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right to receive it.[20] As found by the CA and undisputed by the parties, the amount of the down payment made is ₱14,000,000.00 which shall also be the amount to be returned by respondents.

WHEREFORE, the Petition for Review on *Certiorari* dated November 9, 2006 of petitioner Filinvest Land, Inc. is hereby **DENIED.** Consequently, the Decision dated March 30, 2006 and Resolution dated September 18, 2006 of the Court of Appeals are hereby **AFFIRMED** with the **MODIFICATION** that respondents return the amount of ₱14,000,000.00 given by petitioner as down payment for the sale which is ruled to be void *ab initio*.

SO ORDERED.

Velasco, Jr. (Chairperson), Abad, Perez,[*] and *Mendoza, JJ.,* concur.

THIRD DIVISION

[G.R. No. 175990. October 11, 2012]

HEIRS OF ALBINA G. AMPIL, namely PRECIOUS A. ZAVALLA, EDUARDO AMPIL, PEÑAFRANCIA A. OLAÑO, VICENTE G. AMPIL, JR., FROILAN G. AMPIL and EXEQUIEL G. AMPIL, represented by EXEQUIEL G. AMPIL, *petitioners, vs.* **TERESA MANAHAN and MARIO MANAHAN,** *respondents.*

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[20] *Gil Miguel T. Puyat v. Ron Zabarte*, G.R. No. 141536, February 26, 2001, 352 SCRA 738, 750; 405 Phil. 413, 431 (2001).

[*] Designated acting member, per Special Order No. 1229, dated August 28, 2012.

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SYLLABUS

1. CIVIL LAW; PROPERTY; CO-OWNERSHIP; ANY OF THE CO-OWNERS MAY BRING AN ACTION FOR EJECTMENT.— Article 487 of the Civil Code provides that anyone of the co-owners may bring an action for ejectment without joining the others. The action is not limited to ejectment cases but includes all kinds of suits for recovery of possession because the suit is presumed to have been instituted for the benefit of all. x x x [I]n the case of *Carandang v. Heirs of De Guzman*, this Court ruled that a co-owner was not even a necessary party to an action for ejectment, for complete relief could be afforded even in his absence. x x x In the case at bench, the complaint clearly stated that the disputed property was held in common by the petitioners; and that the action was brought to recover possession of the lots from respondents for the benefit of all the heirs of Albina. Hence, Exequiel, a co-owner, may bring the action for unlawful detainer even without the special power of attorney of his co-heirs.

2. REMEDIAL LAW; PROVISIONAL REMEDIES; UNLAWFUL DETAINER; ANY ADJUDICATION AS TO OWNERSHIP IS MERELY PROVISIONAL.— In an unlawful detainer case, the physical or material possession of the property involved, independent of any claim of ownership by any of the parties, is the sole issue for resolution. But where the issue of ownership is raised, the courts may pass upon said issue in order to determine who has the right to possess the property. This adjudication, however, is only an initial determination of ownership for the purpose of settling the issue of possession, the issue of ownership being inseparably linked thereto. As such, the lower court's adjudication of ownership in the ejectment case is merely provisional and would not bar or prejudice an action between the same parties involving title to the property.

3. ID.; ID.; ID.; BARE ALLEGATION OF PEACEFUL AND CONTINUOUS POSSESSION AS OWNER SINCE TIME IMMEMORIAL CANNOT PREVAIL OVER DOCUMENTARY EVIDENCE OF RIGHT TO PROPERTY; CASE AT BAR.— The bare allegation of respondents, that they had been in peaceful and continuous possession of the lot in question because their predecessor-in-interest had been in possession thereof in the

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concept of an owner from time immemorial, cannot prevail over the tax declarations and other documentary evidence presented by petitioners. In the absence of any supporting evidence, that of the petitioners deserves more probative value. A perusal of the records shows that respondents' occupation of the lot in question was by mere tolerance. To prove ownership over the property, the petitioners presented the tax declarations and x x x a survey plan, in support of Albina's application for land registration over the disputed lots. In fact, on December 14, 2006, the Registry of Deeds of Bulacan issued *Katibayan ng Orihinal na Titulo Blg. P-13627*, conferring title over Lot 742 in the names of the heirs of Albina.

