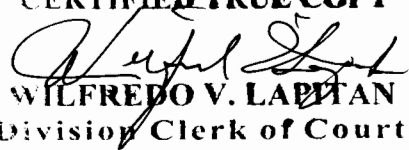




Republic of the Philippines
SUPREME COURT
 Manila

CERTIFIED TRUE COPY

WILFREDO V. LAPID
 Division Clerk of Court
 Third Division

JUL 05 2018

THIRD DIVISION

**NORMA M. BALEARES,
 DESIDERIO M. BALEARES,
 GERTRUDES B. CARIASA,
 RICHARD BALEARES, JOSEPH
 BALEARES, SUSAN B. DELA
 CRUZ, MA. JULIA B. RECTRA,
 and EDWIN BALEARES,**
 Petitioners,

G.R. No. 229645

Present:

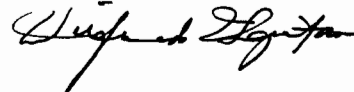
VELASCO, JR., *J.*, Chairperson,
 BERSAMIN,
 LEONEN,
 MARTIRES, and
 GESMUNDO, *JJ.*

- versus -

Promulgated:

June 6, 2018

**FELIPE B. ESPANTO, rep. by
 MARCELA B. BALEARES,
 Attorney-in-Fact,**
 Respondent.



X-----X

DECISION

VELASCO, JR., J.:

For review in the instant Petition¹ is the Decision² promulgated on January 31, 2017 by the Court of Appeals (CA) in CA-G.R. SP No. 144007, which affirmed the Decision³ and the Order⁴ dated July 24, 2015 and December 29, 2015, respectively, of the Regional Trial Court (RTC) of Makati City, Branch 137 in Civil Case No. 15-113 (For Ejectment).

The controversy arose from the following antecedents:

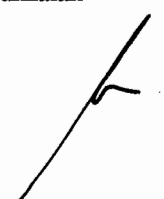
The herein respondent is the current registered owner of a parcel of land with improvements situated at No. 3288 A. Mabini St., Poblacion, Makati City (subject property), and covered by Transfer Certificate of Title

¹ *Rollo*, pp. 10-32.

² Penned by Associate Justice Florito S. Macalino with Associate Justices Mariflor P. Punzalan Castillo and Zenaida T. Galapate-Laguilles, concurring, *id.* at 38-48.

³ Penned by Presiding Judge Ethel V. Mercado-Gutay, *id.* at 51-58.

⁴ *Id.* at 59-60.



(TCT) No. 225428. The herein petitioners, on the other hand, were the heirs of Santos Baleares (Santos), one of the original co-owners of the subject property⁵ (previously covered by TCT No. 9482⁶), together with his siblings Tomasa, Julia, Matilde, Marcela, Gloria (now deceased), all surnamed Baleares, and his nephew, Ernest B. Nonisa, Jr. (now deceased).

Way back on February 18, 1988, the Baleares siblings mortgaged the subject property to Arnold Maranan (Arnold).⁷ The mortgage was registered and annotated at the back of TCT No. 9482 as Entry No. 47847.⁸ Unknown to the petitioners, the subject property was apparently foreclosed and sold at public auction on August 13, 1996, where Arnold appeared to be the highest bidder.⁹

Contrariwise, sometime in 1998, believing that Arnold failed to enforce his mortgaged right over the subject property within the 10-year prescriptive period, the petitioners, as heirs of Santos and the possessors and occupants thereof,¹⁰ lodged a **Complaint for the Cancellation of the Mortgage Inscription on TCT No. 9482** grounded on prescription before Branch 134 of RTC-Makati City, **docketed as Civil Case No. 98-1360**.¹¹ During its pendency, however, a Certificate of Sale¹² dated March 2, 1999 was allegedly issued to Arnold. TCT No. 9482 was consequently cancelled and a new one, TCT No. 225363, was issued in his favor.¹³

Sometime thereafter in April 2000, respondent and his mother likewise filed a complaint against Arnold but for **Nullification of Mortgage and/or Foreclosure with TRO/Injunction** based also on prescription of the latter's mortgaged right. This was lodged before Branch 135 of RTC-Makati City and **docketed as Civil Case No. 00-523**.¹⁴ Purportedly, respondent and his mother were among the co-owners of the subject property; the latter (respondent's mother) being one of the Baleares siblings.

