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SECOND DIVISION

[G.R. No. 241507. December 7, 2022]

REPUBLIC OF THE PHILIPPINES, represented by the Regional Director of the Department of Education [DepEd]-Region II, *Petitioner, v.* **HEIRS OF ERIBERTO ONTIVEROS and SPOUSES GERARDO AND DAISY ONTIVEROS,** *Respondents*.

D E C I S I O N

LEONEN, *J.*:

An *accion publiciana* may be filed to determine who has a better right to possess and to recover possession of real property, independent of title.

This Court resolves the Petition for Review on *Certiorari*[1] assailing the Decision[2] and Resolution[3] of the Court of Appeals, which affirmed the Decision[4] of the Regional Trial Court. The Regional Trial Court reversed and set aside the Municipal Circuit Trial Court's Decision[5] and ordered the Department of Education

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1 *Rollo*, pp. 10–34.

2 *Id*. at 36–43. The February 15, 2018 Decision in CA-G.R. SP No. 150080 was penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Henri Jean Paul B. Inting (now a member of this Court) of the Ninth Division, Court of Appeals, Manila.

3 *Id*. at 45–46. The August 8, 2018 Resolution in CA-G.R. SP No. 150080 was penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Henri Jean Paul B. Inting (now a member of this Court) of the Ninth Division, Court of Appeals, Manila.

4 *Id*. at 87–95. The November 16, 2016 Decision in Civil Case No. II-5820 was penned by Presiding Judge Nicanor S. Pascual, Jr. of Branch 8, Regional Trial Court, Aparri, Cagayan.

5 *Id*. at 63–70. The Decision was penned by Presiding Judge Blaise G. Sambolledo-Barcena of Branch 2, 8th Municipal Circuit Trial Court, Aparri, Cagayan.

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to vacate and surrender possession of the property at the center of this controversy.

Sometime in the 1970s, the Department of Education built classrooms on a 1,811-square meter parcel of land in Gaddang, Aparri, Cagayan. These classrooms later formed the Gaddang Elementary School.[6]

On June 19, 2008, the heirs of Eriberto Ontiveros (Eriberto) and Spouses Gerardo and Daisy Ontiveros filed a Complaint[7] against the Department of Education to recover possession of the land, which they alleged to be covered by Transfer Certificate of Title (TCT) No. T-56977 under the name of Eriberto and Gerardo Ontiveros (Gerardo).[8]

Insisting ownership over the land, the Ontiveroses claimed that the family patriarch, Eriberto, had only allowed the Department of Education to build a temporary structure on the land to be used as classrooms.[9] Upon discovering that the temporary structures became concrete buildings, Eriberto demanded payment of reasonable rent from the school officials and gave them an option to purchase the property. Gerardo also sent letters to Aparri's municipal officials and then Education Secretary Florencio Abad.[10] Despite demands, the Ontiveroses said, they were still deprived of their property without any compensation.[11] Thus, they prayed that the Department of Education vacate the land, surrender its possession, and pay rentals for its use since it has been occupied.[12]

In its Answer,[13] the Department of Education, represented by its Regional Director Jesus Lao Taberdo, claimed that the Complaint

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[6] *Id*. at 67.

[7] *Id*. at 47–51.

[8] *Id*. at 67.

[9] *Id*. at 48.

[10] *Id*. at 94.

[11] *Id*. at 48–49, 94.

[12] *Id*. at 50.

[13] *Id*. at 52–57.

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lacked cause of action due to prescription and the Ontiveroses were guilty of estoppel by laches.[14] It also argued that it had in its favor a deed of sale conveying the property to it, and that it was also immune from suit.[15]

In a March 30, 2016 Decision,[16] the Municipal Circuit Trial Court ruled in favor of the Department of Education and found it to be the rightful possessor of the land.[17]

The Municipal Circuit Trial Court held that the Ontiveroses failed to prove by a preponderance of evidence their better right to possess the land.[18] It noted that the Ontiveroses only offered in evidence the photocopy of TCT No. T-56977, and not its original copy.[19] It added that they also failed to prove that they demanded that the property be vacated, since only a photocopy of the Ontiveroses' letter to the education secretary was offered.[20]

In its November 16, 2016 Decision,[21] the Regional Trial Court reversed and set aside the ruling of the Municipal Circuit Trial Court, thus:

> WHEREFORE, in the light of the foregoing ratiocination, the contested decision of the 8th Municipal Circuit Trial Court, Branch 2, Aparri-Calayan, Cagayan dated March 30, 2016 is hereby REVERSED and SET ASIDE.
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> The defendant-appellee is hereby ordered to vacate the subject property and surrender possession thereof to the plaintiffs-appellants.
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> SO DECIDED.[22]

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14 *Id*. at 53–54.