APPEARANCES OF COUNSEL

Fajardo Law Office for petitioners.
Punzalan & Punongbayan Law Offices for respondents.

D E C I S I O N

MENDOZA, *J.*:

Before the Court is a Petition for Review under Rule 45 of the Rules of Court questioning the July 11, 2006 Decision[1] and the December 13, 2006 Resolution[2] of the Court of Appeals *(CA)*, in CA-G.R. SP No. 91568, which reversed and set aside the October 14, 2004 Decision[3] of the Regional Trial Court, Malolos, Bulacan, Branch 16 *(RTC)* in Civil Case No. 165-M-04, entitled *"Exequiel G. Ampil v. Teresita Manahan"* for Unlawful Detainer.

The Facts:

On February 14, 2003, Exequiel G. Ampil *(Exequiel)*, as representative of the heirs of the late Albina G. Ampil *(Albina)*,

[1] *Rollo*, pp. 20-26. Penned by Associate Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justice Mariano C. Del Castillo (now member of this Court) and Associate Justice Enrico A. Lanzanas.

[2] *Id.* at 20.

[3] *Id.* at 28.

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filed a complaint[4] for ejectment, which was amended on July 11, 2003,[5] against spouses Perfecto Manahan *(Perfecto)* and Virginia Manahan, Teresita Manahan,[6] Almario Manahan,[7] Irene Manahan and all persons claiming rights under them. In the complaint, it was alleged that Albina was the owner of two *(2)* adjoining residential lots, situated in Sto. Niño, Paombong, Bulacan, and identified as Lot No. 1186,[8] with an area of sixteen (16) square meters,[9] as evidenced by Tax Declaration No. 020-17-013-0007-00001-L;[10] and Lot 742[11] with an area of three hundred eighty-two (382) square meters, as evidenced by Tax Declaration No. 020-17-013-0007-00002-L.[12] They asserted that during her lifetime, Albina allowed Perfecto and his family to occupy a portion of the said properties on the condition that they would vacate the same should the need to use it arise.

After the death of Albina in 1986, her heirs, represented by Exequiel, requested Perfecto and family to vacate the property in question but the latter refused. The matter was then brought before the Lupong Tagapamayapa in Barangay Sto. Niño, Paombong, Bulacan, which issued a Certification to File an Action for failure of the parties to amicably settle their dispute.[13]

On December 12, 2002, petitioners, through counsel, sent a demand letter[14] to the respondents to surrender possession of

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[4] Records, pp. 3-4; 60-63.

[5] Amended Complaint, *id*. at 60-63.

[6] Referred to as Teresita Manahan in the Complaint, *id*. at 3-4.

[7] *Id*.

[8] Referred to as Lot 186 in the Tax Declaration, *id*. at 65 & 130.

[9] Originally, the area of the lot is seventy five (75) square meters but it was reduced to sixteen due to road widening, Amended Complaint, *id*. at 61 & Cadastral Survey, p. 164.

[10] *Id.* at 64.

[11] Covered by Original Certificate of Title No. P-13627, issued on December 14, 2006, Annex "D" of the Petition, *rollo*, p. 31.

[12] Records, p. 65.

[13] *Id.* at 8.

[14] *Id.* at 9.

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the lands in question but to no avail. Consequently, petitioners filed a complaint for ejectment before the Municipal Trial Court, Paombong, Bulacan *(MTC)*.

On February 28, 2003, the respondents filed their answer with counterclaim[15] averring that the lots they had been occupying belonged to them, their predecessor-in-interest having been in peaceful and continuous possession thereof in the concept of an owner since time immemorial and that Albina was never the owner of the property. Accordingly, they prayed for the payment of attorney's fees by way of counterclaim.

