

HEIR OF PASTORA T. CARDENAS AND EUSTAQUIO CARDENAS, NAMELY REMEDIOS CARDENAS-TUMLOS, REPRESENTED BY HER ATTORNEY-IN-FACT JANET TUMLOS-QUIZON, PETITIONER, V. THE CHRISTIAN AND MI...

G.R. No. 222614. March 20, 2019

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CAGUIOA, J:

Before the Court is a Petition for Review on Certiorari[1] (Petition under Rule 45 of the Rules of Court filed by the petitioner Heir of Pastora T. Cardenas (Pastora) and Eustaquio Cardenas (Eustaquio) (collectively the Sps. Cardenas), namely Remedios Cardenas-Tumlos (Remedios), who is represented by Janet Tumlos-Quizon (Janet) (referred to as the Heir of Sps. Cardenas), assailing the Decision[2] dated February 16, 2015 (assailed Decision) and Resolution[3] dated December 2, 2015 (assailed Resolution) of the Court of Appeals (CA) in CA-G.R. CV No. 02948-MIN.

The Facts and Antecedent Proceedings

As narrated by the CA in its assailed Decision and as culled from the records of the instant case, the essential facts and antecedent proceedings of the case are as follows:

On October 26, 2009, [Remedios], heir of [Sps. Cardenas], represented by her attorney-in-fact, [Janet],[4] filed a Complaint for Recovery of Possession and Use of Real Property and Damages against [respondents] The Christian and Missionary Alliance Churches of the Philippines, Inc. (CAMACOP), Reo Repollo [(Repollo)] and Leocadio Duque, Jr. [(Duque, Jr.)] before the Regional Trial Court (RTC) of Midsayap, Cotabato, Branch 24, docketed as Civil Case No. 09-033.

Janet is the daughter of [Remedios], a widow and a resident of 610 Winthrop Avenue, Glendale Heights, Illinois 601239, United States of America (USA).

CAMACOP is a religious corporation, organized and existing pursuant to the existing laws of the Republic of the Philippines. It is represented by [Repollo and Duque, Jr.]

In her Complaint, Janet alleged that her mother Remedios is the heir of the late [Sps. Cardenas], who are the registered owners of Lot 90, Psd-37322, with an area of 410 square meters, located at Poblacion 6, Midsayap, Cotabato [(subject property)], covered by Transfer Certificate of Title (TCT) No. T-6097 and Tax Declaration No. K-019938 with a [m]arket [v]alue of P550,220.00; and that the subject property is adjacent to Lot 3924-A, Psd-12-013791 owned by CAMACOP where its church is located and constructed.

Janet further alleged that sometime in the year 1962, CAMACOP unlawfully occupied the subject property for their church activities and functions; that CAMACOP continues to unlawfully occupy the subject property to the damage and prejudice of [Janet]; that their repeated oral and written demands fell on deaf ears; and that CAMACOP failed to accede to the demands and continues to occupy the subject property. Thus, her mother Remedios, through her, was constrained to file the case before the court a quo.

For their part, [the respondents] admitted in their Answer that [Cardenas] is the registered owner of the subject

property, which is adjacent to Lot No. 3924-A, Psd-12-013791 owned by the CAMACOP. They further aver in their Answer that their occupation of the subject property is not illegal since they had lawfully purchased it from its registered owners [(referring to Pastora)], who surrendered the owner's duplicate copy to the representative of the church.

[The respondents] alleged that on May 31, 1962, Atty. Rodolfo T. Calud (Calud), counsel and representative of CAMACOP, sent the owner's duplicate copy of the subject property to the Secretary of Agriculture and Natural Resources and four (4) copies of the Deed of Sale, signed by the registered owners, for the Secretary's prior approval, pursuant to Commonwealth Act (C.A.) 141. They further asseverate that their continued occupation of the subject property for a period of forty-seven (47) years had reduced the claim as barred by prescription and the inaction of [Janet] for such period of time had rendered their claim as a stale demand which is barred by laches.