On July 18, 2003, the RTC rendered a Decision¹⁵ in Civil Case No. 98-1360 (cancellation of mortgage inscription) in favor of the petitioners. The RTC held that there was no valid extrajudicial foreclosure of mortgage and auction sale for non-compliance with the notice and posting of publication requirements set forth under Act No. 3135, as amended. And, since the alleged mortgage loan had been due for more than 10 years,

⁵ RTC Decision dated July 24, 2015, id. at 51.

⁶ Id. at 83.

⁷ Real Estate Mortgage, id. at 90-92.

⁸ TCT No. 9482, id. at 185-186.

⁹ Per Certificate of Sale dated March 2, 1999, id. at 98.

¹⁰ Id. at 39.

¹¹ Id. at 93-97.

¹² Id. at 98.

¹³ Id. at 187-188.

¹⁴ Id. at 75-82.

¹⁵ Penned by Penned by Pairing Judge Rebecca R. Mariano, id. at 167-174.



without Arnold having exercised his mortgaged right, thus, the inscription on TCT No. 9482 can now be cancelled on the ground of prescription. The RTC, thus, ordered the Register of Deeds of Makati City to cancel Entry No. 47847 dated February 18, 1988 at the back of TCT No. 9482.¹⁶ The CA affirmed this decision, which became final and executory on February 1, 2008.¹⁷

In the same year, all this notwithstanding, Arnold was able to sell¹⁸ the subject property to none other than the respondent himself. Later, TCT No. 225428 was issued in respondent's name. The latter, however, did not immediately take possession of the subject property. Instead, he allowed the petitioners, who were its actual occupants, to remain therein as they are his blood relatives.¹⁹

After some time, the respondent sent a demand letter to the petitioners for them to vacate the subject property as he wanted to construct an apartment thereon but they refused. In so refusing, the petitioners maintained that they have a better right of possession over the subject property being the heirs of its original owners.²⁰ On June 17, 2009, a final demand was made for the petitioners to vacate the subject property and to pay the reasonable rentals thereon,²¹ but this remained unheeded. Even the subsequent barangay settlement proved futile. Thus, the respondent instituted a **Complaint for Unlawful Detainer** before the MeTC-Makati City against the petitioners, **docketed as Civil Case No. 98995** (the origin of this Petition).

In their Verified Answer with Motion to Dismiss and Counterclaim, the petitioners averred that the MeTC has no jurisdiction over the instant action, as it is one for recovery of possession and not for unlawful detainer. They also raise the existence of *litis pendentia*, as there are allegedly two pending cases involving similar issues of ownership and possession that are still pending before the RTC-Makati City. They maintained that they are co-owners of the subject property, thus, their right to stay thereon was not because of the respondent's tolerance.²²

In a Decision dated August 11, 2014, the MeTC ruled for the respondent and granted the Complaint. It found the complaint to be sufficient for an unlawful detainer case and upheld that the case should not be dismissed on the ground of *litis pendentia*, as the issues in the alleged two pending cases before the RTC-Makati City do not abate ejectment suit. The

¹⁶ RTC Decision dated July 18, 2003, *id.* at 173.

¹⁷ Per Entry of Judgment dated August 12, 2008, *id.* at 175.

¹⁸ Deed of Absolute Sale of Real Property, *id.* at 178-179.

¹⁹ *Id.* at 40.

²⁰ *Id.* at 41.

²¹ *Id.* at 110-111.

