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While the petition seeks a definitive ruling only on the nature of AFISCO's liability, we noticed that the lower court erred in the computation of the probable loss of income. Using the formula: 2/3 of (80-56) x ₱12,000.00, it awarded ₱28,000.00.[13] Upon recomputation, the correct amount is ₱192,000.00. Being a "plain error," we opt to correct the same.[14] Furthermore, in accordance with prevailing jurisprudence, the death indemnity is hereby increased to ₱50,000.00.[15]

WHEREFORE, premises considered, the present petition is hereby GRANTED. The award of ₱28,800.00 representing loss of income is INCREASED to ₱192,000.00 and the death indemnity of ₱12,000.00 to ₱50,000.00.

SO ORDERED.

Gutierrez, Jr. (Chairman), Bidin, and *Davide, Jr., JJ.*, concur.

SECOND DIVISION

[G.R. No. 94490. August 6, 1992]

JOSE DE LUNA, *petitioner, vs.* **THE COURT OF APPEALS, HON. SANTIAGO G. MALIWANAG, RTC EXECUTIVE JUDGE, BRANCH 71, IBA, ZAMBALES; JUAN DIMAANO, JR. and GERINO DOBLE,** *respondents.*

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[13] Decision, p. 9, Annex "A," *Rollo,* p. 31; Citing *Villa Rey Transit, Inc. v. Court of Appeals*, L-25499, February 18, 1970, 31 SCRA 511 and *Davila v. Philippine Airlines*, L-28512, February 28, 1973, 49 SCRA 497.

[14] Section 7, Rule 51, Rules of Court.

[15] *Dangwa Transportation Co., Inc. v. Court of Appeals*, G.R. No. 95582, October 7, 1991, 202 SCRA 574.

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SYLLABUS

1. **REMEDIAL LAW; MUNICIPAL TRIAL COURT; JURISDICTION OVER EJECTMENT CASES; LIMITED TO THE ISSUE OF PHYSICAL OR MATERIAL POSSESSION OF THE PREMISE; EXCEPTION. —** Well-established is the rule in ejectment cases that the only issue to be resolved therein is who is entitled to the physical or material possession of the premises, or possession de facto, independent of any claim of ownership that either party may set forth in their pleadings. If petitioner can prove prior possession in himself, he may recover such possession from even the owner himself. Whatever may be the character of his prior possession, if he has in is favor priority of time, he has the security that entitles him to stay on the property until he is lawfully ejected by a person having a better right by either accion publiciana or accion reindivicatoria. However, where the question of possession can not be resolved without deciding the question of ownership, an inferior court has the power to resolve the question of ownership but only insofar as to determine the issue of possession. In the case at bar, the inferior court acted correctly in receiving evidence regarding the ownership of the disputed property, inasmuch as respondent Dimaano, Jr. claimed to possess the property by virtue of a lease agreement with the alleged owner thereof, Agustin Dequiña, Jr.

2. **CIVIL LAW; PROPERTY; POSSESSION; MAY BE EXERCISED IN ONE'S OWN NAME OR IN THAT OF ANOTHER; CASE AT BAR. —** Petitioner has shown that he had prior possession of the property. The prior possession of petitioner was established by the testimony of this witnesses, notably that of his tenant Epigenio Dilag and Victor dela Cruz. While petitioner admitted that he declared the property for taxation purposes only in 1957, he had possessed the property beginning 1953 at the very latest, when he leased the same to Epigenio Dilag, who in turn possessed the same until respondent Dimaano, Jr. entered upon the property in 1972. The possession of the property by Dilag since 1953 redounds to the benefit of petitioner, since possession may be exercised in one's own name or in that of another. Moreover, there is evidence to the effect that petitioner possessed the property even earlier than 1953. Petitioner's witness, Victor dela Cruz, who lived about

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400 meters from the land in controversy, testified that he has witnessed the delivery of the property to the petitioner and his mother Apolonia Dequiña by Agustin Dequiña, Sr. in 1938, when they and their brothers and sisters partitioned among themselves the properties of their deceased parents. He further testified that he saw petitioner and his mother cultivate the land from 1938 to 1941, and that he leased the land from them from 1944 to 1952.

