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SO ORDERED.

Quisumbing,[*] *Austria-Martinez (Acting Chairperson), Corona,*[**] and *Carpio Morales,*[**] *JJ.,* concur.

THIRD DIVISION

[G.R. No. 178906. February 18, 2009]

ELVIRA T. ARANGOTE, *petitioner, vs.* **SPS. MARTIN MAGLUNOB and LOURDES S. MAGLUNOB, and ROMEO SALIDO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; FINDINGS OF FACT OF THE TRIAL COURT ARE ENTITLED TO GREAT WEIGHT ON APPEAL AND SHOULD NOT BE DISTURBED EXCEPT FOR STRONG AND VALID REASONS.— It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the demeanor of the witnesses while testifying. It is not a function of this Court to analyze and weigh evidence by the parties all over again. This Court's jurisdiction is, in principle, limited to reviewing errors of law that might have been committed by the Court of Appeals. This rule, however, is subject to several

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[*] Per Special Order No. 564, dated 12 February 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Leonardo A. Quisumbing to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave under the Court's Wellness Program.

[**] Associate Justices Renato C. Corona and Conchita Carpio Morales were designated to sit as additional members replacing Associate Justices Antonio Eduardo B. Nachura and Diosdado M. Peralta per Raffle dated 16 February 2009.

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exceptions, one of which is present in this case, *i.e.*, when the factual findings of the Court of Appeals and the trial court are contradictory.

2. CIVIL LAW; MODES OF ACQUIRING OWNERSHIP; DONATION; DONATION OF REAL PROPERTY; REQUISITES. — [T]hree requisites for the validity of a simple donation of a real property, to wit: (1) it must be made in a public instrument; (2) it must be accepted, which acceptance may be made either in the same Deed of Donation or in a separate public instrument; and (3) if the acceptance is made in a separate instrument, the donor must be notified in an authentic form, and the same must be noted in both instruments.

3. ID.; ID.; ID.; ID.; ID.; WHERE THE DEED OF DONATION FAILS TO SHOW THE ACCEPTANCE, OR WHERE THE FORMAL NOTICE OF THE ACCEPTANCE, MADE IN A SEPARATE INSTRUMENT, IS EITHER NOT GIVEN TO THE DONOR OR ELSE NOT NOTED IN THE DEED OF DONATION AND IN THE SEPARATE ACCEPTANCE, THE DONATION IS NULL AND VOID. — This Court agrees with the RTC and the Court of Appeals that the Affidavit executed by Esperanza relinquishing her rights, share, interest and participation over the subject property in favor of the petitioner and her husband suffered from legal infirmities, as it failed to comply with the aforesaid requisites of the law. In *Sumipat v. Banga*, this Court declared that title to immovable property does not pass from the donor to the donee by virtue of a Deed of Donation **until and unless it has been accepted in a public instrument and the donor duly notified thereof**. The acceptance may be made in the very same instrument of donation. If the acceptance does not appear in the same document, it must be made in another. Where the Deed of Donation fails to show the acceptance, or where the formal notice of the acceptance, made in a separate instrument, is either not given to the donor or else not noted in the Deed of Donation and in the separate acceptance, **the donation is null and void.**

4. ID.; LAND REGISTRATION; PRESIDENTIAL DECREE NO. 1529; CERTIFICATE OF TITLE IS NOT SUBJECT TO COLLATERAL ATTACK; DIRECT ATTACK AND COLLATERAL ATTACK, DISTINGUISHED. — Section 48 of Presidential decree No. 1529 states: SEC. 48. *Certificate not*

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subject to collateral attack. — A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law. Such proscription has long been enshrined in Philippine jurisprudence. The judicial action required to challenge the validity of title is a direct attack, not a collateral attack. The attack is considered direct when the object of an action is to annul or set aside such proceeding, or enjoin its enforcement. Conversely, an attack is indirect or collateral when, in an action to obtain a different relief, an attack on the proceeding is nevertheless made as an incident thereof. **Such action to attack a certificate of title may be an original action or a counterclaim, in which a certificate of title is assailed as void.**

5. REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; COUNTERCLAIM; A DIRECT ATTACK ON THE CERTIFICATE OF TITLE. — A counterclaim is considered a new suit in which the defendant is the plaintiff and the plaintiff in the complaint becomes the defendant. It stands on the same footing as, and is to be tested by the same rules as if it were, an independent action. In their Answer to the Complaint for Quieting of Title filed by the petitioner and her husband before the MCTC, respondents included therein a Counterclaim wherein they repleaded all the material allegations in their affirmative defenses, the most essential of which was their claim that petitioner and her husband — by means of fraud, undue influence and deceit — were able to make their grand aunt, Esperanza, who was already old and illiterate, affix her thumbmark to the Affidavit, wherein she renounced, waived, and quitclaimed all her rights and interest over the subject property in favor of petitioner and her husband. In addition, respondents maintained in their Answer that as petitioner and her husband were not tenants either of Esperanza or of the respondents, the DAR could not have validly issued in favor of petitioner and her husband OCT No. CLOA-1748. Thus, the respondents prayed, in their counterclaim in Civil Case No. 156 before the MCTC, that OCT No. CLOA-1748 issued in the name of petitioner, married to Ray Mars E. Arangote, be declared null and void, insofar as their two-thirds shares in the subject property are concerned. It is clear, thus, that respondents' Answer with Counterclaim was a direct attack on petitioner's certificate of title. x x x