²² *Id.*

MeTC, thus, ordered the petitioners and all persons claiming rights under them to vacate the subject property and to peaceably surrender its possession to the respondent. The petitioners were also ordered to pay the respondent these amounts (1) ₱5,000.00 per month as reasonable compensation for use and occupation of the subject property reckoned from December 22, 2008 and every month thereafter until they fully vacated the same; (2) ₱15,000.00 as attorney's fees; and (3) the costs of suit.²³ The subsequent Motion for Reconsideration was denied in an Order²⁴ dated October 24, 2014 for being a prohibited pleading.

On appeal, the RTC, in a Decision dated July 24, 2015, affirmed in its entirety the MeTC ruling. The petitioners moved to reconsider the same but it was similarly denied for lack of merit in an Order dated December 29, 2015.

In the interim, the respondent moved for the execution of the RTC Decision, which was granted in an Order²⁵ dated December 26, 2016 pursuant to Section 21,²⁶ Rule 70 of the Rules of Court in relation to Section 21²⁷ of the Revised Rule on Summary Procedure.

On further appeal, the CA, in the now assailed Decision dated January 31, 2017, affirmed both the Decision and the Order of the RTC. The CA also ordered the petitioners to pay six percent (6%) interest rate of the outstanding obligation from finality of judgment until fully satisfied. The CA rejected the petitioners' argument that the RTC Decision in Civil Case No. 98-1360 binds the respondent for being a mere transferee of Arnold under the doctrine of *res judicata*.

Hence, this Petition raising these arguments: (1) the CA erred in not finding that respondent is a transferee *pendete lite* with respect to the subject property; and (2) the CA erred in ruling that the respondent's ejectment complaint is not barred by the final and executory Decision in Civil Case No. 98-1360 against Arnold, his transferor, with respect to the subject property.²⁸

²³ MeTC Decision dated August 11, 2014, *id.* at 64, 66, 68.

²⁴ *Id.* at 69.

²⁵ *Id.* at 282-284.

²⁶ **Section 21. Immediate execution on appeal to Court of Appeals or Supreme Court.** — The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom.

²⁷ **Sec. 21. Appeal.** — The judgment or final order shall be appealable to the appropriate regional trial court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the regional trial court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed.

²⁸ *Rollo*, pp. 18-19.

In essence, the pivotal issue that must be resolved here is who between the petitioners and the respondent has a better right of possession over the subject property? The petitioners who are in possession of the same continuously for a long period of time or the respondent whose right of possession is anchored on a Torrens title obtained through purchase from someone whose right over the subject property has long ceased and he has knowledge of such fact?


This Court rules for the petitioners.

Generally, the factual findings of the trial courts, especially when affirmed on appeal by the CA, are binding and conclusive upon this Court. This rule, however, admits of several exceptions and one of which is when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. In which case, this Court can go over the records and re-examine the evidence presented by the parties in order to arrive at a much better and just resolution of the case.

This case involved an action for unlawful detainer filed by the respondent against the petitioners. An action for unlawful detainer is summary in nature and the only issue that needs to be resolved is who is entitled to physical possession of the premises, possession referring to possession *de facto*, and not possession *de jure*. Nonetheless, where the parties to an ejectment case raise the issue of ownership and such is inseparably linked to that of possession, the courts may pass upon that issue to determine who between the parties has the better right to possess the property. The adjudication of the ownership issue, however, is not final and binding. The same is only for the purpose of resolving the issue of possession. Otherwise stated, the adjudication of the issue of ownership is only provisional, and not a bar to an action between the same parties involving title to the property.²⁹

Here, the petitioners claim that they have a better right of possession over the subject property as they are the heirs of one of its original co-owners and they have been in lawful possession and occupation thereof ever since, thus, they cannot be dispossessed of the subject property. The respondent, on the other hand, based his claim of ownership and right of possession over the subject property on a certificate of title issued in his name. However, the respondent, being a mere transferee of the subject property who has knowledge that his transferor's mortgaged right over the same has been cancelled with finality by the court, merely stepped into his transferor's shoes, thus, he has no right over the subject property.

