361 separately moved for the reconsideration of the aforesaid RTC judgment, but they were all denied in the RTC Order[21] dated 10 November 2006.

Petitioner, by himself, filed a Petition for Review of the RTC Decision dated 4 April 2005 before the Court of Appeals, docketed as CA-G.R. SP No. 97334. In its Decision dated 25 January 2008, the Court of Appeals dismissed petitioner's Petition and, thus, affirmed the RTC Decision dated 4 April 2005. Petitioner's Motion for Reconsideration was denied by the appellate court in its Resolution dated 1 July 2008.

Petitioner now comes before this Court raising the following issues:

I

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE REVERSIBLE ERROR WHEN IT SUSTAINED THE CLAIM OF THE RESPONDENT THAT SHE WAS ABLE TO FULLY ESTABLISH EXCLUSIVE OWNERSHIP AND PHYSICAL POSSESSION OVER THE [143,417-SQUARE METER PROPERTY], HEAVILY RELYING ON THE DENR RESOLUTION DATED 30 OCTOBER 2000, DESPITE THE ABSENCE OF CLEAR, CONVINCING AND COMPETENT EVIDENCE TO PROVE [HER] CLAIM AND DESPITE THE FACT THAT IT WAS PETITIONER LEE WHO HAD BEEN FOR A LONG TIME IN PRIOR, PHYSICAL, ADVERSE, UNINTERRUPTED AND CONTINUOUS POSSESSION OF [PORTIONS OF THE SAID 143,417-SQUARE METER PROPERTY].

II

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE REVERSIBLE ERROR IN HOLDING THAT THE [143,417-SQUARE-METER PROPERTY] IS NO LONGER CONSIDERED A PUBLIC LAND, AS POSSESSION AND OWNERSHIP OF THE SAID PROPERTY WERE LODGED WITH THE RESPONDENT, DESPITE THE FACT THAT IT IS PETITIONER LEE WHO HAS THE LEGAL RIGHT TO POSSESSION AND OWNERSHIP OF THE [PORTIONS OF THE SAID PROPERTY].

III

THE HONORABLE COURT OF APPEALS COMMITTED A GRAVE REVERSIBLE ERROR IN HOLDING THAT RESPONDENT VALIDLY ACQUIRED HER TITLE OVER THE [143,417-SQUARE METER PROPERTY] FROM THE PREVIOUS HOMESTEAD GRANTEE, GABRIEL DANGA, DESPITE THE FACT THAT BY VIRTUE OF THE ADVERSE, PUBLIC, CONTINUOUS AND UNINTERRUPTED POSSESSION OF [PORTIONS OF THE SAID PROPERTY] BY PETITIONER, HE IS ACTUALLY THE ONE LEGALLY ENTITLED TO CLAIM POSSESSION AND OWNERSHIP OVER [SUCH PORTIONS].

IV

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS REVERSIBLE ERROR IN NOT HOLDING THAT THE REJECTION OF RESPONDENT'S HOMESTEAD APPLICATION PERMANENTLY BARS HER FROM FILING ANOTHER APPLICATION, THIS TIME FOR FREE PATENT, AND FROM BEING GRANTED SUCH FREE PATENT OVER THE [ENTIRE

143,417-SQUARE METER PROPERTY].

V

WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS REVERSIBLE ERROR AND VIOLATED THE RULES WHEN IT ALLOWED THE INTRODUCTION OF EVIDENCE OF TITLES AND PATENTS BEFORE THE [RTC] EVEN FOR THE FIRST TIME ON APPEAL, DESPITE MISERABLE FAILURE OF RESPONDENT TO PRESENT THE SAME BEFORE THE [MTCC].