On February 23, 2004, the MTC rendered judgment[16] in favor of the petitioners. The MTC relied on the two (2) tax declarations and the certification from the Municipal Treasurer showing that Albina had been paying the real property taxes on the lands in question. It stressed that the issue in ejectment cases is not the ownership of the property, but the material possession thereof. The dispositive portion reads:

> WHEREFORE, judgment is hereby rendered declaring the Plaintiff to be entitled to the physical or material possession of Lot No. 186 located at Sto. Niño, Paombong, Bulacan covered by Tax Declaration No. (Property Index) 020-17-013-0007-00001-L consisting of more or less seventy-five (75) square meters and Lot 742 also at Sto. Niño, Paombong, Bulacan covered by Tax Declaration No. (Property Index) 020-17-013-0007-00002-L consisting of more or less three hundred eighty-two (382) square meters and this Court orders:
>
> (1) The Defendants, their heirs, assigns or any other persons claiming any right or interest over the subject premises under or in their names to surrender peaceful possession thereof to the Plaintiff;
>
> (2) The Defendants to pay the Plaintiff the amount of Two Thousand Pesos (₱2,000.00) a month from the date of the filing of this amended complaint (July 11, 2003) until they finally vacate the premises; as fair rental value for the use and occupation thereof; and

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[15] *Id.* at 15-17.

[16] *Id.* at 165-169.

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(3) The award of Twenty Thousand Pesos (₱20,000.00) as attorney's fees in favor of the Plaintiff and against the Defendants.

No pronouncement as to costs.

SO ORDERED.[17]

The respondents appealed the MTC decision to the RTC, which affirmed it *in toto* in its October 14, 2004 Decision.[18]

Aggrieved, respondents Teresa Manahan and Mario Manahan *(respondents)* appealed their case before the CA. In a Decision, dated July 11, 2006, the CA *reversed* and *set aside* the RTC Decision and dismissed the case for unlawful detainer. It ruled that tax declarations and receipts are not conclusive proof of ownership or right of possession over a piece of land and it only becomes strong evidence of ownership when accompanied by proof of actual possession.

Petitioners filed a motion for reconsideration but it was denied by the CA in its December 13, 2006 Resolution.[19]

Consequently, on January 16, 2007, petitioners filed this petition for review anchored on the following assignment of errors:

1. The court *a quo* gravely erred in not dismissing the petition despite its apparent lack of legal leg to stand on.

2. The court *a quo* gravely erred in finding that petitioners solely anchored their claim of ownership over the contested properties on mere tax declarations.

3. The court *a quo* gravely erred in finding that petitioners failed to establish tolerance.

4. The court *a quo* gravely erred in giving more weight to bare assertions of the respondents.

5. The court *a quo* gravely erred in not finding against the respondents despite their failure to prove their affirmative allegations.

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[17] *Id.* at 168-169.

[18] *Id.* at 229-232.

[19] *Rollo*, p. 28.

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6. The court *a quo* gravely erred in finding for the respondents despite petitioners' preponderance of evidence.[20]

Petitioners aver that their claim of ownership over the disputed lots was not solely based on tax declarations but also anchored on the *Sinumpaang Salaysay*,[21] dated May 25, 1983, executed by Perfecto, in connection with a criminal case filed against him for violation of Presidential Decree *(P.D.)* No. 772 (Anti-Squatting Law). In the said document, Perfecto categorically admitted that the said lots were owned by Albina Ampil; and that on December 14, 2006, the Registry of Deeds of the Province of Bulacan issued Original Certificate of Title No. 13627 covering Lot 742, in the names of the Heirs of Albina.[22]

Respondents, on the other hand, move for the dismissal of the petition for being defective in form. They question the special power of attorney submitted by Exequiel because it neither shows that the persons who executed the said affidavit were the real heirs of Albina nor does it authorize him to institute the petition. The document does not clearly state either whether the real properties mentioned therein are the same properties subject of the petition.

Respondents also contend that the petition raises factual issues which are not allowed in a petition for review under the Rules of Court. According to respondents, under Rule 45, only questions of law may be raised as issues and, thereafter, resolved by the Court.

As to the merit of the case, respondents echoed the position of the CA that tax declarations are not conclusive proof of ownership.

The lone issue to be resolved here is who, between petitioners and respondents, have the better right to the physical possession of the disputed property. But before delving into the issue, the Court shall first discuss the question raised by respondents

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[20] *Id.* at 6.