15 *Id*. at 55.

16 *Id*. at 63–70.

17 *Id*. at 70.

18 *Id*. at 68–69.

19 *Id*. at 69.

20 *Id*.

21 *Id*. at 87–95.

22 *Id*. at 94–95.

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The Regional Trial Court held that the Ontiveroses proved ownership and a better right of possession of the land through the Department of Education's judicial admission and various evidence, such as the relocation survey report, as well as tax receipts and declarations issued in their name.[23] It found that the Department of Education failed to prove its rightful possession, and the arguments of prescription and laches had no legal basis.[24]

In a February 15, 2018 Decision,[25] the Court of Appeals affirmed the Regional Trial Court's ruling.[26] It held that the Ontiveroses had a superior possessory right over the land, having sufficiently proven their ownership, and the Department of Education even judicially admitted the existence of TCT No. T-56997 and the Ontiveroses' ownership of the property.[27] It ruled that the Department of Education failed to show any documentary or testimonial evidence that it was entitled to the property.[28]

In an August 8, 2018 Resolution,[29] the Court of Appeals denied the Department of Education's Motion for Reconsideration.

Thus, the Republic of the Philippines, represented by the regional director of the Department of Education, filed a Petition for Review on *Certiorari*[30] before this Court.

Petitioner argues that the Court of Appeals erred on a question of law in ruling against it.[31] It claims that respondents' claim of ownership over the land has no legal basis as they failed to present the original or certified true copy of TCT No. T-56977, and the tax declarations and receipts they presented are not conclusive proofs

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23 *Id*. at 91–92.

24 *Id*. at 93–94.

25 *Id*. at 36–43.

26 *Id*. at 42.

27 *Id*. at 40–41.

28 *Id*. at 40.

29 *Id*. at 45–46.

30 *Id*. at 10–34.

31 *Id*. at 15.

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of ownership.[32] It denies having admitted respondents' ownership; on the contrary, it claims that respondents had admitted its possession as early as the 1970s.[33]

Even assuming that respondents own the property, petitioner argues that prescription has barred respondents' Complaint. It alleges that the school has been occupying the property since the 1970s, and its occupation was open, peaceful, adverse, continuous, and in the concept of an owner.[34] It adds that respondents are guilty of estoppel by laches, since they did not assert their right or protest against the adverse possession for over 37 years.[35] Should this Court find that respondents are not barred by prescription or estoppel by laches, petitioner says that it should be allowed to continue occupying the lot as its school site or buy the property under Article 448, in relation to Article 546, of the Civil Code.[36] Finally, it claims entitlement to damages.[37]

In their Comment,[38] respondents allege that they have a better right to possess the land. It raises that the totality of evidence on record and the judicial admission of petitioner's witnesses established their ownership over the land[39] by a preponderance of evidence while petitioner failed to provide any evidence to support its claim.[40]

Respondents further allege that prescription did not run against them because petitioner's possession of the land was without just title.[41] They argue that the elements of laches are absent since petitioner failed to prove the confluence of facts leading it to believe

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[32] *Id*. at 18–19.

[33] *Id*. at 21.

[34] *Id*. at 19–20.

[35] *Id*. at 22–24.

[36] *Id*. at 26–27.

[37] *Id*. at 25.

[38] *Id*. at 286–300.

[39] *Id*. at 289.

[40] *Id*. at 292–293.

[41] *Id*. at 294.

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that they relinquished their rights over the property.[42] Respondents deny petitioner's entitlement to damages and claim that petitioners should not be allowed to continue occupying the land as its school site without paying just compensation.[43]

The issues for this Court's resolution are:

first, whether the Court of Appeals erred in ruling that respondents, the heirs of Eriberto Ontiveros and Spouses Gerardo and Daisy Ontiveros, proved their better right to possess the land;

second, whether the Court of Appeals erred in not finding the Complaint for recovery of possession barred by prescription and laches; and

finally, whether the Department of Education is a builder in good faith entitled to invoke Article 448, in relation to Article 546, of the Civil Code.