After the pre-trial conference, trial ensued.

x x x x

Thereafter, on June 6, 2012, the [RTC] rendered the assailed Decision[5] dismissing the complaint for lack of merit. [In sum, according to the RTC, CAMACOP was able to provide sufficient documentary and testimonial evidence that the subject property was indeed sold to it by Pastora. Hence, the RTC found as a fact the existence of a sale transaction between CAMACOP and the predecessor-in-interest of Janet and Remedios, i.e., Pastora.]

[On June 27, 2012, Janet filed a Notice of Appeal before the RTC. The appeal was then heard by CA, docketed as CA-G.R. CV No. 02948-MIN.][6] (Emphasis supplied)

The Ruling of the CA

In its assailed Decision, the CA denied Janet's appeal for lack of merit. The dispositive portion of the assailed Decision reads:

WHEREFORE, the appeal is DENIED. The Decision dated June 6, 2012 of the Regional Trial Court of Midsayap, Cotabato, Branch 24, rendered in Civil Case No. 09-033 is AFFIRMED.

SO ORDERED.[7]

The CA held that the Heir of Sps. Cardenas "failed to overcome the burden of proving her claim by preponderance of evidence [and found] that the court a quo did not err in its appreciation of the evidence and in ruling that there was in fact a sale of the subject property by the late spouses in favor of [CAMACOP.] The failure of [Janet] to prove her claim makes [the] appeal vulnerable to denial." [8]

Heir of Sps. Cardenas filed her Motion for Reconsideration[9] dated March 30, 2015, which was subsequently denied by the CA in its assailed Resolution.

Hence, the instant Petition.

CAMACOP filed its Comment/Opposition[10] to the instant Petition on July 20, 2016, to which the Heir of Sps. Cardenas responded to with her Reply[11] filed on August 10, 2016.

Issue

Stripped to its core, the critical issue is the determination of who between the Heir of Sps. Cardenas (Remedios, as represented by Janet) and CAMACOP has a better right to possess the subject property.

The Court's Ruling

While it is a well-established rule that the Court is not a trier of facts and will not delve into evidentiary matters, the Court can exercise its discretion in undergoing a close examination of the testimonial and documentary evidence on record where the findings of fact of the lower courts are not supported by the record or are so glaringly erroneous as to constitute a serious abuse of discretion.[12]

While both the RTC and CA arrived at a similar finding of fact that a contract of sale was indeed entered into by the Heir of Sps. Cardenas' predecessor-in-interest, i.e., Pastora, and CAMACOP, a review of the evidence on record behooves the Court to carefully reexamine and reconsider the factual finding of the lower courts.

At the outset, it must be stressed that the instant case is one for recovery of possession and use of real property. Early on, the Court has held that an action for the recovery of possession must be founded on positive rights on the part of the plaintiff and not merely on negative ones, as the lack or insufficiency of title, on the part of the defendant.[13] Hence, it was incumbent upon the Heir of Sps. Cardenas to establish her positive right of possession over the subject property.

Upon review of the records of the instant case, the Court holds that such positive right of possession over the subject property was sufficiently established by the Heir of Sps. Cardenas.

As borne by the Pre-Trial Order[14] dated April 12, 2010, it is an admitted fact that "the property Lot 90, Psd-37322 covered by TCT No. T-6097 is still registered in the names of Pastora T. Cardenas and Eustaquio Cardenas." [15] In relation to the foregoing admitted fact, it is also not disputed by any party that Remedios, who is being represented by her daughter Janet, is the only daughter and compulsory Heir of Sps. Cardenas.

As a general rule, a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein.[16]

To further support the existence of the Heir of Sps. Cardenas' right of possession over the subject property, it is also an admitted fact that "the same lot is still declared for tax purposes in the name of the plaintiffs Pastora Cardenas and Eustaquio Cardenas." [17] Certified copies of Tax Declaration No. K-019938 [18] dated August 14, 2007 and Real Property Tax Clearance [19] dated December 11, 2009, both in the name of Pastora, were presented by the Heir of Sps. Cardenas. Aside from the foregoing, copies of official receipts [20] showing that real property taxes were paid upon the subject property in 2009 and 2010 under the name of Pastora were offered into evidence. While Tax Declarations are not conclusive proof of ownership, at the very least they are proof that the holder has a claim of title over the property and serve as sufficient basis for inferring possession. [21]

Hence, given the foregoing admitted facts, the burden has then shifted to CAMACOP to provide sufficient evidence establishing that, while the certificate of title covering the subject property is still registered in the names of the Sps. Cardenas, the ownership of the subject property had not remained with the Sps. Cardenas and had been validly transferred to it through a contract of sale in 1962.