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6. LABOR AND SOCIAL LEGISLATION; REPUBLIC ACT NO. 6657 (COMPREHENSIVE AGRARIAN REFORM PROGRAM); CERTIFICATE OF LAND OWNERSHIP AWARD (CLOA); GRANTED ONLY UPON FULFILLMENT OF THE REQUIREMENTS OF THE LAW. — x x x [P]etitioner and her husband were not tenants of the subject property. In fact, petitioner herself admitted in her Complaint filed before the MCTC that her husband is out of the country, rendering it impossible for him to work on the subject property as a tenant. Instead of cultivating the subject property, petitioner and her husband possessed the same by constructing a house thereon. Thus, it is highly suspicious how the petitioner was able to secure from the DAR a Certificate of Land Ownership Award (CLOA) over the subject property. The DAR awards such certificates to the grantees only if they fulfill the requirements of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Program (CARP). Hence, the RTC and the Court of Appeals did not err in declaring null and void OCT No. CLOA-1748 in the name of the petitioner, married to Ray Mars E. Arangote.

7. CIVIL LAW; PROPERTY; POSSESSION; POSSESSOR IN GOOD FAITH; DESCRIPTION. — The Civil Code describes a possessor in good faith as follows: Art. 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it. He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing. Mistake upon a doubtful or difficult question of law may be the basis of good faith. Art. 1127. The good faith of the possessor consists in the reasonable belief that the person from whom he received the thing was the owner thereof, and could transmit his ownership.

8. ID.; ID.; ID.; ID.; CEASES FROM THE MOMENT DEFECTS IN THE TITLE ARE MADE KNOWN TO THE POSSESSOR BY EXTRANEOUS EVIDENCE OR BY A SUIT FOR RECOVERY OF THE PROPERTY BY THE TRUE OWNER; APPLICABILITY IN THE CASE AT BAR. — Possession in good faith ceases from the moment defects in the title are made known to the possessor by extraneous evidence or by a suit for recovery of the property by the true owner. Every possessor in good faith becomes a possessor in bad faith from the moment he becomes aware that

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what he believed to be true is not so. In the present case, when respondents came to know that an OCT over the subject property was issued and registered in petitioner's name on 26 March 1993, respondents brought a Complaint on 7 August 1993 before the *Lupon* of *Barangay* Maloco, Ibajay, Aklan, challenging the title of petitioner to the subject property on the basis that said property constitutes the inheritance of respondent, together with their grandaunt Esperanza, so Esperanza had no authority to relinquish the entire subject property to petitioner. From that moment, the good faith of the petitioner had ceased.

9. ID.; ID.; OWNERSHIP; BUILDER IN GOOD FAITH; DEFINED.— Moreover, the petitioner cannot be considered a builder in good faith of the house on the subject property. In the context that such term is used in particular reference to Article 448 of the Civil Code, **a builder in good faith is one who, not being the owner of the land, builds on that land, believing himself to be its owner and unaware of any defect in his title or mode of acquisition.** x x x [T]he builder in good faith can compel the landowner to make a choice between appropriating the building by paying the proper indemnity or obliging the builder to pay the price of the land. x x x

10. ID.; ID.; ID.; ID.; GOOD FAITH; ELUCIDATED. — Good faith, here understood, is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. An individual's personal good faith is a concept of his own mind and, therefore, may not conclusively be determined by his protestations alone. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. The essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim, and absence of intention to overreach another. Applied to possession, one is considered in good faith if he is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.

11. ID.; ID.; ID.; A TAX DECLARATION IS NOT PROOF OF OWNERSHIP BUT MERELY AN *INDICIUM* OF A CLAIM OF OWNERSHIP.— x x x [W]hen petitioner and her husband built a house thereon in 1989 they cannot be considered to have

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acted in good faith as they were fully aware that when Esperanza executed an Affidavit relinquishing in their favor the subject property the only proof of Esperanza's ownership over the same was a mere tax declaration. This fact or circumstance alone was enough to put the petitioner and her husband under inquiry. Settled is the rule that a tax declaration does not prove ownership. It is merely an *indicium* of a claim of ownership. Payment of taxes is not proof of ownership; it is, at best, an *indicium* of possession in the concept of ownership. Neither tax receipts nor a declaration of ownership for taxation purposes is evidence of ownership or of a right to possess realty when not supported by other effective proofs.

APPEARANCES OF COUNSEL

*Adolfo M. Iliga*n for petitioner.
Cyril A. Tagle for respondents.

D E C I S I O N

CHICO-NAZARIO, *J.*:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to reverse and set aside the Decision[1] dated 27 October 2006 and Resolution[2] dated 29 June 2007 of the Court of Appeals in CA-G.R. SP No. 64970. In its assailed Decision, the appellate court affirmed the Decision[3] dated 12 September 2000 of the Regional Trial Court (RTC), 6th Judicial Region, Branch 1, Kalibo, Aklan, in Civil Case No. 5511, which reversed the Decision[4]

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[1] Penned by Associate Justice Antonio L. Villamor with Associate Justices Arsenio J. Magpale and Marlene Gonzales-Sison, concurring; *rollo*, pp. 20-31.

[2] Penned by Associate Justice Antonio L. Villamor with Associate Justices Pampio A. Abarintos and Agustin S. Dizon, concurring; *rollo*, pp. 40-41.

[3] Penned by Judge Marietta J. Homena-Valencia; *rollo*, pp. 96-105.

[4] Penned by Designated Judge Raul C. Barrios; CA *rollo*, pp. 29-34.