[21] Records, p. 133.

[22] Annex "D" of the Petition, *rollo*, p. 31.

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regarding the authority of Exequiel to file the complaint on behalf of his co-heirs.

Article 487 of the Civil Code provides that anyone of the co-owners may bring an action for ejectment without joining the others. The action is not limited to ejectment cases but includes all kinds of suits for recovery of possession because the suit is presumed to have been instituted for the benefit of all.[23] In the case of *Celino v. Heirs of Alejo and Teresa Santiago*,[24] the Court held that:

> Respondents herein are co-owners of two parcels of land owned by their deceased mother. The properties were allegedly encroached upon by the petitioner. As co-owner of the properties, each of the heirs may properly bring an action for ejectment, forcible entry, or any kind of action for the recovery of possession of the subject properties. Thus, a co-owner may bring such an action, even without joining all the other co-owners as co-plaintiffs, because the suit is deemed to be instituted for the benefit of all. However, if the action is for the benefit of the plaintiff alone, such that he claims the possession for himself and not for the co-ownership, the action will not prosper.

Also, in the case of *Carandang v. Heirs of De Guzman*,[25] this Court ruled that a co-owner was not even a necessary party to an action for ejectment, for complete relief could be afforded even in his absence, thus:

> In sum, in suits to recover properties, all co-owners are real parties in interest. However, pursuant to Article 487 of the Civil Code and the relevant jurisprudence, any one of them may bring an action, any kind of action for the recovery of co-owned properties. Therefore, only one of the co-owners, namely the co-owner who filed the suit for the recovery of the co-owned property, is an indispensable party thereto. The other co-owners are not indispensable parties. They are not even necessary parties, for a complete relief can be afforded in the suit even without their participation, since the suit is presumed to have been filed for the benefit of all co-owners.

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[23] *Adlawan v. Adlawan*, 515 Phil. 255, 262 (2006).

[24] 479 Phil. 617, 624 (2004).

[25] 538 Phil. 319, 338 (2006).

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In the case at bench, the complaint clearly stated that the disputed property was held in common by the petitioners; and that the action was brought to recover possession of the lots from respondents for the benefit of all the heirs of Albina. Hence, Exequiel, a co-owner, may bring the action for unlawful detainer even without the special power of attorney of his co-heirs,[26] for a complete relief can be accorded in the suit even without their participation because the suit is deemed to be instituted for the benefit of all the co-owners.

With respect to the main issue, the Court finds merit in the petition.

Indeed, as a rule, petitions for review on *certiorari* under Rule 45 of the Rules Court are limited only to questions of law and not of fact.[27] The rule, however, admits of several exceptions, to wit: "(1) the factual findings of the Court of Appeals and the trial court are contradictory; (2) the findings are grounded entirely on speculation, surmises or conjectures; (3) the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible; (4) there is grave abuse of discretion in the appreciation of facts; (5) the appellate court, in making its findings, goes beyond the issues of the case and such findings are contrary to the admissions of both appellant and appellee; (6) the judgment of the Court of Appeals is premised on a misapprehension of facts; (7) the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion; and (8) the findings of fact of the Court of Appeals are contrary to those of the trial court or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by respondent, or where the findings of fact of

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[26] *Wee v. De Castro*, G.R. No. 176405, August 20, 2008, 562 SCRA 695, 712.

[27] *New Rural Bank of Guimba (N.E.), Inc. v. Abad*, G.R. No. 161818, August 20, 2008, 562 SCRA 503, 509.

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the Court of Appeals are premised on the absence of evidence but are contradicted by the evidence on record."[28]

In this case, the factual findings of the CA are contrary to those of the MTC and the RTC. Hence, a review of the case is imperative.

