



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **September 5, 2022** which reads as follows:*

“G.R. No. 252121 (AURORA DE JUAN-LIPARDO, represented by her heirs, namely: LEONARDO, BILLARDO, EDUARDO, AND NOEL, ALL SURNAMED LIPARDO; and NILDA LIPARDO-REBAÑO, Petitioners v. MERCEDES O. LIZADA, represented by her heir, MELUCINA L. MAGSICO, Respondent). – The Court resolves to NOTE the compliance with the entry of appearance as counsel for respondent Mercedes O. Lizada (Mercedes) dated June 29, 2021 of Atty. Rowena L. Bulaclac, and GRANT counsel’s request that Court processes be sent at Villareal Highway, Mambusao, Capiz.

Before this Court is a Petition for Review on *Certiorari* assailing the Decision¹ dated May 30, 2019 and the Resolution² dated January 15, 2020 of the Court of Appeals (CA) in CA-G.R. CV No. 05529, which reversed and set aside the Decision³ dated January 5, 2015 and the Order⁴ dated February 23, 2015 of the Regional Trial Court of Mambusao, Capiz, Branch 21 (RTC) in Civil Case No. M-08-0278-12.

Petitioner Aurora De Juan-Lipardo⁵ (Aurora) is the buyer of a 52,191-square meter parcel of land in Mambusao, Capiz. As shown in the Deed of Absolute Sale dated December 28, 1953, the lot formed part of the 104,382-square meter property sold by Spouses Cristito Villareal and Paz Lusabia-Villareal (Spouses Villareal) to Aurora and two other vendees, Candida

¹ *Rollo*, pp. 40–52. Penned by Associate Justice Emily R. Aliño-Geluz, with the concurrence of Associate Justices Pamela Ann Abella Maxino and Dorothy P. Montejo-Gonzaga.

² *Id.* at 54–57.

³ *Id.* at 73–82. Penned by Judge Daniel Antonio Gerardo S. Amular.

⁴ Not attached to the *rollo*.

⁵ Aurora died on January 16, 2013 and was substituted by her heirs; see *rollo*, p. 73.

Villareal (Candida) for 34,794 square meters and Concordia Lura (Concordia) for 17,397 square meters. On November 18, 1994, Aurora was able to register the land, now identified as Lot No. 1043, in her name under Original Certificate of Title (OCT) No. P-12769 but only for an area covering 37,282 square meters.⁶

Sometime in 2008, Mercedes was able to procure a title, OCT No. P-13058, over the 5,678-square meter adjoining land, designated as Lot No. 1960. However, Aurora claimed that she is the rightful owner of Lot No. 1960, as it forms part of the land sold to her by Spouses Villareal and that Mercedes employed fraud in securing OCT No. P-13058.⁷ Thus, Aurora filed a Complaint⁸ for Declaration of Ownership, Possession, Cancellation of Title, and Damages before the RTC docketed as Civil Case No. M-08-0278-12.

Mercedes denied Aurora's allegations. In her Answer,⁹ Mercedes explained that she inherited Lot No. 1960 from her father, Inocentes Lizada (Inocentes). The subject lot is covered by OCT No. P-13058 under her name and is adjacent to Spouses Villareal's property. She and her predecessors-in-interest have been in possession of Lot No. 1960 even before Aurora purchased Lot No. 1043 from Spouses Villareal. The land has been declared for taxation under her name and she has been religiously paying realty taxes. Aurora's claim created a cloud in her title that must be removed. Thus, Mercedes prayed for the dismissal of the complaint, for the RTC to order the quieting of title by declaring her the legitimate and true owner of Lot No. 1960, and for the award of damages in her favor.¹⁰

In the course of the trial, the RTC appointed Geodetic Engineer Deny B. Celorico (Engr. Celorico) of the Community Environment and Natural Resources Office, Department of Environment and Natural Resources, Roxas City (CENRO), to conduct a relocation survey and determine the boundary lines of Lot No. 1960 and Lot No. 1043. Engr. Celorico submitted to the RTC a Commissioner's Report¹¹ dated October 25, 2009.

Based on its interpretation of the CENRO's report, the RTC adjudged Aurora as the rightful owner of Lot No. 1960 in its Decision¹² dated January 5, 2015. The trial court disregarded Mercedes's OCT No. P-13058 and her defense that she inherited the property from his father,¹³ thus ruling:

WHEREFORE, premises considered, and by clear preponderance of evidence, judgment is hereby rendered in favor of [Aurora] and against [Mercedes], as follows:

⁶ *Id.* at 41 and 74.

