



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **October 11, 2021**, which reads as follows:*

**“G.R. No. 254004 (Jose Mari Rosales Reguera, Erlinda Hechanova Reguera, and all persons claiming rights and interests under them v. Carmel Development, Inc.). – The Court resolves to NOTE:**

- (1) petitioners’ Compliance dated January 20, 2021 with their undertaking stated in the petition for review on *certiorari*, submitting a machine copy of the petition for review under Rule 42, which they filed before the Court of Appeals on June 17, 2020, and praying that the same be admitted to form part of the records of this case; and
- (2) respondent’s Comment/Opposition dated January 20, 2021 to the petition.

This Court resolves the Petition for Review on *Certiorari*<sup>1</sup> filed under Rule 45 of the Rules of Court by petitioners Jose Mari Rosales Reguera (Jose Mari), Erlinda Hechanova Reguera (Erlinda; collectively, Regueras), and all persons claiming rights and interests under them (collectively, petitioners) against respondent Carmel Development, Inc. (Carmel), seeking to annul and set aside the Decision<sup>2</sup> dated June 23, 2020 and the Resolution<sup>3</sup> dated October 13, 2020 issued by the Court of Appeals (CA) in CA-G.R. SP No. 160984.

The antecedent facts are as follows:

Carmel is a domestic corporation engaged in real estate business. In 1958, it acquired the ownership and possession of three parcels of land with an aggregate area of 156 hectares, situated in Pangarap Village, Makatipo, Caloocan City, covered by Transfer Certificates of Title (TCT) Nos. (62603)

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<sup>1</sup> Id. at 10-24.

<sup>2</sup> Id. at 32-47. Penned by Associate Justice Ramon R. Garcia, with the concurrence of Associate Justices Maria Elisa Sempio Dy and Florencio Mallanao Mamauag, Jr.

<sup>3</sup> Id. at 48-49.

15631, (62605) 15632, and (64007) 15807 issued in its name (subject property).<sup>4</sup>

On September 14, 1973, then President Ferdinand E. Marcos issued Presidential Decree (PD) No. 293,<sup>5</sup> by which all of Carmel's titles to the subject property were invalidated and declared void *ab initio*. The titles of third persons derived from Carmel were likewise effectively nullified. Such decree further declared the subject property as open for disposition and sale to the members of the Malacañang Homeowners Association, Inc. (MHAI). As a result, members of the MHAI started to occupy the subject property, which then became known as Pangarap Village. Informal settlers also took advantage of the situation and proliferated in the subject property.<sup>6</sup>

On January 29, 1988, almost fifteen years since PD No. 293 was issued, this Court issued a Decision in *Tuason v. Register of Deeds, Caloocan City (Tuason)*<sup>7</sup> declaring PD No. 293 as unconstitutional and void *ab initio* in all its parts. Accordingly, the said Decision had the effect of restoring to full force and efficacy the titles of Carmel over the subject property.<sup>8</sup>

On August 6, 1990, immediately after the promulgation of *Tuason*, the Register of Deeds of Caloocan City initiated the filing of a complaint for nullification of all certificates of title issued pursuant to PD No. 293 before the Regional Trial Court (RTC) of Caloocan City, entitled, *Republic v. Spouses Himala (Himala)*.<sup>9</sup> Said complaint was aimed at maintaining the stability of the torrens system of land registration and protecting public interest. Such action, however, was dismissed by the said court after finding that there was no longer any need to file annulment suits pursuant to *Tuason*. The complaint would be unnecessary and seemingly incongruous, given that it had been settled that all titles issued by virtue of PD No. 293 were already declared null and void.<sup>10</sup>

Carmel's ownership over the subject property was again upheld with finality in *Republic v. Carmel*<sup>11</sup> and *MHAI v. Carmel*.<sup>12</sup> With such jurisprudential pronouncements in its favor, Carmel initiated plans to develop the subject property after tolerating the continued stay of the illegal occupants therein.<sup>13</sup>

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<sup>4</sup> *Rollo*, p. 33.

<sup>5</sup> Cancelling the Sale Certificates and/or Transfer Certificates of Title Numbers 62603, 62604, and 62605, Covering Lots 1, 2, and 3, respectively, PCS-4383, all in the name of Carmel Farms, Inc., which is a Consolidation and Subdivision of Lots 979, 981, 982, 985, 988, 989, 990, 991-New, 1226, 1228, 1230, and 980-C-2 (LRC PSD-1730), All of Tala Estate, Caloocan City, and Declaring the Same Open for Disposition to the Malacañang Homeowners Association, Inc., the Present Occupants, pursuant to the Provisions of Commonwealth Act Number 32, as Amended.

