



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**PATRICIO G. GEMINA, and all
other persons claiming rights
under him,**

Petitioners,

- versus -

G.R. No. 232682

Present:

**PERLAS-BERNABE, SAJ.,
Chairperson,
HERNANDO,
INTING,
GAERLAN, and
ROSARIO,* JJ.**

**HEIRS OF GERARDO V.
ESPEJO, JR., namely: MA.
TERESA R. ESPEJO, JAIME
GERARDO FRANCISCO R.
ESPEJO, and RHODORA
PATRICE R. ESPEJO,
represented by their attorney-in-
fact, MA. TERESA R. ESPEJO,
and NENAFE V. ESPEJO,**

Respondents.

Promulgated:

SEP 13 2021

X-----X

DECISION

HERNANDO, J.:

This Petition for Review on *Certiorari*¹ filed by petitioner Patricio G. Gemina (Gemina) assails the February 22, 2017 Decision² and the June 30, 2017 Resolution³ of the Court of Appeals in CA-G.R. CV No. 101629, which affirmed with modification the September 3, 2013 Decision⁴ of the Regional

* Designated as additional Member per Special Order No. 2835 dated July 15, 2021

¹ *Rollo*, pp. 12-37.

² *Id.* at 39-49. Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Magdangal M. De Leon and Elihu Ybañez.

³ *Id.* at 51-51A.

⁴ *Id.* at 74-78. Penned by Judge Charito B. Gonzales.

Trial Court (RTC), Branch 80 of Quezon City, in favor of respondents Heirs of Gerardo V. Espejo, Jr. (heirs of Espejo) and Nenafe V. Espejo (Nenafe), in a case for Recovery of Possession of Property.

The Antecedents:

The present controversy involved a property located at 156 Session Road, Woodcrest Homes, Talanay, Area B, Batasan Hills, Quezon City (subject property).

According to Gemina, he purchased, owned, occupied with his family, and possessed the subject property openly, continuously, peacefully, and in the concept of an owner since 1978.⁵ To buttress his contention, he presented the following: (a) Deed of Absolute Sale (Quitclaim)⁶ dated May 16, 1978; (b) pictures of fruit-bearing trees such as mango tree, sampaloc tree, and coconut tree that he planted on the subject property;⁷ (c) Building Permit⁸ from the Office of the Building Official in Quezon City as proof that he constructed a residential house on the subject property; (d) Notice of Assessment of Real Property;⁹ (e) Sworn Statement¹⁰ of the value of real property; (f) Tax Declaration No. C-139-07819;¹¹ (g) several Real Property Tax Bill-Receipt,¹² (h) Transfer Certificate of Title (TCT) No. 252774¹³ in the name of vendor Ana De Guia San Pedro (Ana); (i) Deed of Conditional Sale¹⁴ dated November 20, 1995 between Ana and Gemina; (j) Information Sheet¹⁵ of the Batasan Hills Homeowners Association, Inc. to prove that he held the Director and the Treasurer positions of the homeowners association where the subject property is located; and (k) photocopies of billings or statement of accounts to bolster his claim of actual presence on the subject property.¹⁶

On the other hand, the heirs of Espejo averred that they are co-owners of the subject property which is covered by TCT No. RT-78611 (93809) (TCT 93809) in the names of Gerardo V. Espejo, Jr. (Gerardo) and Nenafe, and with Tax Declaration No. B-139-03384 also in the names of Gerardo and Nenafe. When Gerardo died in 1975, he was survived by his wife Ma. Teresa R.

⁵ Id. at 135.

⁶ Id. at 152-153.

⁷ Id. at 154.

⁸ Id. at 155.

⁹ Id. at 158.

¹⁰ Id. at 157.

¹¹ Id. at 156.

¹² Id. at 159-160.

¹³ Id. at 161.

¹⁴ Id. at 162-164.

¹⁵ Id. at 165.

¹⁶ Id. at 166-169.

