



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

**RODRIGO GALANDE,**  
*Petitioner,*

**G.R. No. 255989**

Present:

- versus -

**CAGUIOA, J., Chairperson,**  
**INTING,**  
**GAERLAN,**  
**DIMAAMPAO, and**  
**SINGH, JJ.**

**FLORDELIZA      ESPIRITU-**  
**SARENAS and JIMMY O.**  
**ESPIRITU,**

Promulgated:

*Respondents.*

**March 1, 2023**

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**DECISION**

**INTING, J.:**

Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated September 24, 2020 and the Resolution<sup>3</sup> dated February 17, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 159540. The CA reversed the Decision<sup>4</sup> dated January 7, 2019 and the Order<sup>5</sup> dated February 7, 2019 of Branch 38, Regional Trial Court (RTC),

<sup>1</sup> *Rollo*, pp. 12–31.

<sup>2</sup> Id. at 33–68. Penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Elihu A. Ybañez and Walter S. Ong.

<sup>3</sup> Id. at 70–76.

<sup>4</sup> Id. at 99–104. Penned by Presiding Judge Leo Cecilio D. Bautista.

<sup>5</sup> Id. at 105.

San Jose City, Nueva Ecija, in Civil Case No. 2018-799-SJC which affirmed the Decision<sup>6</sup> dated September 25, 2018 of Branch 2, Municipal Trial Court in Cities (MTCC), San Jose City, Nueva Ecija, in Civil Case No. (17) 4051 that granted petitioner's complaint for unlawful detainer.<sup>7</sup>

### *The Antecedents*

Subject of the present controversy is a 4,606-square-meter parcel of land located at *Brgy. Pinili*, San Jose City, Nueva Ecija, covered by Transfer Certificate of Title (TCT) No. 21865<sup>8</sup> (subject property), and registered in the name of spouses Jose Salamanca and Lydia Ordanez Salamanca (Spouses Salamanca).<sup>9</sup>

On July 25, 2017, Rodrigo Galande (petitioner) filed a Complaint<sup>10</sup> for unlawful detainer against Flordeliza Espiritu-Sarenas (Flordeliza) and Jimmy O. Espiritu (Jimmy; collectively, respondents) with the MTCC. Petitioner alleged therein that he has been in actual and continuous possession of the subject property as tenant of Spouses Salamanca for more than 40 years.<sup>11</sup> After Spouses Salamanca returned from the United States of America, petitioner purchased the subject property from them on an installment basis for a consideration of ₱950,000.00.<sup>12</sup>

In May 2015, while petitioner was still paying the installments on the purchase price for the subject property, he allowed respondents to till one-half of the subject property on the condition that the latter will vacate it upon demand.<sup>13</sup>

When petitioner demanded respondents to vacate the portion which the latter were tilling, they refused to vacate the premises alleging that they were farming on the subject property based on the notice of adverse claim of their late mother Gertrudes Ducusin (Gertrudes), as annotated on TCT No. 21865 in 1966, claiming ownership over the one-half portion.<sup>14</sup>

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<sup>6</sup> Id. at 93–98. Penned by Presiding Judge Roberto Ricardo O. Kanapi.

<sup>7</sup> Id. at 97–98.

<sup>8</sup> Id. at 150–153.

<sup>9</sup> Id. at 34.

<sup>10</sup> Id. at 144–149.

<sup>11</sup> Id. at 145.

<sup>12</sup> Id. at 99.

<sup>13</sup> Id. at 146, 178.

<sup>14</sup> Id. at 99-100.