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dated 6 April 1998 of the 7th Municipal Circuit Trial Court (MCTC) of Ibajay-Nabas, Ibajay, Aklan, in Civil Case No. 156; and declared[5] the herein respondent-Spouses Martin and Lourdes Maglunob (Spouses Maglunob) and respondent Romeo Salido (Romeo) as the lawful owners and possessors of Lot 12897 with an area of 982 square meters, more or less, located in Maloco, Ibajay, Aklan (subject property). In its assailed Resolution, the appellate court denied herein petitioner Elvira T. Arangote's Motion for Reconsideration.

Elvira T. Arangote, herein petitioner married to Ray Mars E. Arangote, is the registered owner of the subject property, as evidenced by Original Certificate of Title (OCT) No. CLOA-1748.[6] Respondents Martin (Martin II) and Romeo are first cousins and the grandnephews of Esperanza Maglunob-Dailisan (Esperanza), from whom petitioner acquired the subject property.

The Petition stems from a Complaint[7] filed by petitioner and her husband against the respondents for Quieting of Title, Declaration of Ownership and Possession, Damages with Preliminary Injunction, and Issuance of Temporary Restraining Order before the MCTC, docketed as Civil Case No. 156.

The Complaint alleged that Esperanza inherited the subject property from her uncle Victorino Sorrosa by virtue of a notarized Partition Agreement[8] dated 29 April 1985, executed by the latter's heirs. Thereafter, Esperanza declared the subject property in her name for real property tax purposes, as evidenced by Tax Declaration No. 16218 (1985).[9]

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[5] In its Decision dated 12 September 2000, the RTC likewise declared the other heirs of Martin Maglunob (the great-grandfather of herein respondent Martin Maglunob) as the lawful owners and possessors of the subject property despite the fact that they are not even parties to the case.

[6] *Rollo*, p. 56.

[7] *Id.* at 44-51.

[8] CA *rollo*, pp. 144-146.

[9] *Id.* at 143.

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The Complaint further stated that on 24 June 1985, Esperanza executed a Last Will and Testament[10] bequeathing the subject property to petitioner and her husband, but it was never probated. On 9 June 1986, Esperanza executed another document, an Affidavit,[11] in which she renounced, relinquished, waived and quitclaimed all her rights, share, interest and participation whatsoever in the subject property in favor of petitioner and her husband. On the basis thereof, Tax Declaration No. 16218 in the name of Esperanza was cancelled and Tax Declaration No. 16666[12] (1987) was issued in the name of the petitioner and her husband.

In 1989, petitioner and her husband constructed a house on the subject property. On 26 March 1993, OCT No. CLOA-1748 was issued by the Secretary of the Department of Agrarian Reform (DAR) in the name of petitioner, married to Ray Mars E. Arangote. However, respondents, together with some hired persons, entered the subject property on 3 June 1994 and built a hollow block wall behind and in front of petitioner's house, which effectively blocked the entrance to its main door.

As a consequence thereof, petitioner and her husband were compelled to institute Civil Case No. 156.

In their Answer with Counterclaim in Civil Case No. 156, respondents averred that they co-owned the subject property with Esperanza. Esperanza and her siblings, Tomas and Inocencia, inherited the subject property, in equal shares, from their father Martin Maglunob (Martin I). When Tomas and Inocencia passed away, their shares passed on by inheritance to respondents Martin II and Romeo, respectively. Hence, the subject property was co-owned by Esperanza, respondent Martin II (together with his wife Lourdes), and respondent Romeo, each holding a one-third *pro-indiviso* share therein. Thus, Esperanza could

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[10] *Rollo*, pp. 54-55.

[11] *Id.* at 53.

[12] CA *rollo*, p. 135.

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not validly waive her rights and interest over the entire subject property in favor of the petitioner.

Respondents also asserted in their Counterclaim that petitioner and her husband, by means of fraud, undue influence and deceit were able to make Esperanza, who was already old and illiterate, affix her thumbmark to the Affidavit dated 9 June 1986, wherein she renounced all her rights and interest over the subject property in favor of petitioner and her husband. Respondents thus prayed that the OCT issued in petitioner's name be declared null and void insofar as their two-thirds shares are concerned.

After trial, the MCTC rendered its Decision dated 6 April 1998 in Civil Case No. 156, declaring petitioner and her husband as the true and lawful owners of the subject property. The decretal portion of the MCTC Decision reads:

> WHEREFORE, judgment is hereby rendered:
>
> A. Declaring the [herein petitioner and her husband] the true, lawful and exclusive owners and entitled to the possession of the [subject property] described and referred to under paragraph 2 of the [C]omplaint and covered by Tax Declaration No. 16666 in the names of the [petitioner and her husband];
>
> B. Ordering the [herein respondents] and anyone hired by, acting or working for them, to cease and desist from asserting or claiming any right or interest in, or exercising any act of ownership or possession over the [subject property];
>
> C. Ordering the [respondents] to pay the [petitioner and her husband] the amount of ₱10,000.00 as attorney's fee. With cost against the [respondents].[13]

The respondents appealed the aforesaid MCTC Decision to the RTC. Their appeal was docketed as Civil Case No. 5511.

Respondents argued in their appeal that the MCTC erred in not dismissing the Complaint filed by the petitioner and her

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[13] *Id.* at 34.