Espejo (Teresa) and children Jaime Gerardo Francisco (Jaime) and Rhodora Patrice (Rhodora), collectively referred to as the heirs of Espejo.¹⁷

On December 15, 2004, the Espejo heirs, through their representative, sent Gemina a demand letter asserting their ownership over the subject property, and demanding him and his family to vacate said property because they have been unlawfully occupying the lot where the latter's house was built.¹⁸ Since Gemina refused to heed the demand to vacate the property, the heirs of Espejo were constrained to resort to a legal action. They initially filed a Complaint¹⁹ for Unlawful Detainer with the Metropolitan Trial Court of Quezon City but which they withdrew later. Subsequently, the Espejos filed an action for recovery of possession and prayed for the trial court to order Gemina and all persons claiming in his behalf to vacate and surrender possession of the subject property, and to pay reasonable compensation from the time that their possession have become unlawful, among others.²⁰

On the scheduled date of pre-trial, Gemina was present but his counsel failed to attend. As a result, the trial court reset the pre-trial for the last time and directed him to inform his counsel of the schedule of hearing.²¹ Gemina's counsel still failed to attend the said pre-trial schedule. However, the trial court allowed the heirs of Espejo to present their evidence *ex parte* in its November 26, 2012 Order.²² Soon thereafter, Gemina's counsel filed a Withdrawal of Counsel with Attached Motion for Reconsideration²³ citing health reasons as justification for his withdrawal, and invoking the trial court's compassion so as not to prejudice Gemina's cause due to the heirs of Espejo's *ex parte* presentation of evidence.

In an Order²⁴ dated January 22, 2013, the trial court granted the withdrawal of Gemina's counsel and directed Gemina to secure the services of a new counsel. However, the trial court regarded the motion for reconsideration as a mere scrap of paper since it lacked the requisite notice of hearing. Meantime, the heirs of Espejo's *ex parte* presentation of evidence proceeded as scheduled.

Through a new counsel, the Public Attorney's Office (PAO), Gemina filed a Motion for Reconsideration of the Orders dated November 26, 2012 and January 22, 2013²⁵ arguing that Gemina learned about the January 22,

¹⁷ Id. at 110.

¹⁸ Id. at 129.

¹⁹ Id. at 131-133.

²⁰ Id. at 113-114.

²¹ Records, p. 194.

²² Id. at 230.

²³ Id. at 236.

²⁴ Id. at 239-240.

²⁵ Id. at 302-304.

2013 Order²⁶ only on March 26, 2013 when the latter followed up the case without receiving any notice. The public defender argued that Gemina should have been personally notified and served with the order that granted his counsel's withdrawal and denied the motion for reconsideration, which would have enabled him to protect his rights and object to the *ex parte* presentation of evidence. However, the trial court denied Gemina's motion for reconsideration in an Order²⁷ dated May 22, 2013. Said Order was subjected to another motion for reconsideration, but the same was denied.²⁸

Ruling of the Regional Trial Court:

In its September 3, 2013 Decision,²⁹ the trial court ruled in favor of the heirs of Espejo based on preponderance of evidence. It held that the latter have the better right to possess the subject property. Following the two requisites of Article 434³⁰ of the Civil Code, the Espejos readily established the identity of the property in question, as well as their title over the subject property.

The trial court deemed the following documents presented by the Espejo heirs as sufficient proof as to the identity of the property: (a) the Judicial Affidavit of Ma. Teresa R. Espejo;³¹ (b) the testimony of Teresa;³² (c) a Deed of Absolute Sale³³ between Mariano J. Garcia and Dr. Gerardo D. Espejo; (d) Transfer of Rights³⁴ between Dr. Gerardo D. Espejo, Sr. and Gerardo V. Espejo, Jr.; and (e) Tax declaration showing that the owner of the subject property is Gerardo. It concluded that there is no discrepancy as to the boundaries and description of the subject property among these documents.

To strengthen their title over the subject property, the Espejos produced these documents, *viz.*: (a) Marriage Contract between Gerardo and Teresa;³⁵ (b) Birth Certificate of Jaime;³⁶ (c) Birth Certificate of Rhodora;³⁷ (d) Gerardo's Certificate of Death;³⁸ and (e) TCT 93809 in the name of Gerardo and Nenafe.³⁹ These documents clearly established the relationship of Teresa

²⁶ Id. at 239-240.

