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"The facts (1) that petitioner shouldered the losses resulting from some of the transactions in questions (See BIR rec., pp. 21-22); (2) that if petitioner had no stock available in the Philippines, it forwarded the purchase order to its agent in California who procured the machineries from U.S. manufacturers (BIR rec., Exh. "1", pp. 53-56); and (3) that the U.S. Manufacturers invoiced the goods to petitioner's agent in California who prepared the sales invoice and shipped the goods to the Philippine buyers (See CTA rec., Stifacts, pp. 70-73) negate agency."

In effect, the instant petition controverts the factual findings of the court *a quo*. It is well settled that in passing upon petitions for review of the decisions of the Court of Tax Appeals, this Court is generally confined to questions of law. The findings of fact of said Court are not to be disturbed unless clearly shown to be unsupported by substantial evidence. (Rules of Court, Rule 44, Section 2. Republic Act 1125, Sections 18-19.) Substantial evidence has been construed to mean not necessarily preponderant proof as is required in ordinary civil action, but such kind of "relevant evidence as a reasonable man might accept as adequate in support of a conclusion." (De Lamera *vs.* Court of Agrarian Relations, et al., 17 SCRA 368.) There is no circumstance of record indicating that the findings of the lower court are not supported by substantial evidence.

WHEREFORE, the appealed decision is affirmed.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Relova, Gutierrez, Jr., de la Fuente, and *Alampay, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-30272. February 28, 1985]

RIZAL CEMENT CO., INC., *petitioner, vs.* CONSUELO C. VILLAREAL, ISABEL C. VILLAREAL, FLAVIANO C. VILLAREAL, ALFREDO V. GOMEZ, AURORA V. GOMEZ and the COURT OF APPEALS, *respondents.*

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SYLLABUS

1. CIVIL LAW; PROPERTY, OWNERSHIP AND ITS MODIFICATIONS; POSSESSION; HOW ACQUIRED.— Possession is acquired by the material occupation of a thing or the exercise of a right or by the fact it is subject to the action of our will, or by the proper acts and legal formalities established for acquiring such right.

2. REMEDIAL LAW; EVIDENCE; TAX DECLARATION, SURVEY PLAN OR TECHNICAL DESCRIPTION, NOT CONCLUSIVE PROOFS OF OWNERSHIP.— Petitioner's evidence, consisting of tax receipts, tax declaration and survey plan are not conclusive and indisputable basis of one's ownership of the property in question. Assessment alone is of little value proof of title. Mere tax declaration does not vest ownership of the property upon the declarant. Settled is the rule that neither tax receipts nor declaration of ownership for taxation purposes alone constitutes sufficient evidence of ownership or of the right to possess realty. They must be supported by other effective proofs. Neither can the survey plan or technical descriptions prepared at the instance of the party concerned be considered in his favor, the same being self-serving.

3. ID.; ID.; FINDINGS OF FACT OF THE APPELLATE COURT BINDING ON APPEAL WHEN SUPPORTED BY SUBSTANTIAL EVIDENCE; CASE AT BAR.— A painstaking review of the evidence on record failed to disclose any evidence or circumstance of note sufficient enough to overrule said findings and conclusions. The jurisdiction of this Court in cases brought to Us from the Court of Appeals (now Intermediate Appellate Court) is limited to the review of errors of law, said appellate court's findings of fact being conclusive upon us except (1) when the conclusion is a finding grounded entirely on speculation surmises or conjectures; (2) when the inference made is manifestly absurd, mistaken or impossible; (3) when there is grave abuse of discretion in the appreciation of facts; (4) when the judgment is premised on a misapprehension of facts; (5) when the findings of fact are conflicting; and (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, none of which obtain in the case at bar. The appellate court did what is required of it under the law and it cannot be faulted after reaching a conclusion adverse

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to herein petitioner. The decision on the merits of the case hinges on the determination of the pertinent facts, and the findings of the Court of Appeals when supported by substantial evidence are beyond our power of review.

APPEARANCES OF COUNSEL

Amanda V. Viray for petitioner.
Luis Ma. Guerrero for private respondents.