The Spouses Salamanca, however, refused to recognize Gertrudes' notice of adverse claim; they denied having given respondents permission to occupy portion of the subject property.<sup>15</sup>

The parties failed to settle at the *barangay* conciliation proceedings.<sup>16</sup> Thereafter, despite repeated verbal and written demands,<sup>17</sup> respondents refused to vacate the premises. Hence, petitioner instituted the present complaint.<sup>18</sup>

In their Answer,<sup>19</sup> respondents alleged that they are the heirs of Gertrudes: Flordeliza is her daughter, while Jimmy is her grandson. In view of the Adverse Claim<sup>20</sup> annotated on TCT No. 21865, respondents averred that petitioner should have known that Gertrudes purchased one-half of the subject property from Spouses Salamanca in 1966.<sup>21</sup> Moreover, they asserted that from 1966 until her death on April 5, 2008, Gertrudes had been in actual occupancy and enjoyment of the one-half portion of the subject property as the buyer. It was for this reason that petitioner allowed them to maintain their occupancy as owners by way of succession without any condition of tolerance. They also averred that the annotation of the adverse claim in 1966 was duly entered and could not be made subordinate to the subsequent transactions supposedly entered into by petitioner.<sup>22</sup> Likewise, they questioned the validity and binding effect of the payments on the purchase price received by Irene O. Timbol because she did not have a special power of attorney authorizing her to sell the subject property or to receive payments from petitioner. Lastly, they asserted that petitioner knew of their physical, legal, and incontrovertible ownership over the one-half portion that they were occupying and tilling in the concept of owners as they were also paying the real estate taxes due on the property.<sup>23</sup>

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<sup>15</sup> Id. at 177–178.

<sup>16</sup> See Certificate to File Action, id. at 161.

<sup>17</sup> See Letter dated May 23, 2017, id. at 162–164.

<sup>18</sup> Id. at 146–147.

<sup>19</sup> Id. at 166–169.

<sup>20</sup> Id. at 151.

<sup>21</sup> Id. at 166.

<sup>22</sup> id. at 166–167.

<sup>23</sup> id. at 167–168.



*The Ruling of the MTCC*

On September 25, 2018, the MTCC rendered a Decision<sup>24</sup> in favor of petitioner, disposing as follows:

PREMISES CONSIDERED, the Court finds for the plaintiff[] and hereby orders the defendants [to]:

- a. Vacate the property subject of TCT No. 21865 and remove all improvements introduced therein; and
- b. Pay reasonable rent in an amount not less than Php 2,000.00 per month from date of demand until the time the defendants actually vacate the subject property;

SO ORDERED.<sup>25</sup>

The MTCC found that all the elements of a case for unlawful detainer were established by petitioner by a preponderance of evidence.<sup>26</sup>

Undaunted, respondents appealed to the RTC.

*The Ruling of the RTC*

On January 7, 2019, the RTC upheld the findings and conclusions of the MTCC and rendered its Decision,<sup>27</sup> the dispositive portion of which states:

WHEREFORE, premises considered, the APPEAL is DISMISSED and the DECISION of the Municipal Trial Court in Cities is AFFIRMED. The Court further ORDERS the defendants-appellants to pay the costs of suit.

SO ORDERED.<sup>28</sup>

Respondents elevated the case to the CA by way of a Petition for Review<sup>29</sup> under Rule 42 of the Rules of Court. They contended in the main that the RTC erred in affirming the MTCC Decision which favored

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<sup>24</sup> Id. at 93–98.

<sup>25</sup> Id. at 98.

<sup>26</sup> Id. at 95–97.

<sup>27</sup> Id. at 99–104.

<sup>28</sup> Id. at 104.

<sup>29</sup> Id. at 77–92.

petitioner for want of proof that their possession of the subject property was by mere tolerance of petitioner.<sup>30</sup>

*The Ruling of the CA*

In the challenged Decision<sup>31</sup> dated September 24, 2020, the CA granted the petition. The *fallo* thereof reads:

WHEREFORE, the *Petition for Review* is GRANTED. The *Decision* dated 7 January 2019 of the Regional Trial Court, Branch 38, San Jose City is hereby REVERSED and judgment is hereby rendered DISMISSING the *Complaint* filed by respondent Rodrigo Galande in Civil Case No. (17) 4051 for LACK OF CAUSE OF ACTION.<sup>32</sup> (Emphasis omitted, italics in the original)

The CA ruled that petitioner failed to prove the first and second requisites to establish a cause of action for unlawful detainer.<sup>33</sup> It found that respondents' possession of the one-half portion of the subject property was made not by tolerance of the petitioner but by color of title;<sup>34</sup> that their possession was in the concept of an owner on the basis of the Notice of Adverse Claim annotated by their predecessor-in-interest, Gertrudes, on the title of the subject property in 1966 which has remained outstanding;<sup>35</sup> and that respondents, therefore, cannot be ejected through an action for unlawful detainer.<sup>36</sup>

Petitioner filed a Motion for Reconsideration<sup>37</sup> on November 4, 2020, but the CA denied<sup>38</sup> it for lack of merit.

