

**EMMANUEL REYES, SR. AND MUTYA M. REYES, PETITIONERS, VS.
HEIRS OF DEOGRACIAS FORLALES, NAMELY: NAPOLEON
FORLALES, LITA HELEN FORLALES-FRADEJAS, JAIME FORLALES,
JR., JULIUS FORLA...**

G.R. No. 193075. June 20, 2016

Ponente: BRION, J.

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BRION, J.:

We resolve the petition for review on certiorari[1] assailing the October 27, 2009 decision[2] and the July 9, 2010 resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 107624.

The assailed decision affirmed the September 2, 2008 decision[4] of the Regional Trial Court (RTC), Branch 82, Odiongan, Romblon, in Civil Case No. OD-806 which, in turn, affirmed the July 20, 2007 decision[5] of the 5th Municipal Circuit Trial Court (MCTC) of Odiongan-Ferrol, Branch 5, Odiongan, Romblon, in Civil Case No. O3-288.

THE FACTUAL ANTECEDENTS

The present case originated from an unlawful detainer suit filed on October 27, 2005 by respondents Heirs of Deogracias Forlales (respondents) against petitioners Emmanuel Reyes, Sr. and Mutya M. Reyes (petitioners) demanding that the petitioners vacate a portion of Lot No. 1408 (disputed portion) located at Barangay Dapawan, Municipality of Odiongan, Province of Romblon. The portion of land occupied by the petitioners formed part of the estate of Deogracias Forlales which was adjudicated to Mercedes Forlales Bautista (Mercedes).

As early as 1978, the petitioners claimed that they had already been occupying the disputed portion. For one reason or another, they executed an affidavit dated September 18, 1988, saying that their stay on the lot owned by Mercedes was with the permission of Independencia Forlales Fetalvero (Independencia), the administrator of the estate of Deogracias Forlales, and was subject to the terms and conditions imposed by the rightful owner.[6]

On January 5, 1989, Mercedes invited the petitioners to see her for a formal talk regarding their temporary stay on her property, but the latter refused and simply sent a note asking Mercedes if they could stay longer "for the sake of convenience" of their family.[7]

On May 28, 1993, upon realizing that the petitioners still had not vacated the disputed portion, Independencia wrote the petitioners, asking them to vacate the premises within six (6) months from receipt of the letter.

No action followed until the respondents filed a complaint for unlawful detainer on August 28, 1997, docketed as Civil Case No. OD-229. This complaint was dismissed on September 29, 1997, because the respondents filed it one (1) year beyond May 28, 1993, the date Independencia demanded that the petitioners vacate the premises. This decision became final and executory on October 15, 1997.

On May 16, 2005, the respondents, through Independencia, instituted a complaint for ejectment and demolition of the house before the Office of the Sangguniang Barangay, Brgy. Dapawan, Odiongan, Romblon. On May 27, 2005, Independencia sent a formal letter to the petitioners demanding that they vacate the subject property, cease and desist from constructing their house, and remove what had already been constructed.

The respondents' complaint remained unresolved at the barangay level, prompting Independencia to file on October 27, 2005, a complaint for ejectment against the petitioners before the MCTC.

The respondents claimed that the petitioners acknowledged in their affidavit dated September 18, 1988, that Independencia allowed them to occupy a portion of the lot owned by Mercedes on a temporary basis and by mere tolerance. Moreover, in her letter dated January 1998, Mutya stated that their stay on the land was only for the sake of convenience to the family.

The respondents further alleged that sometime in December 2004, they noticed that the petitioners were already building a two-storey house made of strong and concrete materials. This prompted Independencia to report the on-going construction to the Municipality of Odiongan. In turn, the building official concerned issued a notice of illegal construction which the petitioners received on December 15, 2004. All the same, the petitioners refused to cease construction.

The petitioners, on the other hand, claimed that the lot where their house currently stands used to belong to Alejandra Forlales Fabella and Linda Fontamillas, successively.[8] They alleged that these owners allowed them to occupy the disputed portion which was eventually sold to them.

The petitioners mainly argued in their answer that the complaint for ejectment had prescribed. They maintained that if the respondents' suit were to be considered a Forcible Entry case, the right to file it within one (1) year from deprivation of possession had lapsed because their entry allegedly took place even before 1998. Alternatively, as an Unlawful Detainer case, the right to file the action had likewise prescribed because the respondents considered the occupation of the petitioners illegal either when they filed an ejectment case on August 28, 1997, or when they formally demanded the respondents to vacate on May 28, 1993.

