Supreme Court E-Library

and transgressing the broader principle in human relations that no person shall unjustly enrich himself at the expense of another.

WHEREFORE, in view of the foregoing, the petition is *DENIED.* The Decision of the Court of Appeals dated December 14, 2004, in CA-G.R. SP No. 86736, dismissing petitioner's complaint for recovery of possession and respondents' counterclaim for damages for lack of legal and factual bases, and the Resolution dated February 17, 2005 denying the motion for reconsideration, are *AFFIRMED.*

SO ORDERED.

Panganiban, C.J. (Chairperson), Austria-Martinez, and *Callejo, Sr., JJ.,* concur.

Chico-Nazario, J., on leave.

FIRST DIVISION

[G.R. No. 168237. February 22, 2006]

THELMA BUDUHAN, *petitioner, vs.* **CURSON PAKURAO, LORETA PAKURAO *a.k.a.* FLORA PAKURAO and CAMILO PAKURAO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; ONLY QUESTIONS OF LAW MAY BE RAISED THEREIN; EXCEPTIONS. — The issues raised by the petitioner invite us to rule on questions of fact, contrary to the settled rule that only questions of law may be raised in a petition for review. There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged

Supreme Court E-Library

facts. While it is an established dictum that it is not the function of the Supreme Court to analyze or weigh evidence anew, however, this rule is not iron-clad. We have consistently recognized several exceptional circumstances where we disregarded the aforesaid tenet and proceeded to review the findings of facts of the lower court such as: (1) when the conclusion is a finding grounded entirely on speculations, surmises or conjectures; (2) when the inference 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 facts 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) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (8) when the findings of fact of the Court of Appeals are contrary to those of the trial court or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by the respondent, or where the findings of fact of the Court of Appeals are premised on absence of evidence but are contradicted by the evidence on record. Considering the conflict in the factual findings of the MCTC and RTC and the Court of Appeals, we will rule on the factual issues as an exception to the general rule.

2. ID.; SPECIAL CIVIL ACTIONS; FORCIBLE ENTRY; SUMMARY IN NATURE. — An action for forcible entry is a quieting process that is summary in nature. It is designed to recover physical possession through speedy proceedings that are restrictive in nature, scope and time limits. In forcible entry, the plaintiff is deprived of physical possession by means of force, intimidation, threat, strategy or stealth. It is a basic rule in civil cases that the party having the burden of proof must establish his case by a preponderance of evidence, which simply means "evidence which is of greater weight, or more convincing than that which is offered in opposition to it. Hence, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's.

Supreme Court E-Library

3. **ID.; APPEALS; FACTUAL FINDINGS GIVEN EVIDENTIARY WEIGHT WHERE IT WAS THE JUDGE HIMSELF WHO CONDUCTED THE OCULAR INSPECTION OF THE PROPERTY.** — x x x The above conclusions of the MCTC show that the improvements on the property were introduced by persons other than the respondents; that they were not found on the subject property, or were constructed and used by mere tolerance of petitioner's grandfather. We accord considerable evidentiary weight to the conclusions of the MCTC since it was derived after an ocular inspection of the property in the presence of both parties and their respective counsels. Moreover, the MCTC noted that the property in controversy is beyond the coverage of the tax declaration presented by the respondents. In *Sampayan v. Court of Appeals*, we upheld the uncontested findings of the MCTC judge who himself conducted the ocular inspection of the contested premises. Consequently, respondents' claim of prior possession of the contested property must fail.

4. **ID.; EVIDENCE; AFFIDAVITS; GIVEN EVIDENTIARY VALUE.** — Jerry Gayyad also stated in his affidavit that sometime in the months of July to November 1991, he was recruited to work on a road project at Barlig, Mountain Province. While working on the said project, he came to know Alberto Chali-is, the father of the petitioner, whose permission was sought by their project contractor, Cyril Lizardo, so that they could build their headquarters or "*campo*" on the contested property while the project was on-going. These affidavits should be given evidentiary value. The Rule on Summary Procedure provides for the submission by the parties of affidavits and position papers and enjoins courts to hold hearing only when it is necessary to clarify factual matters. This procedure is in keeping with objective of the Rule to promote the expeditious and inexpensive determination of cases.