Hence, the Petition.<sup>39</sup>

Petitioner raises the following grounds<sup>40</sup> for the Court's resolution:

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<sup>30</sup> Id. at 87–88.

<sup>31</sup> Id. at 33–68.

<sup>32</sup> Id. at 67.

<sup>33</sup> Id. at 46.

<sup>34</sup> Id. at 46–50.

<sup>35</sup> Id. at 50–61.

<sup>36</sup> Id. at 61–67.

<sup>37</sup> Id. at 280–285.

<sup>38</sup> Id. at 70–76.

<sup>39</sup> Id. at 12–31.

<sup>40</sup> Id. at 19.

## I

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE PETITIONER'S COMPLAINT DID NOT SATISFY THE JURISDICTIONAL REQUIREMENTS OF AN UNLAWFUL DETAINER CASE.

## II

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT A NOTICE OF ADVERSE CLAIM ANNOTATED ON THE TITLE OF A PROPERTY REMAINS EFFECTIVE UNTIL ORDERED CANCELLED BY A COURT.

*The Issue*

The issue raised for the Court's resolution is whether the CA committed a reversible error in dismissing the complaint for unlawful detainer.

*Our Ruling*

The Court grants the petition.

At the outset, it must be emphasized that, as a general rule, the Court is not a trier of facts<sup>41</sup> and will not recalibrate the evidence on record.<sup>42</sup> This rule, however, allows exceptions when the findings of fact of the trial court, as in this case, are contradicted by the findings of the CA, warranting a second look for the proper dispensation of justice.<sup>43</sup>

The CA ruled that an action for unlawful detainer is not the proper remedy in this particular case considering that petitioner failed to prove the first and second jurisdictional facts necessary to sustain a summary action for unlawful detainer—particularly, prior physical possession and tolerance.<sup>44</sup> It ruled that the transfer of possession of the portion of the subject property to respondents was not by virtue of petitioner's tolerance based on their promise to return possession on

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<sup>41</sup> *Heirs of Teresita Villanueva v. Heirs of Petronila Syquia Mendoza*, 810 Phil. 172, 177–178 (2017). See also *Racadio v. Spouses Vinluan*, G.R. No. 207998 (Notice), June 16, 2021.

<sup>42</sup> *Sy v. Spouses Antonio*, G.R. No. 230120, July 5, 2021.

<sup>43</sup> *Barcelo v. Riparip*, G.R. No. 250159, April 26, 2021, citing *Sps. Fahrenbach v. Pangilinan*, 815 Phil. 696, 705 (2017).

<sup>44</sup> *Rollo*, pp. 43-47.

demand; rather, the transfer was “*by agreement*” in that petitioner recognized the annotation on the title showing the adverse claim of Gertrudes over the one-half portion of the subject property.<sup>45</sup> In view thereof, the CA rejected petitioner’s allegation that respondents’ possession was by mere tolerance with a promise to return possession on demand. On the contrary, it pointed out that the notice of adverse claim annotated on the title of the subject property was admittedly the basis of petitioner for the transfer of possession of the portion of the subject property to respondents.<sup>46</sup>

The Court differs from the CA’s ruling and agrees with the findings of the MTCC and the RTC that petitioner has proven by preponderant evidence that respondents’ possession was by mere tolerance.

It bears to note that the permission given by petitioner for respondents to till the portion of the land cannot be considered an agreement, much more an acknowledgment that respondents were the owners thereof. Neither can petitioner’s permission be construed as a waiver of his rights of ownership over the subject property by virtue of its purchase from Salamancas.<sup>47</sup> Moreover, respondents cannot rely on the notice of adverse claim to bolster their claim of ownership and correlative right to possess the one-half portion of the subject property.