D E C I S I O N

CUEVAS, *J.:*

Petition for Review on Certiorari of the decision of the defunct Court of Appeals in CA-G.R. No. 36700 which REVERSED the decision of the then Court of First Instance of Rizal in Land Registration Case No. 1204, LRC Rec. No. N-10480.

Sometime in December 1955, private respondents filed with the then Court of First Instance of Rizal in Pasig, an Application for Registration, alleging, *inter alia:*

"1. That the said land consists of two agricultural lots bounded and described as shown on plan Psd-147662 as Lots Nos. 1 and 2 and technical descriptions attached hereto and made integral part hereof;

2. That Lots Nos. 1 and 2 of plan Psd-147662 at the last assessment for taxation were assessed at a total amount of ONE THOUSAND FIVE HUNDRED (P1,500.00) PESOS per Tax Declaration Nos. 11994 and 11995 in the values of ONE THOUSAND ONE HUNDRED NINETY (P1,190.00) PESOS and THREE HUNDRED TEN (P310.00) PESOS, respectively, in the Land Records of Rizal Province;

3. That to the best of their knowledge and belief, there is no mortgage or encumbrance of any kind whatsoever affecting said parcels of land nor is there any person having any estate or interest thereon, legal or equitable in possession, remainder, reversion or expectancy;

4. That the applicants have acquired said lands by purchase from the spouses VICTORIANO CERVO and IGNACIA GUILLERMO as evidenced by a Deed of Sale executed by the latter in favor of the

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former, before Notary Public for the City of Manila, Mr. Manuel M. Paredes on the 3rd day of November, 1955, per Doc. No. 352, Page No. 42, Book No. II, Series of 1955;

5. That the said parcels of land are not occupied by anybody;

x x x

x x x

8. That the said lots included in this application adjoins the National Road and the applicants do not claim any part of the said National Road;

x x x"

Petitioner then prayed that the aforesaid parcels be brought under the operation of the Land Registration Act, and to have the title thereto confirmed and registered in their names.

Petitioner filed an OPPOSITION to said application alleging–

"That the Rizal Cement Co., Inc. is the owner of unregistered three (3) parcels of land known as Lots Nos. 1, 2 and 4, located in Darangan, Binangonan, Rizal, the full technical description and bearing distance of which can be found in Plan Psu-2260 approved by the Director of Lands in 1912;

That the land which is the subject of this petition for registration, full technical description of which are found in Psu-147662 approved by the Director of Lands in October, 1955, covers portions of Lots 1 and 4 of Psu-2260;

That Lot No. 1 under Psu-2260 contains an area of 122, 982 square meters, a portion of which is designated as Lot No. 2 of Psu-147662 containing an area of 6,133 square meters;

That Lot No. 4 of Psu-2260 contains an area of 27,530 square meters, a portion of which is designated as Lot No. 1 of Psu-147662 containing an area of 19,916 square meters; and

That the oppositor Rizal Cement Co., Inc. is in possession of said land and has been religiously paying the real estate tax in the Municipality of Binangonan, Rizal from the time it had acquired said property from the previous owner (Old Tax Declaration No. 30662) now 10570."

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Petitioner then prayed that the said petition be dismissed.

Private respondents, in REPLY to said OPPOSITION, countered that the whole three (3) parcels of land known as Lots Nos. 1, 2 and 4 Plan Psu-2260 do not belong to the petitioner; that a portion of Lot No. 1 consisting of 6,133 square meters and portion of Lot No. 4 consisting of 19,916 square meters belong to them; that they and their predecessors-in-interest have been in continuous, adverse and open possession of said portion since time immemorial; and that they have been religiously paying the real estate taxes thereon.

After trial, judgment was rendered by the Court of First Instance of April 28, 1965 which was amended on May 21, 1965, denying the application for registration and ordering the issuance of a decree of registration after finality of said decision in the name of Rizal Cement Company.

Respondents appealed to the then Court of Appeals which reversed and set aside the lower court's decision. Petitioner moved for reconsideration but the appellate court denied the motion in its Resolution of February 11, 1969.