<sup>6</sup> *Rollo*, p. 33.

<sup>7</sup> 241 Phil. 650 (1988).

<sup>8</sup> *Rollo*, pp. 33-34.

<sup>9</sup> *Republic v. Spouses Himala*, Civil Case No. C-14422.

<sup>10</sup> *Rollo*, p. 34.

<sup>11</sup> *Republic v. Carmel*, G.R. No. 187876. See Notices of Resolution, *rollo*, pp. 167-176.

<sup>12</sup> *MHAI v. Carmel*, G.R. No. 187618. *Id.*

<sup>13</sup> *Rollo*, pp. 34-35.

Carmel conducted a survey of the subject property and found that herein petitioners were occupying a portion thereof covered by TCT No. (62603) 15631. Thereafter, Carmel sent a final demand letter dated September 11, 2014, formally demanding that petitioners vacate the portion of the subject property that they were occupying and surrender possession thereof, as Carmel was effectively withdrawing its tolerance of petitioners' continued occupation of the subject property. Petitioners refused to acknowledge personal receipt of such final demand letter, which prompted Carmel to post a copy thereof in the subject property. However, the formal demand to petitioners to vacate the subject property fell on deaf ears, and petitioners continued their occupation thereof.<sup>14</sup>

Hence, Carmel filed a Complaint for unlawful detainer before the Metropolitan Trial Court (MeTC) of Caloocan City, Branch 53 against petitioners, seeking that Carmel be restored to its lawful possession of the subject property, and that petitioners be ordered to vacate the subject property and remove all structures built thereon, to pay a monthly rental from the date of last demand on September 11, 2014 until final resolution of the case, and to reimburse Carmel for attorney's fees and costs of suit.<sup>15</sup>

In their Answer, petitioners averred that after Carmel's titles were nullified by virtue of PD No. 293, the subject property became open for disposition. In 1978, the parents of the Regueras supposedly acquired ownership over a portion of the subject property by virtue of PD No. 293 and were issued TCT No. C-17490 in their favor. Further, petitioners sought the dismissal of the case for lack of jurisdiction. Petitioners were purportedly not served any court summons. They also claimed that they never received any demand letter from Carmel directing them to vacate the property, which is jurisdictional in nature, and the lack of which renders the case dismissible for lack of jurisdiction. Even the Complaint itself allegedly failed to specify the acts constituting unlawful detainer.<sup>16</sup>

In a Decision<sup>17</sup> dated April 5, 2018, the MeTC ruled in favor of Carmel, finding that all the requisites for a case for unlawful detainer to prosper had been complied with. It held that petitioners were duly served with the final demand letter to vacate the subject property on September 11, 2014, and thus, the case for unlawful detainer was filed within the one-year reglementary period required by law when it was initiated on October 16, 2014. The records also show that petitioners were duly notified of the existence of the complaint against them on account of Jose Mari's receipt of the summons issued by the MeTC.<sup>18</sup> The dispositive portion of the MeTC Decision reads:

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<sup>14</sup> Id. at 35.

<sup>15</sup> Id.

<sup>16</sup> Id. at 35-36.

<sup>17</sup> Id. at 252-280. Penned by Presiding Judge Juliet C. Azarraga-Chanyongco.

<sup>18</sup> Id. at 265-276.

WHEREFORE, premises considered, judgment is hereby rendered in favor of the Plaintiff and against the Defendants and all persons claiming rights under them, ordering them to:

1. Vacate the premises in question and restore possession to the Plaintiff;
2. Pay the Plaintiff [P]5,000.00 as monthly rentals starting September 11, 2014, until the said premises is vacated by the Defendants;
3. Pay P20,000.00, as and by way of attorney's fees; and
4. Pay the cost of suit.

SO ORDERED.<sup>19</sup>

Aggrieved, petitioners filed an appeal with the Regional Trial Court (RTC) of Caloocan City. In its Decision<sup>20</sup> dated April 10, 2019, the RTC dismissed petitioners' appeal for lack of merit. The RTC reiterated that petitioners' possession of the subject property was by mere tolerance of Carmel. As such, petitioners were bound by an implied promise that they will vacate the subject property upon demand.<sup>21</sup>

Petitioners elevated the case to the CA through a Petition for Review under Rule 42 of the Rules of Court. In the assailed Decision<sup>22</sup> dated June 23, 2020, the CA denied the petition and affirmed the RTC Decision after finding no compelling reason to depart from the ruling of the RTC.

