

**MAXIMO C. MARIANO, SOLEDAD C. MARIANO, SUSAN C. MARIANO,
RUTH M. MARIANO, JOSEPH M. MARIANO, AND MARILOU
MARIANO-JACINTO, PETITIONERS, VS. CLEMENTE P. MARIANO,
RESPONDENT.**

G.R. Nos. 224083-84. June 28, 2021

Ponente: LOPEZ, J., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-224083-84/>

LOPEZ, J., J.:

Assailed in this Petition for Review on Certiorari[1] is the consolidated Decision[2] dated September 30, 2015, of the Court of Appeals (CA) in CA-G.R. CV No. 99797 and CA-G.R. SP No. 133848, which reversed the Decision[3] dated September 20, 2012 of the Regional Trial Court (RTC) of Lucena City, Branch 55, in Civil Case No. 2006-36 (partition and reconveyance case), and Decision[4] dated January 29, 2013 of the Regional Trial Court of Lucena City, Branch 57, in SPCA No. 2010-02-A (ejectment case).

The Antecedents

The subject of the controversy is a portion of a parcel of land located in Barrio Bukal Poblacion, Pagbilao, Quezon, covered by TCT No. 90516 and registered in the name of Honesto Mariano Sr. (Honesto, Sr.).[5]

In 1969, Honesto, Sr. sold a portion of his property to a certain Concepcion Pabellon. Thereafter, he caused the subdivision of the remaining portion of his land, among which were Lot Nos. 168-C-6-A, 168-C-6-B, 168-C-6-C, 168-C-6-D, 168-C-6-E, 168-C-6-F, 168-C-6-G, and 168-C-6-K.[6]

A decade after, Honesto, Sr. sold Lots 168-C-6-B and 168-C-6-G, to his son, Romeo Mariano (Romeo). A new title to the property was subsequently issued in Romeo's name. Not long after, Honesto, Sr. sold Lot No. 168-C-6-A to a certain Ester Luna.[7]

On August 17, 1973, Honesto, Sr. died. To settle the properties which Honesto, Sr. left, Victoria Mariano (Victoria), the second wife of Honesto, Sr., and the latter's sons from his first wife, Sixta Panday, namely: Romeo and Honesto Mariano, Jr. (Honesto, Jr.) executed a partition agreement dated December 31, 1973 over the remaining parcels of land. The partition agreement was annotated in the mother title. As a consequence, the titles previously registered in the name of Honesto, Sr. were cancelled and new ones were issued as follows: TCT No. T-114934[8] (covering Lot Nos. 168-C-6-C) in the name of Romeo; TCT Nos. T-125293 and T-125294 (covering Lot Nos. 168-C-6-D and 168-C-6-E) were issued in the name of Honesto, Jr.; and TCT No. T-121438 (covering Lot No. 168-C-6-K) was issued in the name of Victoria. On March 15, 1974, Victoria sold Lot No. 168-C-6-K to the spouses Clemente T. Alcala and Adoracion J. Ibanez. As such TCT No. T-121459 was subsequently issued to them.[9]

On August 12, 2005, Honesto, Jr. filed an ejectment case before the Municipal Trial Court of Pagbilao, Quezon against Susan Mariano (Susan), his half-sister to Victoria and Honesto, Sr. Accordingly, Susan filed her Answer with Motion to Dismiss thereto.[10]

Subsequently, Honesto, Jr. filed an Amended Complaint dated March 9, 2006 to which Susan filed her Answer to Amended Complaint.[11]

Meanwhile, on May 5, 2006, Susan was joined by her full siblings, Manuel, Maximo, and Soledad, in filing a case for Partition and Reconveyance before the RTC of Lucena City, against their half-siblings Honesto, Jr. and Romeo, the latter having been succeeded by Maricel, Teresita, Annie, Ramoncito, Romeo, Jr., Rod, and Rolly, all surnamed Mariano. They prayed, among others, for the collation of the subdivided properties covered by TCT No. 90516, which were left by their patriarch, and for the properties to be divided accordingly.[12]