Hence, the present petition alleging that the Court of Appeals, in reversing the decision of the trial court, has arrived at grossly mistaken, absurd and impossible conclusions of law and has decided the appeal in a manner totally at war with and entirely contrary to law and the applicable decisions of this Court. In fine, petitioner submits the following errors allegedly committed by the appellate court for Our review and consideration:

a) Reliance on the Deed of Sale purporting to have been executed by Maria Certeza in 1924 in favor of Apolonia Francisco, the due execution of which have been duly established, and made capital of this deed of sale as having effected the transfer of rights over the lots in question, successively from the original vendor down to herein private respondents;

b) Giving much weight to private respondents' evidence to the effect that former Justice Mariano de Joya and one Gonzalo Certeza were former owners of the property in question, and that they are the predecessors-in-interest of the applicants-respondents. However, the Court of Appeals failed to consider the fact that these persons who

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were then available and were the best witnesses to substantiate applicants' claim, were not presented as witnesses thereby giving rise to the legal presumption that their testimonies would have been adverse had they testified in this case;

c) Failure of the Court of Appeals to consider the fact that the two (2) lots sought to be registered by private respondents were not listed in the inventory of Maria Certeza's properties submitted to the court;

d) Failure of the Court of Appeals to rule that private respondents were not able to prove that the properties covered by Exhibit "H" were the same properties covered in Exhibit "I". The Court of Appeals has acted contrary to the doctrine laid down in land registration cases to the effect that an applicant must prove not only the genuineness of his title but also the identity of the land applied for;

e) Stressing that the evidence of petitioner (then oppositor) was weak to substantiate its claim but failed to apply the doctrine that the burden is upon the applicant for registration of land to prove satisfactorily that he is the owner and it is not enough to prove that the property does not belong to the opponent. The evidence must be absolute and not merely preponderant; and

f) In stating that applicants by themselves and theirpredecessors-in-interest have an unbroken adverse possession under claim of ownership for over thirty years thus failing to consider that petitioner has also been in possession of the properties since 1911, while several portions thereof were only under lease to several persons.

Based on respondents-applicants' testimonial and documentary evidence, it appears that the property applied for, designated as Lots Nos. 1 and 2 of Plan Psu-147662, have a total area of 26,015 square meters; that these lots originally belonged to one Maria Certeza; that upon her death, the property was involved in a litigation between her grandchildren and Gonzalo Certeza and that the lots were given by the latter to former Justice de Joya as the latter's attorney's fees; that the lots were then sold by de Joya to Filomeno Sta. Ana who, in turn sold the same to spouses Victoriano Cervo and Ignacia Guillermo in 1939; that sometime in November 1955, the said spouses sold the said lots to the herein applicants as shown by a duly notarized deed of sale;[1] that the spouses Cervo declared the property for

[1] Exhibit "I".

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taxation purposes in the name of the wife, Ignacia Guillermo, and paid for the realty taxes due thereon; that prior to the sale, the spouses Cervo had the two parcels surveyed first in 1950 and then in 1955.

Upon the other hand, oppositor, (now petitioner) Rizal Cement Company, claims to be the owner of the subject lots, having bought the same from Maria Certeza, and to have been in continuous and adverse possession of the property since 1911. To substantiate its claim, petitioner submitted documentary evidence, the most important of which are the following–

(a) Plan Psu-2260 which covers the survey of a big tract of land for the company designated as Lots 1, 2 and 4 of the Plan with a total area of 210,644 square meters. The survey was made in 1911 and the plan was approved in 1912;

(b) A sketch plan of the geographical position of the real properties of Madrigal and Company;

(c) Tax Declaration No. 1066 secured in 1949 from the Rizal Provincial Assessor which is a consolidation of all lands of the Rizal Cement Company located in Darangan with a total area of 2,496,712 square meters and which includes the land in litigation;

(d) Tax Declaration No. 10570 which cancels Tax Declaration No. 1066; and

(e) Real estate tax receipts issued for Madrigal and Company, covering among others the land applied for.