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husband for failure to identify the subject property therein. Respondents further faulted the MCTC for not declaring Esperanza's Affidavit dated 9 June 1986 — relinquishing all her rights and interest over the subject property in favor of petitioner and her husband — as null and void insofar as respondents' two-thirds share in the subject property is concerned.

On 12 September 2000, the RTC rendered its Decision reversing the MCTC Decision dated 6 April 1998. The RTC adjudged respondents, as well as the other heirs of Martin Maglunob, as the lawful owners and possessors of the entire subject property. The RTC decreed:

WHEREFORE, judgment is hereby rendered as follows:

1) The appealed [D]ecision is REVERSED;

2) [Herein respondents] and the other heirs of Martin Maglunob are declared the lawful owners and possessors of the whole [subject property] as described in Paragraph 2 of the [C]omplaint, as against the [herein petitioner and her husband].

3) [Petitioner and her husband] are ordered to immediately turn over possession of the [subject property] to the [respondents] and the other heirs of Martin Maglunob; and

4) [Petitioner and her husband] are ordered to pay [respondents] attorney's fees of ₱5,000.00, other litigation expenses of ₱5,000.00, moral damages of ₱10,000.00 and exemplary damages of ₱5,000.00.[14]

Petitioner and her husband filed before the RTC, on 26 September 2000, a Motion for New Trial or Reconsideration[15] on the ground of newly discovered evidence consisting of a Deed of Acceptance[16] dated 23 September 2000, and notice[17]

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[14] *Rollo*, pp. 104-105.

[15] CA *rollo*, pp. 15-23.

[16] In the RTC Decision dated 12 September 2000, the RTC treated the Affidavit executed by Esperanza in favor of the petitioner and her husband as a Donation because the intent of Esperanza in executing such Affidavit is to donate the subject property to the petitioner and her husband.

[17] CA *rollo*, pp. 25-26.

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of the same, which were both made by the petitioner, for herself and in behalf of her husband,[18] during the lifetime of Esperanza. In the RTC Order[19] dated 2 May 2001, however, the RTC denied the aforesaid Motion for New Trial or Reconsideration.

The petitioner and her husband then filed a Petition for Review, under Rule 42 of the 1997 Revised Rules of Civil Procedure, before the Court of Appeals, where the Petition was docketed as CA-G.R. SP No. 64970.

In their Petition before the appellate court, petitioner and her husband raised the following errors committed by the RTC in its 12 September 2000 Decision:

I. It erred in reversing the [D]ecision of the [MCTC];

II. It erred in declaring the [herein respondents] and the other heirs of Martin Maglunob as the lawful owners and possessors of the whole [subject property];

III. It erred in declaring [OCT] No. CLOA-1748 in the name of [herein petitioner] Elvie T. Arangote as null and void;

IV. It erred in denying [petitioner and her husband's] [M]otion for [N]ew [T]rial or [R]econsideration dated [26 September 2000; and

V. It erred in not declaring the [petitioner and her husband] as possessors in good faith.[20]

On 27 October 2006, the Court of Appeals rendered a Decision denying the Petition for Review of petitioner and her husband and affirming the RTC Decision dated 12 September 2000. Petitioner and her husband's subsequent Motion for Reconsideration was similarly denied by the Court of Appeals in its Resolution dated 29 June 2007.

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[18] The Deed of Acceptance was signed only by the petitioner. In the said Deed of Acceptance, however, petitioner accepted the donation not only for herself but also in behalf of her husband.

[19] CA *rollo*, p. 28.

[20] *Id.* at 42.

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Hence, petitioner[21] now comes before this Court raising in her Petition the following issues:

> I. Whether the [RTC] acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it declared the [petitioner and her husband's title to the subject property] null and void;
>
> II. Whether the [RTC] acted with grave abuse of discretion amounting to lack of jurisdiction when it declared the Affidavit of Quitclaim null and void; and
>
> III. Whether the [RTC] and the Honorable Court of Appeals acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it rejected petitioner's claim as possessors (sic) in good faith, hence, entitled to the rights provided in [Article] 448 and [Article] 546 of the Civil Code.[22]

Petitioner contends that the aforesaid OCT No. CLOA-1748 was issued in her name on 26 March 1993 and was registered in the Registry of Deeds of Aklan on 20 April 1993. From 20 April 1993 until the institution of Civil Case No. 156 on 10 June 1994 before the MCTC, more than one year had already elapsed. Considering that a Torrens title can only be attacked within one year after the date of the issuance of the decree of registration on the ground of fraud and that such attack must be through a direct proceeding, it was an error on the part of the RTC and the Court of Appeals to declare OCT No. CLOA-1748 null and void.

Petitioner additionally posits that both the RTC and the Court of Appeals committed a mistake in declaring null and void the

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[21] On 21 April 1994, Ray Mars E. Arangote, herein petitioner Elvira T. Arangote's husband, executed a Special Power of Attorney in her favor to represent him in any proceedings involving the subject property. The case before the lower courts, however, was still entitled *Sps. Ray Mars E. Arangote and Elvira T. Arangote v. Sps. Martin Maglunob and Lourdes S. Maglunob and Romeo Salido*. But, when the case was elevated to this Court, it was only Elvira T. Arangote who stood as petitioner.

[22] In petitioner's Memorandum she stated almost the same issues she had mentioned in her Petition before the Court of Appeals. (*Rollo*, p. 14.)

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Affidavit dated 9 June 1986 executed by Esperanza, waiving all her rights and interest over the subject property in favor of petitioner and her husband. Esperanza's Affidavit is a valid and binding proof of the transfer of ownership of the subject property in petitioner's name, as it was also coupled with actual delivery of possession of the subject property to petitioner and her husband. The Affidavit is also proof of good faith on the part of petitioner and her husband.