²⁹ *Corpuz v. Sps. Agustin*, G.R. No. 183822, January 18, 2012.



It is true that a title issued under the Torrens system is entitled to all the attributes of property ownership, which necessarily includes possession.³⁰ As such, ordinarily, the Torrens title holder over the subject properties is considered the rightful owner who is entitled to possession thereof. But, in this case, it has not been disputed that the petitioners have been in continuous possession of the subject property in the concept of ownership and not by mere tolerance of the respondent. Moreover, the latter has knowledge that his transferor has no more right to enforce the mortgage over the subject property on the ground of prescription as stated in the RTC Decision in Civil Case No. 98-1360. The trial court also declared therein that Arnold's extrajudicial foreclosure and auction sale of the subject property was non-existent and void, which ruling already attained finality. As such, it would appear that the respondent's right over the subject property is highly questionable. Under these circumstances, the respondent cannot simply oust the petitioners from possession through the summary procedure of an ejectment proceeding.

It bears stressing that the herein ruling is limited only to the determination as to who between the parties has the better right of possession. It will not in any way bar any of the parties from filing an action with the proper court to resolve conclusively the issue of ownership.

WHEREFORE, premises considered, the present petition is **GRANTED**. The CA Decision dated January 31, 2017 in CA-G.R. SP No. 144007 is **REVERSED** and **SET ASIDE**. A new judgment is rendered **DISMISSING** the Complaint in Civil Case No. 98995 for lack of merit.

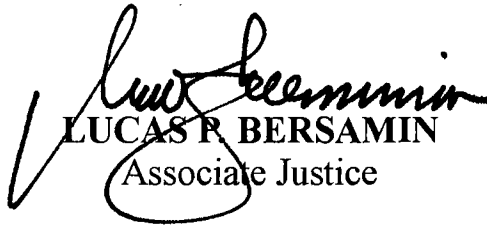
SO ORDERED.



PRESBITERO J. VELASCO, JR.
Associate Justice

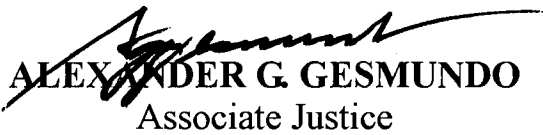
³⁰ Id.

WE CONCUR:


LUCAS R. BERSAMIN
 Associate Justice

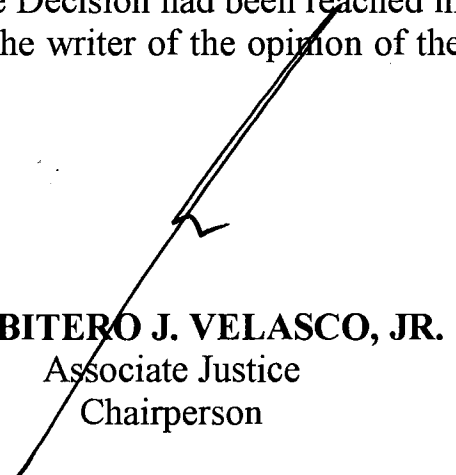

MARVIC M.V.F. LEONEN
 Associate Justice


SAMUEL R. MARTIRES
 Associate Justice


ALEXANDER G. GESMUNDO
 Associate Justice

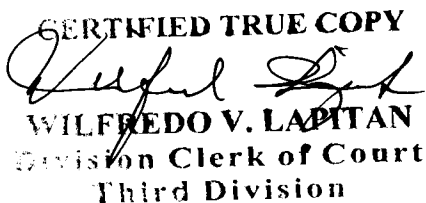
ATTESTATION

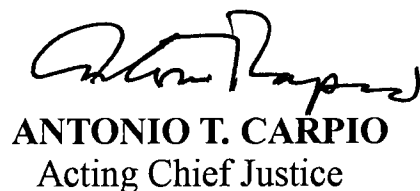
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division


ANTONIO T. CARPIO
 Acting Chief Justice

JUL 05 2018