In asserting that the subject property was sold by Pastora to CAMACOP, the latter relies on the existence of a Deed of Sale purportedly executed in 1962. CAMACOP however maintains that, since all of the copies of this alleged Deed of Sale had been supposedly lost, it had to resort to the presentation of secondary evidence to prove the existence of this Deed of Sale.

According to Section 5, Rule 130 of the Revised Rules on Evidence, when the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by presenting secondary evidence. These secondary evidence pertain to: (1) a copy of the lost document, (2) by a recital of the contents of the lost document in some authentic document, or (3) by a testimony of a witnesses, in the order stated.

Hence, in order for respondent CAMACOP to prove the existence and contents of the purportedly lost Deed of Sale, it was incumbent upon it to present either (1) a copy of the purported Deed of Sale, or (2) an authentic document containing a recital of the contents of the purported Deed of Sale, or (3) a witness who can testify as to the existence and contents of the purported Deed of Sale, in that order.

Upon close examination of the evidence on record, the Court holds that CAMACOP was not able to provide any sufficient secondary evidence to establish the existence and contents of the supposed 1962 Deed of Sale covering the subject property. In other words, CAMACOP failed to present sufficient evidence proving that a sale indeed occurred between Pastora and CAMACOP over the subject property.

First, CAMACOP was not able to present even a photocopy or any other copy of the purported Deed of Sale.

It is alleged by CAMACOP that no copy of the document is available because its counsel, Atty. Calud, submitted to the then Secretary of Agriculture and Natural Resources of the Department of Agriculture and Natural Resources (DANR), now Department of Environment and Natural Resources (DENR), all the copies of the Deed of Sale. To say the least, it is quite unbelievable and extraordinary that not even a single copy of the purported Deed of Sale was retained by CAMACOP or its counsel, considering the grave importance of such a document. If it is indeed true that the purported documents of sale are in the possession of the then DANR or now the DENR, then it would have been easy for CAMACOP to ask for the issuance of a subpoena to compel the presentation of the said documents before the RTC. Yet, the evidence on record suggest that CAMACOP did not even attempt to do so; it merely relied on the letter correspondence of Atty. Calud.

Second, according to CAMACOP, the purported Deed of Sale is "denominated as Doc. No. 491; Page No. 100; Book No. I; Series of 1962 of the Notarial Register of [Atty. Calud] acting as a notary public." [22] If this is true, then Atty. Calud would have easily been able to produce a copy of the purported Deed of Sale, considering that he was allegedly the notary public who notarized the said document. As a notary public, it was Atty. Calud's duty to keep a record of all the documents that he has notarized. Yet, CAMACOP could not even provide a single shred of credible evidence as to the existence of the purported Deed of Sale in the notarial register of Atty. Calud.

Hence, the Court finds CAMACOP's explanation as to the complete absence of any available copy of the purported Deed of Sale farfetched and implausible.

Third, the secondary evidence presented by CAMACOP, i.e., Letter [23] dated May 31, 1962 of Atty. Calud addressed to the DANR Secretary; Sworn Affidavit [24] of Rev. Leodegario C. Madrigal (Madrigal) dated November 20, 1962; Letter [25] dated May 6, 1963 of Atty. Calud addressed to the DANR Secretary; Letter [26] dated July 23, 1963 of Atty. Calud addressed to the DANR Secretary; Letter [27] dated January 13, 1964 of Atty. Calud addressed to the DANR Secretary; Letter [28] of Aurora B. Marcos (Marcos), Assistant Chief Legal Officer, for DANR Secretary, addressed to the Director of Lands dated March 2, 1964; Letter [29] dated May 19, 1964 of Atty. Calud addressed to the DANR Secretary; Letter [30] dated July 27, 1964 of Atty. Calud addressed to the Editor of the Philippine Free Press; Letter [31] dated November 21, 1966 of Atty. Calud addressed to the DANR Secretary; Letter [32] dated December 23, 1968 of Atty. Calud addressed to the DANR Secretary; and Letter [33] dated December 2, 1999 of Repollo addressed to Rev. Ferdinand Pabrua (Pabrua), EVP-DAF, are all unavailing.

