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SECOND DIVISION

[G.R. No. 255157; July 4, 2022]

ONESIMO AGAPITO, *Petitioner*, *v.* **MARILYN F. AGAPITO,** *Respondent*.

D E C I S I O N

KHO, JR., *J.*:

This Court resolves a Petition for Review on *Certiorari*[1] assailing the Decision[2] dated December 28, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 157507, which affirmed the Decision[3] dated July 16, 2018 of the Regional Trial Court of Malolos City, Bulacan, Branch 81 (RTC) with modification, in Civil Case No. 445-M-2017 declaring that petitioner Onesimo Agapito (Onesimo) is not entitled to reimbursement for the value of the improvements he introduced to the property subject of litigation and to the right of retention pending reimbursement, as provided under Articles 448[4] and 546[5] of the Civil Code of the Philippines.

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1 Dated March 4, 2020; *rollo*, pp. 8–29.

2 Id. at 35–43. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Manuel M. Barrios and Alfredo D. Ampuan.

3 Id. at 169–180. Penned by Presiding Judge Hermenegildo C. Dumlao II.

4 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 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. (361a)

5 Article 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

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The Facts

The present case stemmed from a Complaint[6] for Unlawful Detainer filed by respondent Marilyn F. Agapito (Marilyn) against Onesimo, Marilyn's brother, before the Municipal Trial Court of Bocaue, Bulacan (MTC) on September 18, 2015. Marilyn alleged that she is the absolute and registered owner of a parcel of land located at **191 Centro 1st, Bunlo, Bocaue, Bulacan** (property), covered by Transfer Certificate of Title (TCT) No. T-100482 (M),[7] and with an assessed value of ₱14,070.00.[8] She narrated that for more than ten (10) years, Onesimo has occupied the property by her mere tolerance and without paying any rent. Without Marilyn's knowledge or consent, however, Onesimo constructed thereon a house with a market value of ₱21,600.00.[9] She claimed that she informed Onesimo of her intention to use the property but the former refused to surrender its possession. Moreover, despite her efforts, they did not reach any settlement even before the *barangay* conciliation proceedings.[10] Thus, on September 25, 2014, with the assistance of her counsel, Atty. Arni R. Topico, she sent a letter[11] demanding Onesimo to vacate the property and surrender its possession, but to no avail.[12]

For his part, Onesimo filed an Answer with Compulsory Counterclaim,[13] primarily claiming that contrary to Marilyn's assertion, the stated current market value of the house is not less than ₱375,200.00. Additionally, he asserted that he has been in

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Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof. (453a)

6 Dated August 13, 2015; *rollo*, pp. 51–56.

7 Id. at 107–111.

8 2014 Tax Declaration of Real Property; id. at 67.

9 2014 Tax Declaration of Real Property; id. at 68.

10 See *Katibayan Upang Makadulong sa Hukuman* issued by the *Tanggapan ng Lupong Tagapamayapa*; id. at 71.

11 Id. at 69–70.

12 See id. at 51–52.

13 Dated October 14, 2015; id. at 72–76.

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possession of the property since the 1980s even before it was registered under Marilyn's name. Further, he claimed that he built the house in 2000 in good faith and with Marilyn's full knowledge and acquiescence. In fact, Marilyn even subsequently assured him that she would reimburse him with its value should the property be sold. To his surprise, however, Marilyn demanded that he and his family vacate the property outright without any reimbursement offer. He argued that he is willing to surrender the possession of the property, but subject to his right to reimbursement for the value of the house and improvements he introduced therein in good faith.[14]

In her Position Paper,[15] Marilyn additionally claimed that she initially tolerated Onesimo's possession of the property by allowing him to occupy a nipa hut thereon out of brotherly love. Further, she denied consenting to the construction of the house and instead, insisted that she never had any knowledge nor did she approve its construction. Thus, she argued that Onesimo cannot be considered a builder in good faith with the right to reimbursement of useful improvements and retention as provided under Articles 448 and 546 of the Civil Code.[16]

In his Position Paper,[17] Onesimo insisted that he built the house with Marilyn's full knowledge and acquiescence and in fact, she never voiced her objection thereto during the fourteen (14)-year period prior to her demand to vacate. Additionally, he contended that Marilyn never denied the allegation that she consented to the construction nor did she present evidence showing that she opposed it. Finally, he argued that he is presumed to have built the house in good faith pursuant to Article 527[18] of the Civil Code.[19]

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[14] See id. at 72–74.

[15] Id. at 93-104.

[16] See id. at 94–95.

[17] Id. at 115–125.

[18] Article 527. Good faith is always presumed, and upon him who alleges bad faith on the part of a possessor rests the burden of proof. (434)

[19] See *rollo*, pp. 115–118.

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The MTC Ruling

In a Partial Decision[20] dated July 20, 2017, the MTC ruled in Marilyn's favor and accordingly, ordered Onesimo and all persons claiming right under him to: (1) vacate the property and deliver its peaceful possession to Marilyn; and (2) pay the former reasonable rental in the amount of ₱2,000.00 monthly from the date of demand until he fully and finally vacates the premises. The MTC likewise set the case hearing for the determination of the necessary expenses shouldered by Onesimo for the preservation of the property, if any, which Marilyn must reimburse.[21]

In denying Onesimo's claim for reimbursement for the value of the house, the MTC ruled that since he admittedly knew that his sister owned the property, he cannot be considered a builder in good faith. As such, he has no right to retain the possession of the property nor to the reimbursement of the expenses for the value of the house pursuant to Articles 448 and 546 of the Civil Code.[22]

Without contesting the MTC's ruling on the unlawful detainer issue, Onesimo appealed[23] before the RTC insisting that he is a builder in good faith with a right to reimbursement for the value of the house and to the retention of the premises pending reimbursement. He argued that as the records bear out, and as in fact found by the MTC, Marilyn tolerated his possession of the property by "allowing him to occupy and build a house thereon" in 2000 where he has been living for more than 14 years. He further pointed out that Marilyn lives just a few meters or houses away from the property which thus, belies her claim of lack of knowledge of the house's construction. Based on these, he insisted that he built the house with the approval and knowledge of Marilyn and without any opposition from her; and in any event, her silence and inaction could only be construed as consent.[24]

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[20] Id. at 135–140. Penned by Acting Presiding Judge Myrna S. Lagrosa.

[21] See id. at 140.

[22] See id. at 138–140.

[23] See Notice of Appeal dated August 22, 2017 and Appeal Memorandum dated October 8, 2017; id. at 141–142 and 145-157, respectively.

[24] See id. at 149–150.

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The RTC Ruling

In a Decision[25] dated July 16, 2018, the RTC affirmed the MTC's Partial Decision with modification, declaring that Onesimo is not entitled to reimbursement of both necessary and useful improvements, as well as to the right of retention of the premises under Articles 448 and 546 of the Civil Code. It held that since his occupation of the property was by mere tolerance, which could be terminated at any time, he could not be considered a builder in good faith who is entitled to exercise the rights of reimbursement and retention. Under the law, these rights are available only to possessors in good faith, or those who build on land with the belief that they are the owners thereof.[26]

Undeterred, Onesimo filed a Petition for Review[27] before the CA.

The CA Ruling

In a Decision[28] dated December 28, 2020, the CA reinstated the MTC's Partial Decision, but only with respect to the reimbursement of the necessary expenses incurred by Onesimo for the property's preservation. It likewise affirmed the directives for Onesimo to vacate and deliver the peaceful possession of the property, and to pay a monthly rental fee of ₱2,000.00 from the time of demand until he fully and finally vacates the same. The dispositive portion of the CA Decision reads:

"WHEREFORE, the foregoing considered, the present Petition for Review is DENIED. The Decision dated 16 July 2018 of the Regional Trial Court, Third Judicial Region, Branch 81, Malolos City, Bulacan in Civil Case No. 445-M-2017 is MODIFIED insofar as it declared that petitioner is not entitled to *any* reimbursement.

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[25] Id. at 169–180. Penned by Presiding Judge Hermenegildo C. Dumlao II.

[26] See id. at 177–180.

[27] Under Rule 42 of the Rules of Court, dated September 8, 2018; id. at 181–202.

[28] Id. at 35–43. Penned by Associate Justice Ronaldo Roberto B. Martin and concurred in by Associate Justices Manuel M. Barrios and Alfredo D. Ampuan.

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Accordingly, this Court REINSTATES the Partial Decision dated 20 July 2017 of the Municipal Trial Court of Bocaue, Bulacan in Civil Case No. 2015-029 insofar as the reimbursement for necessary expenses for the preservation of land is concerned.

This Court AFFIRMS the finding that petitioner has no right to retain the property and likewise AFFIRMS the following Orders:

1. VACATE and DELIVER the peaceful possession of the subject property to respondent; and

2. PAY the rental fee in the amount of Php2,000.00 from time of demand until petitioner fully and actually vacates the same.

SO ORDERED."[29]

In upholding the lower court's findings, the CA rejected Onesimo's claim that he is a builder in good faith considering that at the outset, he was aware of the flaw in his title and the limitation on his right to possess the property. The CA reasoned that under the law, a builder in good faith refers to one who, not being the owner of the land, builds on that land believing himself/herself to be its owner and unaware of the defect in his/her title or mode of acquisition. Case law provides that persons whose possession of a realty is by sheer tolerance of its owners are not possessors in good faith. Thus, when Onesimo built the house on the property knowing fully well that it belonged to Marilyn who may terminate his possession thereof upon demand, he willingly took the risk of being forced to vacate it at any time. Accordingly, the CA concluded that since he was in bad faith when he constructed the house, the expenses for which were not necessary for the property's preservation, Onesimo cannot demand any reimbursement for said expenses from Marilyn.[30]

Determined, Onesimo directly elevated the case before the Court *via* the present petition.

The Issue Before the Court

The sole issue before the Court is **whether or not the CA correctly held that Onesimo is not a builder in good faith and**

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[29] Id. at 42.

[30] See id. at 39–42.

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hence, not entitled to reimbursement of useful expenses nor to the retention of the premises pending reimbursement.

The Court's Ruling

The petition is meritorious.

At the outset, it bears pointing out that the ruling of the MTC with respect to the unlawful detainer complaint was never questioned by Onesimo before the RTC, the CA, and even before this Court and thus, it has already become final and executory. The sole issue for the Court's resolution in this case, therefore, shall be limited to whether or not Onesimo is entitled to reimbursement for the value of the improvements he introduced to the property and to the right of retention pending reimbursement, as provided under Articles 448 and 546 of the Civil Code.

On this score, it bears reiterating that a petition for review on *certiorari* "shall raise only questions of law which must be distinctly set forth."[31] There is a question of law in a given case when the doubt or difference arises as to what the law is on certain state of facts. To be one of law, a question must not involve an examination of the probative value of the evidence presented by the litigants or any of them. In contrast, there is a question of fact when the doubt or difference arises as to the truth or falsehood of alleged facts. Whether or not the proofs on one side or the other are clear and convincing and adequate to establish a proposition in issue; or whether or not the body of proofs presented by a party, weighed and analyzed in relation to contrary evidence submitted by adverse party, may be said to be strong, clear and convincing —are issues of fact.[32] As a rule, factual matters are not the proper subject of an appeal by *certiorari*, as it is not the function of the Court to analyze and weigh the evidence that has been considered in the proceedings below.[33] "The resolution of factual issues is the

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[31] Section 1, Rule 45 of the Rules.

[32] See *Angeles v. Pascual*, 673 Phil. 499, 505 (2011).

[33] See *Waterfront Philippines, Inc. v. Social Security System*, G.R. No. 249337, July 6, 2021.

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function of lower courts, whose findings thereon are received with respect and are [generally] binding on the Supreme Court [.]"[34]

This notwithstanding, the Court has recognized several exceptions to the foregoing rule, namely:

"*(a)* when the findings are grounded entirely on speculation, surmises or conjectures; *(b)* when the inference made is manifestly mistaken, absurd or impossible; *(c)* when there is grave abuse of discretion; *(d)* when the judgment is based on a misapprehension of facts; *(e)* when the findings of facts are conflicting; *(f)* when in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; *(g)* when the findings are contrary to those of the trial court; *(h)* when the findings are conclusions without citation of specific evidence on which they are based; *(i)* 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; *(j)* when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and *(k)* **when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion**."[35] (emphasis and underscoring supplied)

In his petition, Onesimo maintains that he is a builder in good faith since he built his house on the property with full knowledge and consent of Marilyn. As a builder in good faith, therefore, he is entitled to reimbursement and retention in accordance with Articles 448 and 546 of the Civil Code. Undoubtedly, these arguments involve questions of fact that the Court does not ordinarily review.

In this case, it is undisputed that the property is registered in the name of Marilyn. Both trial courts, as well as the CA, likewise consistently found that since Onesimo's occupation of the property was by mere tolerance or permission, which can be terminated at any time, he cannot be considered as a builder in good faith who is entitled to exercise the rights of reimbursement and retention.

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[34] See *Angeles v. Pascual*, supra.

[35] *Angeles v. Pascual*, supra at 506; *Loadstar International Shipping, Inc. v. Cawaling*, G.R. No. 242725, June 16, 2021; and *Waterfront Philippines, Inc. v. Social Security System*, supra note 33.

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Under the law, these rights are available only to a possessor in good faith or one who builds on land with the belief that he is the owner thereof.

While the lower courts' findings are generally binding on the Court, especially when affirmed by the CA, a review of the facts and evidence is proper when, as earlier stated, the CA "manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion."

Article 448 in relation to Article 546 of the Civil Code grants the builder, planter, or sower the right to reimbursement of the value of the useful and necessary improvements made on the land, with the additional right to retention of the premises until such reimbursement have been made. To be entitled to the twin rights of reimbursement of useful expenses and retention, however, the builder, planter, or sower must establish that their actions were done in good faith. In *Spouses Macasaet v. Spouses Macasaet*,[36] the Court explained that the builders, sowers, or planters are in good faith when they "believe themselves to be owners of the land or, at least, to have a claim of title thereto"[37] and "that he be unaware that there exists in his title or mode of acquisition any flaw which invalidates it."[38] It "does not apply when the interest is merely that of a holder, such as a mere tenant, agent or usufructuary."[39] Thus, good faith is generally identified by the "belief that the land is owned; or that—by some title—one has the right to build, plant, or sow thereon."[40]

This notwithstanding, the law recognizes an instance where Article 448 of the Civil Code may be applied notwithstanding the bad faith of the builder, planter, or sower—that is, when the landowner is also in bad faith. In this regard, Article 453 of the Civil Code reads:

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[36] 482 Phil. 853 (2004).

[37] Id. at 871.

[38] *Department of Education v. Casibang*, 779 Phil. 472, 488 (2016), citing *Heirs of Victorino Sarili v. Lagrosa*, 724 Phil. 608, 623 (2014).

[39] *Spouses Macasaet v. Spouses Macasaet*, supra at 871–872.

[40] Id. at 872.

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Article 453. If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith.

It is understood that there is bad faith on the part of the landowner whenever the act was done with his knowledge and without opposition on his part. (emphasis and underscoring supplied)

Thus, in *Department of Education v. Casibang*,[41] the Court ruled that Article 448 of the Civil Code is applicable when the builder constructed improvements on the land with the consent of the landowner, *viz.*:

"However, there are cases where Article 448 of the Civil Code was applied beyond the recognized and limited definition of good faith, *e.g.*, **cases wherein the builder has constructed improvements on the land of another with the consent of the owner**. The Court ruled therein that the structures were built in good faith in those cases that the owners knew and approved of the construction of improvements on the property.

Despite being a possessor by mere tolerance, the DepEd is considered a builder in good faith, since Cepeda permitted the construction of building and improvements to conduct classes on his property. Hence, Article 448 may be applied in the case at bar." (emphases and underscoring supplied)

Furthermore, in *Spouses Belvis, Sr. v. Spouses Erola (Spouses Belvis)*,[42] whose facts resemble those of this case, the Court held that in situations wherein a builder, planter, or sower introduces improvements on titled land ***with the knowledge and consent of the owner***, the rights and obligations of the parties shall be the same as though both acted in good faith following Article 453 of the Civil Code. In *Spouses Belvis*, therein petitioners Julian Belvis, Sr. and Cecilia Belvis (Cecilia; collectively Spouses Belvis) occupied two parcels of land, both registered in the name of respondent Conrado V. Erola (Conrado). Since Cecilia is Conrado's sister, respondents Spouses Conrado and Marilyn Erola (Spouses Erola) allegedly

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41 779 Phil. 472 (2016).

42 G.R. No. 239727, July 24, 2019.

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allowed the Spouses Belvis to possess the lots, subject to the condition that they would vacate the same upon demand. When the Spouses Belvis refused to vacate the premises despite Spouses Erola's demand, the latter filed an unlawful detainer complaint. While the Spouses Belvis unsuccessfully claimed co-ownership over the lots, the Court nonetheless found Article 448 applicable after finding that, based on the surrounding circumstances, the improvements on the lots could not have been unknown to nor introduced without the Spouses Erola's permission, thus:

> In the instant case, respondents judicially admitted in their Complaint that 'being close relatives of the plaintiffs, [the defendants] sought the permission and consent of the plaintiffs to possess lot 597 as they do not have any property or house to stay' and that '[the] plaintiffs agreed that [the] defendants possess lot 597 but with a condition that in case [the] plaintiffs will be needing the property, [the] defendants will vacate the lot in question upon notice to vacate coming from the plaintiffs.' While respondents may have merely tolerated petitioners' possession, respondents never denied having knowledge of the fact that petitioners possessed, cultivated and constructed various permanent improvements on the subject lot for over 34 years. In fact, the records are bereft of any evidence to show that respondents ever opposed or objected, for over 34 years, to the improvements introduced by petitioners, despite the fact that petitioner Cecilia and respondent Conrado are siblings and that both parties reside in Pontevedra, Capiz. As such, the Court finds that respondents likewise acted in bad faith under Article 453 of the Civil Code [.]
>
> Pursuant to the aforementioned article, the rights and obligations of the parties shall be the same as though both acted in good faith. Therefore, Article 448 in relation to Articles 546 and 548 of the Civil Code applies." (citations omitted).

Here, Marilyn judicially admitted in her complaint before the lower court that she is a *"**resident of 269 Centro 1st, Bocaue, Bulacan**"* and that Onesimo *"is [her] brother x x x who has been in possession of the [property] for more than ten years by mere tolerance"*[43] "*out of brotherly love*."[44] While she denied having

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[43] Complaint; *rollo*, pp. 51–52.

[44] Position Paper; id. at 94.

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knowledge of and consenting to the construction of the house, it remains undisputed that she never raised any objection, for over 14 years, to its construction and Onesimo's occupation thereof. In fact, the records are bereft of any evidence showing that Marilyn ever opposed or objected to the same despite the established fact that Marilyn and Onesimo are siblings who both live in Centro 1st, Bocaue, Bulacan,[45] *i.e.*, Marilyn resides at 269 Centro 1st while the property where Onesimo resides is located at 191 Centro 1st. On this note, it bears to point out that based on these addresses, it appears that the property lies barely a few meters away from where Marilyn resides. As Onesimo in fact persistently argued, and which Marilyn failed to dispute, the latter "resides a few houses away in the same *sitio/barangay*."[46]

Lastly, it bears noting that the evidence which Marilyn submitted to prove the value of the house shows that it was in fact declared for taxation purposes in 2014, as well as in 2006, under the name of "AGAPITO ARMANDO MTO MARILYN AGAPITO."[47] Verily, had she not been aware of its construction as early as 2006 nor had she not given her permission, she would not have declared the house under her name for taxation purposes. All told, the Court is convinced that the improvements on the property could not have been unknown to nor introduced without Marilyn's consent.

Based on the foregoing reasons, the Court, finds that Onesimo, as a builder, and Marilyn, as a landowner, are both in bad faith. Following the ruling in *Spouses Belvis*, Articles 448 and 453 in relation to Articles 546 and 548 of the Civil Code apply. In this regard, case law instructs that whenever both the landowner and the builder/planter/sower are in good faith (or in bad faith, pursuant to Article 453 of the Civil Code), the landowner is given two (2) options under Article 448 of the Civil Code, namely: *(a)*

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[45] The property is located at "**191 Centro 1st**, Bocaue, Bulacan," while Marilyn resides at "**269 Centro 1st**, Bocaue, Bulacan." See Complaint, id. at 51.

[46] See id. at 146. See also id. at 10 and 183.

[47] 2014 Tax Declaration for Real Property with TD/ARP No. 2014-04010-00378 issued in 2014, covering a residential house, which cancelled the 2006 Tax Declaration covering the same residential house. See id. at 68.

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he/she may appropriate the improvements for himself/herself after reimbursing the buyer (the builder in good faith) the necessary and useful expenses under Articles 546 and 548 of the Civil Code; or *(b)* he/she may sell the land to the buyer, unless its value is considerably more than that of the improvements, in which case, the buyer shall pay reasonable rent.[48]

Applying the foregoing to this case, under the first option, Marilyn may appropriate for herself the improvements that Onesimo introduced to the property after payment of the indemnity provided for in Articles 546 and 548 of the Civil Code, as applied in existing jurisprudence. Under this option, Onesimo would have a right of retention over the property and its improvements until Marilyn completes the reimbursement. Under the second option, Marilyn may sell the property to Onesimo at a price equivalent to the current market value thereof. However, if the value of the property is considerably more than the value of Onesimo's improvements therein, Onesimo cannot be compelled to purchase the property. Rather, he can only be obliged to pay Marilyn reasonable rent.[49]

Considering that the determination of the value of the improvements is factual in nature, this Court, however, is constrained to remand the instant case to the MTC for further proceedings to determine the facts essential to the proper application of Article 448 in relation to Articles 546 and 548 of the Civil Code, following *Depra v. Dumlao*,[50] *Spouses Belvis v. Spouses Erola*,[51] and *Spouses Macasaet v. Spouses Macasaet*.[52]

WHEREFORE, the petition is **GRANTED**. The December 28, 2020 Decision of the Court of Appeals in CA-G.R. SP No. 157507 is **REVERSED**. The instant case is **REMANDED** to

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[48] See *Delos Santos v. Abejon*, 807 Phil. 720, 733–734 (2017); citations omitted.

[49] See id., citing *Communities Cagayan, Inc. v. Spouses Nanol*, 698 Phil. 648, 665 (2012).

[50] 221 Phil. 168 (1985).

[51] Supra note 42.

[52] Supra note 36.

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the court of origin for a determination of the facts essential to the proper application of Articles 448, 546 and 548 of the Civil Code pursuant to prevailing jurisprudence as delineated in this Decision.

SO ORDERED.

Leonen, S.A.J. (Chairperson), Lazaro-Javier, M. Lopez, and *J. Lopez, JJ.*, concur.

APPEARANCES OF COUNSEL

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Public Attorney's Office for respondent.