On September 12, 2007, Honesto, Jr. died. He was survived by his wife, Jacinta, and their six children, namely: Osmundo, Jose, Luz, Clarita, Antoinette, and Clemente. Thereafter, the heirs signed a Deed of Extrajudicial Settlement of Estate with Waiver of Rights, instituting Clemente as the sole heir to Lot Nos. 168-C-6-D and 168-C-6-E. Hence, TCT Nos. T-125293 and T-125294 were cancelled and Clemente was issued TCT Nos. T-483073 and T-483074 on February 17, 2009.[13]

On June 9, 2009, Clemente substituted his father to the ejectment case. In the Second Amended Complaint which he had filed in court, Clemente claimed that his father was the registered owner of Lot Nos. 168-C-6-D and 168-C-6-E and had been in legal possession thereof since 1974. Honesto, Jr. merely allowed Susan to build a house and install improvements thereon with Susan's promise to vacate the premises once enjoined. In a letter dated July 16, 2004, Honesto, Jr. demanded Susan to give up the occupancy of the subject property within 15 days from receipt of the notice, but the latter refused to accede which prompted Clemente to ask for her eviction and payment of rentals and damages.[14]

In her Answer, Susan denied Clemente's ownership and possession of the land in dispute. Instead, she claimed that she is the rightful owner being a child of the original owner. She added that the partition agreement which her mother and half-siblings have executed was void because the signature of Victoria appearing thereon was forged. According to her, the succeeding titles issued pursuant to the partition agreement are considered void.[15]

The Ruling of the MTC (Ejectment Case)

In a Decision[16] dated November 24, 2009, Presiding Judge Maria May S. Zafranco-Redor of the Municipal Trial Court (MTC) of Pagbilao, Quezon, ruled in favor of Clemente, the decretal portion of the decision states:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff Clemente P. Mariano and against defendant, ordering said defendant to vacate the subject properties (Lot 168-C-6-D, with an area of 1,511 square meters and Lot 168-C-6-E, with an area of 1,760 square meters), both located at Bukal (Poblacion), Pagbilao, Quezon and covered by Transfer Certificate of Title Nos. T-483073 and T-483074, and to deliver peaceful possession thereof to the plaintiff cleared of all or any improvements thereon belonging to defendant, for the defendant to pay the plaintiff the monthly rental of P200 from the time the (original) Complaint was filed on August 12, 2005 until vacation of the property, and to pay attorney's fees of P10,000.00.

SO ORDERED.[17]

The RTC Ruling

Susan appealed the adverse decision to the RTC of Lucena City. In a Decision dated January 29, 2013, the RTC of Lucena City, Branch 57, made a different stance and reversed the MTC's disposition. According to the RTC, the complaint made no allegation as to how Honesto, Jr., the original plaintiff, tolerated or allowed Susan to occupy the land in dispute. The RTC also added that Susan's claim of having occupied the property in the concept of an owner (as heir to Honesto, Sr.) has not been defeated. Thus, the RTC ruled as follows:

WHEREFORE, the assailed Decision, dated November 24, 2009, of the Municipal Trial Court of Pagbilao, Quezon, is hereby REVERSED and SET ASIDE and the complaint for Ejectment (Unlawful Detainer) is hereby DISMISSED.

SO ORDERED.[18]

The Ruling of the RTC

(Partition and Reconveyance Case)

In the interim, Presiding Judge Bienvenido A. Mapaye of the RTC Branch 55, Lucena City, rendered a Decision dated September 20, 2012, in the partition and reconveyance case, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants:

1. Ordering the collation and partition on a share and share[-]like basis into 7 shares of all the portions of the property sold or disposed during the lifetime of Honesto Mariano, Sr. to Rorneo Mariano;
2. Ordering the collation and re-partition on a share and share[-]like basis into 7 shares of the lot apportioned to Victoria Cristobal-Mariano and those two (2) residential lots subject matter of the present suit allotted to the late Honesto Mariano, Jr. described in the deed of (extrajudicial) partition indicated at the back of TCT Nos. T-114935 and T-114936 of the Registry of Deeds of Quezon;
3. Mandating the defendants to pay plaintiffs jointly and severally the following amount[s] [of] P30,000[.00] as attorney's fees, P50,000[.00] as moral damages[,] and P16,397.00 [as] court's filing fees, contemplated above.