*Petitioner was able to sufficiently prove the element of tolerance.*

To make a case for unlawful detainer, the complaint must allege the following:

- (1) initially, the defendant lawfully possessed the property, either by contract or by plaintiff’s tolerance;
- (2) the plaintiff notified defendant that his right of possession is terminated;
- (3) the defendant remained in possession and deprived plaintiff of its enjoyment; and

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<sup>45</sup> Id. at 49.

<sup>46</sup> id. at 62.

<sup>47</sup> See id. at 96–97.

(4) the plaintiff filed the complaint within one year from the last demand on defendant to vacate the property.<sup>48</sup>

The Court has held that an unlawful detainer complaint based on tolerance must show that (a) tolerance is present right at the inception of the possession; and (b) there are overt acts indicative of such tolerance, as bare allegation of tolerance alone will not suffice.<sup>49</sup>

On this score, the Court finds that petitioner was able to sufficiently establish that respondents' occupancy of the subject lot was by mere tolerance. In addition, the Court agrees with the finding of the MTCC, as affirmed by the RTC, that petitioner was the prior possessor, and had been in continuous possession, of the subject property as a tenant thereof until May 2015, when he allowed respondents to till the one-half portion on the condition that they will vacate upon demand. Thus:

In the present case, plaintiff was able to present evidence that, initially, possession of the property by the defendants was by tolerance of the plaintiff.

**Plaintiff was in actual and continuous possession of the subject parcel of land, being the tenant of the Salamancas. In May 2015, plaintiff allowed the defendants to till half of the subject property and plant tomatoes on the condition that they will vacate the same upon demand. Since then, plaintiff tolerated the defendants' possession of the subject property.**

Moreover, there is no dispute that demand was made for the defendants to voluntarily vacate the premises but [they] refused to leave and remained in possession of the property. Thus, plaintiff was deprived of the enjoyment of the subject property. This is evidenced by the LETTER both dated 23 May 2017 giving defendants fifteen (15) days from receipt to vacate the premises. Consequently, upon notice, defendants' possession became illegal.<sup>50</sup> (Emphasis supplied)

As correctly ruled by the trial courts, respondents' possession of the one-half portion of the subject property from the time petitioner allowed them to till it in May 2015 had been merely by tolerance; thus, they were bound to surrender their possession thereof upon demand. While initially

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<sup>48</sup> *GSIS v. Espenilla*, G.R. No. 203267 (Notice), October 6, 2021, citing *Intramuros Administration v. Offshore Construction Dev't. Co.*, 817 Phil. 303, 324 (2018).

<sup>49</sup> *Marquez v. Andres-Vergara*, G.R. No. 229818 (Notice), February 3, 2020, citing *Spouses Cruz v. Spouses Cruz*, 616 Phil. 519, 525–526 (2009) and *Ibot v. Heirs of Francisco Tayco*, 757 Phil. 441, 452 (2015).

<sup>50</sup> *Id.* at 102. Underscoring omitted.



lawful, their right of possession ended when they refused to vacate the property upon petitioner's demand.<sup>51</sup> With respondents' refusal to comply with the demand to vacate, petitioner had the right to institute the complaint for unlawful detainer against them.

The allegations, as well as the facts borne out by the records of the case, evince that petitioner had been in possession of the subject property for 40 years as a tenant of the Salamancas.<sup>52</sup> Respondents have not refuted this fact in their Answer.<sup>53</sup> Neither have they disputed the fact that they started tilling a portion of the subject lot only in May 2015 upon permission given to them by petitioner. Moreover, respondents failed to establish that petitioner allowed them to till the subject property in recognition of their deceased predecessor's right who had an adverse claim annotated on the title of the subject property.<sup>54</sup> Notably, the subsequent denial by Spouses Salamanca—the registered owners of the subject property—that they had given permission for respondents to till the one-half portion of subject property, as well as their refusal to recognize the adverse claim, negated all of respondents' claims over the subject property.<sup>55</sup> Thus, petitioner demanded that respondents vacate the premises.