Petitioners filed a Motion for Reconsideration,<sup>23</sup> but the same was denied by the CA in a Resolution<sup>24</sup> dated October 13, 2020 insofar as the issues raised therein merely reiterated the grounds already judiciously evaluated and passed upon by the CA.<sup>25</sup>

Hence, this Petition for Review.

Upon a careful evaluation of the records of the case and the applicable law and jurisprudence, We find the petition bereft of merit.

At the outset, We note that the issues raised in the petition before Us are the same issues that the CA had considered and resolved in its Decision. Having adequately addressed the matters raised by petitioners in their appeal,

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<sup>19</sup> Id. at 279.

<sup>20</sup> Id. at 339-344. Penned by Presiding Judge Rodolfo P. Azucena, Jr.

<sup>21</sup> Id. at 343.

<sup>22</sup> Id. at 32-47.

<sup>23</sup> Id. at 359-366.

<sup>24</sup> Id. at 48-49.

<sup>25</sup> Id. at 49.

the CA committed no reversible error when it denied the petition and affirmed the RTC Decision.

## I

Petitioners maintain that they were not duly served with summons, since they did not receive the summons either personally or by substituted service, and the trial court did not acquire jurisdiction over their persons. According to petitioners, granting without admitting that Jose Mari indeed received the summons, there is no showing or evidence on record that Erlinda was duly served with summons and the complaint. Petitioners then concluded that the service of summons on Jose Mari could not be considered an implied service of summons on Erlinda, and each of the petitioners should have been duly served with summons.<sup>26</sup>

We rule that petitioners were validly served with summons.

Fundamentally, the service of summons is intended to give official notice to the defendant or respondent that an action has been commenced against [them]. The defendant or respondent is thus put on guard as to the demands of the plaintiff as stated in the complaint. The service of summons upon the defendant becomes an important element in the operation of a court's jurisdiction upon a party to a suit, as service of summons upon the defendant is the means by which the court acquires jurisdiction over [their] person.<sup>27</sup>

In this case, the trial court duly acquired jurisdiction over the persons of petitioners as defendants. The unanimous findings of the MeTC, the RTC, and the CA that petitioners were duly served with summons are amply supported by the records. The Process Server's Return dated February 2, 2015 indicated that the summons and documents attached thereto were personally served upon petitioners on January 29, 2015. A judicious scrutiny of a copy of the summons discloses that Jose Mari affixed his signature on its left portion, by which all other petitioners have been duly notified of the existence of the action since all of them have one given address.

It also bears stressing that the issue on improper service of summons has already been addressed by the lower courts. "The above findings of fact of the trial court must be accorded respect. It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the demeanor of the witnesses while testifying. It is not a function of this Court to analyze and weigh evidence by the parties all over again."<sup>28</sup>

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<sup>26</sup> Id. at 14.

<sup>27</sup> *Frias v. Alcayde*, 826 Phil. 713, 728-729 (2018), citing *Guiguinto Credit Cooperative, Inc. v. Torres*, 533 Phil. 476 (2006).

<sup>28</sup> *Tayco v. Heirs of Tayco-Flores*, 652 Phil. 291, 301 (2010), citing *Arangote v. Maglunob*, 599 Phil. 91 (2009).

Therefore, the CA did not err in ruling that there was a valid service of summons upon petitioners.

## II

Petitioners likewise submit that the trial court has no jurisdiction over the subject matter of the case as a mere perusal of the complaint reveals that the allegations therein do not warrant a case for unlawful detainer. Petitioners note that the complaint supposedly failed to duly characterize the entry of petitioners on the subject property, and instead made only a general averment on the influx into and occupancy of the subject property by members of the MHAI and informal settlers alike.

We are not persuaded.

Basic is the rule that jurisdiction over the subject matter of a case is conferred by law, and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined from the allegations contained in the complaint, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. Once vested by the allegations in the complaint, jurisdiction remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.<sup>29</sup>

Here, the Complaint filed by Carmel is for unlawful detainer. In relation thereto, a complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

1. Initially, possession of the property by the defendant was by contract with or by tolerance of the plaintiff;
2. Eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
3. Thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
4. Within one (1) year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.<sup>30</sup>

Applying the above requirements to the case at bar, We find that Carmel's complaint sufficiently presented a cause of action for unlawful detainer. Specifically, the complaint alleged that:

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<sup>29</sup> *North Greenhills Association, Inc. v. Morales*, August 9, 2017, 816 Phil. 673, 686 (2017), citing *City of Dumaguete v. Philippine Ports Authority*, 671 Phil. 610 (2011).