None of these documents contains a recital of the contents of the purported Deed of Sale, as required under the Revised Rules on Evidence. At most, the documents presented merely mention that copies of the purported Deed of Sale were supposedly transmitted to the DANR.

As for the several letters of Atty. Calud, addressed to the DANR Secretary, such documents are grossly insufficient to prove both the existence and contents of the purported Deed of Sale. These letters are completely

self-serving documents. As held by the Court in *Villanueva v. Balaguer*,^[34] a man cannot make evidence for himself by writing a letter authored by himself containing the statements that he wishes to prove. Aside from the wholly self-serving letters of Atty. Calud, there is no concrete and believable evidence showing that there were indeed copies of the purported Deed of Sale that were transmitted to the DANR Secretary.

As supposed proof of the transmittal of the copies of the purported Deed of Sale to the DANR Secretary, CAMACOP presented the supposed Letter dated March 2, 1964 authored by one Marcos, Assistant Chief Legal Officer for the DANR Secretary, addressed to the then Director of Lands. However, there is nothing in the said document that mentioned or acknowledged the transmittal of the documents to the DANR Secretary. The letter merely showed that the DANR Secretary asked the then Director of Lands to look into the matter. In fact, this letter is unsigned, creating much doubt as to its authenticity.

With respect to the Sworn Affidavit of Madrigal dated November 20, 1962 and Letter dated December 2, 1999 of Repollo addressed to Pabrua, EVP-DAF, not only are they in the nature of self-serving statements coming from representatives of CAMACOP, it must also be stressed that they are clearly hearsay evidence with respect to the purpose of proving the existence and contents of the purported Deed of Sale. These individuals have absolutely no personal knowledge as to the preparation and execution of the purported Deed of Sale itself. In fact, these persons do not even claim that they have personally seen the purported Deed of Sale.

Particularly striking is the fact that in the Sworn Affidavit of Madrigal, he mentioned that the property purchased by CAMACOP is the one "particularly described in Original Certificate of Title No. 1759 of the Province of Cotabato."^[35] It must be emphasized that the subject TCT covering the subject property pertain to the area covered by "Original Certificate of Title No. 1674."^[36] This glaring discrepancy further puts into doubt the position of CAMACOP.

To make matters worse, the secondary evidence presented by CAMACOP are all inauthentic and inadmissible documents.

The records show that the secondary evidence presented by CAMACOP are all mere photocopies. According to the Revised Rules on Evidence, no evidence shall be admissible other than the original document itself.^[37] CAMACOP did not provide any sufficient justification as to its failure to present the original copies of the documents.

Furthermore, the documents were not properly authenticated. All of CAMACOP's documentary evidence, from Exhibits 1 to 11, were identified and authenticated by its first witness, Repollo, who is a member of CAMACOP.

According to Section 20, Rule 132 of the Revised Rules on Evidence before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either by (a) anyone who saw the document executed or written or (b) by evidence of the genuineness of the signature or handwriting of the maker.

In the instant case, it is readily admitted that Repollo did not personally witness the execution of any of the documents he identified. In fact, Repollo testified that these documents were merely turned over to him by his mother.^[38] Nor was Repollo knowledgeable as to the genuineness of the signatures or handwritings found in the documents. Truth be told, Repollo had no participation and knowledge whatsoever as to the preparation, execution, and authenticity of the documents he identified. Otherwise stated, Repollo was totally incompetent to present and testify on these documents. Hence, without proper identification and authentication, the documentary evidence of CAMACOP should not have been admitted into evidence by the RTC.

Thus, without any copy of the purported Deed of Sale and any authentic document containing a recital of the

contents of the purported Deed of Sale, CAMACOP should have provided a credible, convincing witness to prove the existence and contents of the purported Deed of Sale.