Finally, petitioner argues that, assuming for the sake of argument, that Esperanza's Affidavit is null and void, petitioner and her husband had no knowledge of any flaw in Esperanza's title when the latter relinquished her rights to and interest in the subject property in their favor. Hence, petitioner and her husband can be considered as possessors in good faith and entitled to the rights provided under Articles 448 and 546 of the Civil Code.

This present Petition is devoid of merit.

It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the demeanor of the witnesses while testifying. It is not a function of this Court to analyze and weigh evidence by the parties all over again. This Court's jurisdiction is, in principle, limited to reviewing errors of law that might have been committed by the Court of Appeals.[23] This rule, however, is subject to several exceptions,[24] one of which is present in this case, *i.e.*, when the factual findings of the Court of Appeals and the trial court are contradictory.

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[23] *Local Superior of the Servants of Charity (Guanellians), Inc. v. Jody King Construction and Development Corporation*, G.R. No. 141715, 12 October 2005, 472 SCRA 445, 451.

[24] Recognized exceptions to this rule are: (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on misapprehension of facts; (5) when the finding of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues

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In this case, the findings of fact of the MCTC as regards the origin of the subject property are in conflict with the findings of fact of both the RTC and the Court of Appeals. Hence, this Court will have to examine the records to determine first the true origin of the subject property and to settle whether the respondents have the right over the same for being co-heirs and co-owners, together with their grand aunt, Esperanza, before this Court can resolve the issues raised by the petitioner in her Petition.

After a careful scrutiny of the records, this Court affirms the findings of both the RTC and the Court of Appeals as regards the origin of the subject property and the fact that respondents, with their grand aunt Esperanza, were co-heirs and co-owners of the subject property.

The records disclosed that the subject property was part of a parcel of land[25] situated in Maloco, Ibajay, Aklan, consisting of 7,176 square meters and commonly owned in equal shares by the siblings Pantaleon Maglunob (Pantaleon) and Placida Maglunob-Sorrosa (Placida). Upon the death of Pantaleon and Placida, their surviving and legal heirs executed a Deed of Extrajudicial Settlement and Partition of Estate in July 1981,[26]

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of the case, or its findings are contrary to the admissions of both the appellee and the appellant; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. (*Langkaan Realty Development, Inc. v. United Coconut Planters Bank*, 400 Phil. 1349, 1356-1357 [2000]; *Nokom v. National Labor Relations Commission*, 390 Phil. 1228, 1243 [2000]; *Commissioner of Internal Revenue v. Embroidery and Garments Industries [Phils.], Inc.*, 364 Phil. 541, 546-547 [1999]; *Sta. Maria v. Court of Appeals*, 349 Phil. 275, 282-283 [1998]; *Almendrala v. Ngo*, G.R. No. 142408, 30 September 2005, 471 SCRA 311, 322.)

[25] It consists of 7,176 square meters.

[26] CA *rollo*, pp. 161-164.

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however, the Deed was not notarized. Considering that Pantaleon died without issue, his one-half share in the parcel of land he co-owned with Placida passed on to his four siblings (or their respective heirs, if already deceased), namely: Placida, Luis, Martin I, and Victoria, in equal shares.

According to the aforementioned Deed of Extrajudicial Settlement and Partition of Estate, the surviving and legal heirs of Pantaleon and Placida agreed to have the parcel of land commonly owned by the siblings declared for real property tax purposes in the name of Victorino Sorrosa (Victorino), Placida's husband. Thus, Tax Declarations No. 5988 (1942),[27] No. 6200 (1945)[28] and No. 7233 (1953)[29] were all issued in the name of Victorino.

Since Martin I already passed away when the Deed of Extrajudicial Settlement and Partition of Estate was executed, his heirs[30] were represented therein by Esperanza. By virtue of the said Deed, Martin I received as inheritance a portion of the parcel of land measuring 897 square meters.

After the death of Victorino, his heirs[31] executed another Partition Agreement on 29 April 1985, which was notarized on the same date. The Partition Agreement mentioned four parcels of land. The subject property, consisting of a portion of the consolidated parcels 1, 2, and 3, and measuring around 982 square meters, was allocated to Esperanza. In comparison, the property given to Esperanza under the Partition Agreement is bigger than the one originally allocated to her earlier under the Deed of Extrajudicial Settlement and Partition of Estate dated

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[27] *Id.* at 166.

[28] *Id.* at 170.

[29] *Id.* at 172.

[30] The heirs of Martin I other than the respondents are the other great-grandchildren of Martin I, namely: Jerry, Benita, Feliciano, Andrew, Abdon, Gilbert, Enrique, Tomas, Donato, Felicidad, and Prescila, all surnamed Maglunob.

[31] His cousins, son, granddaughters, and grandsons.