<sup>30</sup> *Nabo v. Buenviaje*, G.R. No. 224906, October 7, 2020, citing *Cabrera v. Getaruela*, 604 Phil. 59 (2009).

1. Carmel is the absolute owner of the subject property. By virtue of PD No. 293, its titles were nullified and the subject property was disposed to MHAJ members. Petitioners benefited from PD No. 293 and took possession of the subject property. After PD No. 293 was declared unconstitutional by this Court, Carmel's titles were restored to full efficacy. Carmel gave formal notice to petitioners regarding the restoration of its titles and that it was merely tolerating petitioners' continued occupation of the subject property;
2. Carmel terminated its tolerance of petitioners' possession by serving a final demand letter dated September 11, 2014, directing petitioners to vacate the subject property;
3. Despite such notice, petitioners refused to vacate and surrender possession of the subject property; and
4. The complaint for unlawful detainer was filed within the one-year reglementary period when it was initiated on October 16, 2014.

The above sufficiently makes out a case for unlawful detainer. From the allegations, possession of the subject property that rightfully belongs to Carmel as owner, was being unlawfully withheld by petitioners. An ejectment case, based on the allegation of possession by tolerance, falls under the category of unlawful detainer. "Where the plaintiff [allows] the defendant to use [their] property by tolerance without any contract, the defendant [is] necessarily bound by an implied promise that [they] will vacate on demand, failing which, an action for unlawful detainer will lie."<sup>31</sup> "The rule is that possession by tolerance is lawful, but such possession becomes unlawful upon demand to vacate made by the owner and the possessor by tolerance refuses to comply with such demand."<sup>32</sup>

Perforce, the CA did not err in taking cognizance of the subject matter of and giving due course to Carmel's Complaint.

### III

Petitioners also contend that Carmel failed to prove the requisites of unlawful detainer based on tolerance with preponderance of evidence, given that petitioners acquired ownership and valid title over the portion of the subject property they were occupying by virtue of PD No. 293. They allege

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<sup>31</sup> *Manila Electric Co. v. Heirs of Spouses Deloy*, 710 Phil. 427, 436 (2013), citing *Republic v. Luriz*, 542 Phil. 137 (2007).

<sup>32</sup> *Canlas v. Tubil*, 616 Phil. 915, 926 (2009), citing *Heirs of Rafael Magpily v. De Jesus*, 474 SCRA 366 (2005).

that this effectively renders their occupation and possession thereof in the concept of an owner, and not by mere tolerance of Carmel.

Petitioners posit that there is no evidence on record that after the nullification of PD No. 293, Carmel ever communicated with petitioners that it is allowing the latter to occupy the subject property for free, subject to the former's recovery of possession if and when it needed the same. From petitioners' point of view, even if Carmel is the owner, possession of the subject property cannot be wrested from them who had been in possession thereof for more than a decade through a summary action for ejectment.

Petitioners' contention is untenable.

Unlawful detainer is an action to recover possession of real property from one who unlawfully withholds possession thereof after the expiration or termination of [their] right to hold possession under any contract, express or implied. The possession of the defendant in unlawful detainer is originally legal but became illegal due to the expiration or termination of the right to possess.<sup>33</sup>

Petitioners' purported right to remain in possession of the subject property is grounded on their alleged ownership acquired by their parents after Carmel's TCTs were nullified by virtue of PD No. 293. However, in 1988, the Supreme Court promulgated *Tuason*, whereby PD No. 293 was declared unconstitutional and void *ab initio* in all its parts. Such judicial fiat effectively restored the rights of Carmel that had validly registered titles over the lots prior to the issuance of the invalidated decree. Inevitably, the nullification of PD No. 293 essentially voided the land titles of all those who benefited from it, including those of petitioners.

As aptly observed by the MeTC, and affirmed by the RTC and the CA, petitioners' possession of the subject property was initially lawful due to Carmel's tolerance. During the effectivity of PD No. 293, Carmel was left with no choice but to allow petitioners' possession and occupation thereof. However, Carmel's rights over the realty were effectively restored when PD No. 293 was declared unconstitutional. Indubitably, Carmel's act of tolerance carried with it the implied obligation on the part of petitioners to vacate the subject property upon demand.