Illuminating the concept of an unlawful detainer action as provided under Section 1,<sup>56</sup> Rule 70 of the Rules of Court, the Court in *GSIS v. Espenilla*<sup>57</sup> held:

Particularly, an action for unlawful detainer exists when a person unlawfully withholds possession of any land or building against or from a lessor, vendor, vendee or other persons, after the expiration or termination of the right to hold possession by virtue of any contract,

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<sup>51</sup> Id. at 96–97, 102–103.

<sup>52</sup> Id. at 93, 99.

<sup>53</sup> See Answer, id. at 167–168.

<sup>54</sup> See Answer, id. at 167. See also Position Paper for the Defendants, id. at 220.

<sup>55</sup> Id. at 178, 244.

<sup>56</sup> Section 1, Rule 70 of the Rules of Court provides:

SECTION 1. *Who may institute proceedings, and when.* — Subject to the provisions of the next succeeding section, a person deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, or a lessor, vendor, vendee, or other person against whom the possession of any land or building is unlawfully withheld after the expiration or termination of the right to hold possession, by virtue of any contract, express or implied, or the legal representatives or assigns of any such lessor, vendor, vendee, or other person, may, at any time within one (1) year after such unlawful deprivation or withholding of possession, bring an action in the proper Municipal Trial Court against the person or persons unlawfully withholding or depriving of possession, or any person or persons claiming under them, for the restitution of such possession, together with damages and costs.

<sup>57</sup> *Supra* note 48.

express or implied. Where possession by a party was originally legal, as it was permitted by the other party on account of an express or implied contract between them, the possession can become illegal when the other party demands that the possessor vacate the subject property and the possessor refuses to heed the demand. This is because after a demand to vacate, the right to possess is terminated. Alternatively, *possession of a property belonging to another may be tolerated or permitted, even without a prior contract between that parties, as long as there is an implied promise that the occupant will vacate upon demand. Refusal to vacate despite demand will give rise to an action for summary ejectment.*<sup>58</sup> (Citations omitted, emphasis supplied)

In an unlawful detainer case grounded on tolerance, while the possession is initially lawful, “such possession becomes illegal from the moment a demand to vacate is made by the owner and the possessor [by tolerance] refuses to comply with such demand.”<sup>59</sup> It must be stressed that “a person who occupies the land of another at the latter’s tolerance or permission, without any contract between them, is necessarily bound by an implied promise that he will vacate upon demand, failing which a summary action for ejectment is the proper remedy against them.”<sup>60</sup> This is because such right of possession is terminated after a demand to vacate is made.<sup>61</sup> It is an essential requirement therefore that the plaintiff’s supposed act of tolerance must be present right from the start of the possession that is later sought to be recovered.<sup>62</sup>

*In an ejectment suit, the only issue is possession de facto—that is, the determination of who has the better right of possession over the property.*

“It is well-settled that the sole issue in ejectment cases is physical or material possession of the subject property, independent of any claim of ownership by the parties.”<sup>63</sup> In such cases, “possession” refers to “prior physical possession or possession *de facto*, not possession *de jure* or that

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<sup>58</sup> Id.

<sup>59</sup> *Racadio v. Spouses Vinluan*, supra note 41, June 16, 2021, citing *Ballesteros v. Abion*, 517 Phil. 253, 266 (2006).

<sup>60</sup> *Ybiosa v. Alegria*, G.R. No. 231940 (Notice), June 27, 2022, citing *Calubayan v. Pascual*, 128 Phil. 160, 163 (1967). See also *Quevada v. Court of Appeals*, 533 Phil. 527, 539 (2006) and *Heirs of Rafael Magpily v. De Jesus*, 511 Phil. 14, 27 (2005).

<sup>61</sup> *GSIS v. Espenilla*, supra note 48.

<sup>62</sup> *Barcelo v. Riparip*, supra note 43.