The petitioners also contended that the ejectment complaint should be dismissed for *res judicata* because the respondents had filed a similar suit that was dismissed for being filed beyond the one-year period allowed by law.

In its July 20, 2007 decision, the MCTC found that the lot the petitioners are occupying was the lot owned by the respondents. It held that the petitioners' claim that they own the lot was refuted by the affidavit and the note coming from the petitioners themselves.

On the issue on *res judicata*, the MCTC held that the petitioners' claim could not stand because the earlier ejectment case was not dismissed after trial on the merits. Accordingly, the MCTC ordered the petitioners: (1) to vacate the property and deliver it peacefully to the respondents; (2) to remove any improvements they might have introduced on the property; and (3) to pay the fair rental value in the amount of P800.00 per month from May 27, 2005 or the date of demand.

On appeal, the RTC affirmed the MCTC's finding that the petitioners were occupying the lot owned by the respondents. The RTC ruled that although the petitioners' possession lasted beyond May 28, 1993 - the date of the first demand to vacate - their continued possession from then up to the time they received the last demand to vacate on May 27, 2005, should be considered as possession by mere tolerance.

The RTC concluded that the one-year prescriptive period for filing the ejectment suit should be counted from the date of the last demand to vacate because it was only from that time that the petitioners' possession became

illegal.

After the RTC denied their motion for reconsideration, the petitioners filed a petition for review under Rule 42 of the Rules of Court before the CA.

The CA affirmed the findings of the lower courts and upheld their rulings on the substantive issues. The CA agreed with the RTC that the occupancy of the petitioners from May 28, 1993 to May 27, 2005, was possession by mere tolerance. It also agreed with the MCTC that the earlier ejectment suit was dismissed based on a technicality and was not resolved on the merits.

The CA found no merit in the petitioners' motion for reconsideration; hence, the present petition before this Court.

THE PETITION FOR REVIEW

For the most part, the petitioners insist that the one-year period for filing an unlawful detainer suit should start from May 28, 1993 - the date when the respondents first gave their formal demand. They argue that the period should be counted from this date because this was the date when they initially considered the petitioners' possession unlawful.

The petitioners add that the fact that the respondents filed a complaint for ejectment on August 28, 1997, should indicate that they considered the possession illegal on that date. For this reason, the petitioners point out that the CA erred in affirming the ruling that their possession, from May 28, 1993 to May 27, 2005, of the disputed portion was by mere tolerance because the respondents clearly did not tolerate their continued occupation.

Further, the petitioners suggest that counting the one-year period from the demand made by the respondents on May 27, 2005, would make the period for filing an unlawful detainer case within the sole control of the plaintiffs (respondents in this case) by simply sending a demand letter after letter to gain another fresh one-year period after every demand.

Moreover, since the respondents filed the present ejectment case more than twelve (12) years after sending their first demand to vacate, the MCTC no longer has jurisdiction as this case would no longer be an unlawful detainer case.

Finally, the petitioners invoke the principle of *res judicata* as there was a previous decision involving exactly the same issues, subject matter, and parties. They assert that the dismissal of the earlier case was on the merits because it was based on the respondents' failure to file a case within the one-year period from the demand made on May 28, 1993.

On the factual issues, the petitioners claim that the lot on which they built their house is not the same land owned by the respondents. In their complaint dated August 28, 1997, the respondents admitted that the portion occupied by the petitioners is part of Lot No. 780-P and not of Lot No. 1408. Furthermore, in the complaint they filed against Linda Fontamillas for the cancellation of the deed of donation, the respondents likewise acknowledged that the lot they were referring to was Lot No. 780-P. Lastly, the respondents have not actually presented any proof that the petitioners are occupying a portion of Lot No. 1408 because the verification survey to check the location of the disputed portion was not concluded.

OUR RULING

We find the petition meritorious.

We note that the petitioners raise both questions of fact and law in the present petition. We can no longer review

questions of fact as this would require us to reevaluate evidence previously considered and passed upon by the lower courts. The issues that may be resolved in this Rule 45 petition should be limited to the determination of what the law is on the established facts.[9] Otherwise stated, we shall limit our review to whether the CA and the trial courts correctly applied the law in resolving the present case.