SO ORDERED.[19]

Aggrieved by the foregoing rulings, Clemente elevated the September 20, 2012 Decision of the RTC, Branch 55, Lucena City to the CA, which was accordingly docketed as CA-G.R. CV No. 99797. He also a filed Petition for Review before the CA to question the January 29, 2013 Decision of the RTC, Branch 57, Lucena City. The petition was, subsequently, docketed as CA-G.R. SP No. 133848. Thereafter, both cases were ordered consolidated.

Ruling of the Court of Appeals

On September 30, 2015, the CA issued its Consolidated Decision, the decretal portion of which reads:

FOR THE STATED REASONS, the Court renders Judgment as follows:

1. In CA-GR. CV No. 99797, the Appeal is GRANTED. The Decision dated 20 September 2012 of the Regional Trial Court of Lucena City, Branch 55, in Civil Case No. 2006-36 is hereby REVERSED and SET ASIDE. Accordingly, the Complaint is DISMISSED; and
2. In CA-G.R. SP No. 133848, the Petition is GRANTED. The Decision dated 29 January 2013 of the Regional Trial Court of Lucena City, Branch 57, in SPCA Case No. 2010-02-CA, is hereby REVERSED and SET ASIDE, and the Decision dated 24 November 2009 of the Municipal Trial Court of Pagbilao, Quezon, in Civil Case No. 1042-05, is REINSTATED.

SO ORDERED.[20]

In its disposition, the CA noted that the parties were all compulsory heirs of Honesto, Sr. With the execution of the extrajudicial partition agreement as only between Victoria and the children from the first marriage, the partition agreement was fraudulently obtained because it deprived the other heirs to receive their respective shares in the estate of their patriarch. However, the CA explained that the period to institute an action to annul an extrajudicial settlement is only four (4) years from the discovery of fraud. Such prescriptive period began in 1974

when the parties had constructive notice of the annotation of the partition agreement in the title. With the lapse of such period without Susan and her co-parties challenging the validity of Honesto, Sr.'s estate settlement, prescription has already set in. The CA went on to state that even if the civil action will be treated as one for reconveyance, it will still suffer the same fate. The CA expounded that the right to seek reconveyance based on an implied or constructive trust is not absolute. It is subject to extinctive prescription which period is set to ten (10) years if the plaintiff is not in possession of the property, reckoned from the time the adverse party repudiates the implied trust. Citing *Estate of Cabacungan v. Laigo*[21] and *Crisostomo v. Garcia*,[22] the CA said that repudiation took place in 1974 when the adverse party registered the land and the issuance of the title operated as a constructive notice thereof. In case the property is in the possession of the plaintiff, the action to quiet title does not prescribe. Expounding our ruling in *Heirs of Olviga v. CA*,[23] the appellate court said that possession is not only acquired through material occupation but also through juridical acts, such as donations, succession, execution, registration of public instruments, and inscription of possessory information in the titles.[24]

As borne by the records, it was Honesto, Jr., and now Clemente, who possessed the subject lots in the concept of an owner following the execution of the partition agreement on December 31, 1973. The CA then added that while Susan and her co-parties claimed that their mother's signature appearing on the partition agreement was a forgery, they failed to substantiate their allegation by clear, positive, and convincing evidence. More importantly, Honesto, Jr.'s action for unlawful detainer against Susan negates the latter's claim of possession over the subject properties. The CA likewise unraveled that even if the action to nullify the agreement does not prescribe, laches would still bar Susan and her co-parties from belatedly asserting their claim. Having incurred an unreasonable delay in challenging the estate settlement, Susan and her co-parties are already estopped to question the same.[25]

As to the appealed ejectment case, the CA pointed out that the timeliness of the filing of a complaint for unlawful detainer is not an issue in this case. The appellate court held that the failure of the Second Amended Complaint to allege how and when Susan came into possession of the properties does not mean that the MIC did not acquire jurisdiction over the complaint. The CA opined that for as long as the allegations in the complaint satisfy a cause of action for unlawful detainer, then the court has already acquired jurisdiction over the subject matter. In settling the issue of who is entitled to possession over the disputed property, the CA ruled in favor of Clemente. In so ruling, the CA elucidated that being the registered owner of the subject property, Clemente enjoys superior right to possess it, which is one of the attributes of his ownership. Besides, Susan has failed to refute Clemente's allegation that her occupation of the subject land was by mere tolerance of Honesto, Jr. because they are half-siblings. The CA surmised that even if Honesto, Sr. told his second wife and his children that Susan would inherit the subject property, the fact remains that Honesto, Jr., and eventually Clemente, obtained titles to the disputed land. Consequently, when Honesto, Jr. withdrew his tolerance to Susan's use of the properties in dispute, her refusal to vacate the same rendered her possession unlawful. Finally, the CA upheld Clemente's indefeasibility of title, considering that his right to physically possess the subject properties arising from his ownership cannot be defeated by Susan's mere claim that Clemente and his predecessors-in-interest are not the true owners thereof.[26]

Hence, this Petition.