⁷ *Id.* at 41 and 74-75.

⁸ *Id.* at 58-60.

⁹ *Id.* at 61-65.

¹⁰ *Id.* at 62-64.

¹¹ *Id.* at 67-70.

¹² *Id.* at 73-82.

¹³ *Id.* at 80-81.

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1. Declaring [Aurora] as owner of Lot 1960 covered by OCT No. P-13058;
2. Ordering the cancellation of Original Certificate of Title No. P-13058 in the name of [Mercedes]; and
3. Ordering [Mercedes's] successors-in-interest to reconvey Lot No. 1960 in favor of [Aurora's] successor's-in-interest.

No pronouncement as to costs.

SO ORDERED.¹⁴

The RTC denied Mercedes's motion for reconsideration in an Order¹⁵ dated February 23, 2015.

On appeal, the CA reversed the trial court's judgment. In its Decision¹⁶ dated May 30, 2019, the CA ruled that Aurora failed to present sufficient evidence that she is the rightful owner and possessor of Lot No. 1960, which is admittedly covered by a Torrens title in the name of Mercedes. Absent any proof that Lot No. 1960 was wrongfully registered, the free patent, and OCT issued in Mercedes's name are incontrovertible.¹⁷ The *fallo* of the Decision reads:

WHEREFORE, the instant appeal is **GRANTED**. The *Decision* dated January 5, 2015 of the Regional Trial Court, Branch 21, of Mambusao, Capiz in Civil Case No. M-08-0278-12 is **REVERSED AND SET ASIDE**. Consequently, the *Complaint* filed by Aurora de Juan Lipardo is **DISMISSED** for being devoid of merit. Aurora de Juan Lipardo's successors-in-interest, relatives, representatives, tenants, or anybody acting in their behalf is [sic] **ORDERED** to vacate Lot No. 1960 covered by OCT No. P-13058 and finally place Mercedes Lizada and her successors-in-interest in peaceful and exclusive possession of the same.

SO ORDERED.¹⁸ (Emphasis and italics in the original)

Aurora moved for reconsideration,¹⁹ but was denied by the CA in the Resolution²⁰ dated January 15, 2020. Hence, this recourse.

In this petition, Aurora argues that the CA erred in concluding that she was not able to prove that Lot No. 1960 was part of the land sold to her by Spouses Villareal. She insists that she enjoys the presumption of ownership over Lot No. 1960 being in actual possession of the land. Thus, the CA could not validly oust her from the subject property and award possession to Mercedes.²¹

¹⁴ *Id.* at 82.

¹⁵ Not attached to the *rollo*; see *id.* at 45.

¹⁶ *Id.* at 40–52.

¹⁷ *Id.* at 46–52.

¹⁸ *Id.* at 52.

¹⁹ See Motion for Reconsideration dated July 12, 2019; *id.* at 83–98.

²⁰ *Id.* at 54–57.

²¹ *Id.* at 24–35.

On the other hand, Mercedes asserts that Aurora was not able to discharge her burden of proving ownership over Lot No. 1960. Thus, the CA was correct in reversing the RTC's judgment and ordering Aurora to vacate the property.²²

Ruling

The averments in the complaint show that Aurora's action is one for reconveyance. She claims to be the lawful owner of Lot No. 1960, which is registered in the name of Mercedes. She alleges that the disputed property forms part of the 52,191-square meter lot originally sold to her by Spouses Villareal. Given the conflicting findings of the CA and RTC, our task then is to examine whether Aurora is able to establish her rightful ownership over Lot No. 1960, or in contrast, whether she is unlawfully occupying the land belonging to Mercedes.

A complaint for reconveyance is an *accion reivindicatoria*, or is the legal and equitable remedy granted to the rightful owner of a land wrongfully or erroneously registered in the name of another. The purpose of the action is to compel the named owner to transfer or reconvey the land to the real owner. The action does not seek to reopen the registration proceedings or set aside the decree of registration because the title is respected as incontrovertible. Instead, it aims to show that the person who was able to secure registration is not the real owner of the property, such that it must be reconveyed to the rightful owner, or to one with a better right.²³ To successfully pursue an action of reconveyance, Article 434²⁴ of the Civil Code requires the claimant to prove two (2) key aspects: *first*, the identity of the land being claimed; and *second*, one's title thereto.²⁵ Aurora failed to discharge the burden of proving both requisites.