No such witness was provided by CAMACOP.

With respect to CAMACOP's first witness, Repollo, he readily admitted on the witness stand that he did not personally see any copy of a deed of sale covering the subject property.[39] With respect to CAMACOP's third witness, Pastor Jerry Juarez (Juarez), he testified that he has no personal knowledge as regards the subject property and that certain files were merely handed down to him when he became the Resident Pastor of CAMACOP sometime in May 1992.[40] It is clear that Repollo and Juarez are mere hearsay witnesses who have no personal knowledge as to the circumstances surrounding the alleged contract of sale entered into between CAMACOP and Pastora.

The sole witness presented by CAMACOP who allegedly acquired personal knowledge as to the purported sale transaction between CAMACOP and Pastora is the second witness of CAMACOP, i.e., Eudecia M. Repollo (Eudecia).

According to Eudecia, as the then Secretary-Treasurer of CAMACOP, she was the one who paid One Hundred Twenty Pesos (P120.00), with Ten Pesos (P10.00) allotted for attorney's fees, to Pastora as consideration for the sale of the subject property and co-signed the purported Deed of Absolute Sale.[41]

Aside from the testimony being self-serving and uncorroborated, it is highly significant to point out that according to the testimony of Eudecia, the lot purchased by CAMACOP from Pastora refers to a lot measuring One Hundred Ten (110) square meters only, located beside Lot 3924-A, Psd-12-01379, which is currently owned and possessed by CAMACOP. To stress, the subject property is a Four Hundred Ten (410)-square meter lot.

On cross examination, when asked if she was sure that the property purchased by CAMACOP from Pastora is only One Hundred Ten (110) square meters, Eudecia unequivocally answered: "Yes, sir." [42] The statements made by Eudecia on cross examination leave absolutely no doubt that, if indeed there was a sale that occurred between CAMACOP and Pastora, such was only limited to One Hundred Ten (110) square meters:

Q

When you paid the amount of P110.00, you did not see the title?

A

We received the title from Mrs. Pastora Cardenas, it was given to us.

Q

Did you see the area?

A

Yes, sir.

Q

What is the area?

A

110 square meters.

Q

What you have purchased is 110 square meters?

A

Yes, sir.

Q

Are you sure of that, only 110 and not 410?

A

I am sure 110 square meters only because the other portion was donated by Mr. Pascual Cocal and when it was resurveyed maybe it was already included.

x x x x

Q

As far as you know, you only purchased 110 square meters of Lot 90?

A

Yes, that's all what I know.[43]

Hence, the very witness of CAMACOP itself confirmed under oath that if ever there really was a sale covering the subject property entered into by CAMACOP and Pastora, such sale did not cover the entire subject property which they are currently occupying, but only One Hundred Ten (110) square meters out of the entire Four Hundred Ten (410) square meters, which is adjacent to Lot 3924-A, Psd-12-01379 currently owned and occupied by CAMACOP

Considering the foregoing, the Court finds the Heir of Sps. Cardenas' Complaint for Recovery of Possession and Use of Real Estate[44] meritorious.

Having said that, the Court does not find that the Heir of Sps. Cardenas has the right to recover possession of the entire subject property.

In the instant Petition, the Heir of Sps. Cardenas unequivocally stated that "the decision should have been to award to respondent CAMACOP the 110 square meters and the remaining area after deducting the 110 square meters to be retained by petitioner." [45] In addition, Janet unambiguously and unmistakably admitted in the

instant Petition that "the 110 square meters x x x rightfully may be ruled as owned by respondent CAMACOP." [46] In fact, in her prayer for relief, the Heir of Sps. Cardenas even asks that the One Hundred Ten (110) square meters of the subject property be adjudicated to CAMACOP. [47] Hence, by express admission by Janet as to the sale of the One Hundred Ten (110)-square meter portion of the subject property to CAMACOP, the Court allows the latter to retain possession of the said portion of the subject property.

Lastly, neither can it be argued that CAMACOP has acquired the right to possess the subject property by virtue of prescription or laches.