Issue

Whether the CA erred in reversing the Decision of the RTC in the partition/reconveyance case and ejectment case and in recognizing Clemente's ownership over the property in dispute.

This Court's Ruling

At the outset, it is perceptible from the arguments of the petitioners that they are calling for the Court to reassess the evidence presented by the parties. The petitioners are, therefore, raising questions of fact beyond the ambit of

the Court's review. In a petition for review under Rule 45 of the Rules of Court, the jurisdiction of the Court in cases brought before us from the CA is limited to the review and revision of errors of law allegedly committed by the appellate court.[27] However, the conflicting findings of fact and rulings of the MTC, RTC, and the CA compel us to revisit the records of this case. But even if the Court were to re-evaluate the evidence presented, considering the divergent positions of the courts below, the petition would still fail.[28]

As earlier intimated, petitioners anchor their possession of the subject properties on their right to inherit from their father's estate. The petitioners insist on the nullity of the partition agreement which was executed by their mother and their half-siblings in 1973 by claiming forgery of their mother's signature. Being a fraudulent document, Honesto, Jr. never acquired any lawful right thereto. So, too, did no such right pass on to Clemente.

For respondent Clemente, his cause of action is based on his ownership of Lot 168-C-6-D and Lot 168-C-6-E which is evidenced by TCT Nos. T-483073 and T-483074, and by his claim that his predecessor-in-interest merely tolerated petitioner's occupation thereof. Being the registered owner, respondent is entitled to its possession and to evict anyone who lays claim over it. According to him, petitioners' act of impugning the partition agreement upon which respondent derived ownership of the subject properties is tantamount to a collateral attack to his title which the law abhors.

The point of inquiry now is whether the respondent has the right to evict the petitioners from the properties in dispute.

It is an elementary principle of civil law that the owner of real property is entitled to the possession thereof as an attribute of his or her ownership. In fact, the holder of a Torrens title is the rightful owner of the property thereby covered, and is entitled to its possession.[29]

Records bare out that Honesto, Jr., the original plaintiff in the ejectment case below, is the registered owner of the subject property as evidenced by TCT No. 125293. Petitioners' possession of certain portions of the lot was by mere tolerance and permission of the registered owner. Such tolerance ceased to exist when Honesto, Jr. demanded petitioners to vacate the premises by sending a letter to petitioners' last known addresses. Yet despite receipt of the letter on August 13, 2004, they refused to heed the demand.

As between petitioners' bare assertion of possession and respondent's registered title to the properties, the latter must prevail. The respondent's title over such area is evidence of his ownership thereof. That 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 and that a person who has a Torrens title over a land is entitled to the possession thereof are fundamental principles observed in this jurisdiction. Alternatively put, the respondent's title and that of his predecessors-in-interest gave rise to the reasonable presumption that the petitioners have no right over the subject area and that their stay therein was merely tolerated. The petitioners failed to overcome this presumption, being inadequately armed by a narration that yearns for proof and corroboration.[30]

Petitioners, however, set up co-ownership as an issue, banking on their right to inherit from their father's estate. They aver that they, too, are heirs of Honesto, Sr. yet they were not included in the 1973 partition agreement. Having been left out, they refused to honor the deed upon which Clemente derives his title thereto thus, challenging it before the RTC.