*Aurora failed to prove the
identity of the land being
claimed and the alleged
encroachment by
Mercedes*

To establish the identity of the land in dispute, Aurora presented evidence showing that she bought half of Spouses Villareal's 104,382-square meter property, or 52,191 square meters. Later, she was able to obtain a title for her land under OCT No. P-12769. However, her OCT does not cover the entire 52,191 square meters, but only 37,282 square meters, identified as Lot No. 1043. Clearly, there is a discrepancy of 14,909 square meters between the area sold to Aurora under the Deed of Absolute Sale and the area of the land

²² *Id.* at 116–118.

²³ *Unciano v. Gorospe*, G.R. No. 221869, August 14, 2019, 913 SCRA 414, 427 [Per J. Reyes, Second Division].

²⁴ 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.

²⁵ *Sampaco v. Lantud*, 669 Phil. 304, 319 (2011).

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indicated in her OCT which she was able to register in her name. Despite this, the Court finds that there is no sufficient evidence that the discrepancy is attributable to Mercedes's alleged encroachment on Aurora's property.

To recall, Spouses Villareal sold their 104,382 square meters of land through a Deed of Absolute Sale to three vendees as follows:

To Aurora	-	52,191 square meters;
To Candida	-	34,794 square meters; and
To Concordia	-	17,397 square meters. ²⁶

The Commissioner's Report²⁷ submitted by the court-appointed geodetic engineer revealed that the portion occupied or registered by each of the vendees did not conform to what was sold to them. For instance, Candida's share increased because the land she occupies measures 35,518 square meters. This is 724 square meters more than the area she bought. In the same manner, Concordia occupies 33,023 square meters, resulting in an increase in her share by 15,626 square meters. As for Aurora, her OCT only pertains to 37,282 square meters, hence, her share decreased by 14,909 square meters. In order to make up for the deficiency, Aurora then occupied 5,009 square meters of the adjoining land, Lot No. 1960, which was registered in the name of Mercedes.²⁸ The Court rules that Aurora's sheer possession of a portion of Lot No. 1960 does not translate to ownership.

First, it is on record that the three (3) lots sold to Candida, Concordia, and Aurora originated from one (1) property, which is the 104,382-square meter land owned by Spouses Villareal. Hence, the CA correctly held that the deficiency in Aurora's share is more likely due to the excess areas being occupied by Candida or Concordia, as demonstrated above. Unfortunately, this crucial aspect was not explored during the trial before the RTC.

Second, there is explicit evidence showing that Mercedes's Lot No. 1960 is a separate and distinct land and does not form part of Aurora's Lot No. 1043. In this case, Aurora's and Mercedes's lots are both duly registered under the Torrens system. The title issued in the name of Aurora, OCT No. P-12769, indicates the following metes and bounds:

Bounded on SE., along lines 1-2-3 by Lot No. 1960; on the SW., along line 3-4 by Lot No. 1037; on the W. along line 4-5-6 by Lot No. 1030; on the NW., along line 6-7 by Lot No. 1029; on the NE., along line 7-1 by the Old Spanish Road, all of Psc-27.²⁹ (Emphasis supplied)

Meanwhile, Mercedes's OCT No. P-13058 shows the following metes and bounds:

Bounded on the NE., along line 1-2 by Spanish Road; on the SE., along

²⁶ *Rollo*, p. 50.

²⁷ *Id.* at 67-70.

²⁸ See *id.* at 68.

²⁹ *Id.* at 48.

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lines 2-3-4 by Lot No. 1044; along line 4-5 by Lot No. 1042; on the SW., along line 5-6 by Lot No. 1048; and **on the NW., along lines 6-7-1 by Lot No. 1043**, all of Psc-27.³⁰ (Emphasis supplied)

As can be seen from both OCTs, Lot No. 1043 and Lot No. 1960 are separate, adjacent parcels of land which border each other. In fact, in the Deed of Sale executed by Spouses Villareal, Mercedes's father, Inocentes, was named as the owner of the adjacent property on the east side of the spouses' original 104,382-square meter property.³¹ This means that even before the sale to Aurora of $\frac{1}{2}$ or 52,191 square meters, Spouses Villareal, who were the original owners, already recognized that the land belonging to Mercedes's father, Lot No. 1960, is a separate and distinct property.