According to Section 47 of Presidential Decree No. (P.D.) 1529, "[n]o title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession." There can be no acquisitive prescription with respect to a titled parcel of land. [48] The Court has explained that, by express provision of Section 47 of P.D. 1529, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession:

x x x. By express provision of Section 47 of P.D. 1529, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession. To declare that the decree and its derivative titles is valid but only with respect to the extent of the area described in the decree not possessed by occupants with indefeasible registered titles or to possessors with such lengths of possession which had ripened to ownership is to undermine the people's faith in the torrens titles being conclusive as to all matters contained therein. The certificate serves as evidence of an indefeasible title to the property in favor of the person whose names appear therein. x x x [49]

In *Umbay v. Alecha*, [50] the Court explained that the right to recover possession of registered land is imprescriptible on the part of the registered owner because possession is a mere consequence of ownership. [51] Moreover, the Court also explained that prescription is unavailing, not only against the registered owner, but also against his hereditary successors because the latter merely step into the shoes of the decedent by operation of law and are merely the continuation of the personality of their predecessor-in-interest. [52]

With respect to the application of laches, the Court disagrees with the CA in its holding that the doctrine of laches precludes the Heir of Sps. Cardenas from instituting the instant action to recover possession over the subject property.

Laches has been defined as such neglect or omission to assert a right, taken in conjunction with lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity. Laches is different from and applies independently of prescription. While prescription is concerned with the fact of delay, laches is concerned with the effect of delay. Prescription is a matter of time; laches is principally a question of inequity of permitting a claim to be enforced, this inequity being founded on some change in the condition of the property or the relation of the parties. Prescription is statutory; laches is not. Laches applies in equity, whereas prescription applies at law. Prescription is based on a fixed time; laches is not. [53]

While a person may not acquire title to the registered property through continuous adverse possession, in derogation of the title of the original registered owner, the heir of the latter, however, may lose his right to recover back the possession of such property and the title thereto, by reason of laches. [54]

In *Catholic Bishop of Balanga v. CA*, [55] the Court enumerated the essential elements of laches, namely: (1) Conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation complained of; (2) Delay in asserting complainant's right after he had knowledge of the defendant's conduct and after he has an opportunity to sue; (3) Lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) Injury or prejudice to the defendant in the event relief is accorded to

the complainant.

In the instant case, according to the CA, the doctrine of laches finds application because Janet "did not transfer the title of the subject property in her name despite the passage of more than forty (40) years since the demise of her late parents [and] admitted the fact that [CAMACOP] has been in possession of the subject property since 1962 [; but] no formal action was taken by her except in 2009 when she sent demand letters to [CAMACOP]."[56]

However, when asked by the RTC as to when was the first time she gained any knowledge as to CAMACOP's act of constructing a building on the subject property, the Heir of Sps. Cardenas testified on the witness stand that it was only in the year 2000 that she discovered CAMACOP's construction activities on the subject property.[57] Janet also testified under oath that since 2000, "we were meeting already with the barangay regarding this problem"[58] and that since 2000, Janet had already been in contact and had engaged into negotiation with CAMACOP with respect to the dispute. On cross examination, Janet testified that CAMACOP intimated to her in 2000 that they are supposedly in possession of a Deed of Sale. Hence, Janet decided to give CAMACOP sufficient time to produce this document.[59] When it was apparent to Janet that CAMACOP would not be able to produce the purported Deed of Sale, it was then that a formal action for recovery of possession was instituted. Such testimony was left un rebutted by CAMACOP.

Hence, based on the un rebutted testimony of Janet, the Court is not convinced that there was considerable delay on her part and that she slept on her rights so as to successfully invoke the doctrine of laches.

WHEREFORE, the instant appeal is GRANTED. The Decision dated February 16, 2015 and Resolution dated December 2, 2015 of the Court of Appeals in CA-G.R. CV No. 02948-MIN are hereby REVERSED AND SET ASIDE. Necessarily, the Decision dated June 6, 2012 rendered by the Regional Trial Court of Midsayap, Cotabato City, Branch 24 is likewise REVERSED AND SET ASIDE.