Petitioners' argument fails to persuade. Their argument that respondent's title is a nullity because the deed of partition that was the source of his title is void for failure to include all the heirs, and even branded it as a forgery because their mother's signature thereon was allegedly falsified, is a collateral attack against the Torrens title of the respondent – an attack that the Court cannot allow.[31]

Thus, we fully agree with the appellate court's ruling that –

x x x following the execution of the partition agreement on 31 December 1973, TCT Nos. T-125293 and T-125294 covering Lot Nos. 168-C-6-D and 168-C-6-E, respectively, were issued in Honesto[,] Jr.'s name. When the latter died on 12 September 2007, his heirs executed a Deed of Extrajudicial Settlement of Estate with Waiver of Rights on 7 January 2008 adjudicating the subject properties to Clemente. Thus, TCT Nos. T-125293 and T-125294 were cancelled and, in lieu thereof, TCT Nos. T-483073 and T-482074 covering Lot Nos. 168-C-6-D and 168-C-6-E, respectively, were issued in Clemente's name. As between the certificates of title in the name of Clemente vis-a-vis Susan's bare assertions that she had always been in possession of the subject properties, the Torrens certificates [of] title of Clemente must prevail. The Supreme Court has consistently upheld the registered owners' superior right to possess the property in unlawful detainer cases. It is an age-old rule that the person who has a Torrens Title over a land is entitled to its possession. It has repeatedly been emphasized that when the property is registered under the Torrens system, the registered owner's title to the property is presumed legal and cannot be collaterally attacked, especially in a mere action for unlawful detainer. Accordingly, Clemente, being the registered owner of the subject properties, had a right to possession thereof, which is one of the attributes of his ownership. Irrefutably, the MTC did not err in making an initial determination on the issue of ownership of the subject properties so that it can resolve who is entitled to their possession.[32]

But, in their bid to wrest ownership over the subject properties, petitioners sought the nullification of the 1973 Deed of Extrajudicial Partition executed by their own mother, Victoria, and their half-brothers Romeo and Honesto, Jr. They claim that the partition agreement executed by the parties was fraudulent for having deprived the other compulsory heirs of their legal share in the inheritance.

A deed of extrajudicial partition executed without including some of the heirs, who had no knowledge of and consent to the same, is fraudulent and vicious. Hence, an action to set it aside on the ground of fraud could be instituted. Such action for the annulment of the said partition must be brought within four (4) years from the discovery of the fraud.[33] This was our ruling in *Gerona v. De Guzman*.^[34] However, as correctly observed by the CA, petitioners' complaint for partition was filed only on May 5, 2006, or 32 years after the partition agreement was annotated on the certificates of title covering the subject properties. As petitioners are deemed to have obtained constructive notice of the fraud upon the registration of the Deed of Extrajudicial Partition, they clearly failed to institute the required civil action within the allowable period.

The same result obtains even if petitioners' complaint is treated as one essentially for reconveyance. An action for reconveyance prescribes in ten years from the issuance of the Torrens title over the property. The basis for this is Section 53,^[35] Paragraph 3, of Presidential Decree No. 1529 (P.D. No. 1529),^[36] in relation to Articles 1456^[37] and 1142 (2)^[38] of the Civil Code.

Under P.D. No. 1529, the owner of a property may avail of legal remedies against a registration procured by fraud:

SECTION 53. Presentation of Owner's Duplicate Upon Entry of New Certificate. – x x x.

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title x x x.

Article 1456 of the Civil Code provides that a person acquiring a property through fraud becomes an implied trustee of the property's true and lawful owner.

An implied trust is based on equity and is either (i) a constructive trust, or (ii) a resulting trust. Resulting trust is created by implication of law and is presumed as intended by the parties. A constructive trust is created by force

of law such as when a title is registered in favor of a person other than the true owner.[39]

The implied trustee only acquires the right "to the beneficial enjoyment of the property." The legal title remains with the true owner. In *Crisostomo v. Garcia, Jr.*,[40] We held,

Art. 1456 of the Civil Code provides:

Art. 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

Thus, it was held that when a party uses fraud or concealment to obtain a certificate of title of property, a constructive trust is created in favor of the defrauded party.

Constructive trusts are "created by the construction of equity in order to satisfy the demands of justice and prevent unjust enrichment. They arise contrary to intention against one who, by fraud, duress or abuse of confidence, obtains or holds the legal right to property which he ought not, in equity and good conscience, to hold."

When property is registered in another's name, an implied or constructive trust is created by law in favor of the true owner. The action for reconveyance of the title to the rightful owner prescribes in 10 years from the issuance of the title.

An action for reconveyance based on implied or constructive trust prescribes in ten years from the alleged fraudulent registration or date of issuance of the certificate of title over the property.