²⁷ Id. at 311-314.

²⁸ Id. at 326.

²⁹ *Rollo*, pp. 74-78.

³⁰ ARTICLE 434. In an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.

³¹ Records, pp. 270-276.

³² TSN, March 6, 2013, pp. 1-14.

³³ Records, p. 221.

³⁴ Id. at 222-223.

³⁵ Id. at 256-257.

³⁶ Id. at 259.

³⁷ Id. at 261.

³⁸ Id. at 263-264.

³⁹ Id. at 251-254.

as wife of Gerardo, and Jaime and Rhodora as children of Gerardo. Being compulsory heirs, they immediately succeeded to Gerardo's rights and properties at the moment of his death.

Moreover, the trial court held that as between the TCT 93809 in the hands of the Espejos and the self-serving claim of Gemina that he purchased the subject property in 1978, the TCT 93809 of the Espejo heirs is superior as it serves as an indefeasible and incontrovertible title to the subject property in favor of the person whose name appears therein. One who has Torrens title over the land is entitled to possession thereof.

The dispositive portion of the trial court's decision reads, *viz.* :

Wherefore, in the light of the foregoing, by preponderance of evidence, judgment is hereby rendered in favor of the plaintiffs and against defendant Patricio [Patricio] G. Gemina as follows:

1. Defendant and all persons claiming in his behalf, to vacate the subject premises located at 156 Session Road, Garland Subdivision, Talanay, Area B, Batasan Hills, Quezon City, and properly described under TCT No. RT-78611 (93809) with an area of 805 square meters, and to surrender the possession to the plaintiffs.

2. Defendant to pay plaintiffs reasonable compensation of Ten Thousand Pesos (Php 10,000.00) per month from March 22, 2006, the date of judicial demand, up to the time defendant vacate the subject property. The legal interest which shall be at the rate of 6% per annum from March 22, 2006 and at a rate of 12% per annum from the time the judgment of this Court becomes final and executory until the obligation is fully satisfied.

3. Defendant to pay plaintiffs attorney's fee in the amount of ten thousand pesos (Php 10,000.00).

SO ORDERED.⁴⁰

Ruling of the Court of Appeals:

The appellate court, in its Decision⁴¹ dated February 22, 2017, affirmed the ruling of the trial court, with modification as to the rate of interest and cancellation of the award of attorney's fees.

The appellate court held that Gemina could no longer question the propriety of the trial court's Order allowing the Espejos to present evidence *ex parte* since he already filed a motion for reconsideration albeit it was denied

⁴⁰ *Rollo*, p. 78.

⁴¹ *Supra* note 2.

by the court *a quo* for lack of notice of hearing. The CA opined that it is mandatory to attach or incorporate a notice of hearing in a motion for new trial or a motion for reconsideration; and the lack thereof is fatal to the motion pursuant to Sections 4 and 5, Rule 15⁴² of the Rules of Court. The notice of hearing is a significant part of due process if only to give the adverse party a chance to oppose the motion. Since the Withdrawal of Counsel with Attached Motion for Reconsideration⁴³ failed to comply with the mandatory requirement under the rules, Gemina is bound by the Order of the trial court allowing *ex parte* presentation of evidence.

The appellate court likewise rejected Gemina's contention on the insufficiency of evidence as to the identity of the subject property since it was never raised as a defense in Gemina's answer or was it brought up as an issue before the court *a quo*. It ruled that defenses not raised in the answer are deemed waived. Moreover, the appellate court deemed the technical description in TCT 93809 coupled with the testimony of Teresa as sufficient to establish the location, area and boundaries of the subject property.