3. ID.; ID.; ID.; DECLARATION OF THE PROPERTY FOR TAXATION PURPOSES; NOT A SUFFICIENT PROOF THEREOF. — Respondent Dimaano, Jr. had failed to prove that Agustin Dequiña, Jr. possessed the property prior to his possession, much less the ownership of the latter over said property. While Agustin Dequiña, Jr. testified that he is a co-owner of the disputed property, there is nothing to support this self-serving claim; neither does his testimony support the defense's theory that he had prior possession of the property. The mere fact that Agustin Dequiña, Sr. had declared the subject property for taxation purposes from 1908 to 1945 did not constitute possession thereof, nor is it proof of ownership in the absence of Dequiña, Jr.'s actual possession of said property.

APPEARANCES OF COUNSEL

Mario O. Leyco for private respondents.

D E C I S I O N

NOCON, *J.*:

Petition for review on *certiorari* by petitioner Jose de Luna from the decision of the Court of Appeals in CA-G.R. SP No. 12922[1] which affirmed the reversal made by the Regional Trial Court of Iba, Zambales, Branch LXXI, of the decision of the Municipal Circuit Trial Court of Botolan, Zambales in a forcible entry case filed by petitioner against several persons, including private respondents Juan Dimaano, Jr. and Gerino Doble.

[1] *Ponente*: Justice Jesus M. Elbinias; Justice Ricardo L. Pronove and Antonio A. Martinez, concurring.

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In his complaint filed on February 7, 1972 before the Municipal Trial Court, petitioner alleged that he is the owner of an unregistered parcel land with an area of 30,856 square meters, located in Babon San Juan, Botolan, Zambales, since 1938; that on December 18 and 19, 1971, defendants Octavio Daclison, Oscar Crispin, and private respondents Juan Dimaano, Jr. and Gerino Doble entered the land and began plowing it; and that said defendants fenced the land with barbed wire on January 15 and 16, 1972 and began planting sugar cane on February 5 and 6, 1972, despite his objections. Petitioner prayed that the defendants be ordered to vacate the land and pay him the amount of P45.00 monthly per hectare until possession thereof would be transferred to him, with litigation expenses and costs.

In their answer, the defendants denied the material allegations of the complaint. Daclison, Crispin and Doble alleged as a special and affirmative defense that they have not entered nor occupied the disputed property.

For his part, defendant Dimaano, Jr. raised as his special and affirmative defense that petitioner was not the owner of the property, alleging instead that the owner thereof was Agustin Dequiña, Jr., Dimaano, Jr. contended that the property was originally owned by Agustin Dequiña, Sr., who had declared the property in his name for taxation purposes in 1906. Upon the death of Agustin Dequiña, Sr. in 1945, he was succeeded by his son Agustin Dequiña, Jr., who possessed the property from 1945 up to February 1972, when the same was leased to defendant Dimaano, Jr. Agustin Dequiña, Sr. happens to be the uncle of petitioner, the former being the elder brother of the latter's mother, Apolonia Dequiña.

After trial on the merits, judgment was rendered in favor of petitioner, with the trial court ordering the defendants or persons acting for and in their behalf to restore to petitioner possession of the property. In addition, respondent Dimaano, Jr. was ordered to pay petitioner the amounts of P12,312.00 representing actual damages and P5,000.00 as costs of the suit.

The defendants appealed to the Regional Trial Court of Iba, Zambales, which reversed the decision of the inferior court and

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dismissed the complaint. Petitioner brought the case on a petition for review to the Court of Appeals, which affirmed the judgment of the Regional Trial Court.

Aggrieved, petitioner elevated the case to Us, alleging that the Court of Appeals and the Regional Trial Court erred in determining the ownership of the disputed property in an action for ejectment, and in concluding that Agustin Dequiña, Jr. is the owner of the property.

We find the petition impressed with merit.