In an unlawful detainer case, the physical or material possession of the property involved, independent of any claim of ownership by any of the parties, is the sole issue for resolution. But where the issue of ownership is raised, the courts may pass upon said issue in order to determine who has the right to possess the property. This adjudication, however, is only an initial determination of ownership for the purpose of settling the issue of possession, the issue of ownership being inseparably linked thereto. As such, the lower court's adjudication of ownership in the ejectment case is merely provisional and would not bar or prejudice an action between the same parties involving title to the property.[29]

In the case at bench, the Court sustains the findings of both the MTC and the RTC. The bare allegation of respondents, that they had been in peaceful and continuous possession of the lot in question because their predecessor-in-interest had been in possession thereof in the concept of an owner from time immemorial, cannot prevail over the tax declarations and other documentary evidence presented by petitioners. In the absence of any supporting evidence, that of the petitioners deserves more probative value.

A perusal of the records shows that respondents' occupation of the lot in question was by mere tolerance. To prove ownership over the property, the petitioners presented the tax declarations covering the properties and a certification issued by the Municipality of Paombong, Bulacan, showing that their mother, Albina, had been paying the corresponding real property taxes

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[28] *Land Bank of the Philippines v. Monet's Export & Manufacturing Corporation*, 493 Phil. 327, 338 (2005).

[29] *Pascual v. Coronel*, G.R. No. 159292, July 12, 2007, 527 SCRA 474, 482.

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thereon. Petitioners also submitted a survey plan,[30] dated August 5, 1968, prepared by Geodetic Engineer Roberto H. Dimailig, in support of Albina's application for land registration over the disputed lots. In fact, on December 14, 2006, the Registry of Deeds of Bulacan issued *Katibayan ng Orihinal na Titulo Blg. P-13627*,[31] conferring title over Lot 742 in the names of the heirs of Albina.

Also, in 1982, one of the petitioners verbally demanded that the respondents vacate the property and when the latter refused, they filed a complaint before the Barangay Lupon. From the minutes of the meeting in the Barangay Lupon,[32] Perfecto admitted that in 1952, Albina allowed them temporary use of the lots and that they could not leave the premises because they had nowhere else to go. When the parties failed to reach a settlement, petitioners, in order to protect their rights to the lot in question, filed a case for violation of P.D. No. 772, an Act Penalizing Squatting and other Similar Acts against Perfecto, docketed as Criminal Case No. 6448-M, before the Regional Trial Court, Branch XII, Malolos, Bulacan. In the said case, Perfecto executed a *Sinumpaang Salaysay*, wherein he admitted that Albina was the owner of the lots in question and that he was merely allowed by her to use the property on condition that they would vacate it on demand. As a result, the court dismissed the complaint because it found out that Perfecto and his family's stay in the questioned lots was lawful because Albina permitted them to use the lots on the condition that they would vacate the same should Albina need it.

On the other hand, respondents could not present proof that they and their predecessors-in-interest had openly and continuously possessed the subject land since time immemorial. Granting that respondents or their predecessors-in-interests had been in possession in the concept of an owner since time immemorial, none of them declared the disputed lots

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[30] Records, p. 164.

[31] Annex "D" of the Petition, *rollo*, p. 31.

[32] Records, pp. 131-132.

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for taxation purposes and, thus, never paid taxes thereon. Respondents' allegation that they were in peaceful, continuous and adverse possession of the lots in question, unsupported by any evidence, is not substantial to establish their interest over the property.

Well established is the rule that ownership over the land cannot be acquired by mere occupation.[33] While it is true that tax declarations are not conclusive evidence of ownership, they, nevertheless, constitute at least proof that the holder has a claim of title over the property. It strengthens one's *bona fide* claim of acquisition of ownership.[34]

WHEREFORE, the petition is **GRANTED.** The July 11, 2006 Decision and the December 13, 2006 Resolution of the Court of Appeals, in CA-G.R. SP No. 91568, are **REVERSED** and **SET ASIDE.** The February 23, 2004 Decision of the Municipal Trial Court, affirmed *in toto* by the Regional Trial Court, is ordered **REINSTATED.**

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Abad, and *Perez,*[*] *JJ.,* concur.

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[33] *Cequeña v. Bolante*, 386 Phil. 419, 430 (2000).

[34] *Republic v. Court of Appeals*, 328 Phil. 239, 248 (1996).

[*] Designated additional member, per Special Order No. 1229, dated August 28, 2012.