Lastly, the appellate court found the documentary evidence submitted by the heirs of Espejo to have satisfactorily established their better right of possession over the subject property. The CA, however, modified the legal rate of interest from twelve percent (12%) to six percent (6%) per *annum* following BSP Resolution No. 796 which became effective on July 1, 2013, deleted the award of attorney's fees. The *fallo* of the appellate court's ruling states:

WHEREFORE, premises considered, the Appeal is hereby DENIED. The *Decision* dated September 3, 2013, issued by the Regional Trial Court, Branch 80, Quezon City, in Civil Case No. Q-06-57569 is AFFIRMED with the following MODIFICATIONS: (1) the award of reasonable compensation in the amount of P10,000.00 per month from March 22, 2006, the date of judicial demand, up to the time the defendant-appellant vacates the premises shall be subject to legal interest at the rate of 6% per annum from March 22, 2006 and at the rate of 6% from the finality of the court's judgment until the obligation is satisfied; and (2) the award of attorney's fees is deleted.

SO ORDERED.⁴⁴

⁴² SECTION 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant. Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SECTION 5. *Notice of hearing.* – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

⁴³ *Rollo*, p. 236.

⁴⁴ *Id.* at 48.

Undeterred, Gemina moved for the reconsideration of the appellate court's Decision, but it was denied in a Resolution⁴⁵ dated June 30, 2017. Hence, the instant petition raising the following –

Issues

I

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE COURT A *QUO'S* ORDER ALLOWING THE RESPONDENTS TO PRESENT THEIR EVIDENCE *EX PARTE* DUE TO THE ABSENCE OF THE PETITIONER'S COUNSEL DURING THE PRE-TRIAL, THEREBY DENYING PETITIONER THE RIGHT TO PRESENT EVIDENCE IN VIOLATION OF HIS RIGHT TO DUE PROCESS.

II

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE RULING AGAINST THE PETITIONER DESPITE RESPONDENTS' FAILURE TO PROVE THE IDENTITY OF THE LAND.⁴⁶

In his Petition,⁴⁷ Gemina argues that the mere absence of the defendant's counsel during the pre-trial when the defendant himself is present does not *ipso facto* authorize the judge to order the plaintiff's *ex parte* presentation of evidence. Section 5 in relation to Section 4, Rule 18 of the Rules of Court should be construed as giving significance to the presence of the plaintiff and defendant, and not to the appearance of their counsels during pre-trial. What would be adverse is when the plaintiff or the defendant failed to appear during the pre-trial, which is not obtaining in the instant case.

Gemina asserts that the prohibition on *pro forma* motions applies only to a final order and not to an interlocutory order. Hence, despite failure to set the motion for hearing, it cannot be deemed a mere scrap of paper because the motion for reconsideration was directed against an interlocutory order of the trial court. Even more, Gemina referred to the exceptions to the requirement of a notice of hearing. He highlights that allowing the heirs of Espejo to *ex parte* present evidence would result to miscarriage of justice since he would lose his possessory rights due to the failure of his counsel to incorporate a notice of hearing on the motion for reconsideration. In any case, the purpose of the notice of hearing was attained when the Espejos were able to file their Comment/Opposition⁴⁸ to said motion for reconsideration, hence, they were given the opportunity to oppose the motion notwithstanding the absence of

⁴⁵ Id. at 51-51A.

⁴⁶ Id. at 21-22.

⁴⁷ Id. at 12-37.

⁴⁸ Records, pp. 233-235.

said notice. Despite these, the trial court's Decision was rendered to the prejudice of Gemina and cannot attain finality or immutability, considering that it is void in view of the violation of Gemina's right to due process.

Finally, Gemina admits that even though this was raised for the first time on appeal, he contends that without proof of the identity of the subject property, the heirs of Espejo cannot establish their cause of action and even more favorably receive judgment by preponderance of evidence. Thus, Gemina prays for the award of attorney's fees as he was compelled to litigate in order to protect his claims.

Conversely, the Espejo heirs, in their Comment,⁴⁹ point out that Gemina's Petition should be dismissed outright since he should have attached in his Petition in the CA the duplicate original or certified copies of the judgment or final order of the assailed Decision. In his Reply,⁵⁰ Gemina countered that the Petition complied with the requirements of Section 4, Rule 45 of the Rules of Court as the certified true copies of the appellate court's February 22, 2017 Decision and its June 30, 2017 Resolution were attached to the Petition.

All told, the two-pronged issue before Us is procedural on one hand, and substantive on the other. First, whether or not the non-appearance of defendant's counsel, despite the presence of the party-defendant, during pre-trial could result to the plaintiff's *ex parte* presentation of evidence. And, second, whether or not the subject property has been sufficiently identified as required in an action to recover possession of real property.