It is now well-settled that the prescriptive period to recover property obtained by fraud or mistake, giving rise to an implied trust under Art. 1456 of the Civil Code, is 10 years pursuant to Art. 1144. This ten-year prescriptive period begins to run from the date the adverse party repudiates the implied trust, which repudiation takes place when the adverse party registers the land.

If we were to apply the foregoing law and jurisprudential declaration, it would seem that the property registered is simply held in trust by Honesto, Jr. for the real owner. As such, he only acquired the right "to the beneficial enjoyment of the property and the real owner can pursue an action to recover it within the time allowed. If that is so, then petitioners only have a period of 10 years from the registration of the title within which to file the action. Since the title was registered in the name of the Honesto, Jr. on March 14, 1974, then petitioners only have until March 1984 within which to lodge their complaint. Unfortunately, petitioners filed the partition complaint only on May 5, 2006, or 32 years since their cause of action accrued.[41] Clearly, their right has prescribed.

Petitioners, however, capitalize on their actual possession of the subject property. According to them, respondent should not be permitted to claim possession of the property only on the basis of his transfer certificate of title. For petitioners, it was them who have been in actual possession of the subject property, making their right to claim it imprescriptible.

In *Ocampo v. Ocampo*,[42] we have delineated the difference in the prescriptive period when one is in possession of the property in question and when one is not. An action for reconveyance based on an implied trust generally prescribes in ten years. However, if the plaintiff remains in possession of the property, the prescriptive period to recover title of possession does not run against him.

In *Development Bank of the Philippines v. CA*,[43] the Court explained:

x x x Generally, an action for reconveyance based on an implied or constructive trust, such as the instant case, prescribes in 10 years from the date of issuance of decree of registration. However, this rule does not apply when the plaintiff is in actual possession of the land. Thus, it has been held:

"... [A]n action for reconveyance of a parcel of land based on implied or constructive trust prescribes in ten years, the point of reference being the date of registration of the deed or the date of the issuance of the certificate of title over the property, but this rule applies only when the plaintiff or the person enforcing the trust is not in possession of the property, since if a person claiming to be the owner thereof is in actual possession of the property, as the defendants are in the instant case, the right to seek reconveyance, which in effect seeks to quiet title to the property, does not prescribe. The reason for this is that one who is in actual possession of a piece of land claiming to be the owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right, the reason for the rule being, that his undisturbed possession give him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in possession."

The CA expressed the same opinion when it held:

x x x When the plaintiff in such action is not in possession of the subject property, the action prescribes in ten years from the date of registration of the deed or the date of the issuance of the certificate of title over the property. When the plaintiff is in possession of the subject property, the action, being in effect that of quieting of title to the property, does not prescribe. For one to be considered in possession, one need not have actual or physical occupation of every square inch of the property at all times. Possession can be acquired not only by material occupation, but also by the fact that a thing is subject to the action of one's will or by the proper acts and legal formalities established for acquiring such right. Possession can be acquired by juridical acts. These are acts to which the law gives the force of acts of possession. Examples of these are donations, succession, execution and registration of public instruments, and the inscription of possessory information titles.[44] (Emphasis in the original)

Indeed, the possession required by law demands open, continuous, exclusive, and notorious, and the same must be in the concept of an owner. "Possession is open when it is patent, visible, apparent, notorious, and not clandestine. It is continuous when uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; notorious when it is so conspicuous that is generally known and talked of by the public or the people in the neighborhood." [45]

In *Tan v. CA*, [46] we have explained the rightful application of this rule as follows:

x x x [T]he right to seek reconveyance of property actually in possession of the plaintiffs [a]s imprescriptible would only cover a situation where the possession is in the concept of an owner. This is bolstered xxx by Article 1118 of the Civil Code, falling under the chapter Prescription of Ownership and other Real Rights, which provides that:

Article 1118. Possession has to be in the concept of an owner, public, peaceful, and uninterrupted.

The term "in the concept of an owner", demonstrates exclusive dominion over the property and an appropriation of it to his own use and benefit. This encompasses constructive possession or juridical acts where the occupant exercises acts of dominion of such nature as a party would naturally exercise over his own property.

Indisputably, petitioners have been in physical possession of the property in question as evidenced by the improvements they have introduced thereon. However, the record is bereft of any evidence that would tend to show that petitioners have exercised acts of dominion which a true owner would do to signify ownership of a realty like registration and possession of title or even the simple payment of real estate taxes.