<sup>63</sup> *Salazar v. Sps. Lustre*, G.R. No. 217284 (Notice), June 23, 2021, citing *Holy Trinity Realty Dev’t Corp v. Sps. Abacan*, 709 Phil. 653, 661 (2013). See also *Tiña v. Sta. Clara Estate, Inc.*, G.R. No. 239979, February 17, 2020.

arising from ownership”; thus, title is not the issue on hand.<sup>64</sup> For this purpose, it would be “sufficient for a claimant to prove prior physical possession even from the owner of the property to recover his [or her] possession.”<sup>65</sup> As a rule, courts accord respect to persons who are in prior possession of a property, as they enjoy a disputable presumption of ownership.<sup>66</sup> Thus, as long as a person has prior possession in time, he or she “has the security that entitles him [or her] to remain on the property until a person with a better right lawfully ejects him [or her],” regardless of the character of the prior possession.<sup>67</sup>

Elucidating on the summary nature of ejectment proceedings which are limited to the resolution of possession *de facto*, the Court in *David v. Butay*<sup>68</sup> discoursed:

Thus, in *Pajuyo v. Court of Appeals*, the Court ruled that a party who can prove prior possession can recover such possession even against the owner himself, thus:

The only question that the courts must resolve in ejectment proceedings is who — is entitled to the physical possession of the premises, that is, to the possession *de facto* and not to the possession *de jure*. It does not even matter if a party’s title to the property is questionable, or when both parties intruded into public land and their applications to own the land have yet to be approved by the proper government agency. Regardless of the actual condition of the title to the property, the party in peaceable quiet possession shall not be thrown out by a strong hand, violence or terror. Neither is the unlawful withholding of property allowed. Courts will always uphold respect for prior possession.

Thus, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. To repeat, the only issue that the court has to

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<sup>64</sup> *Palajos v. Abad*, G.R. No. 205832, March 7, 2022, citing *Mudayag v. Madayag*, G.R. No. 217576, January 20, 2020.

<sup>65</sup> *Sps. Meliston v. Atty. Okit*, G.R. No. 229753 (Notice), July 28, 2021, citing *Sps. Ocampo v. Heirs of Bernardino U. Dionisio*, 744 Phil. 716, 727-728 (2014).

<sup>66</sup> *New San Jose Builders, Inc. v. GSIS*, G.R. Nos. 200683, 200710, 201546 & 211512, July 28, 2021.

<sup>67</sup> *Sps. Meliston v. Atty. Okit*, supra, citing *Spouses Antazo v. Doblada*, 625 Phil. 423, 429 (2010).

<sup>68</sup> G.R. No. 220996, April 26, 2022.

settle in an ejectment suit is the right to physical possession.<sup>69</sup> (Citations omitted, emphasis in the original)

Here, petitioner has proven his physical possession of the subject property prior to deprivation thereof by respondents. On the other hand, respondents, while admitting such prior physical possession by petitioner, assert that their subsequent possession was not by petitioner's tolerance but by color of title or ownership as heirs of Gertrudes.<sup>70</sup>

While the sole issue for resolution in an unlawful detainer case is merely physical or material possession of the property involved, when the defendant therein raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession – that is, to determine who between the parties has the better right to possess the property.<sup>71</sup> It must be emphasized, however, that the adjudication is merely provisional and would not bar or prejudice an action between the same parties involving title to the property.<sup>72</sup>

Here, respondents, as heirs of Gertrudes, assert ownership over the one-half portion of the subject property based on the adverse claim of Gertrudes. However, their claim of ownership, as the corollary basis for their alleged right of possession, cannot prevail as against that of petitioner.

Apposite to petitioner's claim that he has been in possession of the subject property for 40 years as tenant and subsequently as owner of the subject lot by its purchase<sup>73</sup> from Spouses Salamanca, respondents could only rely on Gertrudes' adverse claim as annotated on TCT No. 21865<sup>74</sup> covering the subject property. It bears to note that the annotation on the title was entered in 1966 and was merely carried over to the Memorandum of Encumbrances for TCT No. 21865, which was issued on June 3, 1998 in the name of Spouses Salamanca as registered owners.

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<sup>69</sup> *Id.*

<sup>70</sup> See Respondents' Comment to the Petition for Review on *Certiorari*, *id.* at 290–291.

<sup>71</sup> See *Sps. Dela Cruz v. Sps. Capco*, 729 Phil. 624, 637 (2014).

<sup>72</sup> *Heirs of Spouses Mariano v. City of Naga*, 827 Phil. 531, 550 (2018).

<sup>73</sup> *Rollo*, pp. 198–203.