In view of this limitation, we are bound by the factual findings that the petitioners occupy the lot that belongs to the respondents. The courts a quo could have hardly erroneously appreciated the evidence in this case as there were documents on record showing that the petitioners asked the respondents if they could continue staying on the respondents' property. Thus, the issue of whether they occupied Lot No. 780-P or a portion of Lot No. 1408 does not matter at this point as the petitioners recognized the authority of the respondents over the portion they built their house on.

On the issue of the proper characterization of the respondent's complaint before the MCTC

With the identification of the disputed portion properly settled, we find that the key to resolving the present controversy is to accurately determine whether the complaint filed by the respondents was one for forcible entry or unlawful detainer.

While both remedies are summary actions to recover physical possession of property, they are distinct and different causes of action under Rule 70 of the Rules of Court. The plaintiff may file a forcible entry case to recover possession against a defendant whose occupation is illegal from the very beginning if he acquired the possession by force, intimidation, threat, strategy, or stealth.[10] On the other hand, he may file an unlawful detainer suit when the defendant's possession of the property was inceptively lawful by virtue of a contract (express or implied) with the plaintiff, but became illegal when he continued his possession despite the termination of the right to do so.[11]

The difference between these two actions is greatly significant in reckoning when the one-year period to file an ejectment suit should begin. If the entry is illegal from its inception, the action which may be filed against the intruder within one (1) year therefrom is forcible entry.[12] If not - or the entry is legal but the possession thereafter became illegal - the case is one of unlawful detainer which must be filed within one (1) year from the date of the last demand to vacate.[13]

Hence, to determine whether the case was filed on time, it is necessary to ascertain whether the complaint is one for forcible entry or for unlawful detainer. Since the main distinction between the two actions is based on when and how the defendant entered the property, the determinative facts should be alleged in the complaint.[14]

The allegations in the complaint determine the nature of the action, as well as the court which has jurisdiction over the case.[15] A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following: (1) initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff; (2) eventually, such possession became illegal upon notice by the plaintiff to the defendant of the termination of the right of possession; (3) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and (4) within one year from the last demand on the defendant to vacate the property, the plaintiff instituted the complaint for ejectment.[16] In the absence of these allegations of facts, an action for unlawful detainer is not the proper remedy and the municipal trial court or metropolitan trial court do not have jurisdiction over the case.[17]

In this case, the complaint alleged the following:

- That sometime in 1998 or even before that the defendant had constructed a residential house of light materials in a portion of land belonging to the heirs of DEOGRACIAS FORLALES, which portion was intended to be

adjudicated to MERCEDES FORLALES BAUTISTA upon partition of the estate of DEOGRACIAS FORLALES;

- That the defendants spouses acknowledged that they were occupying a portion of land owned by MERCEDES FORLALES BAUTISTA located at Dapawan, Odiongan, Romblon, and that their occupancy is temporary in nature as stated in their affidavit dated September 18, 19[8]8, [...] thus they were allowed to occupy the portion of the land by the administrator INDEPENDENCIA FORLALES FETALVERO of the property by tolerance;

- That the defendant MUTYA REYES reiterated in her letter to MERCEDES FORLALES BAUTISTA dated January 1989 that their stay in the land is for the sake of convenience to the family only;

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- That sometime in December 2004, plaintiffs observed the defendants constructing a two (2) storey residential house of strong and concrete materials in [sic] Lot No. 1408, which prompted the administrator of said lot INDEPENDENCIA FORALES FETALVERO to report the on-going construction to the Office of the Building Official of Odiongan, Romblon;

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- That the defendants refused to cease work on their construction, notwithstanding subsequent notices for the Building Official, by reason of which, the plaintiffs, thru INDEPENDENCIA FORLALES FETALVERO, filed a complaint for Ejectment and Demolition of House dated May 16, 2005;

- That, however, because the defendant MUTYA REYES is the Barangay Chairman, the resolution of the complaint seems to be dragging on, hence, a formal letter demand for the defendants to vacate, cease and desist from construction and removal of whatever had been constructed was sent dated May 27, 2005;[18]

On its face, the allegations in the complaint make out a case for unlawful detainer as it would seem that the respondents allowed the petitioners to occupy the disputed portion up until they sent their final demand to vacate on May 27, 2005. But, as correctly raised by the petitioners right from the very start, the respondents had already considered the occupancy unlawful as early as 1993. In other words, contrary to how the CA and the trial courts appreciated the petitioners' occupancy from 1993 to 2005, we find that their possession during this period was not by mere tolerance.