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July 1981, which had an area of only 897 square meters. It may be reasonably assumed, however, that the subject property, measuring 982 square meters, allocated to Esperanza under the Partition Agreement dated 29 April 1985, is already inclusive of the smaller parcel of 897 square meters assigned to her under the Deed of Extrajudicial Settlement and Partition of Estate dated July 1981. As explained by the RTC in its 12 September 2000 Decision:

> The [subject property] which is claimed by the [herein petitioner and her husband] and that which is claimed by the [herein respondents] are one and the same, the difference in area and technical description being due to the repartition and re-allocation of the parcel of land originally co-owned by Pantaleon Maglunob and his sister Placida Maglunob and subsequently declared in the name of [Victorino] under Tax Declaration No. 5988 of 1949.[32]

It is clear from the records that the subject property was not Esperanza's exclusive share, but also that of the other heirs of her father, Martin I. Esperanza expressly affixed her thumbmark to the Deed of Extrajudicial Settlement of July 1981 not only for herself, but also on behalf of the other heirs of Martin I. Though in the Partition Agreement dated 29 April 1985 Esperanza affixed her thumbmark without stating that she was doing so not only for herself, but also on behalf of the other heirs of Martin I, this does not mean that Esperanza was already the exclusive owner thereof. The evidence shows that the subject property is the share of the heirs of Martin I. This is clear from the sketch[33] attached to the Partition Agreement dated 29 April 1985, which reveals the proportionate areas given to the heirs of the two siblings, Pantaleon and Placida, who were the original owners of the whole parcel of land[34] from which the subject property was taken.

Further, it bears emphasis that the Partition Agreement was executed by and among the son, grandsons, granddaughters

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[32] *Rollo*, p. 103.

[33] CA *rollo*, p. 147.

[34] It consists of 7,176 square meters.

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and cousins of Victorino. Esperanza was neither the granddaughter nor the cousin of Victorino, as she was only Victorino's grandniece. The cousin of Victorino is Martin I, Esperanza's father. In effect, therefore, the subject property allotted to Esperanza in the Partition Agreement was not her exclusive share, as she holds the same for and on behalf of the other heirs of Martin I, who was already deceased at the time the Partition Agreement was made.

To further bolster the truth that the subject property was not exclusively owned by Esperanza, the Affidavit she executed in favor of petitioner and her husband on 6 June 1985 was worded as follows:

> That I hereby renounce, relinquish, waive and quitclaim all my rights, **share**, interest and **participation whatsoever** in the [subject property] unto the said Sps. Ray Mars Arangote and Elvira T. Arangote, their heirs, successors, and assigns including the improvement found thereon;[35]

Logically, if Esperanza fully owned the subject property, she would have simply waived her rights to and interest in the subject property, without mentioning her "share" and "participation" in the same. By including such words in her Affidavit, Esperanza was aware of and was limiting her waiver, renunciation, and quitclaim to her one-third share and participation in the subject property.

Going to the issues raised by the petitioner in this Petition, this Court will resolve the same concurrently as they are interrelated.

In this case, the petitioner derived her title to the subject property from the notarized Affidavit executed by Esperanza, wherein the latter relinquished her rights, share, interest and participation over the same in favor of the petitioner and her husband.

A careful perusal of the said Affidavit reveals that it is not what it purports to be. Esperanza's Affidavit is, in fact, a Donation.

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[35] CA *rollo*, p. 53.

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Esperanza's real intent in executing the said Affidavit was to donate her share in the subject property to petitioner and her husband.

As no onerous undertaking is required of petitioner and her husband under the said Affidavit, the donation is regarded as a pure donation of an interest in a real property covered by Article 749 of the Civil Code.[36] Article 749 of the Civil Code provides:

> Art. 749. In order that the donation of an immovable may be valid, it must be made in a public document, specifying therein the property donated and the value of the charges which the donee must satisfy.
>
> The acceptance may be made in the same deed of donation or in a separate public document, but it shall not take effect unless it is done during the lifetime of the donor.
>
> If the acceptance is made in a separate instrument, the donor shall be notified thereof in an authentic form, and this step shall be noted in both instruments.

From the aforesaid provision, there are three requisites for the validity of a simple donation of a real property, to wit: (1) it must be made in a public instrument; (2) it must be accepted, which acceptance may be made either in the same Deed of Donation or in a separate public instrument; and (3) if the acceptance is made in a separate instrument, the donor must be notified in an authentic form, and the same must be noted in both instruments.

This Court agrees with the RTC and the Court of Appeals that the Affidavit executed by Esperanza relinquishing her rights, share, interest and participation over the subject property in favor of the petitioner and her husband suffered from legal infirmities, as it failed to comply with the aforesaid requisites of the law.

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[36] *Supra* note 25.

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In *Sumipat v. Banga*,[37] this Court declared that title to immovable property does not pass from the donor to the donee by virtue of a Deed of Donation **until and unless it has been accepted in a public instrument and the donor duly notified thereof**. The acceptance may be made in the very same instrument of donation. If the acceptance does not appear in the same document, it must be made in another. Where the Deed of Donation fails to show the acceptance, or where the formal notice of the acceptance, made in a separate instrument, is either not given to the donor or else not noted in the Deed of Donation and in the separate acceptance, **the donation is null and void**.[38]

In the present case, the said Affidavit, which is tantamount to a Deed of Donation, met the first requisite, as it was notarized; thus, it became a public instrument. Nevertheless, it failed to meet the aforesaid second and third requisites. The acceptance of the said donation was not made by the petitioner and her husband either in the same Affidavit or in a separate public instrument. As there was no acceptance made of the said donation, there was also no notice of the said acceptance given to the donor, Esperanza. **Therefore, the Affidavit executed by Esperanza in favor of petitioner and her husband is null and void**.

The subsequent notarized Deed of Acceptance[39] dated 23 September 2000, as well as the notice[40] of such acceptance, executed by the petitioner did not cure the defect. Moreover, it was only made by the petitioner several years after the Complaint was filed in court, or when the RTC had already rendered its Decision dated 12 September 2000, although it was still during Esperanza's lifetime. Evidently, its execution was a mere afterthought, a belated attempt to cure what was a defective donation.