Our Ruling

The Petition is impressed with merit.

When the party-defendant is present, the absence of his counsel during pre-trial shall not *ipso facto* result in the plaintiff's *ex parte* presentation of evidence.

Pre-trial serves a significant purpose in court proceedings. It simplifies, abbreviates and expedites the trial, if not the entire process of administering and dispensing justice.⁵¹ For this reason, the parties and their counsels cannot

⁴⁹ *Rollo*, pp. 202-205.

⁵⁰ *Id.* at 215-231, Records, pp. 233-235.

⁵¹ *Daaco v. Yu*, 761 Phil. 161, 171 (2015).

take this stage for granted as it is more than just a part of procedural law or its technicality. Accordingly, Section 4 and Section 5, Rule 18 of the Revised Rules of Court⁵² mandate the appearance of the parties and their counsels, and the consequences for their failure to appear during the scheduled pre-trial, viz.:

SECTION 4. *Appearance of [P]arties.* — It shall be the duty of the parties and their counsel to appear at the pre-trial, court-annexed mediation, and judicial dispute resolution, if necessary. The non-appearance of a party and counsel may be excused only for acts of God, *force majeure*, or duly substantiated physical inability.

A representative may appear on behalf of a party, but must be fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and documents.

SECTION 5. *Effect of Failure to Appear.* — When duly notified, the failure of the plaintiff and counsel to appear without valid cause when so required[,] pursuant to the next preceding [S]ection, shall cause the dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. **A similar failure on the part of the defendant and counsel shall be cause to allow the plaintiff to present his or her evidence *ex parte* within ten (10) calendar days from termination of the pre-trial, and the court to render judgment on the basis of the evidence offered.** (Emphasis supplied)

Prior to the amendments brought about by A.M. No. 19-10-20-SC (AM 19-10-20-SC) which became effective on May 1, 2020, there was an apparent confusion with regard to the effect of a non-appearance in pre-trial. As in this instant case, the controversy centered on the interpretation of the then Section 5, Rule 18 of the Rules of Court which was previously worded in this wise:

SECTION 5. *Effect of Failure to Appear.* — The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. **A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof.** (Emphasis supplied)

When read plainly, the then Section 5 gives the impression that only the failure of the plaintiff or the defendant (and not their counsels) to appear in pre-trial would bring about the dismissal of the action or the eventual *ex parte* presentation of evidence by the plaintiff, respectively. Taking the cue from such plain reading, Gemina's counsel argued that his non-appearance during the pre-trial should not have worked to his client's prejudice as the latter had been prudent in attending hearings in the proceedings.

⁵² A.M. NO. 19-10-20-SC OF THE 2019 AMENDMENTS TO THE 1997 RULES OF CIVIL PROCEDURE.

This confusion in the import of Section 5, Rule 18 of the Rules of Court was aptly addressed in *Paredes v. Verano*⁵³ (*Paredes*) where this Court categorically concluded that the absence of defendants' counsel would not *ipso facto* authorize the judge to declare the defendant in default and cause the *ex parte* presentation of plaintiff's evidence. A stringent construction of the rules in which a court rules based on technicalities should not be the norm.

Said pronouncement and *ratio* would be controlling in the present case where Gemina, just like the defendants in *Paredes*, attended the scheduled pre-trial yet his counsel failed to appear on even date. We recognize the significance of the rules which serve as a roadmap for the party-litigants and practitioners in dealing with the courts. However, their application may be relaxed if and when the rigid application would subvert substantive justice. Indeed, the procedural rules may be liberally applied in order to relieve the party-litigant of injustice which is incomparable to the thoughtlessness of non-compliance with the rules.⁵⁴

With the advent of AM 19-10-20-SC, said Section 5 has been clarified by already including the word *counsel* and putting the conjunctive word *and*, to the effect that it is only when both the party-litigant (plaintiff or defendant) and his counsel fail to appear in pre-trial that there be the concomitant consequence of either a dismissal (plaintiff and counsel were absent), or presentation of evidence *ex parte* (defendant and counsel were absent). The amended provision has been worded, as follows:

SECTION 5. *Effect of Failure to Appear.* — When duly notified, the failure of the **plaintiff and counsel** to appear without valid cause when so required[,] x x x, shall cause the dismissal of the action. x x x. A similar failure on the part of the **defendant and counsel** shall be cause to allow the plaintiff to present his or her evidence *ex parte* x x x. (Emphases supplied)

In this case, the Espejo's *ex parte* presentation of evidence following the non-appearance of Gemina's counsel was unwarranted. *Paredes* is instructive to the extent that it allows resort to other remedies available instead of ordering the *ex parte* presentation of plaintiff's evidence when the defendants' counsel had not appeared during pre-trial, to wit:

Be that as it may, there is no clear demonstration that the acts of the counsel of petitioners were intended to perpetuate delay in the litigation of the case. Assuming *arguendo* that the trial court correctly construed the actions of the counsel of petitioners to be dilatory, it cannot be said that the court was powerless and virtually without recourse but to order the *ex parte* presentation

⁵³ 535 Phil. 274, 289 (2006).

⁵⁴ *Curammeng v. People*, 799 Phil. 575, 582 (2016).

of evidence by therein plaintiffs. We are in some sympathy with the judge who was obviously aggrieved that the case was dragging on for an undue length of time. But even so, there were other remedies available to the court.

Among the inherent powers of the courts expressly recognized by the Rules include the authority to enforce order in proceedings before it, to compel obedience to its judgments, orders and processes, and to amend and control its process and orders so as to make them conformable to law and justice. Moreover, the Code of Judicial Conduct empowers the courts to judiciously take or initiate disciplinary measures against lawyers for unprofessional conduct. A show cause order to counsel would have been the more cautious and reasonable course of action to take under the circumstances then prevailing. In failing to do so, the trial court impetuously deprived petitioners of the opportunity to meaningfully present an effective defense and to adequately adduce evidence in support of their contentions.⁵⁵ (Citations omitted)

Simply, Gemina's cause of action should not have been prejudiced by the non-appearance of his counsel, particularly since on record, the former had been religiously appearing in the course of the proceedings, including during the pre-trial. Since other recourse may have been resorted to against Gemina's counsel as precisely laid down in *Paredes*, the November 26, 2012 Order⁵⁶ for the Espejo's *ex parte* presentation of evidence cannot be countenanced. Gemina should have been given the chance to establish the merits of his defense rather than lose the subject property based on technicalities or upon a stringent application of the rules.

To briefly settle another procedural issue, We resolve that there is substantial compliance when the adverse party had the opportunity to file a pleading opposing the motion for reconsideration despite the latter's lack of a notice of hearing. When Gemina's counsel filed for his withdrawal as counsel, he attached a Motion for Reconsideration⁵⁷ thereof. While the withdrawal as counsel was granted, said motion was denied for the counsel failed to set the motion for hearing. As may be gleaned from the records, the Espejo heirs filed a Comment/Opposition⁵⁸ to the said motion.

In *Preysler, Jr. v. Manila Southcoast Development Corp.*,⁵⁹ this Court pronounced that the lack of notice of hearing in a Motion for Reconsideration is cured when the adverse party filed pleadings opposing said motion and had the opportunity to be heard in compliance with the requirements of due

⁵⁵ *Paredes v. Verano*, 535 Phil. 274, 291 (2006).

⁵⁶ Records, p. 230.

⁵⁷ Id. at 237-238.

⁵⁸ Id. at 233-235.

⁵⁹ 635 Phil. 598, 605 (2010), citing *Jehan Shipping Corporation v. National Food Authority*, 514 Phil. 166-176 (2005).

process. Hence, the Motion for Reconsideration⁶⁰ in this case should not have been denied on the mere basis of lack of notice of hearing.

The identity of the property and the title of the claimant must be ascertained in an action to recover possession of real property pursuant to Article 434 of the Civil Code.