Well-established is the rule in ejectment cases that the only issue to be resolved therein is who is entitled to the physical or material possession of the premises, or possession de facto, independent of any claim of ownership that either party may set forth in their pleadings.[2] If petitioner can prove prior possession in himself, he may recover such possession from even the owner himself. Whatever may be the character of his prior possession, if he has in his favor priority time, he has the security that entitles him to stay on the property until he is lawfully ejected by a person having a better right by either *accion publiciana or accion reindivicatoria*.[3]

However, where the question of possession can not be resolved without deciding the question of ownership, an inferior court has the power to resolve the question of ownership but only insofar as to determine the issue of possession.[4]

In the case at bar, the inferior court acted correctly in receiving evidence regarding the ownership of the disputed property, inasmuch as respondent Dimaano, Jr. claimed to possess the property by virtue of a lease agreement with the alleged owner thereof, Agustin Dequiña, Jr.

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[2] *Presco vs. Court of Appeals, et. al.*, G.R. No. 82215, 192 SCRA 232 (1990).

[3] Moran, Comments on the Rules of Court, Vol. 3, pp. 315-316.

[4] Sec. 32 [2], B.P. Blg. 129.

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Be that as it may, the respondent Court erred in upholding the Regional Trial Court regarding the conclusion that the subject property is owned by Agustin Dequiña, Jr. and therefore respondent Dimaano, Jr. is entitled to possess the same.

First of all, petitioner has shown that he had prior possession of the property. The prior possession of petitioner was established by the testimony of his witnesses, notably that of his tenant Epigenio Dilag and Victor dela Cruz. While petitioner admitted that he declared the property for taxation purposes only in 1957, he had possessed the property beginning 1953 at the very latest, when he leased the same to Epigenio Dilag, who in turn possessed the same until respondent Dimaano, Jr. entered upon the property in 1972. The possession of the property by Dilag since 1953 redounds to the benefit of petitioner, since possession may be exercised in one's own name or in that of another.[5]

Moreover, there is evidence to the effect that petitioner possessed the property even earlier than 1953. Petitioner's witness, Victor dela Cruz, who lived about 400 meters from the land in controversy, testified that he had witnessed the delivery of the property to the petitioner and his mother Apolonia Dequiña by Agustin Dequiña, Sr. in 1938, when they and their brothers and sisters partitioned among themselves the properties of their deceased parents. He further testified that he saw petitioner and his mother cultivate the land from 1938 to 1941, and that he leased the land from them from 1944 to 1952.[6]

On the other hand, respondent Dimaano, Jr. had failed to prove that Agustin Dequiña, Jr. possessed the property prior to his possession, much less the ownership of the latter over said property. While Agustin Dequiña, Jr. testified that he is a co-owner of the disputed property, there is nothing to support this self-serving claim; neither does his testimony support the defense's theory that he had prior possession of the property. The mere fact that Agustin Dequiña, Sr. had declared the subject property

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[5] Art. 524, Civil Code.

[6] T.S.N., November 9, 1972, pp. 9-14.

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for taxation purposes from 1908 up to 1945 did not constitute possession thereof,[7] nor is it proof of ownership[8] in the absence of Dequiña, Jr.'s actual possession of said property.

Therefore, the Court of Appeals erred in ruling that Agustin Dequiña, Jr. was the owner of the disputed property since there is no evidence whatsoever to support such a conclusion.

However, it goes without saying that this case does not bar petitioner and Agustin Dequiña, Jr. from resolving the issue of ownership over the disputed property in an appropriate proceeding.

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE. The decision of the Municipal Trial Court of Botolan, Zambales is hereby REINSTATED and AFFIRMED. Costs against private respondents.

SO ORDERED.

Narvasa, C.J. (Chairman), Padilla, and *Regalado, JJ.*, concur.

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[7] *Ramirez and Bayot de Ramirez vs. Director of Lands*, 60 Phil., 114.

[8] *Casimiro vs. Fernandez*, 9 Phil. 562; *Prov. of Camarines Sur vs. Director of Lands*, 64 Phil. 600.