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[37] G.R. No. 155810, 13 August 2004, 436 SCRA 521.

[38] *J.L.T. Agro, Inc. v. Balansag*, G.R. No. 141882, 11 March 2005, 453 SCRA 211, 233-234.

[39] CA *rollo*, p. 24.

[40] *Id.* at 25-26.

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It is true that the **acceptance of a donation may be made at any time during the lifetime of the donor**. And granting *arguendo* that such acceptance may still be admitted in evidence on appeal, **there is still need for proof that a formal notice of such acceptance was received by the donor and noted in both the Deed of Donation and the separate instrument embodying the acceptance**.[41] At the very least, this last legal requisite of annotation in both instruments of donation and acceptance was not fulfilled by the petitioner. Neither the Affidavit nor the Deed of Acceptance bears the fact that Esperanza received notice of the acceptance of the donation by petitioner. For this reason, even Esperanza's one-third share in the subject property cannot be adjudicated to the petitioner.

With the foregoing, this Court holds that the RTC and the Court of Appeals did not err in declaring null and void Esperanza's Affidavit.

The next issue to be resolved then is whether the RTC, as well as the Court of Appeals, erred in declaring OCT No. CLOA-1748 in the name of petitioner and her husband null and void.

Again, this Court answers the said issue in the negative.

Section 48 of Presidential Decree No. 1529 states:

> SEC. 48. *Certificate not subject to collateral attack.*— A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law.

Such proscription has long been enshrined in Philippine jurisprudence. The judicial action required to challenge the validity of title is a direct attack, not a collateral attack.[42]

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[41] *Lagazo v. Court of Appeals*, 350 Phil. 449, 462 (1998).

[42] *Natalia Realty Corporation v. Vallez*, G.R. Nos. 78290-94, 23 May 1989, 173 SCRA 534, 542; *Cimafranca v. Intermediate Appellate Court*, G.R. No. 68687, 31 January 1987, 147 SCRA 611, 621; *Barrios v. Court of Appeals*, 168 Phil. 587, 595 (1977); *Magay v. Estanislao*, G.R. No. L-28975, 27 February 1976, 69 SCRA 456, 458.

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The attack is considered direct when the object of an action is to annul or set aside such proceeding, or enjoin its enforcement. Conversely, an attack is indirect or collateral when, in an action to obtain a different relief, an attack on the proceeding is nevertheless made as an incident thereof. **Such action to attack a certificate of title may be an original action or a counterclaim, in which a certificate of title is assailed as void**.[43]

A counterclaim is considered a new suit in which the defendant is the plaintiff and the plaintiff in the complaint becomes the defendant. It stands on the same footing as, and is to be tested by the same rules as if it were, an independent action.[44]

In their Answer to the Complaint for Quieting of Title filed by the petitioner and her husband before the MCTC, respondents included therein a Counterclaim wherein they repleaded all the material allegations in their affirmative defenses, the most essential of which was their claim that petitioner and her husband — by means of fraud, undue influence and deceit — were able to make their grand aunt, Esperanza, who was already old and illiterate, affix her thumbmark to the Affidavit, wherein she renounced, waived, and quitclaimed all her rights and interest over the subject property in favor of petitioner and her husband. In addition, respondents maintained in their Answer that as petitioner and her husband were not tenants either of Esperanza or of the respondents, the DAR could not have validly issued in favor of petitioner and her husband OCT No. CLOA-1748. Thus, the respondents prayed, in their counterclaim in Civil Case No. 156 before the MCTC, that OCT No. CLOA-1748 issued in the name of petitioner, married to Ray Mars E. Arangote, be declared null and void, insofar as their two-thirds shares in the subject property are concerned.

It is clear, thus, that respondents' Answer with Counterclaim was a direct attack on petitioner's certificate of title. Furthermore,

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[43] *Leyson. v. Bontuyan,* G.R. No. 156357, 18 February 2005, 453 SCRA 94, 112.

[44] *Supra* note 34.

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since all the essential facts of the case for the determination of the validity of the title are now before this Court, to require respondents to institute a separate cancellation proceeding would be pointlessly circuitous and against the best interest of justice.

Esperanza's Affidavit, which was the sole basis of petitioner's claim to the subject property, has been declared null and void. Moreover, petitioner and her husband were not tenants of the subject property. In fact, petitioner herself admitted in her Complaint filed before the MCTC that her husband is out of the country, rendering it impossible for him to work on the subject property as a tenant. Instead of cultivating the subject property, petitioner and her husband possessed the same by constructing a house thereon. Thus, it is highly suspicious how the petitioner was able to secure from the DAR a Certificate of Land Ownership Award (CLOA) over the subject property. The DAR awards such certificates to the grantees only if they fulfill the requirements of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Program (CARP).[45] Hence, the RTC and the Court of Appeals did not err in declaring null and void OCT No. CLOA-1748 in the name of the petitioner, married to Ray Mars E. Arangote.

Considering that Esperanza died without any compulsory heirs and that the supposed donation of her one-third share in the subject property per her Affidavit dated 9 June 1985 was already declared null and void, Esperanza's one-third share in the subject property passed on to her legal heirs, the respondents.