The Petition has no merit.

An *accion publiciana*, or *accion plenaria de posesion*, is a plenary action for recovery of possession of real property to determine the better right to possess, without allegation or proof of ownership.[44] It is an ejectment suit brought more than one year from the time the possession of a property was unlawfully withheld.[45] In *Vda. de Aguilar v. Spouses Alfaro*,[46] this Court expounded on the nature and purpose of *accion publiciana*:

> Also known as *accion plenaria de posesion, accion publiciana* is an ordinary civil proceeding to determine the better right of possession of realty independently of title. It refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.

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42 *Id*.

43 *Id*. at 295–296.

44 *Bejar v. Caluag,* 544 Phil. 774, 779 (2007) [Per J. Sandoval-Gutierrez, First Division]. (Citations omitted)

45 *Barredo v. Santiago,* 102 Phil. 127, 130 (1957) [Per J. Padilla, First Division].

46 637 Phil. 131 (2010) [Per J. Del Castillo, First Division].

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The objective of the plaintiffs in *accion publiciana* is to recover possession only, not ownership. However, where the parties raise the issue of ownership, the courts may pass upon the issue to determine who between the parties has the right to possess the property. This adjudication, however, is not a final and binding determination of the issue of ownership; it is only for the purpose of resolving the issue of possession, where the issue of ownership is inseparably linked to the issue of possession. The adjudication of the issue of ownership, being provisional, is not a bar to an action between the same parties involving title to the property. The adjudication, in short, is not conclusive on the issue of ownership.[47] (Citations omitted)

Possession is a question of fact, which is generally barred from being raised in a Rule 45 petition.[48] Generally, only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court.[49] This Court, not being a trier of facts, upholds the factual findings of the appellate courts as conclusive on the parties and on this Court, save in exceptional cases.[50] A party seeking review must allege, substantiate, and prove the

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47 *Id*. at 141–142.

48 *The Iglesia de Jesucristo Jerusalem v. dela Cruz,* 830 Phil. 547, 569 (2018) [Per J. Del Castillo, First Division].

49 RULES OF COURT, Rule 45, sec. 1.

50 *Pascual v. Burgos,* 776 Phil. 167, 182 (2016) [Per J. Leonen, Second Division]; *Pascual v. Burgos* enumerated the following exceptions citing *Medina v. Mayor Assistio, Jr.* 269 Phil. 225, 232 (1990) [Per J. Bidin, Third Division]: "(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact 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 respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record."

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exception.[51] Furthermore, being a matter of judicial discretion, this Court's review will only be granted "when there are special and important reasons"[52] and when the petition raises "questions of such substance as to be of distinctly significant consequence and value."[53]

Here, petitioner did not allege that its case falls under any exception. It only claims that the Court of Appeals erred on a question of law in upholding respondents' claim of ownership despite it having no legal basis. It points out that respondents failed to present the original or certified true copy of TCT No. T-56977 and used tax declarations and receipts to prove their ownership.[54]

In questioning the appellate courts' assessment of the evidence presented by respondents, petitioner is raising a question of fact. A question of fact involves an examination of the "probative value of evidence" and the "correctness of the lower courts' appreciation of the evidence[.]"[55] Petitioner did not even allege that its case falls within the exception to merit a review of a question of fact.

In *Cascayan v. Spouses Gumallaoi*,[56] this Court upheld as binding the Court of Appeals' appreciation of evidence on the possession of a lot and the weight it had given to the parties' tax declarations and affidavits, consistent with the trial court's findings. In *Department of Education v. Tuliao*,[57] this Court ruled that since testimonial evidence cannot prevail over documentary evidence, the certificate of title, tax declaration, and tax receipt prevailed

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[51] *Quirino v. National Police Commission*, G.R. No. 215545, January 7, 2019 [Per J. Leonen, Second Division].

[52] RULES OF COURT, Rule 45, sec. 6.