In *Sarona v. Villegas*,[19] we explained that a case for unlawful detainer alleging tolerance must definitely establish its existence from the start of possession; otherwise, a case for forcible entry can hide behind an action for unlawful detainer and permit it to be filed beyond the required one-year prescription period from the time of forcible entry:

A close assessment of the law and the concept of the word "tolerance" confirms our view heretofore expressed that such tolerance must be present right from the start of possession sought to be recovered, to categorize a cause of action as one of unlawful detainer - not of forcible entry. Indeed, to hold otherwise would espouse a dangerous doctrine. And for two reasons: First. Forcible entry into the land is an open challenge to the right of the possessor. Violation of that right authorizes the speedy redress - in the inferior court - provided for in the rules. If one year from the forcible entry is allowed to lapse before a suit is filed, then the remedy ceases to be speedy; and the possessor is deemed to have waived his right to seek relief in the inferior court. Second. If a forcible entry action in the inferior court is allowed after the lapse of a number of years, then the result may well be that no action for forcible entry can really prescribe. No matter how long such defendant is in physical possession, plaintiff will merely make a demand, bring suit in the inferior court - upon a plea of tolerance to prevent prescription to set in - and summarily throw him out of the land. Such a conclusion is unreasonable. Especially if we bear in mind the postulates that proceedings of forcible entry and unlawful detainer are

summary in nature, and that the one year time bar to suit is but in pursuance of the summary nature of the action.[20] *[italics supplied]*

While the foregoing enlightens us when the alleged tolerance must be present (to distinguish the action for unlawful detainer from a forcible entry suit), this explanation similarly applies when a plaintiff files different and successive complaints for unlawful detainer.

At present, we find it hard to believe that the respondents tolerated the occupancy after their attempts to dispossess the petitioners from the lot.

Professor Tolentino defines and characterizes "tolerance" in the following manner:

[...] acts merely tolerated are those which by reason of neighborliness or familiarity, the owner of property allows his neighbor or another person to do on the property; they are generally those particular services or benefits which one's property can give to another without material injury or prejudice to the owner, who permits them out of friendship or courtesy. They are acts of little disturbances which a person, in the interest of neighborliness or friendly relations, permits others to do on his property, such as passing over the land, tying a horse therein, or getting some water from a well. And even though this is continued for a long time, no right will be acquired by prescription. [...]

There is tacit consent of the possessor to the acts which are merely tolerated. Thus, not every case of knowledge and silence on the part of the possessor can be considered mere tolerance. By virtue of tolerance that is considered as an authorization, permission or license, acts of possession are realized or performed. The question reduces itself to the existence or non-existence of the permission.[21] *[citations omitted; italics and emphasis supplied]*

In this light, the occupation from May 28, 1993 up to May 27, 2005 cannot be characterized as possession by mere tolerance. The filing of the first complaint for unlawful detainer four (4) years after May 28, 1993, affirms the fact that the respondents no longer wanted the petitioners to occupy the disputed portion as early as 1993. It was duly alleged in their first complaint that it was on May 28, 1993, when the respondents finally demanded the petitioners to vacate. Thus, the possession of the petitioners after said date started becoming illegal because they no longer had a right to occupy the portion of the lot.

We likewise cannot consider the possession after the dismissal on September 29, 1997, of the first case for unlawful detainer, until the final demand that triggered the present complaint was sent on May 27, 2005. The evidence for the respondents shows that they allowed the petitioners to remain on the disputed portion of the lot thereafter. As plaintiffs, it was incumbent upon the respondents to substantiate their allegation with proof that they continuously tolerated the petitioners occupying the disputed portion until May 27, 2005.

More importantly, we cannot allow the respondents' present suit to prosper because we would effectively allow circumvention of the one-year limitation. This period would be rendered useless if every plaintiff could simply make a new formal demand to vacate every time the Municipal Trial Courts dismisses their complaint on grounds that it was filed beyond the one-year limitation period.