In view of the procedural infirmities of this case to the prejudice of Gemina (who essentially was deprived of his chance to present the merits of his defense as a result of the order assenting to the *ex parte* presentation of plaintiff's evidence and the eventual resolution of the case on the basis thereof), We deem it appropriate to remand the case to the court of origin for further proceedings, to hear and receive evidence.

If only to shed light on a few questions of law to serve as guide, Article 434 of the Civil Code is controlling in this case. It provides that “[i]n an action to recover, the property must be identified, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.” It is hornbook doctrine that the entitlement to the possession of real property belongs to its registered owner. However, the registered owner must seek proper judicial remedy and comply with the requisites of the chosen action in order to recover possession of a real property from the occupant who has actual and physical possession thereof.⁶¹ Furthermore, it must be emphasized that the plaintiff must not bank on the weakness of the defendant's title, hence, must establish his title and the identity of the property because of the possibility that neither the plaintiff nor the defendant is entitled or even more the true owner of the property in dispute.

It appears on record that the identity of the subject property was ascertained by the trial court and the appellate court based on the technical description stated in TCT 93809 and the Judicial Affidavit of Ma. Teresa R. Espejo⁶² which merely identified TCT 93809 as one registered in the names of Gerardo and Nenafe. To Our mind, the technical description that provides for the metes and bounds of a parcel of land cannot stand alone, much more be considered as a foolproof evidence exactly pointing to the subject property. The identity of the disputed land sought to be recovered or of the subject property in this case may be established through a survey plan of the said

⁶⁰ Records, pp. 237-238.

⁶¹ *Carbonilla v. Abiera*, 639 Phil. 473, 481 (2010).

⁶² Records, pp. 270-276.

property.⁶³ Absent such evidence or any other proof to such effect, We cannot subscribe hook, line and sinker to the conclusion that the subject property had been sufficiently identified.

What is more, while the subject property was identified to be the land located at 156 Session Road, Woodcrest Homes, Talanay, Area B, Batasan Hills, Quezon City, however, the *fallo* of the trial court's Decision refers to another property, the one situated in 156 Session Road, Garland Subdivision, Talanay, Area B, Batasan Hills, Quezon City. This all the more created ambiguity as to the exact identity of the disputed property. Hence, to finally resolve the conflicting claims of the parties, Gemina must be given the chance to present his evidence. The court of origin, the RTC, Branch 80 of Quezon City is directed to ascertain and establish, based on the existing evidence on record and on those that will be presented and received in its proceedings, the following:

(1) Whether the technical description as provided in TCT 93809 covers the subject property at, or in particular, 156 Session Road, Woodcrest Homes, Talanay, Area B, Batasan Hills, Quezon City; and

(2) Other matters relevant in the determination of who between the Espejos and Gemina is entitled to the possession of the subject property based on the proffered evidence of both parties.

Final Note.

The rigid application of procedural rules should not result to straight-jacketing the administration of justice.⁶⁴ This Court deems it proper and just that Gemina and all other persons claiming rights under his name be allowed to present their evidence before the RTC to give them full opportunity to establish the merits of their defense rather than lose the subject property which has been in their physical and actual possession for years, and where they have planted fruit-bearing trees and even built their residence. The ends of justice, fairness and equity will be best served if both parties are heard with their evidence and the controversies are settled on the merits and not on mere technicalities of the law.⁶⁵

WHEREFORE, the Petition is **GRANTED**. This case is hereby **REMANDED** to the Regional Trial Court, Branch 80 of Quezon City for further proceedings in accordance with this Decision.


⁶³ *Notarte v. Notarte*, 693 Phil. 534, 565 (2012).

⁶⁴ *Cortal v. Inaki A. Larrazabal Enterprises*, 817 Phil. 464, 476 (2017).


⁶⁵ *Keni v. Micarez*, 660 Phil. 475, 484 (2011).

W


SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



HENRY JEAN PAUL B. INTING
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO B. ROSARIO
Associate Justice

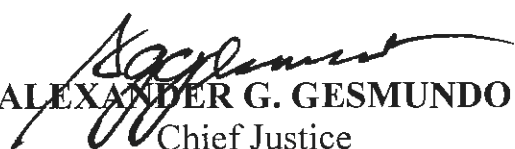
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice