



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 31, 2022, which reads as follows:

“G.R. No. 255855 (*Gertrudes Espino and Janet Co v. Nida Sabado and Cecilia Dianson*).— – In view of the denial of the petition for review on *certiorari*, the Court **NOTES WITHOUT ACTION:**

- (1) the Motion to Drop Janet Co as “Appellant” and to Cite Counsel in Contempt of Court dated March 31, 2021, filed by Atty. Maylene D. Gayo of E.L. Gayo & Associates, counsel for respondents, stating that they received a copy of the motion for extension of time to file petition of Gertrudes Espino and Janet Co filed by Atty. Evangeline Santiago-Macato, and alleging that the said motion is misleading because Janet Co, also known as Jeannette Co, has not appealed the Decision dated April 3, 2018 which has been entered as final and executory as to her on April 25, 2018, hence, there is a need to drop her from this case; and praying that Jeannette Co be dropped as one of the petitioners in this case, and to cite Atty. Santiago-Macato in contempt of court for repeatedly insisting on the inclusion in this appeal of Jeannette Co who has not appealed from the Regional Trial Court’s decision and against whom said decision has become final and executory; and
- (2) the Motion to Strike Out Appellant’s Brief as to Jeanette Co dated April 20, 2021, filed by respondents, informing the Court that Jeannette Co has not appealed the decision which has been entered as final and executory as to her on April 25, 2018, as shown by the attached copy of the entry of judgment as to her, hence, Jeannette Co has already lost her right to appeal and should be excluded in this appeal, as her inclusion as party is not only misleading but downright contemptuous; and praying to strike out the appellant’s brief as to Jeannette Co.

Assailed in this Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court are the *Decision*² dated 21 February 2020 and the *Resolution*³ dated 13 January 2021 of the Court of Appeals (CA) in CA-G.R. CV No. 110982, which affirmed the *Decision*⁴ dated 03 April 2018 of the Regional Trial Court (RTC) of La Trinidad, Benguet, Branch 08, in Civil Case No. 09-CV-2508, ordering Gertrudes Espino and Janet Co and all persons claiming rights under them to vacate the property subject of the case. On the other hand, the challenged *Resolution* denied the Motion for Reconsideration⁵ of the RTC Decision.

First off, it is well to remind petitioners that in a petition for review on *certiorari* under Rule 45, the parties filing the same are denominated as “petitioners,” while the opposing parties are regarded as “respondents.” Accordingly, Gertrudes Espino and Janet Co are the petitioners in the instant case, while Nida Sabado and Cecilia Dianson are the respondents.

Be that as it may, after a judicious review of the case at bench, the Court resolves to **DENY** the Petition based on the following grounds:

First. It was filed out of time. The records evince that petitioners received on 1 February 2021 a copy of the 13 January 2021 *Resolution* of the CA, denying reconsideration of its earlier 20 February 2020 *Decision*.⁶ On 15 February 2021, they filed before this Court a *Motion for Extension of Time*⁷ to file this Petition, which was granted, giving them additional time or until 18 March 2021, to file the same. However, they filed the Petition only on 5 April 2021, which is way beyond the already extended reglementary period. The filing on 18 March 2021 of a *Second Motion for Extension of Time*⁸ does not give them guarantee that the Court will readily grant the same. Hence, on this ground alone, the Petition necessarily fails.

Second. A cursory reading of the arguments raised by petitioners ostensibly reveals that they are beseeching this Court to exercise judicial power beyond what is proper under Rule 45. *For one thing*, they insist on being the prior possessors of the subject property.⁹ *For another*, they argue that respondents secured through fraud the tax declarations and the original

¹ *Rollo*, pp. 85-105.

² *Id.* at 121-132. Penned by Court of Appeals Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Victoria Isabel A. Paredes and Walter S. Ong, concurring.

³ *Id.* at 111-112. Penned by Court of Appeals Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Victoria Isabel A. Paredes and Walter S. Ong concurring.

⁴ *Id.* at 113-146. Penned by Acting Presiding Judge Cecilia Corazon S. Dulay-Archog.

⁵ See *Rollo*, p. 111.

⁶ *Rollo*, p. 85.

⁷ *Id.*

⁸ *Id.* at 86.

⁹ *Id.* at 93.

certificate of title.¹⁰ Finally, petitioners claim that respondents have no cause of action against them because the realty rightfully belongs to the State.¹¹ Quite discernibly, these averments are questions of fact which necessitate the examination of evidence and, hence, are clearly outside the province of a petition for review on *certiorari*. In a petition filed under Rule 45, the Court's discretionary power of judicial review is confined to the review of *errors of law* committed by the appellate court.¹² It has been repeatedly pronounced that this Court is not a trier of facts, and that valuation of evidence is the function of the trial court.¹³

Third. More than being questions of fact, petitioners bring to the fore issues which have been already adjudicated upon. Both the RTC and the CA consistently held that respondents have a better right of possession over the property anchored primarily on the certificate of title issued in their names. The factual findings of the trial court, especially when affirmed by the CA are generally binding and conclusive on this Court.¹⁴ A departure from this general rule may only be warranted in cases where the findings of fact of the CA are contrary to the findings of the trial court or when these are unsupported by the evidence on record,¹⁵ which is not the case here.

To be sure, the congruous declarations of the courts *a quo* that respondents have the better right of possession over the property are grounded on sound reason and jurisprudence.

An *accion publiciana* is the plenary action to recover the right of possession filed before the proper regional trial court when the dispossession has lasted for more than one year.¹⁶ In these cases, the court's ruling shall be limited to the issue of possession.¹⁷

Here, respondents were able to clearly adduce that they have the better right of possession by virtue of an original certificate of title issued in their names. It is a fundamental principle in land registration that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. It is conclusive evidence with respect to the ownership of the land described therein.

¹⁰ Id. at 94-95.

¹¹ Id. at 100.

¹² *Republic v. Espina*, G.R. No. 226138, 23 March 2022.

¹³ Id.

¹⁴ *Fegarido v. Alcantara*, G.R. No. 240066, 13 June 2022.

¹⁵ Id.

¹⁶ *Ebancuel v. Acierto*, G.R. No. 214540, 28 July 2021.

¹⁷ Id.

Moreover, the age-old rule is that the person who has a *Torrens* title over a land is entitled to possession thereof.¹⁸

On the contrary, petitioners' averments are anchored on speculations and self-serving allegations. Verily, this is not enough to controvert respondents' evidence, as mere allegation is not proof.¹⁹

All told, the RTC, as sustained by the CA, erred not in ruling in favor of respondents and declaring them to have the better right of possession over the disputed property.

WHEREFORE, the instant Petition for Review on *Certiorari* is hereby **DENIED**. The *Decision* dated 21 February 2020 and the *Resolution* dated 13 January 2021 of the Court of Appeals in CA-G.R. CV No. 110982 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

Mis+DCBatt
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Division Clerk of Court JB 1/12/23

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The Presiding Judge
 REGIONAL TRIAL COURT
 Branch 8, La Trinidad
 2600 Benguet
 (RTC Case No. 09-CV-2508)

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¹⁸ *Heirs of Cullado v. Gutierrez*, G.R. No. 212938, 30 July 2019, 911 SCRA557, 582.

¹⁹ *Republic v. Ponce-Pilapil*, G.R. No. 219985, 25 November 2020.