5. **ID.; ID.; AFFIDAVITS; AFFIDAVIT OF RETRACTION LOOKED WITH DISFAVOR; JUST BECAUSE ONE HAS EXECUTED AN AFFIDAVIT OF RETRACTION DOES BY NO MEANS IMPLY THAT WHAT HAS BEEN PREVIOUSLY SAID IS FALSE OR THE LATTER IS TRUE.** — While it is true that during the proceedings before the RTC, the respondents introduced another set of affidavits sworn to by Beatriz Cobsilen and Jerry Gayyad retracting their earlier sworn statements, the same should

Supreme Court E-Library

not be given much weight. Time and again we have looked with disfavor on statements of retraction of witnesses. It is axiomatic that just because one has executed an affidavit of retraction does by no means imply that what has been previously said is false or the latter is true. On the contrary, affidavits of retraction can be easily secured from poor and ignorant witnesses, usually for financial considerations and such being the case, said retractions are exceedingly unreliable for there is always the probability of their being repudiated subsequently.

6. **ID.; LAND REGISTRATION; TAX DECLARATION; WHILE NOT A CONCLUSIVE EVIDENCE OF OWNERSHIP, CONSTITUTES PROOF THAT THE HOLDER HAS A CLAIM OF TITLE OVER THE PROPERTY.** — On the other hand, petitioner tacks her claim of prior possession to that of her grandfather, Fianinan Machimlang, who paid the taxes on the property and declared it for tax purposes since 1952. While not a conclusive evidence of ownership, the tax declaration of petitioner's predecessor-in-interest constitutes proof that she has a claim of title over the lot. In *Ganila v. Court of Appeals*, we held that: Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.

7. **ID.; ID.; STATEMENT OF AN IMMEDIATE NEIGHBOR OF A DISPUTED PROPERTY AS TO WHO HE OBSERVED WAS IN THE EFFECTIVE POSSESSION OF THE SAME COMMANDS GREAT WEIGHT AND RESPECT.** — Besides, we find that petitioner adduced sufficient evidence to prove her adverse possession. First, the planting of the tiger grass on the contested property by petitioner's grandfather, which was duly noted by the MCTC during the ocular inspection. Second, the affidavit of Beatriz Cobsilen, a neighboring property owner

Supreme Court E-Library

who stated that she knew Machimlang as the owner of the contested property. The statement of an immediate neighbor of a disputed property as to who he observed was in the effective possession of the same commands great weight and respect.

8. ID.; DAMAGES; ATTORNEY'S FEES; LEGAL AND FACTUAL BASIS FOR THE GRANT THEREOF MUST BE STATED IN THE COURT'S DECISION. — Anent the award of attorney's fees which was ordered deleted by the Court of Appeals, we find the same in accord with prevailing jurisprudence. In making such an award, the court must state in its decision the legal and factual basis for the award. The decision of the MCTC is bereft of legal or factual basis for grant of attorney's fees to the petitioner who failed to show that the respondents instituted the complaint before the MCTC maliciously and without cause.

APPEARANCES OF COUNSEL

Jose N. Co for petitioner.
Bayogan-Banasan Law Office for respondents.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

This is a petition for review on *certiorari* of the Decision[1] of the Court of Appeals in CA-G.R. SP No. 64513 dated April 14, 2005 which reversed and set aside the Memorandum Decision[2] of the Regional Trial Court (RTC) of Bontoc, Mountain Province, Branch 36, in Civil Case No. 1030 dated March 16, 2001.

The present petition originated from a complaint[3] for forcible entry and damages filed by respondents with the Municipal Circuit Trial Court (MCTC) of Barlig-Sadanga, Barlig, Mountain Province, against petitioner docketed as Civil Case No. 25. Respondents alleged that they are the owners and prior possessors

[1] *Rollo*, pp. 147-162. Penned by now Presiding Justice Ruben T. Reyes as concurred in by Associate Justices Mariano C. Del Castillo and Fernanda Lampas Peralta.

[2] *Id.* at 119-121. Penned by Judge Artemio B. Marrero.

[3] *Id.* at 26-30.

Supreme Court E-Library

of a parcel of residential land located in Fialangfiang, Barlig, Mountain Province, measuring 48 square meters and bounded on the North by a public land, on the East by a trail and on the South and West by a public school, and originally covered by Tax Declaration No. A-4664 issued on April 13, 1951 in the name of Curson Pakurao.[4] Respondents further alleged that since 1951, they have introduced improvements on the subject property such as a residential house, a stone wall, a water reservoir and a small building used as storage for diesel fuel and other personal effects.