While the rule is to start counting the one-year period from when the last demand was made,[22] our ruling in *Desbarats v. Vda. De Laureano*[23] (whose circumstances are similar to the present case) justifies that the period should be reckoned from the date of the first demand to vacate.[24] In the *Desbarats* case, the lessor persistently made efforts to repossess the property after giving the first demand to vacate. The lessor also filed a complaint for unlawful detainer which was likewise subsequently dismissed. After the complaint was dismissed - as what happened to the respondents in this case - there was no action taken up by the lessor until the second demand to vacate was made.

Consequently, the respondents availed of the wrong remedy after the MCTC dismissed the first complaint because the period allowed to file a complaint for unlawful detainer already lapsed one year after May 28, 1993.

On the issue of res judicata

We likewise find the petitioners' argument of res judicata meritorious.

Between the parties involved, a final and executory judgment has the effect of res judicata - which has two aspects, namely: (a) bar by a prior judgment or when the judgment bars the prosecution of a subsequent action based on the same claim or cause of action; and (b) conclusiveness of judgment or when the judgment precludes the re-litigation of particular issues or facts on a different demand or cause of action. Here, the aspect of res judicata the petitioners are invoking conclusiveness of judgment because the present complaint for unlawful detainer is based on a different and more recent formal demand to vacate.

For res judicata to apply, the judgment relied on must be a legal declaration of the respective rights and duties of the parties based upon the disclosed facts. In other words, the judgment must be based on the merits - matters of substance in law - as distinguished from matters of form.

The courts a quo ruled that the principle of res judicata does not apply in this case as there is no showing that the previous case was dismissed after a trial on the merits. To our mind, the lower courts gravely erred on this point because a judgment on the merits does not have to be one rendered after a trial on the merits for it would be enough that the judgment considered the merits of the complaint.[25]

The dismissal of the first complaint for unlawful detainer was a judgment on the merits because it was based on the complaint and its annexes and on the allegations of the respondents. The earlier decision was on the merits because the respondents failed to show that the complaint was filed within one-year after making a formal demand. This error cannot be considered as a matter of form or technicality for such allegation is a material allegation in any unlawful detainer complaint.

We agree with the petitioners that this defect cannot be remedied by simply sending another formal demand a few years after the first complaint was dismissed. The one-year period to file an unlawful detainer suit has clearly lapsed for the respondents in the present case because of the fact that their mistake already existed at the time of the filing of the first complaint.

Instead, the respondents should have opted to file a real action to recover possession or an accion publiciana of the disputed portion with the appropriate RTC after the MCTC dismissed their first unlawful detainer suit.

An accion publiciana is the plenary action to recover the right of possession which should be brought before the proper RTC when dispossession has lasted for more than one year.[26] If at the time of the filing of the complaint, more than one year had elapsed since defendant had turned the plaintiff out of possession or the defendants' possession had become illegal, the action will be not one of forcible entry or illegal detainer, but an accion publiciana.[27]

In *Gonzaga v. Court of Appeals*[28] we clarified the purpose of ejectment suits in relation to a real action to recover possession or ownership of a property:

In giving recognition to the action of forcible entry and detainer the purpose of the law is to protect the person who in fact has actual possession; and in the case of controverted right, it requires the parties to preserve the status quo until one or the other of them sees fit to invoke the decision of a court of competent jurisdiction upon the question of ownership. It is obviously just that the person who has first acquired possession should remain in possession pending [the] decision; and the parties cannot be permitted meanwhile to engage in petty warfare over the possession of the property which is the subject of dispute. To permit this would be highly

dangerous to individual security and disturbing to social order. Therefore, where a person supposes himself to be the owner of a piece of property and desires to vindicate his ownership against the party actually in possession, it is incumbent upon him to institute an action to this end in a court of competent jurisdiction; and he [cannot] be permitted, by invading the property and excluding the actual possessor, to place upon the latter the burden of instituting an action to try the property right.[29] [emphases supplied]

In addition, we must also consider that there is no credible evidence on record that could establish which lot the petitioners' house actually stands on as the verification survey was not concluded in this case. In other words, the proper RTC would be more competent to resolve the issue of who among the parties have a better right of possession over the disputed portion of the lot.

All told, the CA committed a reversible error when it affirmed the trial courts' ruling; the ejectment complaint filed by the respondents on October 27, 2005 should have been dismissed for being filed beyond the one-year period allowed under the law.