The respondents The Christian and Missionary Alliance Churches of the Philippines, Inc. (CAMACOP), Reo Repollo and Leocadio Duque, Jr. are hereby ordered to TURN OVER POSSESSION of the subject property to the Heir of Pastora T. Cardenas and Eustaquio Cardenas, namely petitioner Remedios Cardenas-Tumlos, as represented by petitioner Janet Tumlos-Quizon. The respondents are allowed to RETAIN POSSESSION of the One Hundred Ten (110) Square Meters portion of the subject property adjacent to Lot 3924-A, Psd-12-013791 currently owned by CAMACOP.

SO ORDERED.

Carpio[*] (Chairperson), Perlas-Bernabe, J. Reyes, Jr., and Lazaro-Javier, JJ., concur.

[*] Designated as Acting Chief Justice per Special Order No. 2644 dated March 15, 2019.

[1] Rollo, pp. 4-32.

[2] Id. at 33-43. Penned by Associate Justice Henri Jean Paul B. Inting with Associate Justices Maria Filomena D. Singh and Pablito A. Perez, concurring.

[3] Id. at 52-54.

[4] A Special Power of Attorney dated January 20, 2009 was executed by Remedios in favor of Janet. Records, pp. 168-170.

[5] Records, pp. 327-339.

- [6] Rollo, pp. 34-38.
- [7] Id. at 43.
- [8] Id.
- [9] Id. at 45-51.
- [10] Id. at 69-74.
- [11] Id. at 77-84.
- [12] Lim v. Court of Appeals, 242 Phil. 41, 47 (1988).
- [13] Florentino v. Cortes, 18 Phil. 281, 283 (1911).
- [14] Records, pp. 85-88. Penned by Presiding Judge Lily Lydia A. Laquindanum.
- [15] Id. at 86; emphasis and underscoring supplied.
- [16] Heirs of Brusas v. Court of Appeals, 372 Phil. 47, 54 (1999).
- [17] Records, p. 86; emphasis and underscoring supplied.
- [18] Id. at 11.
- [19] Id. at 175.
- [20] Id. at 176-178.
- [21] Republic of the Phils. v. Metro Index Realty and Dev't Corp., 690 Phil. 31, 40 (2012).
- [22] Records, p. 305.
- [23] Id. at 31.
- [24] Id. at 32.
- [25] Id. at 33.
- [26] Id. at 34.
- [27] Id. at 35.
- [28] Id. at 36.
- [29] Id. at 37.
- [30] Id. at 38.
- [31] Id. at 39.
- [32] Id. at 40.
- [33] Id. at 41.
- [34] 608 Phil. 463, 474 (2009).
- [35] Records, p. 310; emphasis supplied.
- [36] Id. at 10; emphasis supplied.

- [37] RULES OF COURT, Rule 130, Sec. 3.
- [38] TSN, February 21, 2011, p. 7, records, p. 197.
- [39] Id. at 35, records, p. 225.
- [40] TSN, February 20, 2012, pp. 5-6, records, pp. 299-300.
- [41] TSN, April 25, 2011, p. 6, records, p. 242.
- [42] Id. at 11, records, p. 247.
- [43] Id. at 12-13, records, pp. 248-249; emphasis and underscoring supplied.
- [44] Records, pp. 1-4.
- [45] Rollo, p. 20; emphasis supplied.
- [46] Id. at 21; emphasis supplied.
- [47] Id. at 24.
- [48] Reyes v. CA, 328 Phil. 171, 183 (1996).
- [49] Republic of the Phils. v. Court of Appeals, 281 Phil. 177, 198 (1991).
- [50] 220 Phil. 103 (1985).
- [51] Id. at 107.
- [52] Id. at 106.
- [53] Heirs of Lacamen v. Heirs of Laruan, 160 Phil. 615, 621 (1975).
- [54] Id. at 622.
- [55] 332 Phil. 206, 220 (1996).
- [56] Rollo, pp. 39-42.
- [57] TSN, November 22, 2010, p. 28, records, p. 160.
- [58] Id. at 24, records, p. 156.
- [59] Id. at 18-19, records, pp. 150-151.

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