According to the respondents, the controversy arose sometime in November 1999, when petitioner entered the lot through force, intimidation, strategy, threats or stealth and installed galvanized iron sheets on the shack built on the property. When the respondents confronted the petitioner and asked her to remove the galvanized iron roofing, the latter refused claiming that she was the owner of the subject property.[5]

In her position paper,[6] petitioner refuted the allegations of the respondents and claimed that she is the true and lawful possessor of the property having acquired the same from her grandfather, Fianinan Machimlang. Petitioner further alleged that the disputed area is part of a larger piece of land measuring 500 square meters declared by her grandfather under Tax Declaration No. 4943 in 1952. Petitioner claimed that her grandfather has been in open, continuous, exclusive and notorious possession of the property before she succeeded in possessing the same. Petitioner declared that she was merely exercising her rights as owner of the land when she installed galvanized iron sheets.

On October 24, 2000, the MCTC of Barlig-Sadanga rendered its decision[7] declaring petitioner as the lawful possessor of the property, the decretal portion of which reads:

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[4] *Id.* at 31.

[5] *Id.* at 27.

[6] *Id.* at 52-57.

[7] *Id.* at 82-89. Penned by Judge Angela Dailay Papa.

Supreme Court E-Library

Wherefore, for all the foregoing considerations the Court rules:

1. That plaintiffs have not adequately proven their claim of possession over the property in dispute and is (*sic*) therefore ordered to vacate the same;

2. That defendant having proven by preponderance of evidence her claim of possession over the land subject of this suit is hereby declared the lawful possessor and is therefore entitled to be placed in possession thereof.

3. That plaintiffs are ordered to pay the defendant jointly and severally the amount of ₱15,000.00 as attorney's fees, and ₱5,000.00 as litigation expenses and to pay the costs of this suit.

SO ORDERED.[8]

From the foregoing decision, the respondents interposed an appeal with the RTC of Bontoc, Mountain Province, docketed as Civil Case No. 1030 and raffled to Branch 36. On March 16, 2001, the RTC rendered its decision modifying the appealed MCTC decision as follows:

Wherefore, the Decision appealed from is hereby modified, *viz*:

1. Dismissing the action at bar; and

2. Ordering the appellants Pakuraos to pay the appellee Thelma C. Buduhan attorney's fees in the amount of ₱7,000 jointly and severally.

SO ORDERED.[9]

As earlier stated, the Court of Appeals reversed and set aside the decision of the RTC, the decretal portion of which reads:

WHEREFORE, the petition is GRANTED. The challenged Decision of the RTC is REVERSED and SET ASIDE and a new one is hereby entered:

1. Ordering respondent Thelma Buduhan to vacate the premises in question by removing the galvanized iron she installed on the subject shack; and

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[8] *Id.* at 88-89.

[9] *Id.* at 121.

Supreme Court E-Library

2. Deleting the award of attorney's fees in favor of said respondent.

SO ORDERED.[10]

Hence this petition on the following issues:

THE COURT OF APPEALS ERRED IN ORDERING RESPONDENT THELMA BUDUHAN (NOW PETITIONER) TO VACATE THE PREMISES IN QUESTION BY REMOVING THE GALVANIZED IRON SHE INSTALLED ON THE SUBJECT SHACK.[11]

THE COURT OF APPEALS ERRED IN DELETING THE AWARD OF ATTORNEY'S FEES IN FAVOR OF PETITIONER THELMA BUDUHAN.[12]

The issues raised by the petitioner invite us to rule on questions of fact, contrary to the settled rule that only questions of law may be raised in a petition for review. There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts; there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts.[13]

While it is an established dictum that it is not the function of the Supreme Court to analyze or weigh evidence anew,[14] however, this rule is not iron-clad. We have consistently recognized several exceptional circumstances where we disregarded the aforesaid tenet and proceeded to review the findings of facts of the lower court such as: (1) when the conclusion is a finding grounded entirely on speculations, surmises or conjectures; (2) when the inference 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

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[10] *Id.* at 161.

[11] *Id.* at 14.

[12] *Id.* at 21.

[13] *Naguiat v. Court of Appeals*, G.R. No. 118375, October 3, 2003, 412 SCRA 591, 596.

[14] *Municipality of Butig, Lanao del Sur v. Court of Appeals*, G.R. No. 138348, December 9, 2005.

Supreme Court E-Library

on a misapprehension of facts; (5) when the findings of facts 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) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (8) when the findings of fact of the Court of Appeals are contrary to those of the trial court or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by the respondent, or where the findings of fact of the Court of Appeals are premised on absence of evidence but are contradicted by the evidence on record.[15]

Considering the conflict in the factual findings of the MCTC and RTC and the Court of Appeals, we will rule on the factual issues as an exception to the general rule.

An action for forcible entry is a quieting process that is summary in nature. It is designed to recover physical possession through speedy proceedings that are restrictive in nature, scope and time limits. In forcible entry, the plaintiff is deprived of physical possession by means of force, intimidation, threat, strategy or stealth.[16] It is a basic rule in civil cases that the party having the burden of proof must establish his case by a preponderance of evidence, which simply means "evidence which is of greater weight, or more convincing than that which is offered in opposition to it. Hence, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's.[17]

There is no conflict in the factual findings of the RTC and MCTC as found by the Court of Appeals. Both ruled in favor of petitioner and held that she was able to establish by preponderance of evidence her superior right over the property.

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[15] *Naguiat v. Court of Appeals, supra* at 596.

[16] *Montanez v. Mendoza*, 441 Phil. 47, 55 (2002).

[17] *Id.* at 56.

Supreme Court E-Library

As found by the MCTC, petitioner and her grandfather had been occupying the subject property since 1952 and the same has been declared for tax purposes in Machimlang's name.[18]

The RTC held that the findings of fact of the MCTC is "substantially supported by the evidence on record, augmented by the observations of the trial judge during the ocular inspection of the area subject of the controversy."[19]

The perceived conflict in the factual findings of the MCTC and the RTC may have arisen from the declaration of the latter that:

> Further, considering that the appellants (respondents herein) are not the actual occupants of the disputed premises, it is incongruous or inconsistent for the trial court to have ordered the former to vacate the property and place the appellee (petitioner) in possession thereof.[20]

While the foregoing statement may suggest a conflict in the factual findings of the MCTC and the RTC, the fact remains that both courts found that petitioner was able to establish her superior right over the property. The quoted portion of the decision of the RTC must be read in conjunction with the paragraph immediately preceding it, to wit:

> The appellants (respondents) have not proven by superior weight of evidence their claim of prior physical or material possession of the property subject of the action, hence they cannot by law recover such possession from the appellee. (Sec. 17, Rule 70, 1997 Rules of Civil Procedure).[21]

Plainly, the foregoing pronouncements of the RTC validated the findings of the MCTC that petitioner adduced evidence of possession more preponderant than those presented by the respondents.

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[18] *Rollo*, p. 88.

[19] *Id.* at 120.

[20] *Id.* at 121.

[21] *Id.*

Supreme Court E-Library

Likewise, the Court of Appeals' finding that respondents were in actual possession of the disputed land since 1951 is not supported by evidence.

In claiming prior possession of the subject property, the respondents allegedly made several improvements since they ostensibly occupied the same in 1951, consisting of a residential house, a stone wall, a water reservoir, and a small building used as a storage for diesel fuel and other personal effects. In relying on the statements of the respondents, we find that the Court of Appeals disregarded the findings of the MCTC which conducted an ocular inspection of the contested property in the presence of both parties and their respective counsels.

The MCTC noted during the ocular inspection that the stone walls along side the creek have been installed by the Department of Public Works and Highways when it constructed the road and culvert underneath it to protect the road from erosion due to the intermittent waters flowing from the creek. It thus disregarded the claim of both parties that they introduced the stone walls.[22]

As regards the water reservoirs, the MCTC noted that these are on the creek itself and not on the disputed property so it could not be treated as an improvement on the land to prove evidence of ownership or possession. Also, the shack existing on the land was constructed and used by the respondents with the permission and tolerance of petitioner's grandfather and could never ripen into ownership.[23] There was also no residential house constructed on the property as alleged by the respondents in their complaint.[24]

The above conclusions of the MCTC show that the improvements on the property were introduced by persons other than the respondents; that they were not found on the subject property, or were constructed and used by mere tolerance of

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[22] *Id.* at 87.

[23] *Id.* at 87-88.

[24] *Id.* at 84.

Supreme Court E-Library

petitioner's grandfather. We accord considerable evidentiary weight to the conclusions of the MCTC since it was derived after an ocular inspection of the property in the presence of both parties and their respective counsels. Moreover, the MCTC noted that the property in controversy is beyond the coverage of the tax declaration presented by the respondents.[25] In *Sampayan v. Court of Appeals*,[26] we upheld the uncontested findings of the MCTC judge who himself conducted the ocular inspection of the contested premises. Consequently, respondents' claim of prior possession of the contested property must fail.

On the other hand, petitioner tacks her claim of prior possession to that of her grandfather, Fianinan Machimlang, who paid the taxes on the property and declared it for tax purposes since 1952. While not a conclusive evidence of ownership, the tax declaration of petitioner's predecessor-in-interest constitutes proof that she has a claim of title over the lot. In *Ganila v. Court of Appeals*,[27] we held that:

> Although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.

Besides, we find that petitioner adduced sufficient evidence to prove her adverse possession. First, the planting of the tiger grass on the contested property by petitioner's grandfather, which

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[25] *Id.* at 86.

[26] G.R. No. 156360, January 14, 2005, 448 SCRA 220, 231.

[27] G.R. No. 150755, June 28, 2005, 461 SCRA 435, 448, citing *Alcaraz v. Tangga-an*, 449 Phil. 62, 71 (2003).

Supreme Court E-Library

was duly noted by the MCTC during the ocular inspection.[28] Second, the affidavit[29] of Beatriz Cobsilen, a neighboring property owner who stated that she knew Machimlang as the owner of the contested property. The statement of an immediate neighbor of a disputed property as to who he observed was in the effective possession of the same commands great weight and respect.[30]

Jerry Gayyad also stated in his affidavit[31] that sometime in the months of July to November 1991, he was recruited to work on a road project at Barlig, Mountain Province. While working on the said project, he came to know Alberto Chalis,[32] the father of the petitioner, whose permission was sought by their project contractor, Cyril Lizardo, so that they could build their headquarters or "*campo*" on the contested property while the project was on-going.

These affidavits should be given evidentiary value. The Rule on Summary Procedure provides for the submission by the parties of affidavits and position papers and enjoins courts to hold hearing only when it is necessary to clarify factual matters. This procedure is in keeping with objective of the Rule to promote the expeditious and inexpensive determination of cases.[33]

While it is true that during the proceedings before the RTC, the respondents introduced another set of affidavits sworn to by Beatriz Cobsilen and Jerry Gayyad retracting their earlier sworn statements, the same should not be given much weight. Time and again we have looked with disfavor on statements of retraction of witnesses. It is axiomatic that just because one has executed an affidavit of retraction does by no means imply that what has been previously said is false or the latter is true. On the contrary, affidavits of retraction can be easily secured

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[28] *Rollo*, p. 88.

[29] *Id.* at 64.

[30] *Sampayan v. Court of Appeals, supra* at 231.

[31] *Rollo*, p. 65.

[32] Also written as Alberto Challiis in some portions of the records.

[33] *Montanez v. Mendoza, supra* note 16 at 58-59.

Supreme Court E-Library

from poor and ignorant witnesses, usually for financial considerations and such being the case, said retractions are exceedingly unreliable for there is always the probability of their being repudiated subsequently.[34]

From the foregoing discussion, we can reasonably conclude that the petitioner is the lawful possessor of the contested property as held by the MCTC and affirmed by the RTC.

Anent the award of attorney's fees which was ordered deleted by the Court of Appeals, we find the same in accord with prevailing jurisprudence. In making such an award, the court must state in its decision the legal and factual basis for the award.[35] The decision of the MCTC is bereft of legal or factual basis for grant of attorney's fees to the petitioner who failed to show that the respondents instituted the complaint before the MCTC maliciously and without cause.

WHEREFORE, the petition is *PARTLY GRANTED.* The assailed Decision dated April 14, 2005 of the Court of Appeals in CA-G.R. SP No. 64513 is *ANNULLED* and *SET ASIDE.* The Memorandum Decision of the Regional Trial Court of Bontoc, Mountain Province, Branch 36, dated March 16, 2001 in Civil Case No. 1030 dismissing the complaint for forcible entry is *REINSTATED* with the *MODIFICATION* that the award of attorney's fees is *DELETED* for lack of basis.

SO ORDERED.

Panganiban, C.J. (Chairperson), Austria-Martinez, and *Callejo, Sr., JJ.,* concur.

Chico-Nazario, J., on leave.

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[34] *Naval v. Panday*, 341 Phil. 656, 682 (1997).

[35] Aquino, *Torts and Damages*, 2005 Edition, p. 887.