Primarily, this case stemmed from a forcible entry case filed by respondent against petitioner. A forcible entry case is an ejectment suit. In ejectment suits or ejectment proceedings, the only issue involved is: who is entitled to physical or material possession of the premises, that is, to possession de facto, not possession de jure? Issues as to the right of possession or ownership are not involved in the action; evidence thereon is not admissible, except only for the purpose of determining the issue of possession.[22] The main thing to be proven in an action for forcible entry is prior possession and that the same was lost through force, intimidation, threat, strategy and stealth, so that it behooves the court to restore possession regardless of title or ownership.[23]

The character of the property involved, as to whether it is still public land or not, is also of no moment. Even public lands can be the subject of forcible entry cases. The Court, in *David v. Cordova*,^[24] categorically declared that the land spoken of in Section 1, Rule 70^[25] of the Rules of Court includes all kinds of land. The Court applied the well-known maxim in statutory construction that where the law does not distinguish, we should not distinguish. The Court also stressed that ejectment proceedings are summary proceedings only intended to provide an expeditious means of protecting actual possession or right to possession of property. Title is not involved. To repeat, the sole issue to be resolved is the question as to who is entitled to the physical or material possession of the premises or possession de facto.^[26] Hence, it does not matter that the land in dispute belongs to the government, and the government did not authorize either the plaintiff or defendant to occupy said land.^[27] The issue of possession may still be litigated between the plaintiff and the defendant.

This brings the Court to the fundamental issue in the case at bar: who, between respondent and petitioner, has the right to possess the two parcels of land presently occupied by the latter, but which the former insists to be part of her bigger property?

In actions for forcible entry, two allegations are mandatory for the municipal court to acquire jurisdiction: First, the plaintiff must allege his prior physical possession of the property. Second, he must also allege that he was deprived of his possession by any of the means provided for in Section 1, Rule 70 of the Rules of Court, namely: force, intimidation, threats, strategy, and stealth.^[28]

There is no issue that respondent was able to sufficiently allege in her Complaint before the MTCC the material facts constituting forcible entry and, as a result, the MTCC duly acquired jurisdiction over her Complaint. Respondent alleged prior possession in her Complaint, claiming that she had acquired possession of the 143,417-square meter property since 19 October 1990, when Danga executed the Transfer of Rights over said property in her favor; that she introduced improvements on the property by planting trees; and that she also repaired the nipa hut Danga built on said property, where she would stay for rest "off and on." Respondent further narrated in her Complaint that petitioner and the other named defendants, taking advantage of respondent's absence because of lingering illness, entered into portions of the 143,417-square meter property "unlawfully," "without respondent's knowledge and consent," and "by means of stealth and strategy." Respondent additionally claimed that petitioner assigned security men to prevent the former from recovering possession of the portion of her property being occupied by the latter.

Indeed, respondent's allegations in her Complaint were enough for the MTCC to acquire jurisdiction over respondent's forcible entry case against petitioner and his co-defendants. However, mere allegation or claim is not proof.[29] Respondent still needs to prove, by preponderance of evidence, the allegations in her Complaint before she could be entitled to the ejectment of petitioner from the property.

Hence, the Court must now ask whether respondent was able to discharge the quantum of proof required of her in this case.

Obviously, the foregoing question is shrouded by a conflict in factual perception, a conflict that is ordinarily not subject to a petition for review under Rule 45 of the Rules of Court. But the Court is constrained to resolve it, because the factual findings of the RTC and the Court of Appeals are contrary to those of the MTCC. Thus, the Court will rule herein on factual issues as an exception to the general rule.[30]

It is a basic rule in civil cases, including an action for forcible entry, that the party having the burden of proof must establish his case by a preponderance of evidence, which simply means "evidence which is of greater weight, or more convincing than that which is offered in opposition to it." Hence, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's.[31]

After an exhaustive review of the evidence on record, the Court finds that respondent was not able to satisfactorily prove her prior physical possession, nor her being deprived thereof by petitioner through force, intimidation, threat, strategy, and stealth. It is noteworthy that absence alone of prior physical possession by the plaintiff in a forcible entry case already warrants the dismissal of the complaint.[32]

In the present case, respondent, to establish her supposed prior physical possession of the 143,417-square meter property, which included the two parcels of land now being occupied by petitioner, relied on (1) the DENR Region IV Resolution dated 30 October 2000 in DENR 4 Case No. 5723; (2) the notarized Transfer of Rights dated 29 October 1990 executed by Danga in respondent's favor; and (3) the Tax Declaration in respondent's name, covering the 143,417-square-meter property, on file with the Antipolo City Assessor's Office, together with the real property tax clearance for the year 2001 from the Antipolo City Treasurer's Office.

The Court stresses that DENR 4 Case No. 5723 before DENR Region IV involved respondent's Formal Protest against Delos Reyes' homestead patent application covering the same 143,417-square meter property. The central issue in said administrative case was who between respondent and Delos Reyes had a better right to file a homestead application for the property. The Resolution dated 30 October 2000 of DENR Region IV in DENR 4 Case No. 5723 - canceling Delos Reyes' application for homestead patent and ordering respondent to file her application for homestead application - was not determinative at all of the issue of who between respondent and petitioner had prior physical possession of the two parcels of land, which both are now claiming to be their own.

The very general statements of DENR Region IV in a Resolution dated 30 October 2000 - that the occupation and cultivation by petitioner and his co-defendants in Civil Case No. 68-00 of portions of the 143,417-square-meter property merited "scant consideration," because Danga's approved homestead application already removed the entire property from public domain - themselves deserve little weight in the case before us. Again, in an action for forcible entry, as the one at bar, it does not matter whether the land is public or private. What are essentials are that the plaintiff had prior physical possession of the land; and that he was unlawfully deprived thereof by force, intimidation, threat, strategy, and stealth.

Moreover, in an ocular inspection conducted in relation to DENR 4 Case No. 5723, DENR Region IV even acknowledged that the southern portion of the 143,417-square-meter property was then already being occupied by

petitioner, allegedly since 1980, and that said portion was fully enclosed with steel post and barbwire, planted to mangoes, mahogany tress, and assorted fruit-bearing trees.[33]

Finally, on this matter, the Resolution dated 30 October 2000 of DENR Region IV in DENR 4 Case No. 5723 cannot be the source of respondent's absolute right over the entire 143,417-square-meter property, to the exclusion of all others, including petitioner, when said resolution merely decreed in the end that she had filed her application for homestead patent. To recall, when respondent did file such an application, it was rejected by DENR Region IV, prompting respondent to then file an application for a free patent, which was subsequently granted.

Given the foregoing, there is nothing in the DENR Region IV Resolution dated 30 October 2000 in DENR 4 Case No. 5723 to prove that respondent was in actual possession of the two parcels of land in dispute prior to petitioner.

The notarized Transfer of Rights dated 29 October 1990 executed by Danga in respondent's favor, covering the 143,417-square-meter property, likewise failed to satisfactorily establish respondent's prior physical possession of the entire property, specifically, the two parcels of land also being claimed by petitioner. Said document is a good evidence of respondent's de jure, but not de facto, possession of the property. It may show that respondent acquired rights to the property by 29 October 1990, but it does not evidence that respondent also actually or physically took over possession of the property by said date.

The Tax Declaration and real property tax clearance for the entire 143,417-square-meter property in the name of respondent do not constitute sufficient evidence of prior physical possession either. These pieces of documentary evidence covered only tax year 2001. More importantly, the tax declaration and real property tax payment may constitute proof of a claim of title over,[34] but not necessarily of actual possession of, the property so declared or for which the realty tax was paid.

In contrast, petitioner submitted as evidence Free Patents No. 045802-91-204 and No. 045802-91-203 granted in his favor over the two parcels of land he had been occupying, by virtue of which, OCTs No. P-619 and No. P-620 were issued in his name on 3 June 1991. While the Court has repeatedly stated herein that titles to the subject property are immaterial to an action for forcible entry, it can reasonably infer from the grant of free patents to petitioner that he had complied with the requirements for the same, including the 30-year possession of the property subject of the patents.[35] At the very least, petitioner has been in possession of the two parcels of land, for which he was granted free patents, as early as 1960. Necessarily then, petitioner possessed the two parcels of land before respondent, who admittedly acquired the 143,147-square-meter property from Danga only on 29 October 1990. The grant of the free patents to petitioner, having been performed in the course of the official functions of the DENR officers, enjoys the presumption of regularity. This means that, absent evidence to the contrary, the Court may presume that the DENR officers issued the free patents to petitioner only after a determination that he had duly complied with all the requirements for the same.

The subsequent issuance on 10 December 2003 of Free Patent No. 045802-03-4722 and OCT No. P-46 in respondent's name and of Free Patent No. 045802-03-4723 and OCT No. P-47 in Remedios' name, covering their respective subdivided portions of the 143,417-square-meter property, is of no moment. Noticeably, the free patents and titles of respondent and her assignee only came 12 years after those of petitioner. Faced with the two sets of free patents and OCTs, one in the names of petitioner and the other in the names of respondent and her assignee, covering the same two parcels of land, the Court is more inclined to uphold the validity of the former. The Court can no longer extend the presumption of regularity to respondent's free patents and OCTs since these were preceded by petitioner's free patents and OCTs. Well settled is the rule that once the patent is registered and the corresponding certificate of title is issued, the land ceases to be part of the public domain and becomes private property,[36] and the State can no longer award the same to another. The pronouncement of this Court in this

case, however, on the validity of the free patents and OCTs of petitioner, on one hand, and those of respondent and her assignee, on the other, is made only in the course of the appreciation by the Court of the evidence submitted by the parties as regards prior possession of the parcels of land in dispute; and is to be regarded merely as provisional, hence, does not bar or prejudice an action between the same parties involving title to the land. Further, Section 7, Rule 70 of the Rules of Court expressly provides that the judgment rendered in an action for forcible entry or unlawful detainer shall be effective with respect to the possession only and in no wise binds the title or affects the ownership of the land or building.[37]

In addition, the free patents and OCTs were issued to respondent and her assignee on 10 December 2003. The MTCC promulgated its Decision in Civil Case No. 68-00 only on 3 May 2004. Respondent still had the opportunity to present the said free patents and OCTs before the MTCC, but failed to do so without any explanation. Therefore, said pieces of documentary evidence cannot be considered by the appellate court even for the purpose of determining the issue of prior possession. With the reality that those documents were never presented and formally offered during the trial in the court a quo, their belated admission for purposes of having them duly considered in the resolution of the case on appeal would certainly be in conflict with Section 34, Rule 132 of the Rules of Court,[38] which reads:

SECTION 34. Offer of Evidence. - The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified.

In view of the fact that respondent failed to substantiate with preponderance of evidence her prior possession of the two disputed parcels of land, she cannot consequently claim, and this Court cannot make a finding, that she has been subsequently ousted from said property or dispossessed of the same by petitioner.

The Court finds no reason to disturb petitioner's possession of the two parcels of land. The Court has consistently held that regardless of the actual condition of the title to the property, the party in peaceable, quiet possession shall not be thrown out by a strong hand, violence, or terror. Courts will always uphold respect for prior possession.[39] Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him.[40]

WHEREFORE, premises considered, the instant Petition for Review, is hereby GRANTED. The Decision dated 25 January 2008 and Resolution dated 1 July 2008 of the Court of Appeals in CA-G.R. SP No. 97334, affirming the Decision dated 4 April 2005 of the Regional Trial Court of Antipolo City, Branch 71, in Civil Case No. 04-361, are hereby REVERSED AND SET ASIDE. The Decision dated 3 May 2004 of the Municipal Trial Court in Cities, Branch 1, Antipolo City, in Civil Case No. 68-00, dismissing respondent's Complaint for Forcible Entry is hereby REINSTATED. Costs against the respondent.

SO ORDERED.

Quisumbing,[*] Carpio, (Chairperson), Peralta, and Abad,**] JJ., concur.

[*] Per Special Order No. 755, dated 12 October 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Leonardo A. Quisumbing to replace Associate Justice Antonio Eduardo B. Nachura, who is on official leave.

[**] Per Special Order No. 753, dated 12 October 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Roberto A. Abad to replace Associate Justice Presbitero J. Velasco, Jr., who is on official leave.

- [1] Penned by Associate Justice Rodrigo V. Cosico with Associate Justices Hakim S. Abdulwahid and Arturo G. Tayag, concurring; rollo, pp. 67-84.
- [2] Id. at 86.
- [3] Now deceased and substituted by her surviving sister, Remedios dela Paz-Mendoza, and the latter represented by Eduardo dela Paz; CA rollo, pp. 470-472.
- [4] Penned by Judge Bayani Y. Ilano; rollo, pp. 224-226.
- [5] Penned by Presiding Judge Antonio M. Olivete; rollo, pp. 197-199.
- [6] Rollo, p. 91.
- [7] Formerly Antipolo, Rizal.
- [8] Rollo, p. 103.
- [9] As evidenced by Technical Description of Lot No. 10008, Mcad-585, Lungsod Silangan Cadastre, Barangay San Juan, Antipolo City, which was approved on 31 January 1989, and verified to be correct by Isidro R. Gellez, Chief of the Technical Standards and Services Section on 25 September 1992, rollo, p. 105.
- [10] CA rollo, p. 162.
- [11] Id. at 163.
- [12] It has not been established that petitioner's two parcels of land are indeed part of respondent's property.
- [13] Rollo, pp. 167-173.
- [14] Id. at 173.
- [15] Id. at 177-178.
- [16] Id. at 308.
- [17] Id. at 309.
- [18] Id. at 238.
- [19] Records, pp. 517-518.
- [20] Id. at 519-520.
- [21] Rollo, p. 324.
- [22] *Habagat Grill v. DMC-Urban Property Developer, Inc.*, 494 Phil. 603, 618-619 (2005).
- [23] *Domalsin v. Valenciano*, G.R. No. 158687, 25 January 2006, 480 SCRA 114, 132.
- [24] G.R. No. 152992, 27 July 2005, 464 SCRA 384, 402, citing *Robles v. Zambales Chromite Mining Co., et al.*, 104 Phil. 688, 690 (1958).
- [25] SECTION 1. Who may institute proceedings, and when. - Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or 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.

[26] David v. Cordova, *supra* note 24.

[27] *Id.*, citing Pitargue v. Sevilla, 92 Phil. 5 (1952).

[28] Spouses Tirona v. Alejo, 419 Phil. 285, 299 (2001).

[29] Sadhwani v. Court of Appeals, 346 Phil. 54, 67 (1997).

[30] Montanez v. Mendoza, 441 Phil. 47, 56-57 (2002).

[31] Buduhan v. Pakurao, G.R. No. 168237, 22 February 2006, 483 SCRA 116, 122.

[32] Sampayan v. Court of Appeals, 489 Phil. 200, 208 (2005).

[33] Rollo, p. 168; Investigation Report of the DENR Region IV, Manila-CENRO, Antipolo City, dated 25 August 2000, rollo, pp. 295-298.

[34] See Republic v. Court of Appeals, 328 Phil. 238, 248 (1996).

[35] Section 44 of Commonwealth Act No. 141, as amended by Republic Act No. 6940 (which took effect on 28 March 1990), provides the following requirements for a grant of free patent over public agricultural land:

Sec. 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the effectivity of this amendatory Act, has continuously occupied and cultivated, either by himself or through his predecessors-in-interest a tract or tracts of agricultural public lands subject to disposition, who shall have paid the real estate tax thereon while the same has not been occupied by any person shall be entitled, under the provisions of this Chapter, to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares.

[36] Director of Lands v. De Luna, 110 Phil. 28, 31 (1960).

[37] Refugia v. Court of Appeals, 327 Phil. 982, 1004 (1996).

[38] Roman Catholic Bishop of Kalibo, Aklan v. Municipality of Buruanga, Aklan, G.R. No. 149145, 31 March 2006, 486 SCRA 229.

[39] Pajuyo v. Court of Appeals, G.R. No. 146364, 3 June 2004, 430 SCRA 492, 510.

[40] *Id.* at 510-511.

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