<sup>74</sup> *id.* at 150–153.

A notice of adverse claim by its nature, does not prove respondents' ownership over the subject property. The annotation of a notice of adverse claim on the title of the disputed property is nothing but a notice of a claim adverse to the registered owner, the validity of which is yet to be established in court in a separate proceeding.<sup>75</sup> In fact, it is the ministerial duty of the Register of Deeds to register a notice of adverse claim which it finds sufficient in form and substance. As to whether the adverse claim is valid and has basis is a different matter.

Under Section 70<sup>76</sup> of Presidential Decree No. 1529,<sup>77</sup> the reason why the law provides for a hearing where the validity of the adverse claim is to be threshed out is to afford the adverse claimant an opportunity to be heard, providing a venue where the propriety of his or her claimed interest can be established or revoked, all for the purpose of determining at last the existence of any encumbrance on the title arising from such adverse claim.<sup>78</sup>

If respondents believe that they are the owners of the alleged one-half portion that they have been allowed to farm, they are not precluded from filing the necessary action to recover ownership of the subject property and assume possession of the portion that is rightfully theirs. As

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<sup>75</sup> *Acap v. Court of Appeals*, 321 Phil. 381, 392 (1995).

<sup>76</sup> Section 70 of PD 1529 provides:

SECTION 70. *Adverse Claim.* Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Decree for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, a reference to the number of the certificate of title of the registered owner, the name of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim on the certificate of title. The adverse claim shall be effective for a period of thirty days from the date of registration. After the lapse of said period, the annotation of adverse claim may be canceled upon filing of a verified petition therefor by the party in interest: Provided, however, that after cancellation, no second adverse claim based on the same ground shall be registered by the same claimant.

Before the lapse of thirty days aforesaid, any party in interest may file a petition in the Court of First Instance where the land is situated for the cancellation of the adverse claim, and the court shall grant a speedy hearing upon the question of the validity of such adverse claim, and shall render judgment as may be just and equitable. If the adverse claim is adjudged to be invalid, the registration thereof shall be ordered canceled. If, in any case, the court, after notice and hearing, shall find that the adverse claim thus registered was frivolous, it may fine the claimant in an amount not less than one thousand pesos nor more than five thousand pesos, in its discretion. Before the lapse of thirty days, the claimant may withdraw his adverse claim by filing with the Register of Deeds a sworn petition to that effect.

<sup>77</sup> Entitled "Amending and Codifying the Laws Relative to Registration of Property and For Other Purposes," approved on June 11, 1978.

<sup>78</sup> *Equatorial Realty Development, Inc. v. Sps. Frogoso*, 470 Phil. 47, 61 (2004).

already adverted to, the adjudication in this case is conclusive only with respect to the issue of possession *de facto* over the subject property and not the ownership thereof.

The CA, therefore, erred in dismissing petitioner's complaint for unlawful detainer.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated September 24, 2020 and the Resolution dated February 17, 2021 of the Court of Appeals in CA-G.R. SP No. 159540 are **REVERSED** and **SET ASIDE**. Accordingly, the Decision dated January 7, 2019 of Branch 38, Regional Trial Court, San Jose City, Nueva Ecija, in Civil Case No. 2018-799-SJC, affirming the Decision dated September 25, 2018 of Branch 2, Municipal Trial Court in Cities, San Jose City, Nueva Ecija, in Civil Case No. (17) 4051, is hereby **REINSTATED** with the **MODIFICATION** in that the rentals due to petitioner Rodrigo Galande shall earn legal interest at the rate of six percent (6%) *per annum* reckoned from the finality of this Decision until full satisfaction.

**SO ORDERED.**




**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

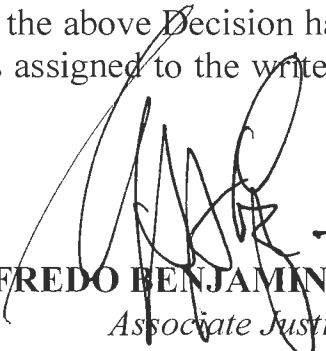
  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

  
**MARIA FILOMENA D. SINGH**  
*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.

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Chairperson, Third Division*

**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*