As to who had been in actual possession of the land in question, the Court of Appeals gave credence to the testimony of the witnesses for respondents applicants, namely:

(a) *Santiago Picadizo* — one of the tenants of the land from the time it was owned by Maria Certeza up to the present. He stated that he knew for a fact that the lots in question were given to Justice Mariano de Joya as attorney's fees, who in turn sold the same to Ignacia Guillermo; that from the time he started working as tenant, he successively gave the share of the harvests to Maria Certeza; and that during all the time that the parcels of land were possessed by the previous owners, no other persons ever claimed ownership of the property.

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(b) *Isaac Reyes* — who started working on one-half of the 2 parcels of land since 1934 up to the present, and declared that there was no other person other than Ignacia Guillermo who claimed ownership of the parcels in litigation; and

(c) *Mr. Valentin Marquez* — a rebuttal witness who averred that he began to live in Darangan, Binangonan, Rizal since 1910; that he bought a portion of his land from Maria Certeza when he was working with Rizal Cement Company in 1924; that the sale was evidenced by an absolute Deed of Sale; that he occupied the portion sold to him up to 1931; that ever since he possessed the property there were no other adverse claimants thereto; that he saw a small house on a portion of the land of Maria Certeza built by Rizal Cement Company who intended to make a location where it could build a factory; that after 4 or 5 months, the small house was removed, after which, this witness purchased that portion from Maria Certeza; that during his stay in Darangan, the company did not take possession of the land; that Maria Certeza had the possession of the land until her death and that the tenants gave the harvest of the land to Maria Certeza.

On this score, the Court of Appeals in its assailed decision held and rightly so —

"Being an attribute of ownership appellants' possession of the land in question goes far to tip the scale in their favor. The right to possess flows from ownership. No person will suffer adverse possession by another of what belongs to him. Were the oppositor-appellee rightful owner of the land in question, it would not have allowed the tenants to cultivate the land and give the owner's share to appellants and/or their predecessors. It would have opposed the survey for applicants' vendors on May 21 and 28, 1950 and July 31, 1955, but did not as shown in the surveyor's certificate, Exhibit E. If oppositor really bought Lot 2 from Maria Certeza in 1909 as claimed, it has not been explained how she could sell a portion thereof to Apolonia Francisco, married to Valentin Marquez for P100.00 on April 15, 1924 by deed, Exhibit R,–an ancient document –as confirmed by the husband in his deposition who as employee of oppositor would have known of its acquisition. On the other hand, applicants' vendors in mortgaging the two lots to Pedro Picones in 1952, Exhibits O and O-1, for P11,000.00, exercised a dominical act; and Aniano Bautista's testimony that the Cervos were not owners of the land challenges belief since Bautista was a witness to Exhibits O and O-1, being uncle of Picones."

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Very significantly petitioner did not present any witness in actual possession of the land in question.

As aptly found by the appellate court, respondents possess the property in the concept of an owner.

"Possession is acquired by the material occupation of a thing or the exercise of a right or by the fact it is subject to the action of our will, or by the proper acts and legal formalities established for acquiring such right."[2]

Petitioner's evidence, consisting of tax receipts, tax declaration and survey plan are not conclusive and indisputable basis of one's ownership of the property in question. Assessment alone is of little value as proof of title. Mere tax declaration does not vest ownership of the property upon the declarant.[3] Settled is the rule that neither tax receipts nor declaration of ownership for taxation purposes alone constitutes sufficient evidence of ownership or of the right to possess realty. They must be supported by other effective proofs.[4] Neither can the survey plan or technical descriptions prepared at the instance of the party concerned be considered in his favor, the same being self-serving.[5]

Apropos thereto is the appellate court's finding that —

"Against the chains of tax declarations presented by the applicants-appellants which originated beyond 1920 from Maria Certeza, undisputably the original owner of Lots 1 and 2, the oppositor-appellee presented no tax declaration which could refer specifically to the two lots in question. Tax Declaration No. 10570 (Exhibit 35-1949) for the oppositor-appellee admittedly does not indicate any of the two lots in question. Indeed, the senior deputy

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[2] Article 531, New Civil Code.