Lastly, we find that the RTC misconstrued the Commissioner's Report when it considered Lot No. 1960 as part of the property bought by Aurora. The survey report merely stated that Aurora occupied an aggregate portion of 42,291 square meters. This consists of her entire Lot No. 1043 with an area of 37,282 square meters, plus 5,009 square meters of Mercedes's Lot No. 1960, thus:

That after the contested area was observed and the boundary lines of lot 1043 and lot 1960, all of Psc-27 was delineated on the ground, and the results of the survey was reflected on the sketch plan it was found out [that] the area occupied and possessed by the **plaintiff [Aurora] has an aggregate area of approximately 42,291 square meters, covering the entire lot 1043, Psc-27 containing an area of 37,282 square meters, more or less, and the portion of lot 1960, Psc-27, Mabusao Cadastre with an approximate area of 5,009 square meters** of orchards with a small parcel of rice land, and, that it was also found out that the remaining portion of lot 1960, Psc-27 covering an approximate area of 669 square meters was occupied by Gorgonia Luching utilized as rice land.

That the portion of Lot 1960 occupied and possessed by [Aurora] covering an aggregate area of 5,009 square meters was planted with three (3) Narra trees, one (1) acacia tree and about 25 coconut trees.³² (Emphasis supplied)

Contrary to the RTC's interpretation, the relocation survey report did not state that Lot No. 1960 formed part of the area sold to Aurora by Spouses Villareal. Instead, it was clear from the findings of Engr. Celorico that Aurora is the one encroaching upon or occupying a portion of Mercedes's Lot No. 1960, which is already outside the area covered by her own OCT. Further, the

³⁰ *Id.* at 48-49.

³¹ *Id.* at 47. The Deed of Sale described the property sold as follows:

A parcel of rice, coconut, corn and pasture lands situated at Najus-an Mambusao, Capiz, containing an area of approximately ONE HUNDRED FOUR THOUSAND THREE HUNDRED EIGHTY-TWO (104,382) square meters, more or less. Bounded on the N. by Albiano Alicaya, Francisco Villareal and Silverio Ocbeña; **on the E. by Inocentes Lizada**; on the S. by the Nabuyan Creek and Hilaria Andalecio; and on the W. by David Alvares and Nabuyan Brook. Covered by TD # 8048 and assessed at P2440.00. The improvements herein consist of about 600 coconut trees, more or less. (Emphasis supplied)

³² *Id.* at 68.

survey report is consistent with the technical descriptions reflected in Aurora's OCT No. P-12769 and Mercedes's OCT No. P-13058 wherein Lot No. 1043 and Lot No. 1960 are depicted as adjoining properties. They are separate and distinct lots, and one does not encroach upon the other.

Torrens title of Mercedes is presumed valid absent any proof of fraud. A mere allegation of fraud is not sufficient

In every land dispute, the aim of the courts is to protect the integrity of the Torrens system of land registration, as well as to uphold the law. The resolution of the controversy between the parties is merely a necessary consequence. For this reason, the Court cannot rule in favor of Aurora as it will violate the sacred principles of the Torrens system.³³ Despite being in actual possession of the disputed portion of Lot No. 1960, the evidence Aurora presented during trial did not prove that Lot No. 1960, registered in the name of Mercedes, encroached on her Lot No. 1043. In stark contrast, the report issued by the court-appointed geodetic engineer showed that there is no basis for the alleged encroachment or overlap.

Moreover, Aurora failed to show that Mercedes's OCT No. P-13058 was invalid. No evidence was presented in support of Aurora's claim that Mercedes acquired her title to Lot No. 1960 through fraud and machination. Fraud is never presumed and the imputation of such in a civil case requires the presentation of clear and convincing evidence. The burden of evidence rests on the part of Aurora, as the party alleging fraud.³⁴ Here, nowhere in the decision of the RTC was there a finding of fraud. In fact, the RTC ruled that it cannot award damages because "there has been no evidence of fraud presented by [Aurora] to prove that fraud was committed by [Mercedes]."³⁵

Aurora failed to prove her title to the disputed portion of Lot No. 1960

With regard to the title over the property, which is the second requisite in an action for reconveyance, Aurora insists that her occupancy of the disputed portion of Lot No. 1960 is open, public, continuous, and in the concept of owner. On the other hand, Mercedes claimed that she inherited Lot No. 1960 from his father Inocentes and their family has been in possession of the land long before the sale between Spouses Villareal and Aurora took place. In the case of *Sampaco v. Lantud*,³⁶ the Court held that an occupant's claim of title by virtue of open, public, and continuous possession in the concept of

³³ *Cambridge Realty and Resources Corporation v. Eridanus Development, Inc.*, 579 Phil. 375, 401 (2008) [Per J. Ynares-Santiago, Third Division].