[53] *Kumar v. People,* G.R. No. 247661, June 15, 2020 [Per J. Leonen, Third Division], at 1. This pinpoint citation refers to a copy of the Decision uploaded to the Supreme Court website.

[54] *Rollo*, pp. 15 and 18.

[55] *Pascual v. Burgos,* 776 Phil. 167, 183 (2016) [Per J. Leonen, Second Division].

[56] 812 Phil. 108 (2017) [Per J. Leonen, Second Division].

[57] 735 Phil. 703 (2014) [Per J. Mendoza, Third Division].

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over the lone testimony of a retired teacher in establishing who had a better right of possession.

Likewise, here, this Court finds no reason to review the appreciation of evidence of the Regional Trial Court, as affirmed by the Court of Appeals, that respondents proved their better right to possess the land by a preponderance of evidence. The pieces of evidence respondents presented include TCT No. T-56997, the relocation survey report, tax receipts and declarations under their names, the Deed of Extrajudicial Settlement, a Demand Letter to the education secretary, and judicial admissions made by petitioner. As the Regional Trial Court discussed:

> A perusal of the records of this case shows that contrary to the observation of the court *a quo*, the defendant-appellee during the initial pretrial conference admitted the existence of TCT No. T-56997 and that the certificate of title covers the land where the school is located. Further, in its Answer, defendant-appellee admitted paragraph 3 of the Complaint that plaintiffs are the owners of the lot denominated as Lot 849 covered by TCT No. T-56997 and that herein defendant by way of special and affirmative defenses, admitted having in possession and occupation of the same lot but interposes the defenses of prescription and laches, among others. Aside from these, Mito Jane Maguddatu, Municipal Agrarian Reform Officer of Aparri testified to the effect that the property of Eriberto Ontiveros denominated as Lot 849, Cad 250 is covered by TCT No. T-56997 and that the area where the Gaddang Elementary School is situated is still covered by said title.
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> It cannot be underscored however that the above were all admissions made during the proceedings that must have been considered also by the court *a quo* which under the rules, do not require proof. Aside from those judicial admissions, documentary evidences [sic] to support the plaintiffs' claim were admitted by the court *a quo* which to the mind of this court are adequate to prove their ownership of the land subject of this case. Tax declarations in the names of the plaintiffs including official tax receipts for payment of real property taxes are clear indicia of ownership although as a rule, are not in themselves incontrovertible evidence of ownership. In addition, the Deed of Extrajudicial Settlement executed by and between Eriberto and Gerardo Ontiveros pointed out that Lot 849 was one of those properties they adjudicated between and among themselves which was admitted by the court *a quo.* This clearly adds to the claim of ownership of the herein plaintiffs for how can they

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adjudicate in themselves a property that they do not rightfully own? Be it noted that this act of adjudicating Lot 849 between themselves predicated from the fact that the mother of Gerardo predeceased Eriberto. Likewise, the written correspondence of Gerardo to various officials to include the then Secretary of Department of Education where he sought for reasonable rent for the use of a portion of Lot 849 by the Gaddang Elementary School indicates an iota of claim of ownership.

To even bolster their claim, herein plaintiffs-appellants presented in court Engr. Marlon Geronimo who categorically stated in his relocation survey report that Lot 849 is covered by TCT No. T-56997. Engr. Geronimo conducted the survey based on the same title and technical description on file at the Register of Deeds and was even made before and in the presence of the parties' respective counsels and representatives. The result of the survey where it was found out that Lot 849 is covered by TCT No. T-56997 was never disputed by the representatives of defendant-appellee which to the mind of the court is a manifestation that they had acquiesced to the findings of Engr. Geronimo and are now estopped from disputing the same.

With the plethora of testimonial as well as documentary evidences [sic] presented by herein appellants, this court is convinced that they had substantially proved their claim of ownership over the said parcel of land.

Although we concur with the adherence of the court to the rules which provides that evidence not offered in court cannot be admitted in evidence, as the original copy of TCT No. T-56997 was not offered by the plaintiffs-appellants, the reliance alone thereto of the court *a quo*, without considering the surrounding circumstances of the case and other material evidences presented in court, to the mind of the court, is misplaced as the same are just matters of technicalities of the law which can be relaxed in order to serve greater justice.