[3] Province of Camarines Sur *vs.* Director of Lands, 64 Phil. 613; Elumbaring *vs.* Elumbaring, 12 Phil. 384.

[4] Evangelista *vs.* Tabayuyong, 7 Phil. 600; Casimiro *vs.* Fernandez, 9 Phil. 562; Elumbaring *vs.* Elumbaring, 12 Phil. 385; Province of Camarines Sur *vs.* Director of Lands, 64 Phil. 600, 613; Bañez *vs.* CA, 59 SCRA 30.

[5] Chan *vs.* Court of Appeals, 33 SCRA 740.

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assessor of Rizal, as witness for the oppositor-appellee, categorically declared that his office refused to issue tax declaration for the land covered by its Plan Psu-2260, for the reason that the same had been in possession of various persons in Darangan."

Anent the allegation of petitioner to the effect that the subject lands, full technical description of which are found in Psu-147662 approved in October 1955, covers portion of Lots 1 and 4 of Psu-2260, the Court of Appeals correctly observed —

"The only documentary evidence which the oppositor-appellee may capitalize for its claim of ownership is the notation in applicants' plan Exhibit D that the lots in question are portions of a previous survey made in 1911 for oppositor, Plan Psu-2260. The survey plan however has no original record in the Bureau of Lands. Be that as it may, survey plans merely delimit areas sought to be registered. Besides, the annotation relied upon by the lower court in its judgment in favor of the oppositor is nothing more than what it imports — a previous survey. Neither the plan nor its approval carried with it any adjudication of ownership. The Director of Lands through approval merely certifies that the survey has been made in accordance with approved methods and regulations in force." (Philippine Executive Commission *vs.* Antonio, CA-G.R. No. 8456, February 12, 1943)

A painstaking review of the evidence on record failed to disclose any evidence or circumstance of note sufficient enough to overrule said findings and conclusions. The jurisdiction of this Court in cases brought to Us from the Court of Appeals (now Intermediate Appellate Court) is limited to the review of errors of law, said appellate court's findings of fact being conclusive upon us except[6] (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly absurd, mistaken or impossible; (3) when there is grave abuse of discretion in the appreciation of facts; (4) when the judgment is premised on a misapprehension of facts; (5) when the findings of fact are conflicting; and (6) when the Court of Appeals, in making its findings went beyond the issues of the case and the same is contrary to the

[6] Luna *vs.* Linotoc, 40 Phil. 15; Bongco *vs.* People, 95 Phil. 453; Joaquin *vs.* Navarro, 93 Phil. 257; Castillo *vs.* CA, 124 SCRA 808; People *vs.* Gamayon, 121 SCRA 643; Ramos *vs.* CA, 63 SCRA 331.

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admissions of both appellant and appellee, none of which obtain in the case at bar.

The appellate court did what is required of it under the law and it cannot be faulted after reaching a conclusion adverse to herein petitioner. The decision on the merits of the case hinges on the determination of the pertinent facts, and the findings of the Court of Appeals when supported by substantial evidence are beyond our power of review.

WHEREFORE, the petition is hereby DISMISSED and the decision dated January 6, 1969 of the Court of Appeals (now Intermediate Appellate Court) is hereby AFFIRMED. Costs against petitioner.

SO ORDERED.

Aquino, Concepcion Jr., Abad Santos, and *Escolin, JJ.*, concur.
Makasiar, J., no part.

SECOND DIVISION

[G.R. No. L-31455. February 28, 1985]

FILIPINAS ENGINEERING AND MACHINE SHOP, *petitioner, vs.* HON. JAIME N. FERRER, LINO PATAJO and CESAR MIRAFLOR as Commissioners of the Commission on Elections; COMELEC BIDDING COMMITTEE CHAIRMAN EMILIO AGUILA and MEMBERS PACIENCIO BALLON, ALEJANDRO MACARANAS, TOMAS MALLONGA and ERNESTO LOMBOS; HON. JUDGE JOSE LEUTERIO of the Court of First Instance of Manila, Branch II and ACME STEEL MANUFACTURING COMPANY, *respondents.*