³⁴ *Heirs of Felicisimo Gabule v. Jumud*, G.R. No. 211755, October 7, 2020, <<https://sc.judiciary.gov.ph/17284/>> [Per J. Gesmundo, Third Division].

³⁵ *Rollo*, p. 82.

³⁶ 669 Phil. 304 (2011).

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an owner is nebulous in light of a similar claim by the one who holds a Torrens title over the subject property.³⁷

Here, both Aurora and Mercedes claim possession and ownership over the disputed area of Lot No. 1960. However, it is undisputed that the entire Lot No. 1960 is registered in Mercedes's name under OCT No. P-13058, which supports her claim of ownership. The OCT carries a strong presumption that the law governing the registration of land has been complied with and as such, the OCT enjoys a presumption of validity.³⁸ Relative to this, the Court notes that prior to the issuance of Mercedes's OCT, Lot No. 1960 was covered by a free patent issued in 1994 in favor of Mercedes. This was certified³⁹ to by the Provincial Environment and Natural Resources Office of Roxas City in compliance with the subpoena issued by the RTC. This bolsters Mercedes's possession over Lot No. 1960 since the grant of a free patent requires continuous cultivation and occupation for a number of years by the applicant or by their predecessors-in-interest.⁴⁰ Taken alongside the free patent and the OCT issued in her name, Mercedes's prior possession by herself and by her predecessors-in-interest, must be respected since an owner need not set foot on every square inch of one's property to be considered the possessor and owner of the whole.

To stress, in an action for reconveyance, a party claiming the property should establish by clear and convincing evidence that the land sought to be reconveyed belongs to them.⁴¹ In this case, the evidence revealed that Mercedes's Lot No. 1960 is separate and distinct from Aurora's Lot No. 1043. Aurora thus failed to prove the identity of her property in relation to Lot No. 1960. Simply put, there is nothing to reconvey as Aurora did not provide clear and convincing evidence that the disputed portion of Lot No. 1960 forms part of the property sold to her by Spouses Villareal.

The CA's order to vacate is proper

In a futile attempt to assail the CA's order for her to vacate the disputed area, Aurora claims that the CA could not validly oust her from the property and award possession to Mercedes. She insists on the presumption of ownership on the ground that she is in actual possession of the disputed portion. The argument lacks merit.

As discussed, the complaint filed by Aurora is an action for reconveyance or an *accion reivindicatoria*. It is a suit that determines possession of a land as an attribute of ownership.⁴² In asserting both

³⁷ *Id.* at 322.

³⁸ *Heirs of Emilio Santioque v. Heirs of Emilio Calma*, 536 Phil. 524, 541 (2006) [Per J. Callejo, Sr., First Division].

³⁹ See Certification dated October 19, 2012; *rollo*, p. 72.

⁴⁰ See Sections 11, 44, and 48 of Commonwealth Act No. 141, entitled "AND AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN" (December 1, 1936). See also *Maitem v. Cabrera*, G.R. No. 240271, March 3, 2021 [Notice, Second Division].

⁴¹ *Ibot v. Heirs of Tayco*, 757 Phil. 441, 449 (2015) [Per J. Reyes, Third Division].

⁴² *Spouses Ocampo v. Heirs of Bernardino U. Dionisio*, 744 Phil. 716, 728 (2014) [Per J. Reyes, Third Division].

ownership and possession over the subject property, Aurora has allowed the courts to determine who is the real owner and the rightful possessor of the disputed area. She cannot now claim that the CA's ruling cannot bind her just because it was not rendered in her favor.

Again, Mercedes was able to prove her superior right over the property. The disputed area is a portion of Lot No. 1960 which has been in possession of Mercedes's predecessors-in-interest and covered by a free patent, and subsequently, OCT No. P-13058 issued in Mercedes's name. Between Mercedes's proof of ownership and prior possession and Aurora's unsubstantiated and self-serving claim that the area forms part of what was sold to her by Spouses Villareal, the former must prevail. Mercedes's OCT serves as evidence of an indefeasible and incontrovertible title to the entire property. The indefeasibility of a Torrens title and the concomitant right of possession of the person whose name appears on the title are fundamental principles that will be respected and observed in this jurisdiction.⁴³

FOR THESE REASONS, the Petition is **DENIED**. The Decision dated May 30, 2019 and the Resolution dated January 15, 2020 of the Court of Appeals in CA-G.R. CV No. 05529 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *pg 6/23*

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⁴³ *Id.* at 729.

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HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 21

Mambusao, Capiz

(Civil Case No. M-08-0278-12)

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Supreme Court, Manila

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