Time and again, this Court has held that rules of procedure are only tools designed to facilitate the attainment of justice, such that when rigid application of the rules tend to frustrate rather tha[n] promote substantial justice, this Court is empowered to suspend their operation. We will not hesitate to set aside technicalities in favour of what is fair and just[.]

As an offshoot of the ruling of the court *a quo* declaring that plaintiffs-appellants failed to substantiate their claim of ownership over the property, the court *a quo,* consequently, pronounced that they failed to prove that they have a better right of possession.

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This court does not agree.

As correctly pointed out by the plaintiffs-appellants, the court *a quo*'s finding that they failed to prove that they made a prior demand to the defendant-appellee and Gaddang Elementary School to vacate the land due to the fact that the letter of Gerardo to then Secretary Florencio Abad of the DepEd was denied admission merely because it was a mere photocopy, is again misplaced.

Be it noted that the case is one denominated as *accion publiciana* which is an ordinary civil proceeding to determine the better right of possession of realty independent of title. It refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.

The objective of the plaintiffs in *accion publiciana* is to recover possession only, not ownership. However, where the parties raise the issue of ownership, the courts may pass upon the issue to determine who between the parties has the right to possess the property. This adjudication is not a final determination of the issue of ownership; it is only for the purpose of resolving the issue of possession where the issue of ownership is inseparably linked to the issue of possession. The adjudication of the issue of ownership, being provisional, is not a bar to an action between the same parties involving title to the property. The adjudication in short, is not conclusive on the issue of ownership. Hence, prior demand, unlike in actions for forcible entry and unlawful detainer, is not wanting.

Contrary to the conclusion of the court *a quo*, the plaintiff-appellants were able to establish ownership over the said lot, thus, has a better right of possession while defendant-appellee failed to prove that it had acquired the same nor had better right to occupy and possess the same. To strengthen this contention, witness for the defendant Maria Gloria Flores even admitted there is no certificate of title nor tax declaration in the name of the defendant.[58] (Citations omitted)

The Court of Appeals correctly appreciated that while respondents failed to present the original copy of TCT No. T-56997 and the electronic copy submitted was not admitted in evidence, petitioner nevertheless admitted the existence of TCT

[58] *Rollo*, pp. 143–145.

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No. T-56997 over the land.[59] In addition, respondents presented tax receipts and declarations under their names.[60] In *Kawayan Hills Corporation v. Court of Appeals*,[61] this Court held that the declaration of a property for taxation purposes and the payment of real property taxes strengthen one's claim of possession in the concept of an owner.

Respondents, by a preponderance of evidence, were able to establish a *prima facie* case. Petitioner, then, should have discharged the burden of evidence to prove its affirmative defenses, but it failed to do so. It did not present any evidence proving its right over the land, other than its claim of possession openly, continuously, and for a long period of time, which allegedly barred respondents' right with prescription and laches. The plaintiff in a civil case, alleging the affirmative of the issue, has the burden of proof.[62] But once that plaintiff establishes a *prima facie* case, the burden of evidence shifts to the defendant to controvert the *prima facie* case.[63]

The registered owners' right to eject anyone illegally occupying their property is imprescriptible and never barred by laches.[64] This Court has held:

> As registered owners of the lots in question, the private respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. *Even if it be supposed that they were aware of the petitioners' occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches*.

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[59] *Id*. at 40.

[60] *Id*.

[61] 839 Phil. 824 (2018) [Per J. Leonen, Third Division].

[62] *Department of Education v. Tuliao,* 735 Phil. 703, 711 (2014) [Per J. Mendoza, Third Division]. (Citation omitted)

[63] *Id*. (Citation omitted)

[64] *Labrador v. Spouses Perlas,* 641 Phil. 388, 396 (2010) [Per J. Carpio, Second Division]. (Citation omitted)

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In urging laches against the private respondents for not protesting their long and continuous occupancy of the lots in question, the petitioners are in effect contending that they have acquired the said lots by acquisitive prescription. *It is an elementary principle that the owner of a land registered under the Torrens system cannot lose it by prescription.*[65] (Emphasis supplied, citation omitted)

Grounded on public policy, laches is the "failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it."[66] Since laches is an equitable consideration, its determination based on the court's sound discretion "cannot work to defeat justice" or perpetrate a wrong.[67] "[L]aches cannot apply to registered land covered by a Torrens Title because under the Property Registration Decree, no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession."[68]

In *Arroyo v. Bocago Inland Development Corporation*,[69] this Court held that the petitioner cannot be guilty of laches without positive proof of its elements:

The established rule, as reiterated in *Heirs of Tomas Dolleton vs. Fil-Estate Management, Inc.*, is that "the elements of laches must be proven positively. Laches is evidentiary in nature, a fact that cannot be established by mere allegations in the pleadings . . . ." Evidence is of utmost importance in establishing the existence of laches because, as stated in *Department of Education, Division of Albay vs. Oñate*, 'there is "no absolute rule as to what constitutes laches or staleness of

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[65] *Bishop v. Court of Appeals,* 284-A Phil. 125, 130–131 (1992) [Per J. Cruz, First Division].

[66] *Department of Education v. Casibang,* 779 Phil. 472, 482 (2016) [Per J. Peralta, Third Division]. (Citation omitted)

[67] *Id*. (Citation omitted)

[68] *Department of Education, Culture and Sports v. Heirs of Banguilan,* 833 Phil. 943, 955 (2018) [Per J. Reyes, Jr., Second Division]. (Citation omitted)

[69] 698 Phil. 626 (2012) [Per J. Peralta, Third Division].

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demand; **each case is to be determined according to its particular circumstances."** . . . Verily, the application of laches is addressed to the sound discretion of the court as **its application is controlled by equitable considerations**.

In this case, respondents (defendants-appellants below) did not present any evidence in support of their defense, as they failed to take advantage of all the opportunities they had to do so. The Court stressed in *Heirs of Anacleto B. Nieto v. Municipality of Meycauayan, Bulacan,* that:

> **. . . laches is not concerned only with the mere lapse of time. The following elements must be present in order to constitute laches:**
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> (1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made for which the complaint seeks a remedy;
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> (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice, of the defendant's conduct and having been afforded an opportunity to institute a suit;
>
> (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and
>
> (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held to be barred.

In this case, there is no evidence on record to prove the concurrence of all the aforementioned elements of laches. The first element may indeed be established by the admissions of both parties in the Complaint and Answer — *i.e.*, that petitioner is the registered owner of the subject property, but respondents had been occupying it for sometime and refuse to vacate the same — but the crucial circumstances of delay in asserting petitioner's right, lack of knowledge on the part of defendant that complainant would assert his right, and the injury or prejudice that defendant would suffer if the suit is not held to be barred, have not been proven. Therefore, in the absence of positive proof, it is impossible to determine if petitioner is guilty of laches.[70] (Emphasis in the original, citations omitted)

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[70] *Id*. at 634–635.

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In *The City of Valenzuela v. Roman Catholic Archbishop of Manila*,[71] this Court held that laches does not set in when there is no delay in asserting one's rights, thus:

> The Court agrees with the CA and the RTC that in the case at bar, laches had not set in since not all the elements of laches are present. As found by the RTC, it was only in 1997 that RCBMI, the successor in interest of respondent, discovered that respondent owns the subject property. After the said discovery, RCBMI immediately asserted its right by meeting with petitioner. After negotiations failed, RCBMI instantly filed a complaint against petitioner on behalf of respondent. Such actions negate the allegations of petitioner that respondent slept on its rights.[72]

Here, this Court agrees with the Regional Trial Court and the Court of Appeals that respondents did not sleep on their rights and intended to exercise their right to recover possession of the land through their actions. Upon receiving information that petitioner's officials introduced permanent structures on their land, Eriberto demanded payment of reasonable rent.[73] When he died, respondent Gerardo sent letters to the municipal officials of Aparri and then Education Secretary Florencio Abad to vacate the premises.[74] Because the demand went unheeded, the Ontiveroses filed an *accion publiciana.*[75]

One who occupies the land of another at the latter's tolerance or permission, without any contract, is bound by an implied promise that the occupant vacate the property upon demand. In *Department of Education, Culture and Sports v. Heirs of Banguilan*:[76]

> Considering that CNES' possession was merely being tolerated, respondents cannot be said to have delayed in asserting their rights over the subject property. As explained in the recent case of *Department of Education v. Casibang, et al.*, a registered owner who is merely

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[71] G.R. No. 236900, April 28, 2021 [Per J. Delos Santos, Third Division].

[72] *Id*. at 16. This pinpoint citation refers to a copy of the Decision uploaded to the Supreme Court website.

[73] *Rollo*, p. 94.

[74] *Id*.

[75] *Id*.

[76] 833 Phil. 943 (2018) [Per J. Reyes, Jr., Second Division].

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tolerating another's possession of his land is not required to perform any act in order to recover it. This is because the occupation of the latter is only through the continuing permission of the former. Consequently, once said permission ceases, the party whose possession is merely being tolerated is bound to vacate the subject property. Hence, until the registered owner communicates the cessation of said permission, there is no need to do anything to recover the subject property. Similarly, as aptly pointed out by the court *a quo*, Regino and his successor-in-interests repeatedly asserted their rights over the subject property by demanding from CNES the payment of rentals or for the latter to purchase the same. However, once it became clear that petitioner was not going to pay rent, purchase the lot, or vacate the premises, respondents instituted an action for recovery of possession. There was no prolonged inaction on the part of the respondents which could bar them from prosecuting their claims.

Likewise, since CNES' occupation of Lot No. 3950 was merely being tolerated by Regino and his successors-in-interest, petitioner cannot now claim that they lacked any knowledge or notice that the former would assert their rights over said property. Even assuming arguendo that there was no agreement between CNES and Regino, the school is necessarily bound by an implied promise to vacate the subject property upon the registered owner's demand.

. . . .

Being the owners of the subject property, respondents have the right to recover possession from the petitioner because such right is imprescriptible. Even if the Department of Education has been occupying the subject property for a considerable length of time, respondents, as lawful owners, have the right to demand the return of their property at any time as long as the possession was only through mere tolerance. The same precept holds true even if the tolerance resulted from a promise that the possessor will pay for the reasonable value of the land.[77] (Citations omitted)

Furthermore, in *Pada-Kilario v. Court of Appeals,*[78] this Court held that persons occupying a property by sheer tolerance of its owners are not possessors in good faith. Thus, they are not entitled to Article 448 and Article 546 of the New Civil Code:

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[77] *Id*. at 954–958. (Citations omitted)

[78] 379 Phil. 515 (2000) [Per J. De Leon, Jr., Second Division].

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Considering that petitioners were in possession of the subject property by sheer tolerance of its owners, they knew that their occupation of the premises may be terminated any time. Persons who occupy the land of another at the latter's tolerance or permission, without any contract between them, is necessarily bound by an implied promise that they will vacate the same upon demand, failing in which a summary action for ejectment is the proper remedy against them. Thus, they cannot be considered possessors nor builders in good faith. It is well-settled that both Article 448 and Article 546 of the New Civil Code which allow full reimbursement of useful improvements and retention of the premises until reimbursement is made, apply only to a possessor in good faith, *i.e.*, one who builds on land with the belief that he is the owner thereof. Verily, persons whose occupation of a realty is by sheer tolerance of its owners are not possessors in good faith.[79] (Citations omitted)

A builder in good faith asserts title to the land on which they build, such that they are a possessor in the concept of an owner, unaware that there exists in their title or mode of acquisition any flaw that invalidates it.[80] Here, petitioner knew that it had no title to the land, and that its occupation is by mere tolerance of respondents who later repeatedly asserted their right. Thus, petitioner cannot be considered in good faith; it is not entitled to Article 448, in relation to Article 546, of the Civil Code.

ACCORDINGLY, the Petition is **DENIED**. The February 15, 2018 Decision and August 8, 2018 Resolution of the Court of Appeals in CA-G.R. SP No. 150080 are **AFFIRMED**. The Department of Education is ordered to vacate the lot subject of this case and surrender its possession to respondents, the heirs of Eriberto Ontiveros and Spouses Gerardo and Daisy Ontiveros.

SO ORDERED.

Lazaro-Javier, M. Lopez, J. Lopez, and *Kho, Jr., JJ.,* concur.

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[79] *Id*. at 529–530.

[80] *The City of Valenzuela v. Roman Catholic Archbishop of Manila*, G.R. No. 236900, April 28, 2021 [Per J. Delos Santos, Third Division], at 16. This pinpoint citation refers to a copy of the Decision.

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