WHEREFORE, premises considered, we GRANT the present petition, REVERSE and SET ASIDE the October 27, 2009 decision and the July 9, 2010 resolution of the CA in CA-G.R. SP No. 107624. The complaint for ejectment dated October 27, 2005 filed by respondents is hereby DISMISSED. Costs against the respondents.

SO ORDERED.

Carpio, (Chairperson), Mendoza, and Leonen, JJ., concur.
Del Castillo, J., on leave.

[1] Under Rule 45 of the Rules of Court; rollo, pp. 7-41.

[2] Id. at 42-53; penned by Associate Justice Martin S. Villarama, Jr., and concurred in by Associate Justice Magdangal M. De Leon and Associate Justice Ricardo R. Rosario.

[3] Id. at 54-56; penned by Associate Justice Magdan&al M. De Leon and concurred in by Associate Justices Mariflor Punzalan-Castillo and Ricardo R. Rosario.

[4] Id. at 74-90, penned by Executive Judge Jose M. Madrid.

[5] Id. at 70-73, penned by Judge Peter M. Montojo.

[6] Id. at 232; Annex "A" of the respondents' comment; Exhibit "B" for the respondents.

[7] Id. at 233, Annex "B" of tho respondents' comment; Exhibit "C" tor the respondents.

[8] Cadastral Lot No. 780-P was donated by Alejandra Forlales Fabella to Linda Fontamillas pursuant to a deed of donation dated September 2, 1993.

[9] Go v. Looyuko, G.R. No. 196529, July 1, 2013, 700 SCRA 313, 318-319. See also Soriente v. Estate of Concepcion, G.R. No. 160239, November 25, 2009, 605 SCRA 315.

[10] Sarmienta v. Manalite Homeowners Association, Inc., G.R. No. 182953, October 11, 2010, 632 SCRA 538, 546.

[11] Ibid.

[12] See Ten Forty Realty and Development Corp. v. Cruz, G.R. No. 151212, September 10, 2003, 410 SCRA 484, 492, citing Sarmiento v. Court of Appeals, 320 Phil. 146, 153-154 (1995) in Go, Jr. v. Court of Appeals,

G.R. No. 142276, August 14, 2001, 362 SCRA 755, 766.

[13] Ibid.

[14] Delos Reyes v. Spouses Odone, G.R. No. 178096, March 23, 2011, 646 SCRA 328, 335-336.

[15] Pagadora v. Ilao, G.R. No. 165769, December 12, 2011, 662 SCRA 14, 30.

[16] Cabrera v. Getaruela, G.R. No. 164213, April 21, 2009, 586 SCRA 129, 136-137. See also Jose v. Alfuerio, G.R. No. 169380, November 26, 2012, 686 SCRA 323, 334; and Delos Reyes v. Spouses Odone, supra note 14 at 344.

[17] Estate of Soledad Manantan v. Somera, G.R. No. 145867, April 7, 2009, 584 SCRA 81, 90; Canlas v. Tubil, G.R. No. 184285, September 25, 2009, 601 SCRA 147, 156.

[18] Rollo, pp. 57-61; Annex "C" of the petition for review on certiorari.

[19] 131 Phil. 365, 371-372 (1968), cited in Jose v. Alfuerio, supra note 16.

[20] Id. at 373, citing Monteblanco v. Hinigaran Sugar Plantation, 63 Phil. 797, 802-803 (1936).

[21] Id. at 372.

[22] Republic v. Sunvar Realty Development Corporation, G.R. No. 194880, June 20, 2012, 674 SCRA 320.

[23] G.R. No. L-21875, September 27, 1966, 18 SCRA 116, cited in Racaza v. Gozum, 523 Phil. 695, 710 (2006).

[24] Id. at 121.

[25] See Perez v. Court of Appeals, G.R. No. 157616, July 22, 2005, 464 SCRA 89, 107; Luzon Development Bank v. Conquilla, G.R. No. 163338, September 21, 2005, 470 SCRA 533, 543-544.

[26] Republic v. Sunvar Realty Development Corporation, supra note 22.

[27] Canlas v. Tubil, G.R. No. 184285, September 25, 2009, 601 SCRA 147, 157.

[28] G.R. No. 130841, February 26, 2008, 546 SCRA 532.

[29] Id. at 540-541, citing Mediran v. Villanueva, 37 Phil. 752, 761 (1918).

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