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[45] The basic requirements under Republic Act No. 6657 in order that the Certificate of Land Ownership may be awarded to the applicant are: (1) he/she must be a qualified beneficiary, *i.e.*, he/she she must be an agricultural lessee and share tenant, regular farmworker, seasonal farmworkers, or any other farmworker, actual tiller or occupant of a public land, collective or cooperative of the above beneficiary, or any other person directly working on the land; and (2) he/she must have willingness, attitude, and ability to cultivate and make the land as productive as possible (Section 22, Republic Act No. 6657).

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As petitioner's last-ditch effort, she claims that she is a possessor in good faith and, thus, entitled to the rights provided for under Articles 448 and 546 of the Civil Code.

This claim is untenable.

The Civil Code describes a possessor in good faith as follows:

> Art. 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.
>
> He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing.
>
> Mistake upon a doubtful or difficult question of law may be the basis of good faith.
>
> Art. 1127. The good faith of the possessor consists in the reasonable belief that the person from whom he received the thing was the owner thereof, and could transmit his ownership.

Possession in good faith ceases from the moment defects in the title are made known to the possessor by extraneous evidence or by a suit for recovery of the property by the true owner. Every possessor in good faith becomes a possessor in bad faith from the moment he becomes aware that what he believed to be true is not so.[46]

In the present case, when respondents came to know that an OCT over the subject property was issued and registered in petitioner's name on 26 March 1993, respondents brought a Complaint on 7 August 1993 before the *Lupon* of *Barangay* Maloco, Ibajay, Aklan, challenging the title of petitioner to the subject property on the basis that said property constitutes the inheritance of respondent, together with their grandaunt Esperanza, so Esperanza had no authority to relinquish the entire subject property to petitioner. From that moment, the good faith of the petitioner had ceased.

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[46] *Ballesteros v. Abion*, G.R. No. 143361, 9 February 2006, 482 SCRA 23, 34-35.

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Petitioner cannot be entitled to the rights under Articles 448 and 546 of the Civil Code, because the rights mentioned therein are applicable only to builders in good faith and not to possessors in good faith.

Moreover, the petitioner cannot be considered a builder in good faith of the house on the subject property. In the context that such term is used in particular reference to Article 448 of the Civil Code, **a builder in good faith is one who, not being the owner of the land, builds on that land, believing himself to be its owner and unaware of any defect in his title or mode of acquisition**.[47]

The various provisions of the Civil Code, pertinent to the subject, read:

Article 448. The owner of the land on which anything has been built, sown, or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such a case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

Article 449. He who builds, plants, or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity.

Article 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land, and the sower the proper rent.

Under the foregoing provisions, the builder in good faith can compel the landowner to make a choice between appropriating

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[47] *Philippine National Bank v. De Jesus*, 458 Phil. 454, 459 (2003).

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the building by paying the proper indemnity or obliging the builder to pay the price of the land. The choice belongs to the owner of the land, a rule that accords with the principle of accession, *i.e.*, that the accessory follows the principal and not the other way around. Even as the option lies with the landowner, the grant to him, nevertheless, is preclusive. He must choose one. He cannot, for instance, compel the owner of the building to instead remove it from the land. In order, however, that the builder can invoke that accruing benefit and enjoy his corresponding right to demand that a choice be made by the landowner, he should be able to prove good faith on his part.[48]

Good faith, here understood, is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. An individual's personal good faith is a concept of his own mind and, therefore, may not conclusively be determined by his protestations alone. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. The essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim, and absence of intention to overreach another. Applied to possession, one is considered in good faith if he is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.[49]

In this case, the subject property waived and quitclaimed by Esperanza to the petitioner and her husband in the Affidavit was only covered by a tax declaration in the name of Esperanza. Petitioner did not even bother to look into the origin of the subject property and to probe into the right of Esperanza to relinquish the same. Thus, when petitioner and her husband built a house thereon in 1989 they cannot be considered to have acted in good faith as they were fully aware that when Esperanza executed an Affidavit relinquishing in their favor

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[48] *Leyson. v. Bontuyan, supra* note 43 at 113.

[49] *Id*.

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the subject property the only proof of Esperanza's ownership over the same was a mere tax declaration. This fact or circumstance alone was enough to put the petitioner and her husband under inquiry. Settled is the rule that a tax declaration does not prove ownership. It is merely an *indicium* of a claim of ownership. Payment of taxes is not proof of ownership; it is, at best, an *indicium* of possession in the concept of ownership. Neither tax receipts nor a declaration of ownership for taxation purposes is evidence of ownership or of a right to possess realty when not supported by other effective proofs.[50]

With the foregoing, the petitioner is not entitled to the rights under Articles 448 and 546 as the petitioner is not a builder and possessor in good faith.

WHEREFORE, premises considered, the instant Petition is hereby *DENIED*. The Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 64970, dated 27 October 2006 and 29 June 2007, respectively, affirming the RTC Decision dated 12 September 2000 in Civil Case No. 5511 and declaring the respondents the lawful owners and possessors of the subject property are hereby *AFFIRMED*. No costs.

SO ORDERED.

Quisumbing, Austria-Martinez (Acting Chairperson), Nachura,* and *Peralta, JJ.,* concur.

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[50] *De Vera-Cruz v. Miguel*, G.R. No. 144103, 31 August 2005, 468 SCRA 506, 522.

* Per Special Order No. 564, dated 12 February 2009, signed by Chief Justice Reynato S. Puno designating Associate Justice Leonardo A. Quisumbing to replace Associate Justice Consuelo Ynares-Santiago, who is on official leave under the Court's Wellness Program.