Clearly then, a simple claim of open, continuous, exclusive possession of a property will not suffice. The claimant must also prove that his possession was in the concept of an owner such that he has exercised acts of dominion

over the property in question. This, petitioners failed to do.

In fine, the Court finds no cogent reason to annul the findings and conclusions of the CA. The respondent, as the title holder of the subject property, is the recognized owner of the same and, consequently, has the better right to its possession.

WHEREFORE, the petition for review on certiorari is DENIED. The Decision dated September 30, 2015 of the Court of Appeals in CA-G.R. CV No. 99797 and CA-G.R. SP No. 133848 is AFFIRMED. Clemente P. Mariano has the better right of possession of Lot Nos. 168-C-6-D with an area of 1,511 square meters and Lot 168-C-E, with an area of 1,760 square meters, both located at Bukal (Poblacion), Pagbilao, Quezon, covered by TCT Nos. T-483073 and T-483074. Susan Mariano and her successors-in-interest are ORDERED to VACATE the subject premises and to deliver peaceful possession thereof to Clemente Mariano, and for Susan Mariano to pay Clemente Mariano the monthly rental of P200.00 from the time the (original) Complaint was filed on August 12, 2005 until the property is vacated, and to pay attorney's fees of P10,000.00.

SO ORDERED.

Leonen (Chairperson), Hernando, Inting, and Delos Santos, JJ., concur.

[1] Rollo, pp. 3-27.

[2] Penned by Associate Justice Zenaida Galapate-Laguilles, with Associate Justices Mariflor P. Punzalan-Castillo and Florito S. Macalino, concurring; id. at 28-54.

[3] Penned by Presiding Judge Bienvenido A. Mapaye; id. at 153-168.

[4] Penned by Judge Adolfo V. Encomienda; id. at 90-96.

[5] Id. at 30.

[6] Id.

[7] Id.

[8] Id. at 142.

[9] Id. at 30-31.

[10] Id. at 31-32.

[11] Id. at 32.

[12] Id. at 35.

[13] Id. at 32.

[14] Id.

[15] Id. at 33.

[16] Id. at 82-89.

[17] Id. at 89.

[18] Id. at 96.

[19] Id. at 167-168.

[20] Id. at 53-54.

[21] 671 Phil. 132 (2011).

[22] 516 Phil. 743 (2006).

[23] 298 Phil. 93 (1993).

[24] Rollo, pp. 39-43.

[25] Id. at 43-44.

[26] Id. at 48-53.

[27] Tong, et al. v. Go Tiat Kun, et al., 733 Phil. 581, 590 (2014).

[28] Spouses Orenca v. Vda. de Ranin, 792 Phil. 697, 703 (2016).

[29] Javelosa v. Tapus, et al., 835 Phil. 576, 587 (2018).

[30] Heirs of Jose Maligaso, Sr. v. Spouses Encinas, 688 Phil. 516, 523 (2012).

[31] Spouses Orenca v. Vda. de Ranin, supra note 26, at 707.

[32] Rollo, pp. 51-52. (Emphasis ours).

[33] Feliciano, et al. v. Canaza, et al., 644 Phil. 15, 24 (2010).

[34] 120 Phil. 149 (1964).

[35] Pres. Decree No. 1529, Sec. 53, Par. 3 provides:

Section 53. Presentation of Owner's Duplicate Upon Entry of New Certificate. – x x x. In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title. After the entry of the decree of registration on the original petition or application, any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void.

[36] Property Registration Decree of 1978.

[37] Article 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

[38] Article 1144. The following actions must be brought within ten years from the time the right of action accrues: (2) Upon an obligation created by law[.]

[39] Spouses Aboitiz v. Spouses Po, 810 Phil. 123, 143 (2017).

[40] 516 Phil. 743, 752-753 (2006).

[41] Spouses Orenca v. Vda. de Ranin, supra note 26.

[42] 813 Phil. 390 (2017).

[43] 387 Phil. 283, 299 (2000), cited in Vda. de Gualberto v. Go, 502 Phil. 250, 262 (2005).

[44] Rollo, p. 43.

[45] Republic v. Gielozyk, 720 Phil. 385, 403 (2013).

[46] 356 Phil. 555, 568 (1998).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.