Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SALLY SARMIENTO, Petitioner,	**G.R. No. 235424**
	Present:
- versus -	PERALTA, *C.J., Chairperson,* CAGUIOA, CARANDANG, ZALAMEDA, and GAERLAN, *JJ.*
EDITA* A. DIZON, represented by her attorney-in-fact ROBERTO TALAUE, Respondent.	Promulgated: FEB 03 2021

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DECISION

CAGUIOA, *J.:*

The Case

This is a Petition for Review on *Certiorari*[1] (Petition) filed under Rule 45 of the Rules of Court against the Resolution[2] dated May 30, 2017 (first assailed Resolution) and Resolution[3] dated October 18, 2017 (second assailed Resolution) in CA-G.R. SP No. 149696 rendered by the Court of Appeals[4] (CA).

The assailed CA resolutions affirmed the following decisions granting the complaint for unlawful detainer with prayer for preliminary injunction filed by respondent Edita A. Dizon (Dizon) against petitioner Sally Sarmiento (Sarmiento):

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* Appears as "Editha" in some parts of the *rollo.*

1 *Rollo,* pp. 11-62.

2 Id. at 168-181. Penned by Associate Justice Ramon M. Bato, Jr., with the concurrence of Associate Justices Manuel M. Barrios and Renato C. Francisco.

3 Id. at 240-241.

4 Eleventh Division and Former Eleventh Division, respectively.

1. Decision[5] dated August 17, 2016 of the Regional Trial Court (RTC) of Quezon City, Branch 216 in Civil Case No. R-QZN-15-03876-CV; and

2. Decision[6] dated February 2, 2001 of the Metropolitan Trial Court of Quezon City (MeTC), Branch 37 in Civil Case No. 37-22145.

The Facts

The CA narrated the facts, as follows:

> The dispute involves a parcel of land registered in the name of [Dizon] covered by Transfer Certificate of Title (TCT) No. RT-79553 (249562) located at Lot 25, Block 4, Pasong Tamo, Sunny Ville Subdivision, Luzon Avenue, Quezon City.
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> On March 17, 1999, [Dizon] x x x through her attorney-in-fact Roberto Samson Talaue [(Talaue)], filed a complaint for unlawful detainer [(Complaint)] against [Sarmiento] x x x and John Doe before the [MeTC], Branch 37 docketed as Civil Case No. 22145.
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> In her [C]omplaint, [Dizon] alleged that she is the registered owner of a parcel of land known as Lot 25, Block 4 of the [cons-subdivision] Plan (LRC) Pcs-994, being a portion of Lots 939-New, 940 and 942, Piedad Estate LRC (GLRO) Rec. No. 5975 covered by [TCT] No. RT-79553 [(subject property)], located at Lot 25, Block 4, Pasong Tamo, Sunny Ville Subdivision, Luzon Avenue, Quezon City; that she has been paying the real property taxes thereon up until 1998; that sometime in 1989, [Sarmiento] requested [Dizon's] father, Paquito Ang [(Ang)], that she be allowed to temporarily stay and occupy the subject property; that out of mercy and compassion, [Ang] allowed [Sarmiento] to occupy the subject [property]; that after [Ang's] death in 1993, [Dizon] and/or [Talaue] requested [Sarmiento] to vacate the subject [property]; that a Formal Letter of Demand to Vacate dated January 6, 1999 was sent by [Dizon] and received by [Sarmiento through her representative] on even date; however, despite repeated demands to vacate, [Sarmiento] refused to leave the subject [property].
>
> In her answer with counterclaim, [Sarmiento] vehemently denied [Dizon's] allegation that she possessed the subject [property] by mere tolerance of [Dizon's] father. She claimed that she has been in actual possession of the subject property since 1979. She further denied knowing [Dizon] and/or [Ang], or [Talaue]. She interposed the defense that the subject property described as Lot 25, Block 4 located in Sunny Ville subdivision is different and far from the lot that she owns in her own right.[7]

MeTC proceedings

On February 2, 2001, the MeTC issued a Decision in favor of Dizon, the dispositive portion of which reads:

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5 *Rollo*, pp. 103-108. Penned by Presiding Judge Alfonso C. Ruiz II.
6 Id. at 122-125. Penned by Judge Augustus C. Diaz.
7 Id. at 168-169.