Furthermore, contrary to petitioners' bare insistence, the records of the case invariably show that Carmel duly served upon petitioners a final demand letter dated September 11, 2014. Such notice was personally handed to petitioners on even date but they refused to receive it, prompting Carmel to post a copy thereof in the subject property.

Significantly, in the case of *Mirallosa v. Carmel Development, Inc.*,<sup>34</sup> set against an identical factual background as this case, We already elucidated

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<sup>33</sup> *Fullido v. Grilli*, 781 Phil. 840, 851 (2016), citing *Piedad v. Spouses Gurieza*, 736 Phil. 709 (2014).

<sup>34</sup> 722 Phil. 286 (2013).

on the propriety of filing an action for unlawful detainer to recover the possession of real properties, the titles of which have reverted to Carmel following the nullification of PD No. 293 by virtue of *Tuason*. We explicitly held:

Petitioner also insists that tolerance had not been present from the start of his possession of the property, as respondent extended its tolerance only after P.D. 293 was declared unconstitutional. This situation necessarily placed respondent's cause of action outside the category of unlawful detainer. Consequently, the presence of an ownership dispute should have made this case either an *accion publiciana* or an *accion reivindicatoria*.

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In this case, it is clear from the facts that what was once a legal possession of petitioner, emanating from P.D. 293, later became illegal by the pronouncement in *Tuason* that the law was unconstitutional. While it is established that tolerance must be present at the start of the possession, it must have been properly tacked after P.D. 293 was invalidated. At the time the decree was promulgated, respondent had no option but to allow petitioner and his predecessor-in-interest to enter the property. This is not the "tolerance" envisioned by the law. As explained in *Tuason*, the decree "was not as claimed a licit instance of the application of social justice principles or the exercise of police power. It was in truth a disguised, vile stratagem deliberately resorted to favor a few individuals, in callous and disdainful disregard of the rights of others. **It was in reality a taking of private property without due process and without compensation whatever, from persons relying on the indefeasibility of their titles in accordance with and as explicitly guaranteed by law.**"<sup>35</sup> (Emphasis and italics in the original)

Hence, the CA did not err in affirming the finding of the RTC that petitioners were occupying the subject property by Carmel's mere tolerance.

#### IV

Undaunted, petitioners likewise represent that their certificate of title to the subject property has not yet been cancelled by the Register of Deeds, which means that such title remains existing and valid on its face. They opine that Carmel's remedy should have been to file a complaint for the cancellation of petitioners' title or the quieting of its own title, as the validity of petitioners' title may not be collaterally attacked through an action for unlawful detainer.

Petitioners' claim deserves scant consideration.

"[T]he only issue to be resolved in an unlawful detainer case is the physical or material possession of the property involved, independent of any claim of ownership by any of the parties."<sup>36</sup> "However, where the issue of

<sup>35</sup> *Mirallosa v. Carmel Development, Inc.*, supra at 295-296.

<sup>36</sup> *Fullido v. Grilli*, supra at 851-852.

ownership is raised by any of the parties, the courts may pass upon the same in order to determine who has the right to possess the property.”<sup>37</sup>

More importantly, as established by the RTC in the *Himala* case, the filing of a complaint for nullification of all the certificates issued pursuant to PD No. 293 is unwarranted and superfluous, considering that it has been settled that all titles issued by virtue of PD No. 293 were already declared null and void pursuant to *Tuason*. Accordingly, petitioners cannot claim any possessory rights over the portion of the subject property they occupy, and Carmel can validly and legally exercise all acts of ownership over the same.

**WHEREFORE**, premises considered, the petition is **DENIED**, and the assailed Decision dated June 23, 2020, and the Resolution dated October 13, 2020 issued by the Court of Appeals in CA-G.R. SP No. 160984 are **AFFIRMED**. Accordingly, petitioners are hereby **ORDERED** to:

1. Vacate the premises in question and restore possession to Carmel Development, Inc.;
2. Pay Carmel Development, Inc. the amount of ₱5,000.00 as monthly rentals starting September 11, 2014, until the said premises are vacated by petitioners;
3. Pay ₱20,000.00 as attorney’s fees; and
4. Pay the cost of suit.

**SO ORDERED.”** (*Carandang, J., on Wellness Leave*)

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court

*JB 9/23/22*

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COURT OF APPEALS  
CA G.R. SP No. 160984  
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<sup>37</sup> *Spouses Esmaguél v. Coprada*, 653 Phil. 96, 104 (2010), citing *Barias v. Heirs of Bartolome Boneo*, 623 Phil. 82 (2009).

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The Presiding Judge  
REGIONAL TRIAL COURT  
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