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SECOND DIVISION

[G.R. No. 165962. July 6, 2007]

VIRGINIA PEREZ CLAUDIO, Represented by ERNESTO BROSAS, as Attorney-in-fact, *petitioner, vs.* **FRANCISCA QUEBRAL,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; MISTAKE OR LACK OF COMPETENCE OF COUNSEL BINDS THE CLIENT; CASE AT BAR.— The rule is that a client will suffer the consequences of the negligence, mistake or lack of competence of his counsel. While this Court is always mindful of this rule, in the interest of justice and equity, exceptions thereto may be made depending on the facts and circumstances of each case. However, we do not consider the instant case as an exception to the said rule for two reasons: first, it cannot be said that respondent was deprived of her day in court and second, she failed to positively validate with proof her charge of gross and inexcusable negligence against her counsel. The Court of Appeals is correct in finding that there is no compelling ground to remand the case back to the court of origin for the sole purpose of allowing respondent to submit her position paper. Remand would serve no useful purpose as it would only cause unwanted and unnecessary delay in the proceedings. After all, upon being apprised of the adverse decision rendered by the MTCC, respondent lost no time in availing of the appropriate remedy which is an appeal to the RTC, and thereafter actively resisted the claim of petitioner.

2. ID.; ID.; RESPONDENT'S CHALLENGE OF THE IDENTITY OF THE SUBJECT PROPERTY IS BARRED; A CONTRARY RULING WOULD RENDER USELESS THE PROCEEDINGS HAD AT THE PRELIMINARY CONFERENCE AND WOULD IN FACT BE ANTITHETICAL TO THE VERY PURPOSE OF A PRELIMINARY CONFERENCE WHICH IS, AMONG OTHERS, TO ALLOW THE PARTIES TO ADMIT AND STIPULATE ON A GIVEN SET OF FACTS AND TO SIMPLIFY THE ISSUES INVOLVED.— Ejectment cases in

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general involve a perturbation of social order which must be restored as promptly as possible. Thus, the Rules on Summary Procedure, which govern the proceedings in these cases and which were designed to meet that end, are intended to provide an expeditious means of protecting actual possession or right of possession of property. A mere reading of the summary rules reveals the basic objective, through the procedural requirements and prohibitions therein, to obviate dilatory practices and unnecessary delay which have long been the bane of ejectment proceedings. It is within the context of this policy of the law that we rule that respondent's challenge against the identity of the subject property is barred. A contrary ruling would render useless the proceedings had at the preliminary conference and would in fact be antithetical to the very purpose of a preliminary conference—which is, among others, to allow the parties to admit and stipulate on a given set of facts and to simplify the issues involved. Our pronouncement in *Custodio v. Corrado* is instructive on this point— x x x Pre-trial is a procedural device intended to clarify and limit the basic issues between the parties. It thus paves the way for a less cluttered trial and resolution of the case. Its main objective is to simplify, abbreviate and expedite the trial, or totally dispense with it. Prescinding therefrom, it is a basic legal precept that the parties are bound to honor the stipulations they made during the pre-trial. Besides, in much the same way that a complaint in ordinary procedure which fails to state a cause of action may be cured by the evidence presented at the trial, a defective complaint in an ejectment case may likewise be cured by the allegations in the position paper.

3. CIVIL LAW; LAND REGISTRATION; TORRENS CERTIFICATE OF TITLE; ISSUE OF OWNERSHIP OR TITLE TO PROPERTY CANNOT BE COLLATERALLY ATTACKED; ISSUES AS TO VALIDITY OF TITLE TO PROPERTY CAN BE ASSAILED ONLY IN AN *ACCION PUBLICIANA* OR *ACCION REIVINDICATORIA*.— In a bid to defeat petitioner's claim, respondent assails the validity of the 1973 deed of sale and alleges that the same is null and void for being simulated, fictitious and for having been executed without consideration. Respondent likewise asserts that the property remains undivided between petitioner and Federico and that the spurious TCT remains to be in the name of their

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father. We acknowledge that these allegations of respondent may, in the appropriate forum, merit a *bona fide* consideration; however, we are not inclined to rule on these contentions inasmuch as this Court is not the proper forum before which these issues may be ventilated. Needless to say, the long settled rule is that the issue of ownership or title to property cannot be collaterally attacked. Section 48, Presidential Decree No. 1529 materially provides that a certificate of title cannot be altered, modified or cancelled, except in a direct proceeding in accordance with law. Issues as to the validity of title to property can be assailed only in an action expressly instituted for that specific purpose either in an *accion publiciana* or *accion reivindicatoria.* A proceeding for forcible entry, which by nature is an *accion interdictal*, is merely a quieting process and never determines actual title to an estate. It is hornbook doctrine that in an ejectment case, it is not the prime function of the courts to resolve questions relating to title to or ownership of the property in litigation. What is involved in ejectment cases is merely the issue of material or physical possession (possession *de facto*) independent of any claim of ownership set forth by any of the party-litigants, such that any one of them who can prove prior possession *de facto* may recover such possession even from the owner himself—regardless of the character of such possession—provided that he has in his favor priority in time.

4. ID.; PROPERTY; POSSESSION; PETITIONER HAS POSITIVELY ESTABLISHED HER POSSESSION OF THE SUBJECT PREMISES WHEN SHE PERFORMED ACTS THEREBY ESTABLISHING MATERIAL OCCUPATION OVER THE SAME AND SUBJECTING IT TO THE ACTION OF HER WILL, REGARDLESS OF THE CHARACTER OF HER RIGHT AS SUCH POSSESSOR.— From the records we conclude that petitioner enjoys priority in time of possession. The 1973 deed of sale well supports the claim that since the date of the execution thereof petitioner had been in possession of her share of the property. The affidavit of petitioner's witness is likewise supportive of the stance that as far as petitioner was concerned, she had filled her portion with soil up to road level, enclosed the same with barbed wire and appointed a caretaker to look after the property during the interim that she was residing in the United States. Possession,

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under the law, is acquired by the material occupation of a thing or the exercise of a right, or by the fact that it is subject to the action of our will or by the proper acts or legal formalities established for acquiring such right. There is no doubt that petitioner has positively established her possession of the subject premises when she performed the above-mentioned acts thereby establishing material occupation over the same and subjecting it to the action of her will, regardless of the character of her right as such possessor. We can only infer that from then on she has remained in material possession of the subject lot inasmuch as the law presumes that possession, once acquired, is continuous and uninterrupted.

5. REMEDIAL LAW; EVIDENCE; RESPONDENT'S ACT OF ASSAILING PETITIONER'S CLAIM OF OWNERSHIP BY ATTACKING THE VALIDITY OF THE 1973 DEED OF SALE AND THE TRANSFER CERTIFICATE OF TITLE MUST FAIL INASMUCH AS THE SAME CANNOT WARRANT A DEFINITE RULING IN VIEW OF THE PRESUMPTION OF VALIDITY THAT THE LAW ACCORDS TO SAID DOCUMENTS.— Interestingly, respondent, for her part, does not appear to claim prior material or physical possession of the property in her favor. The arguments embodied in her pleadings are consistent in asserting her right as co-owner together with the other heirs/descendants of the primitive owner of the property to the exclusion of petitioner. To support her contention, she seeks to destroy petitioner's claim of ownership by attacking the validity of the 1973 deed of sale and of Alberto's TCT. Regrettably, respondent's challenge must fail inasmuch as the same cannot warrant a definite ruling in this case in view of the presumption of validity that the law accords to said documents.

APPEARANCES OF COUNSEL

Decano Law Offices for petitioner.

Tanopo Serafica and Cosme for respondent.

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D E C I S I O N

TINGA, *J.*:

In this Rule 45 Petition for Review, petitioner seeks the reversal of the decision[1] of the Court of Appeals promulgated on 31 May 2004 that dismissed the case of forcible entry which the Regional Trial Court (RTC) of Dagupan City had ordered[2] remanded to the Municipal Trial Court in Cities (MTCC) of Dagupan City.

Petitioner Virginia Perez-Claudio, through her representative and attorney-in-fact Ernesto Brosas,[3] lodged a complaint for forcible entry with an application for a writ of preliminary mandatory injunction[4] before the MTCC of Dagupan City. She alleged that on 25 August 1999, Proceso Perez (Proceso) and herein respondent Francisca Quebral, by means of stealth and strategy and without authority of law, entered into the western half portion of a piece of land situated in Tapuac District, Dagupan City and identified as Lot No. 5267 in the cadastral survey.[5] Claiming to be the owner of the said portion, she asserted that she had purchased the same from her father, Alberto Perez (Alberto), in 1973[6] and had since been in peaceful possession thereof until Proceso and respondent committed acts of disposition such as building a hut, cutting off trees and removing the barbed-wire fence.

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[1] CA G.R. No. 65557, penned by Associate Justice Edgardo F. Sundiam, concurred in by Associate Justices Renato C. Dacudao and Japar B. Dimaampao; *Rollo*, pp. 35-45.

[2] In a decision dated 5 April 2001 in Civil Case No. 12177, penned by Judge Victor T. Llamas, Jr.; *id*. at 61-75.

[3] Appointed as such by virtue of a Special Power of Attorney executed by Virginia Perez Claudio in San Francisco, California, USA before Philippine Consulate General Roberto Mascardo on 7 September 1999; Records, pp. 4-5.

[4] Filed on 4 October 1999 and docketed as Civil Case No. 12177; Records, pp. 1-3.

[5] Records, p. 1.

[6] Deed of Sale dated 7 July 1973 executed by Alberto Perez in favor of Virginia R. Perez and Federico R. Perez married to Florita Claveria; *id*. at 6.

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Both Proceso and respondent refuted petitioner's claim of ownership and prior possession of the land in question. Proceso, in his Answer, countered that the property was and still is owned by his grandfather, Juan Perez, Sr., who died in 1938 leaving his three children, Juan, Jr., Patricia and Maria, to become co-owners thereof. The property, according to him, remained to be in his grandfather's name and had never been partitioned.[7] Respondent's defense ran along the same line. She pointed out that she had become a co-owner of the property by way of succession and by right of representation upon the death of her mother, Patricia. Alberto, she revealed, was Maria's illegitimate son.[8] Respondent attached documents[9] to her Answer tending to show that the alleged sale between Alberto and petitioner was fictitious, simulated and without consideration and, therefore, null and void.

At the preliminary conference, the parties agreed on a set of facts. The common stipulation of facts, as embodied in the Pre-trial Order dated 15 September 2000, reads, thus:

> At the pre-trial conference this morning, Atty. Hermogenes Decano, counsel for the plaintiff, Atty. Roberto Callanta, counsel for the defendant Francisca Quebral, Atty. Edgardo Martin, counsel for the defendant Proceso Perez and the defendants appeared. The parties discounted any amicable settlement. However, they entered into the following stipulations of facts:
>
> 1. The identity of the parties;
> 2. The identity of the subject property;
> 3. That the original owner of the subject property was Juan Perez, Sr. as per OCT No. 40174;

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[7] *Id*. at 21.

[8] *Id*. at 24.

[9] Namely, a certification issued by the Lands Management Bureau to the effect that the said office did not have any record on file of any public land application/land patent covering the subject lot; another certification from the Register of Deeds stating that there was no instrument on file effecting the transfer of the property to Alberto; and a document procured from the Land Registration Authority certifying that there was no record as to the existence of a decree relating to the same; *id*. at 32-34.

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4. That Juan Perez, Sr. has three (3) heirs[,] namely[,] Juan Perez, Jr., Patricia Perez and Maria Perez;
5. That defendant Francisca Quebral is one of [the] heirs of Patricia Perez, who is one of the children of Juan Perez, Sr.;
6. That defendant Proceso Perez is the heir of Juan Perez, Jr., son of Juan Perez, Sr.[10]

When the parties were ordered by the MTCC to file their position papers, only petitioner and Proceso complied. Respondent was duly notified of the order,[11] but she failed to comply.

On 20 November 2000, the MTCC rendered its decision, the dispositive part of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants[,] ordering the latter:

1. To vacate the subject western half portion of Lot No. 5267 and to restore peacefully the possession thereof to the plaintiff;
2. To pay to the plaintiff, proportionately, the reasonable compensation for their use of the subject premises in the amount of ₱3,000.00 per month from August 25, 1999 until they have fully vacated the same;
3. To pay to the plaintiff, proportionately, the sum of ₱15,000.00 as and for attorney's fees and litigation expenses and to pay the cost.

SO ORDERED.[12]

Aggrieved by the adverse decision, Proceso and respondent appealed to the RTC of Dagupan City.

Proceso argued that the MTCC erred in finding him liable under the complaint[13] and in disregarding his affidavit attesting

[10] *Id*. at 60.

[11] A copy of the pre-trial order with the directive for the filing of position paper was received by Atty. Roberto Callanta on October 6, 2000 as per Postal Receipt No. 3179; *id*.

[12] Penned by Presiding Judge Emma M. Torio; *id*. at 139.

[13] *Id*. at 213-216.

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to the supposed fact that he had no reason to forcibly take possession of the disputed portion of the land because he established his residence in Malued District, Dagupan City since birth. He claimed that the court also disregarded his witnesses' affidavits which tend to prove that he was not the one who entered the subject premises and felled the trees therein.[14]

For her part, respondent contended, among other things, that she had been denied due process when the court decided the case in the absence of her position paper—a procedural lapse that she attributed to the negligence and ineffectiveness of her counsel.[15]

On April 5, 2001, the RTC rendered its decision, reversing the MTCC insofar as Proceso was concerned and, as regards respondent, ordering the remand of the case back to the MTCC for further proceedings and for the reception of respondent's position paper.[16]

Questioning the order of remand, petitioner filed a Petition for Review under Rule 42 before the Court of Appeals. She asserted that the negligent failure of respondent's counsel to file the necessary position paper despite due notice should be binding on respondent especially so where the counsel had not been adequately shown to be in bad faith or grossly negligent. She emphasized that respondent was unable to show any reason for such failure and instead merely made a foregone conclusion that her counsel was negligent and incompetent.[17]

Incidentally, in her petition, petitioner had impleaded Proceso since the latter's name appeared in the caption of the petition. Be that as it may, in view of the lone issue that she raised before the appellate court and the positive statement that she

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[14] See affidavits of Eric Cruz and of Manuel de Guzman to the effect that the former had been contracted by a certain Agustin Perez to cut the trees on the property; *id*. at 68-69.

[15] *Id.* at 189-191.

[16] *Id.* at 233-247.

[17] CA *rollo*, pp. 9-13.

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was abandoning the case against Proceso because of the latter's claim that he did not enter the subject premises,[18] petitioner, in effect, did not appeal from the order of the RTC dismissing the case against said defendant.

On 31 May 2004, the Court of Appeals rendered the assailed decision dismissing the complaint for forcible entry. After her motion for reconsideration was denied, petitioner filed the instant petition.

Resolving the issue of whether the instant case warrants a remand to the MTCC, the Court of Appeals held that the negligence imputed by respondent to her counsel had not been satisfactorily shown. According to the appellate court, such omission was nothing more than a manifestation of professional lapse, inefficiency and carelessness. And even hypothetically admitting it to be true, the same would nevertheless be binding on respondent following the principle that any act performed by counsel within the scope of his general or implied authority is regarded as an act of his client. Thus, the MTCC could not have been in error in deciding the case even in the absence of the said pleading.[19]

We agree. The rule is that a client will suffer the consequences of the negligence, mistake or lack of competence of his counsel. While this Court is always mindful of this rule, in the interest of justice and equity, exceptions thereto may be made depending on the facts and circumstances of each case.[20] However, we do not consider the instant case as an exception to the said rule for two reasons: first, it cannot be said that respondent was deprived of her day in court and second, she failed to positively validate with proof her charge of gross and inexcusable negligence against her counsel.

The Court of Appeals is correct in finding that there is no compelling ground to remand the case back to the court of origin for the sole purpose of allowing respondent to submit

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[18] *Id.* at 13.

[19] *Id.* at 292.

[20] *Legarda v. Court of Appeals*, G.R. No. 94457, 18 March 1991, 195 SCRA 418, 427.

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her position paper. Remand would serve no useful purpose as it would only cause unwanted and unnecessary delay in the proceedings. After all, upon being apprised of the adverse decision rendered by the MTCC, respondent lost no time in availing of the appropriate remedy which is an appeal to the RTC, and thereafter actively resisted the claim of petitioner.

We now determine whether the Court of Appeals acted correctly in dismissing the complaint against respondent.

The appellate court, invoking its equity jurisdiction, undertook to inquire into the merits of the case in order not to delay the proceedings. It observed that doubt was cast on the exact identity of the disputed portion of the land the rightful possession of which was being claimed by petitioner. The 1973 deed of sale provides that Federico and petitioner were to get the northern and southern halves of the land, respectively; but since the northern portion was smaller, Federico was empowered to acquire so much from petitioner's portion as to complete his own proportionate half. The property, however, remained undivided and the said deed of sale unregistered which is why the transfer certificate of title covering the entire lot remained in the name of Alberto.[21] For this reason, and considering the allegation in the complaint that it is the western half of the land which was forcibly entered into, the appellate court ruled that petitioner had failed to identify the portion of the property over which she claimed rightful possession as an owner.[22]

Petitioner maintains that the Court of Appeals committed a reversible error when it dismissed the complaint for forcible entry on the ground that the subject property has not been sufficiently identified by the allegations in the complaint as well as by the evidence. She advances that the appellate court has made a "preconceived conclusion of lack of identity of [the] subject land" based solely on the 1973 deed of sale[23] and in the process ignored the affidavits attached to her position paper independently

[21] *CA rollo, pp. 293-295* 293-295.

[22] *Id.* at 293-295.

[23] *Rollo,* pp. 20-21.

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executed by her and by her caretaker as well as the sketch of the entire Lot No. 5267.[24] Moreover, she believes that when the parties at the pre-trial conference freely admitted and stipulated on the identity of the contested property, they became bound by the same and, accordingly, no other questions regarding the same admitted issue may further be considered even on appeal.[25]

The contention is imbued with merit.

The Court of Appeals committed a reversible error when it found that the subject property has not been sufficiently identified by petitioner. On the face of the complaint, it abundantly appears that petitioner is referring to only a portion of the entire lot in question. Admittedly, the complaint refers to the western half portion whereas the 1973 deed of sale attached to it shows that it is the southern portion of the lot that was sold by Alberto to petitioner. Despite this ostensible discrepancy, however, all the parties proceeded to the preliminary conference and, with their counsel, entered into a stipulation of facts thereby admitting, among others, the identity of the subject premises—an admission that is binding on them. Thus, respondent's contention that what has been admitted is the identity of the entire Lot No. 5267 and not the unidentified portion claimed by petitioner,[26] must

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[24] *Id*. at 18-19.

On the one hand, the Affidavit of Virginia Perez-Claudio reads in part: "x x x I am the owner and in peaceful possession of the south-western portion of the following described property: x x x Sometime on 25 August 1999 the defendant by means of stealth and strategy and without authority of law entered the western part of southern part of the above-described property, effectively excluding the plaintiff and her agent by means of intimidation and threats of violence x x x."

On the other hand, the sketch of Lot No. 5267 attached to Julieta Perez's Affidavit shows that the portion of the lot being claimed by Claudio is located on the southwestern portion and identified therein as Lot No. 5267-C, and the share of Proceso Perez which is the northern half extending a little over the southeastern portion is labeled as Lot No. 5267-A. Lot No. 5267-B is that portion occupied by the National Road.

[25] *Id*. at 20-22.

[26] *Id*. at 237-238.

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fail. Notably, none of the defendants in the lower court raised this question in their answer or in their pre-trial brief.

Ejectment cases in general involve a perturbation of social order which must be restored as promptly as possible.[27] Thus, the Rules on Summary Procedure, which govern the proceedings in these cases and which were designed to meet that end, are intended to provide an expeditious means of protecting actual possession or right of possession of property.[28] A mere reading of the summary rules reveals the basic objective, through the procedural requirements and prohibitions therein, to obviate dilatory practices and unnecessary delay which have long been the bane of ejectment proceedings.[29] It is within the context of this policy of the law that we rule that respondent's challenge against the identity of the subject property is barred. A contrary ruling would render useless the proceedings had at the preliminary conference and would in fact be antithetical to the very purpose of a preliminary conference—which is, among others, to allow the parties to admit and stipulate on a given set of facts and to simplify the issues involved. Our pronouncement in *Custodio v. Corrado*[30] is instructive on this point—

> x x x Pre-trial is a procedural device intended to clarify and limit the basic issues between the parties. It thus paves the way for a less cluttered trial and resolution of the case. Its main objective is to simplify, abbreviate and expedite the trial, or totally dispense with it. Prescinding therefrom, it is a basic legal precept that the parties are bound to honor the stipulations they made during the pre-trial.[31]

Besides, in much the same way that a complaint in ordinary procedure which fails to state a cause of action may be cured by the evidence presented at the trial, a defective complaint in

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[27] *Co Tiamco v. Diaz*, 75 Phil. 672, 686 (1946).

[28] *Go, Jr. v. Court of Appeals,* 415 Phil. 172, 184 (2001).

[29] F. REGALADO, *REMEDIAL LAW COMPENDIUM*, Vol. I, 8th Revised Ed., p. 793.

[30] G.R. No. 146082, 30 July 2004, 435 SCRA 500.

[31] *Id.* at 511.

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an ejectment case may likewise be cured by the allegations in the position paper.[32]

We take notice of the fact that petitioner's claim of prior physical possession of the property in question rests on the 1973 deed of sale executed by Alberto. It appears that the latter had in turn acquired the property from Pedro and Eulogio Patani under two deeds of sale.[33] He thereafter declared the same for taxation purposes, religiously discharged the tax obligations thereon[34] and remained in possession thereof until the southern portion was usurped by one Fausto Carvajal in 1950—a controversy (action for recovery of possession) that had been resolved in favor of Alberto.[35] It was likewise established that both petitioner and her brother had been in open and adverse possession of their respective shares of the lot until the defendants committed the acts complained of.[36]

In a bid to defeat petitioner's claim, respondent assails the validity of the 1973 deed of sale and alleges that the same is null and void for being simulated, fictitious and for having been executed without consideration. Respondent likewise asserts that the property remains undivided between petitioner and Federico and that the spurious TCT remains to be in the name of their father.

We acknowledge that these allegations of respondent may, in the appropriate forum, merit a *bona fide* consideration; however, we are not inclined to rule on these contentions inasmuch

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[32] *Dula v. Maravilla*, G.R. No. 134267, May 9, 2005, 458 SCRA 249, 257.

[33] Deeds of Sale dated December 16, 1937 and July 2, 1934; Records, pp. 128-129.

[34] In her Position Paper, petitioner exhibited photocopied receipts tending to show that Alberto Perez had been paying real property taxes on Lot No. 5267; *id*. at 137, 117-121.

[35] CA G.R. No. 37309-R, entitled *Alberto Perez and Inocencia Ramirez v. Fausto Carvajal*; *id*. at 92-106.

[36] Affidavit of Julieta Perez who served as caretaker of the property while petitioner was residing abroad, *id*. at 122.

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as this Court is not the proper forum before which these issues may be ventilated. Needless to say, the long settled rule is that the issue of ownership or title to property cannot be collaterally attacked. Section 48, Presidential Decree No. 1529 materially provides that a certificate of title cannot be altered, modified or cancelled, except in a direct proceeding in accordance with law. Issues as to the validity of title to property can be assailed only in an action expressly instituted for that specific purpose[37] either in an *accion publiciana* or *accion reivindicatoria.* A proceeding for forcible entry, which by nature is an *accion interdictal,* is merely a quieting process and never determines actual title to an estate.[38]

It is hornbook doctrine that in an ejectment case, it is not the prime function of the courts to resolve questions relating to title to or ownership of the property in litigation. What is involved in ejectment cases is merely the issue of material or physical possession (possession *de facto*) independent of any claim of ownership set forth by any of the party-litigants,[39] such that any one of them who can prove prior possession *de facto* may recover such possession even from the owner himself—regardless of the character of such possession—provided that he has in his favor priority in time.[40]

From the records we conclude that petitioner enjoys priority in time of possession. The 1973 deed of sale well supports the claim that since the date of the execution thereof petitioner had

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[37] *Ross Rica Sales Center, Inc. v. Ong*, G.R. No. 132197, 16 August 2005, 467 SCRA 35, 51; *Apostol v. Court of Appeals*, G.R. No. 125375, 17 June 2004, 432 SCRA 351, 359.

[38] *Somodio v. Court of Appeals*, G.R. No. 82680, 15 August 1994, 235 SCRA 307, 313.

[39] *Habagat Grill v. DMC-Urban Property Developer, Inc.*, G.R. No. 155110, 31 March 2005, 454 SCRA 653, 670; *Ross Rica Sales Center, Inc. v. Ong, supra* note 37 at 48; *Gener v. De Leon*, 419 Phil. 920 (2001); *Somodio v. Court of Appeals, supra* note 38 at 311; *Drilon v. Guarana,* G.R. No. L-35482, 30 April 1987, 149 SCRA 342, 348.

[40] *Somodio v. Court of Appeals, supra* note 38 at 311-312; *De Luna v. Court of Appeals*, G.R. No. 94490, 6 August 1992, 212 SCRA 276.

been in possession of her share of the property. The affidavit of petitioner's witness is likewise supportive of the stance that as far as petitioner was concerned, she had filled her portion with soil up to road level, enclosed the same with barbed wire and appointed a caretaker to look after the property during the interim that she was residing in the United States.[41] Possession, under the law, is acquired by the material occupation of a thing or the exercise of a right, or by the fact that it is subject to the action of our will or by the proper acts or legal formalities established for acquiring such right.[42] There is no doubt that petitioner has positively established her possession of the subject premises when she performed the above-mentioned acts thereby establishing material occupation over the same and subjecting it to the action of her will, regardless of the character of her right as such possessor. We can only infer that from then on she has remained in material possession of the subject lot inasmuch as the law presumes that possession, once acquired, is continuous and uninterrupted.[43]

Interestingly, respondent, for her part, does not appear to claim prior material or physical possession of the property in her favor. The arguments embodied in her pleadings are consistent in asserting her right as co-owner together with the other heirs/descendants of the primitive owner of the property to the exclusion of petitioner. To support her contention, she seeks to destroy petitioner's claim of ownership by attacking the validity of the 1973 deed of sale and of Alberto's TCT. Regrettably, respondent's challenge must fail inasmuch as the same cannot warrant a definite ruling in this case in view of the presumption of validity that the law accords to said documents.

The reinstatement of the original MTCC decision against respondent is thus in order.

WHEREFORE, the petition is *GRANTED*. Respondent Francisca Quebral is *ORDERED* to vacate the subject premises and to restore the peaceful possession thereof to petitioner.

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[41] *Rollo*, pp. 151-152.

[42] THE NEW CIVIL CODE, Art. 531.

[43] THE NEW CIVIL CODE, Art. 529.

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Respondent is further ordered to pay petitioner the reasonable compensation for the use of the subject premises in the amount of ₱3,000.00 a month from August 25, 1999 until she has fully vacated the same. Costs against respondent.

SO ORDERED.

Carpio (Acting Chairperson), Carpio Morales, and *Velasco, Jr., JJ.,* concur.

Quisumbing, J. (Chairperson), on official leave.

SECOND DIVISION

[G.R. No. 166061. July 6, 2007]

ANDY QUELNAN *y* QUINO, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CRIMINAL PROCEDURE; SEARCH AND SEIZURE; SEARCH WARRANT; IT IS NOT REQUIRED THAT THE SEARCH WARRANT MUST NAME THE PERSON WHO OCCUPIES THE DESCRIBED PREMISES.— Section 4, Rule 126 of the Revised Rules of Criminal Procedure provides for the requisites for the issuance of search warrant. Nowhere in said rule or any other provision in the Revised Rules of Criminal Procedure is it required that the search warrant must name the person who occupies the described premises. In *Uy v. Bureau of Internal Revenue*, the Court has definitively ruled that where the search warrant is issued for the search of specifically described premises only and not for the search of a person, the failure to name the owner or occupant of such property in the affidavit and search warrant does not invalidate