> From the foregoing, this Court finds that [Dizon's] claim has been duly established by satisfactory evidence and therefore hereby renders judgment in favor of [Dizon] and against [Sarmiento] and/or John Doe ordering them and all persons claiming rights under them:
>
> a) to immediately vacate [the] subject property, and to remove and demolish any structure or structures erected thereon located at Lot 25, Block 4, Pasong Tamo, Sunny Ville Subdivision, Luzon Avenue, Quezon City, and restore peaceful possession thereof to [Dizon];
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> b) to pay [Dizon] the sum of TWO THOUSAND FIVE HUNDRED ([₱]2,500.00) per month, as reasonable compensation for the use and occupancy of [the] subject [property], with interest thereon at the legal rate per annum, to be computed from November 1998 and every month thereafter, until [the] subject property shall have been finally vacated;
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> c) to pay [Dizon] the sum of TWENTY THOUSAND PESOS ([₱]20,000.00) for and as attorney's fees; and
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> d) to pay the costs of suit.
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> This Court is constrained not to award any moral and actual damages as the evidence presented does not warrant an award thereof.
>
> SO ORDERED.[8]

The MeTC observed that while Sarmiento asserts that the property claimed by Dizon is different from that in her possession, she failed to present any evidence to support such assertion. According to the MeTC, Sarmiento's failure to substantiate her defense leads to no other conclusion that she is occupying the subject property without any color of title and by mere tolerance of Dizon, the registered owner.[9]

RTC proceedings

Aggrieved, Sarmiento filed an appeal before the RTC.

Primarily, Sarmiento questioned Talaue's authority to file the Complaint, as the Special Power of Attorney executed in his favor only covers the filing of an action for forcible entry and not unlawful detainer.[10]

Further, Sarmiento argued that an action for unlawful detainer is not the proper remedy in this particular case considering that Dizon failed to prove the jurisdictional facts necessary to sustain a summary action for unlawful detainer particularly, prior physical possession and tolerance.[11] Sarmiento emphasized that the only evidence supporting Dizon's theory of

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8 Id. at 124.
9 See id. at 123.
10 Id. at 104.
11 See id. at 126.

tolerance is the testimony of her attorney-in-fact Talaue, who, in turn, claimed that Dizon's father Ang merely allowed Sarmiento to stay in the subject property sometime in 1989. Notably, Talaue has no personal knowledge of the circumstances subject of his testimony.[12]

Sarmiento also averred that Dizon cannot merely rely on her reconstituted Torrens title to bolster her cause, as even a registered owner can be made a defendant in an action for unlawful detainer where the issue is merely possession *de facto*.[13] Sarmiento argued that in any event, any title issued in the name of Dizon is void since she is a Chinese citizen.[14]

As well, Sarmiento alleged that her uncle General Recaredo A. Sarmiento (General Recaredo) has been in possession of the subject property since 1978. Subsequently, General Recaredo fenced the lot and constructed a house thereon. Later still, General Recaredo allowed Sarmiento to stay on the subject property in 1984. Thus, Sarmiento has been in possession thereof ever since.[15] Consequently, Sarmiento claimed that the order directing the demolition of the improvements on the subject property is improper since these are owned by General Recaredo — a party *not* impleaded in the Complaint.[16] For this reason, Dizon should have resorted to an *accion publiciana* and not a summary action for unlawful detainer.[17]

On August 17, 2016 the RTC issued a Decision[18] affirming the findings of the MeTC in *toto*.

The RTC held that Dizon sufficiently established her cause of action. The RTC added that Sarmiento is estopped from questioning the alleged lack of authority of Talaue to file the Complaint since she failed to raise this as an issue before the MeTC.

Sarmiento's motion for reconsideration was denied.[19]

CA proceedings

On February 23, 2017, Sarmiento filed a motion asking for an extension of fifteen (15) days, or until March 10, 2017, to file her petition for review before the CA. The CA granted the motion and gave Sarmiento the extended period asked for.[20]

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12 See id. at 129.
13 Id.
14 Id. at 142.
15 Id. at 141.
16 See id. at 127 and 128.
17 See id. at 128.
18 Supra note 5.
19 See Order dated January 26, 2017, id. at 109.
20 *Rollo*, p. 173.

Subsequently, Sarmiento filed another motion asking for another extension of seven (7) days from March 10, 2017, or until March 17, 2017 to file her petition for review.[21] **However, it was only on March 31, 2017 when Sarmiento filed a *Motion to Admit Petition for Review with Application for [Temporary Restraining Order (TRO)] and/or Injunction*[22] (Motion to Admit), attaching thereto her *Petition for Review with Application for TRO and/or Preliminary Injunction* (CA Petition).**[23]

In addition to the arguments set forth in Sarmiento's appeal before the RTC, Sarmiento further argued that: (i) the imposition of back rentals under the circumstances is without legal and factual basis; and (ii) the RTC's ruling violates the principle of *stare decisis* as it failed to adhere to the Court's ruling in *Padre v. Malabanan*[24] which stems from an ejectment case involving the lot adjacent to the subject property.[25]

On May 30, 2017, the CA issued the first assailed Resolution,[26] the dispositive portion of which reads:

> ***WHEREFORE***, [Sarmiento's] *Motion to Admit Petition for Review with Application for TRO and/or Injunction* is hereby ***DENIED***. Consequently, for being filed out of time and for [being] patently without merit, the instant petition for review is hereby ***DENIED DUE COURSE*** and ***DISMISSED*** outright.
>
> Let this case be considered ***CLOSED*** and ***TERMINATED***.
>
> ***SO ORDERED.***[27]

Foremost, the CA held that the CA Petition was out of time since it was filed fourteen (14) days after the expiration of Sarmiento's second extension. Moreover, the docket fees paid by Sarmiento were deficient in the amount of ₱1,050.00.[28]

Procedural defects aside, the CA further held that the CA Petition fails on the merits.

The CA emphasized that in ejectment proceedings, the only question for resolution is who between the parties is entitled to the physical possession of the property subject of the action.[29] On this score, the CA found no reason to depart from the uniform findings of the lower courts as the allegations in Dizon's Complaint "sufficiently contain an averment [of]

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21 Id.
22 Id.
23 See id. at 168, 173.
24 G.R. No. 165620, September 8, 2006, 501 SCRA 278.
25 See *rollo*, p. 172.
26 Supra note 2.
27 Id. at 180-181.
28 Id. at 174-175.
29 Id. at 177.

fact that would substantiate [Dizon's] claim that [Sarmiento's] stay on the subject [property] was by mere tolerance or permission of [Dizon's] father; that [Sarmiento] was illegally occupying the premises without [Dizon's] consent and thus unlawfully withholding possession thereof; and, despite receipt of the demand to vacate the premises, [Sarmiento] refused to leave the [subject] property."[30]

According to the CA, Dizon's Torrens title and the real property tax receipts covering the subject property carry more weight than Sarmiento's bare and unsubstantiated claim that she has been in continuous possession thereof since 1979.[31]

With respect to Sarmiento's other assigned errors, the CA held that the consideration of alleged facts and arguments belatedly raised would trample upon the basic principles of fair play, justice, and due process.[32]

Sarmiento filed a motion for reconsideration which was denied by the CA through the second assailed Resolution for being filed out of time.[33]

Sarmiento received a copy of the second assailed Resolution on November 10, 2017.[34]

On November 24, 2017, Sarmiento filed her *Motion for Extension of Time to File Petition for Review on Certiorari with an Application for a Writ of Preliminary Injunction*[35] praying that she be allowed until December 15, 2017 to file her petition for review.

Sarmiento later prayed for an additional period of ten (10) days from December 15, 2017, or until December 25, 2017 to file her petition for review.[36]

The present Petition was filed on December 27, 2017, the next working day following December 25, 2017.[37]

The Petition substantially repleads the arguments raised before the CA.

Notably, while the Petition refers to the payment of docket fees required for an application for a writ of preliminary injunction and/or TRO in the statement of material dates, it neither contains an explicit prayer for

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30 Id. at 178-179.
31 Id. at 179.
32 Id. at 176.
33 Id. at 240-241.
34 Id. at 3, 14.
35 Id. at 3-8.
36 Id. at 15. See *Final Motion for Extension of Time* dated December 15, 2017, id. at 248-251.
37 Id.

interim reliefs, nor does it discuss the existence of grounds warranting the same.

The Issues

The issues presented for the Court's resolution are:

1. Whether the CA erred in affirming the decisions of the lower courts; and

2. Whether the CA erred in failing to pass upon the arguments raised by Sarmiento for the first time on appeal.

The Court's Ruling

The Court grants the Petition.

While the CA Petition was filed out of time, the substantial merits of this case warrant review.

Sarmiento does not dispute that the CA Petition was filed fourteen (14) days after the expiration of the *second* extension she prayed for. Nevertheless, Sarmiento, through counsel, prays for the relaxation of procedural rules and cites several circumstances to justify the same, thus:

> 1. x x x
>
> 2. The challenged decisions and resolutions of the lower court[s] would require [Sarmiento] to pay an unconscionable amount of hundreds of thousands of pesos [in back rentals as Dizon] slept on her alleged rights for about nine (9) years and in some of those years, [Sarmiento] was not physically present on the [disputed] property, which is not under [Sarmiento's] full control as a third person, [General Recaredo], exercises full dominion thereon.
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> 3. The improvements that [Sarmiento] introduced on the property in good faith amounting to about [₱]400,000.00 located at the back of [General Recaredo's] big structure is in danger of being lost.
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> 4. The existence of special or compelling circumstances that prevented counsel from finishing the [CA Petition] on time.
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> 5. The merits of the case as [Sarmiento] believes that there are substantial points in law that the lower courts missed that [deserve the] attention of the [Court].[38]

[38] Id. at 58-59.

In this connection, Sarmiento's counsel also detailed the circumstances which precluded him from filing the CA Petition on time and paying the correct docket fees, thus:

> Counsel endeavored to explain to the [CA] x x x why he failed to submit the [CA Petition] within the period of time asked for. Counsel explained that it was too difficult for him to concentrate fully in the preparation of the [CA Petition] as the preparation thereof coincided with the illnesses of the members of his family, i.e., (1) his youngest son x x x suffered from constant nose bleeds, fever for about a week, which forced him to monitor [his] condition round the clock especially during the three-day period [when] he suffered from high fever, and [he had to accompany him to] doctor and hospital visits[;] (2) his wife was also indisposed, [and he had to accompany her to] Providence Hospital for check-up, laboratory tests, and ultrasound examinations x x x [;] (3) recurring illness of [his] youngest son as well as illness of [his] middle child[;] and (4) [his] wife's subsequent illness after recovering from the first one such as abdominal bloating, general body weakn[e]ss, feeling of tenderness on the right side of the face, neck, and hand as a result of which she was not able to primarily take care of the [children]. Counsel submitted medical documents, doctor prescriptions, laboratory examinations, and doctor referrals [corresponding to] said period. These personal circumstances, coupled with the other equally pressing engagements and voluminous work at the Quezon City Police District made him unable to finish the [CA Petition] within the time prayed for.[39]

With respect to the timeliness of Sarmiento's motion for reconsideration filed with the CA (CA MR), Sarmiento's counsel asserts that he received the assailed Decision on June 15, 2017 as stated in the CA MR. He claims that the date "June 13, 2017" indicated on the registry return card on file with the CA may have been misread, as "the [number three (3)] was not so neatly written and x x x shared some similar features with [the number five (5)]."[40] In this connection, Sarmiento's counsel notes that the opposing counsel received his copy of the first assailed Resolution also on June 15, 2017.[41]

Time and again, the Court has emphasized that compliance with procedural rules is necessary for an orderly administration of justice. Nevertheless, procedural rules should not be rigidly applied so as to frustrate the greater interest of substantial justice.[42] Hence, the Court has, in a number of cases, decided to disregard technicalities in order to resolve the case on the merits.[43]

For instance, in *Orata v. Immediate Appellate Court*,[44] the Court deemed it more appropriate to consider the petition for review filed therein

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39 Id. at 57-58.
40 Id. at 14.
41 Id.
42 *Lukban v. Carpio-Morales*, G.R. No. 238563, February 12, 2020, p. 9.
43 *Orata v. Intermediate Appellate Court*, G.R. No. 73471, May 8, 1990, 185 SCRA 148, 152.
44 Id.

on the merits rather than to dismiss it on the basis of technicality despite being filed nine (9) days late. The Court held:

> Furthermore, it is well settled that litigations should, as much as possible, be decided on their merits and not on technicalities x x x; that every party-litigant must be afforded the amplest opportunity for the proper and just determination of his case, free from unacceptable plea of technicalities x x x. This Court has ruled further that being a few days late in the filing of the petition for review does not merit automatic dismissal thereof x x x. **And even assuming that a petition for review is filed a few days late, where strong considerations of substantial justice are manifest in the petition, this Court may relax the stringent application of technical rules in the exercise of its equity jurisdiction. In addition to the basic merits of the main case, such a petition usually embodies justifying circumstances which warrant Our heeding the petitioner's cry for justice, inspite of the earlier negligence of counsel** x x x.[45] (Citations omitted; emphasis supplied)

Similarly, in *Trans International v. Court of Appeals*,[46] the Court ruled that the CA correctly gave due course to the notice of appeal filed by respondents' therein despite their admission that it had been filed out of time. In so ruling, the Court held that the peculiar circumstances in the case strongly demanded a review of the decision of the trial court. Thus:

> The general rule holds that the appellate jurisdiction of the courts is conferred by law, and must be exercised in the manner and in accordance with the provisions thereof and such jurisdiction is acquired by the appellate court over the subject matter and parties by the perfection of the appeal. The party who seeks to avail of the same must comply with the requirements of the rules. Failing to do so, the right to appeal is lost. In fact, it has been long recognized that strict compliance with the Rules of Court is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business.
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> Nonetheless, this court has on several occasions relaxed this strict requirement. In the case of *Toledo, et al. vs. Intermediate Appellate Court, et al.*, we allowed the filing of an appeal where a stringent application of the rules would have denied it, but only when to do so would serve the demands of substantial justice and in the exercise of our equity jurisdiction. **Thus, for a party to seek exception for its failure to comply strictly with the statutory requirements for perfecting its appeal, strong compelling reasons such as serving the ends of justice and preventing a grave miscarriage thereof must be shown, in order to warrant the Court's suspension of the rules.** Indeed, the court is confronted with the need to balance stringent application of technical rules *vis-a-vis* strong policy considerations of substantial significance to relax said rules based on equity and justice.
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> The case at bench squarely meets the requisites postulated by the aforequoted rule. If respondents' right to appeal would be curtailed by the mere expediency of holding that they had belatedly filed their notice of

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45 Id. at 152.

46 G.R. No. 128421, January 26, 1998, 285 SCRA 49.

appeal, then this Court as the final arbiter of justice would be deserting its avowed objective, that is to dispense justice based on the merits of the case and not on a mere technicality. Needless to say, the peculiar circumstances attendant in this case strongly demands a review of the decision of the trial court. As aptly observed by the respondent court, to wit:

> "In this case, the one-day delay in filing the notice of appeal was due to an unforeseen illness of the receiving clerk Ronald Lapuz in the office of the General Counsel of petitioner NAPOCOR. As stated in the affidavit of said clerk, which was presented to the trial court, he received a copy of the Order of respondent judge dated August 2, 1996 at 4:54 p.m., Friday, August 23, 1996; since it was already almost 5:00 p.m., he placed the said order inside the drawer of his table together with some other documents, intending to deliver it to the handling lawyer, Atty. Collado, who had given him instructions to deliver immediately to his secretary any order on the case; he was unable to report for work the following Monday because of severe pain in the front jaw as a result of the extraction of three front teeth, and was absent for two days, August 26 and 27. When the Order was retrieved on August 27th, the notice of appeal was promptly filed in the afternoon, at 3:10 p.m., of the same day.
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> "The delay was properly explained and sufficiently justified; considerations of substantial justice and equity strongly argue against a rigid enforcement of the technical rules of procedure, considering not only that the delay was only for one day, and the petitioners have pleaded an unforeseeable oversight and illness on the part of the receiving clerk, as an excuse. More important, the decision sought to be appealed from awarded an enormous sum in the amount of P37,554,414.99, by way of damages arising from the rescission of the contract with private respondents, and legal and factual bases for the awards, and the 12% interest thereon, are being questioned, on the ground among others, that the amount awarded for unrealized profits ($1,325,703.68) was bigger than the amount prayed for in the complaint ($788,700.00) x x x, to insist that the one-day delay in filing the appeal despite the plausible reason adduced therefor is a 'fatal mistake' due alone to the negligence of counsel is to insist on a rigid application of the rules, which as repeatedly enunciated by the Supreme Court, should help secure, not override substantial justice.["]

Verily, the respondent court's pronouncement cannot be more emphatic in view of the instances wherein we allowed the filing of an appeal in certain cases where a narrow and stringent application of the rules would have denied it. Indeed, the allowance thereof would fully serve the demands of substantial justice in the exercise of the Court's equity jurisdiction. Thus, in *Castro vs. Court of Appeals*, and reiterated in the case of *Velasco vs. Gayapa, Jr.*, the Court stressed the importance and objective of appeal, to wit:

> "An appeal is an essential part of our judicial system. We have advised the courts to proceed with caution so as not to deprive a party of the right to appeal x x x and instructed that every party litigant should be afforded the amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities x x x.
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> "The rules of procedure are not to be applied in a very rigid and technical sense. The rules of procedure are used only to help secure, not override substantial justice x x x. Therefore, we ruled in *Republic vs. Court of Appeals* x x x that a six-day delay in the perfection of appeal does not warrant a dismissal. And again in *Ramos vs. Bagasao* x x x, this Court held that the delay of four (4) days in filing the notice of appeal and a motion for extension of time to file a record on appeal can be excused on the basis of equity."
>
> **The emerging trend in the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.**[47] (Emphasis and italics supplied; citations omitted)

The Court finds the grant of Dizon's Complaint manifestly erroneous because of her glaring failure to prove the basic element of tolerance. This manifest error impels the Court to overlook Sarmiento's procedural lapses and resolve the present case on the merits to serve the ends of substantive justice.

Dizon failed to prove the element of tolerance.

Foremost, it is well to recall the distinction between a question of law and one of fact. A question of law arises when there is doubt as to what the law is on a certain set of facts, while there is a question of fact when doubt arises as to the truth or falsity of the alleged facts.[48] Hence, once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact.[49]

As a rule, the scope of the Court's review in a petition filed under Rule 45 of the Rules of Court is limited only to errors of law.[50] However, this general rule is subject to recognized exceptions:

> (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) **when the judgment is based on a misapprehension of facts**; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to

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47 Id. at 54-57.

48 *Javelosa v. Tapus*, G.R. No. 204361, July 4, 2018, 870 SCRA 496, 508.

49 Id. at 508.

50 See *Tapayan v. Martinez*, G.R. No. 207786, January 30, 2017, 816 SCRA 178, 187.

> the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. x x[51] (Emphasis in the original)

As stated, a careful review of the records impels the Court to revisit the lower courts' factual findings with respect to the element of tolerance.

An action for unlawful detainer is a summary action which may be filed for the purpose of recovering possession against one who illegally withholds the same after the expiration or termination of his or her right to hold possession under any contract, express or implied.[52] To sustain an action for unlawful detainer, the plaintiff bears the burden of alleging and proving, by preponderance of evidence, the following jurisdictional facts:

> (i) initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;
>
> (ii) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
>
> (iii) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and
>
> (iv) within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.[53]

Here, Dizon made the following material allegations in her Complaint filed with the MeTC:

> 3. That [Dizon] is the registered owner of a parcel of land x x x situated at Lot 25[,] Block 4, Pasong Tamo, Sunny Ville Subdivision, Luzon Avenue, Quezon City, Island of Luzon as evidenced by [TCT No. RT-79553 (249562), a reconstituted title] issued by the Registry of Deeds of Quezon City x x x;
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> 4. That [Dizon] has continuously, religiously and dutifully pay (sic) the real property taxes of the [subject property] up to 1998 as evidence (sic) by herein attached tax receipts x x x;
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> 5. That sometime in 1989, [Sarmiento] requested the father of [Dizon], [Ang], for their temporary stay in the premises;

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51 Id. at 188, citing *Ambray v. Tsourous*, G.R. No. 209264, July 5, 2016, 795 SCRA 627, 636-637.
52 See *Javelosa v. Tapus*, supra note 48, at 509.
53 Id. at 510.

> 6. That x x x [Ang] tolerated such occupancy out of mercy and compassion to fellow human beings[;]
>
> 7. That from the start of the tolerated occupancy up to the demise of [Ang] in 1993, no amount of cash or goods as rental payment was ever received nor collected from [Sarmiento;]
>
> 8. That after the death of [Ang], [Dizon] and her attorneys-in-fact (sic) had intermittently but frequently appear (sic) in person before [Sarmiento] to ask them (sic) to vacate the [subject property]. But all of these polite pleas, including some episodes of resort to Barangay mediation assistance, were ignored x x x, [Sarmiento] still refuses to leave the [subject property;]
>
> 9. That in the interest of fair play and justice [Dizon] sent formal demands to vacate to [Sarmiento] through demand letters to vacate the [subject property] in the following modes:
>
> a. By registered mail posted on November 18, 1998, however it was returned to sender x x x, and
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> b. By [p]ersonal [s]ervice on January 6, 1999 and the same was received by one ROLAND ALLAN LOMENTIGAR on January 9, 1999.
>
> 10. That despite repeated demands and after almost three (3) months from receipt of the written demand, [Sarmiento] still refuse (sic) to vacate the land and its premises to the prejudice and detriment of [Dizon].[54]

In essence, Dizon claims that: (i) in 1989, her father Ang allowed Sarmiento to stay in the subject property; (ii) Ang tolerated Sarmiento's occupancy up until his death in 1993; (iii) after Ang's death, Dizon requested Sarmiento to vacate the subject property on several occasions, but the latter refused to heed her requests; (iv) on January 9, 1999, a formal demand to vacate was served upon Dizon through one Roland Allan Lomentigar thereby signaling the termination of Sarmiento's right of possession; (v) despite said formal demand to vacate, Sarmiento remains in the subject property; and (vi) as a consequence, Dizon filed the Complaint on March 17, 1999, months following the formal demand to vacate.

Collectively, these allegations make out an action for unlawful detainer on the basis of Ang's alleged tolerance. Nevertheless, these allegations cannot be taken as fact until they are duly proved by preponderance of evidence. In an action for unlawful detainer, there must be supporting evidence on record that would show when the defendants entered the property in dispute, who had granted them entry, and how entry was effected.[55] Bare allegations with respect to these circumstances are insufficient.[56]

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54 *Rollo*, pp. 177-178.

55 See *Echanes v. Hailar*, G.R. No. 203880, August 10, 2016, 800 SCRA 93, 103.

56 See id. at 103, 106.

Here, the sole evidence presented by Dizon to prove the fact of tolerance is the testimony of her attorney-in-fact Talaue.[57] However, said testimony became the subject of a complaint filed by General Recaredo charging Talaue of giving "False Testimony in Civil Cases" docketed as I.S. No. 01-11855. **In Talaue's Counter-Affidavit therein, he acknowledged that he did not have personal knowledge of the purported arrangement between Ang and Sarmiento and that his testimony was only based on Dizon's allegations in the Complaint.**[58] The relevant portion of the Counter-Affidavit reads:

> 4. On 13 November 2000, 2:00 pm, I testified in an ex-parte hearing before the [MeTC], testifying among others that [Dizon] is the registered owner of the subject lot and is the one paying the real property taxes of the said property; that [Ang] tolerated [Sarmiento] to stay and occupy the subject property x x x; that when demanded to vacate and surrender the premises, [Sarmiento] refuse (*sic*) to vacate the same; that [Sarmiento's] refusal to vacate and surrender the premises to [Dizon] had caused the latter to sustain untold damages; and other material allegations in the [C]omplaint;
>
> 5. In view of said testimony, I am now the respondent in the above-captioned case;
>
> 6. My testimonies (*sic*) were true and correct because these had been back-up (*sic*) and supported by documentary evidences (*sic*) duly marked and submitted for the consideration of the court and **were all based on the allegations of [Dizon] in the [C]omplaint for unlawful detainer against [Sarmiento]** x x x.[59] (Emphasis supplied; underscoring omitted)

Section 36, Rule 130 of the Rules of Court mandates that witnesses testify on the basis of personal knowledge, thus:

> SEC. 36. *Testimony generally confined to personal knowledge; hearsay excluded.* — A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules.

The provision is clear. A witness can testify only to those facts which one knows of his or her own personal knowledge, *i.e.*, which are derived from his or her own perception. Otherwise, such testimony would be hearsay.[60] In turn, jurisprudence defines hearsay evidence as "evidence not of what the witness knows himself [or herself] but of what he [or she] has heard from others."[61] As a general rule, hearsay evidence, whether objected to or not, cannot be given credence for it has no probative value.[62]

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57 See MeTC Decision, *rollo*, pp. 122-123.
58 See *rollo*, p. 216.
59 Id.
60 *People v. Masinag Vda. de Ramos*, G.R. No. 144621, May 9, 2003, 403 SCRA 167, 174.
61 Id. at 174-175.
62 *Arjonillo v. Pagulayan*, G.R. No. 196074, October 4, 2017, 841 SCRA 588, 596.

Talaue's testimony with respect to Ang and Sarmiento's purported arrangement and the circumstances which purportedly gave rise to the former's tolerance of the latter's occupation clearly constitutes hearsay considering that it was based not on Talaue's personal knowledge, but rather, on the allegations in Dizon's Complaint. Talaue's testimony is thus clearly inadmissible.

Despite being hearsay, the lower courts accorded more weight to Talaue's testimony due to Sarmiento's failure to mount a convincing defense, as she "presented no convincing proof of her continued possession of the subject property."[63] As held by the CA:

> [Sarmiento], on the other hand, has presented no convincing proof of her continued possession of the subject property. Her unsubstantiated, self-serving and bare allegation that she had been in adverse, peaceful and continuous possession of the lot in question in the concept of an owner, since 1979 or more than fifty (50) years cannot prevail over the certificate of title and tax receipts presented by [Dizon]. Bare allegations, unsubstantiated by evidence, are not equivalent to proof under our Rules. In the absence of any supporting evidence, that of [Dizon] deserves more probative value. x x x[64]

It must be emphasized, however, that in civil cases, the burden of proof is on the plaintiff to establish his or her case by a preponderance of evidence.[65] **The plaintiff must rely on the strength of his or her own evidence and not on the weakness of that of his or her opponent.**[66] Since Dizon claims to have the better right to possess the subject property pursuant to law, hers was the burden to establish all jurisdictional facts required by law.

Thus, in the absence of any other evidence to prove the jurisdictional fact of tolerance, Dizon's action for unlawful detainer necessarily fails.

Dizon's Torrens title does not automatically entitle her to summarily wrest possession from Sarmiento.

The Court recognizes that Dizon anchors her right of possession of the subject property on the reconstituted Torrens title issued in her favor. Nevertheless, it should be stressed that the sole 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."[67] Thus, even the owner of a registered property does not have the unbridled

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63 *Rollo*, p. 179.
64 Id.
65 See *Montañez v. Mendoza*, G.R. No. 144116, November 22, 2002, 392 SCRA 541, 547.
66 *Copuyoc v. De Sola*, G.R. No. 151322, October 11, 2006, 504 SCRA 176, 186.
67 *Belvis, Sr. v. Erola*, G.R. No. 239727, July 24, 2019, 910 SCRA 476, 496.

authority to immediately wrest possession from its current occupant.[68] The Court's ruling in *Javelosa v. Tapus*[69] (*Javelosa*) lends guidance:

> x x x [I]t must be stressed that the fact that the petitioner possesses a Torrens Title does not automatically give her unbridled authority to immediately wrest possession. It goes without saying that even the owner of the property cannot wrest possession from its current possessor. This was precisely the Court's ruling in *Spouses Muñoz v. CA*, *viz.*:
>
> > If the private respondent is indeed the owner of the premises and that possession thereof was deprived from him for more than twelve years, he should present his claim before the Regional Trial Court in an *accion publiciana* or an *accion reivindicatoria* and not before the Municipal Trial Court in a summary proceeding of unlawful detainer or forcible entry. For even if he is the owner, possession of the property cannot be wrested from another who had been in possession thereof for more than twelve (12) years through a summary action for ejectment.
> >
> > Although admittedly petitioner may validly claim ownership based on the muniments of title it presented, such evidence does not responsibly address the issue of prior actual possession raised in a forcible entry case. It must be stated that regardless of actual condition of the title to the property, the party in peaceable quiet possession shall not be turned out by a strong hand, violence or terror. Thus, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his prior possession, if he has in his favor priority in time, he has the security that entitles him to remain on the property until he is lawfully ejected by a person having a better right by *accion publiciana* or *accion reivindicatoria*. x x x[70] (Emphasis and underscoring omitted)

By electing to recover possession of the subject property through a summary action for unlawful detainer, Dizon placed upon herself the burden of proving the afore-cited jurisdictional facts by preponderance of evidence. **Dizon cannot be excused from this requirement by the mere fact that she holds a Torrens title over the subject property.**

In view of the foregoing, the Court finds it unnecessary to delve into the other issues raised in the Petition.

Conclusion

Lest there be any confusion, the Court emphasizes that this Decision does not prejudice Dizon's right to pursue all other remedies available to her

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68 See *Javelosa v. Tapus*, supra note 48, at 513-514.
69 Supra note 48.
70 Id. at 513-514.

as registered owner of the subject property. In this regard, the Court finds it appropriate to reiterate its final note in *Javelosa*:

> As a final note, an important caveat must be laid down. The Court's ruling should not in any way be misconstrued as coddling the occupant of the property, at the expense of the lawful owner. Rather, what this resolution seeks to impress is that even the legal owner of the property cannot conveniently usurp possession against a possessor, through a summary action for ejectment, without proving the essential requisites thereof. Accordingly, should the owner choose to file an action for unlawful detainer, it is imperative for him/her to first and foremost prove that the occupation was based on his/her permission or tolerance. Absent which, the owner would be in a better position by pursuing other more appropriate legal remedies. As eloquently stated by Associate Justice Lucas P. Bersamin in the case of *Quijano*, "*the issue of possession between the parties will still remain. To finally resolve such issue, they should review their options and decide on their proper recourses. In the meantime, it is wise for the Court to leave the door open to them in that respect. For now, therefore, this recourse of the petitioner has to be dismissed.*"[71] (Italics in the original)

WHEREFORE, premises considered, the Petition is **GRANTED.** The following issuances are hereby **REVERSED and SET ASIDE**:

1. The Resolutions dated May 30, 2017 and October 18, 2017 rendered by the Court of Appeals in CA-G.R. SP No. 149696;

2. The Decision dated August 17, 2016 of the Regional Trial Court of Quezon City, Branch 216 in Civil Case No. R-QZN-15-03876-CV; and

3. The Decision dated February 2, 2001 of the Metropolitan Trial Court of Quezon City, Branch 37 in Civil Case No. 37-22145.

Respondent Edita A. Dizon is hereby **DIRECTED** to respect petitioner Sally Sarmiento's peaceful possession of the subject property described as Lot 25, Block 4, Pasong Tamo, Sunny Ville Subdivision, Luzon Avenue, Quezon City and the improvements built thereon.

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

[71] Id. at 514-515.

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice
Chairperson

ROSMARI D. CARANDANG
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

DIOSDADO M. PERALTA
Chief Justice