



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SEVERINO P. BALMACEDA,
CARMEN M. BATOON,
MARK RONAN B.
BALMACEDA, ISIDRO U.
MONTILLA, ADORACION B.
DIAZ, MARISOL B. DIAZ,
PEDRO B. PASARE, ROSA B.
DIAZ, RIZALINA B. DIAZ,
DOMINADOR GIBA, JULME
BASE, FERNANDO FUENTES,
ARNOLD PORMIOS,
RODNEY FUENTES,
ERNESTO LALOG, AMOR
SUAREZ, REY JASPE, JOAN
FELICIANO, RANDY D.
FUENTES, LIZALYN
FUENTES, EDUARDO
DACION, MERLY L.
RELLON, NELLY ANDOG,
NELINDA MORIZOM
BULATAO, LEONARIE
SAPANZA, ARCIA J. HASHIM,
MARIA NAZARITA AVILA,
RONILO AGUILAR, REY M.
JUGADO, MARIO G.
BAVIERA, ALFRAN V.
LUMAJEN, MARGIELYN DE
PAZ, MILAGROS L.
DAQUIGAN, MARY ANN
RELLOSA, VILLAMORA F.
ANOS, EDWIN B. OCABAN,
JR., ELENA T. AQUIJO, BEN
M. MALTU, RAUL O.
CAECIDO, all are represented
by their Attorney-In-Fact,

G.R. No. 238712

Present:

LEONEN, J., *Chairperson*,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ, J., *JJ.*

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JACOBINA T. ALCANTARA,
who also represents herself as
petitioner,

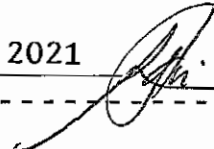
Petitioners,

- versus -

BASES CONVERSION AND
DEVELOPMENT
AUTHORITY, ARNEL
PACIANO D. CASANOVA,
MARCELO M. SERPA JUAN
and JOHN DOES,

Promulgated:

Respondents. May 12, 2021



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RESOLUTION

INTING, J.:

The Petition for Review¹ assails the Decision² dated October 11, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 140092. In the assailed Decision, the CA sustained the Decision dated October 10, 2014 of Branch 57, Regional Trial Court (RTC), Makati City affirming the Decision³ dated June 17, 2013 of Branch 64, Metropolitan Trial Court (MeTC), Makati City. The MeTC dismissed petitioners'⁴ complaint for forcible entry and damages.

¹ *Rollo*, pp. 5-35.

² *Id.* at 42-58; penned by Associate Justice Maria Filomena D. Singh with Associate Justices Ramon R. Garcia and Edwin D. Sorongon, concurring.

³ *Id.* at 126-135; penned by Acting Presiding Judge Dennis J. Rafa.

⁴ The following are the petitioners in this case: Severino P. Balmaceda, Carmen M. Batoon, Mark Ronan B. Balmaceda, Isidro U. Montilla, Adoracion B. Diaz, Marisol B. Diaz, Pedro B. Pasare, Rosa B. Diaz, Rizalina B. Diaz, Dominador Giba, Julme Base, Fernando Fuentes, Arnold Pormios, Rodney Fuentes, Ernesto Lalog, Amor Suarez, Rey Jaspe, Joan Feliciano, Randy D. Fuentes, Lizalyn Fuentes, Eduardo Dacion, Merly L. Rellon, Nelly Andog, Nelinda Morizom Bulatao, Leonarie Sapanza, Arcia J. Hashim, Maria Nazarita Avila, Ronilo Aguilar, Rey M. Jugado, Mario G. Baviera, Alfran V. Lumajen, Margielyn De Paz, Milagros L. Daquigan, Mary Ann Relloso, Villamora F. Anos, Edwin B. Ocaban, Jr., Elena T. Aquijo, Ben M. Maltu, Raul O. Caecido, all are represented by their Attorney-In-Fact, Jacobina T. Alcantara, who also represents herself, as petitioner.



Likewise being challenged is the CA Resolution⁵ dated March 27, 2018 denying the Motion for Reconsideration (of the Decision dated October 11, 2017).⁶

The Antecedents

In their Complaint⁷ for Forcible Entry and Damages with Prayer for Mandatory Injunction, petitioners made the following assertions against Bases Conversion and Development Authority (BCDA); then BCDA President and Chief Executive Officer, Arnel Paciano D. Casanova; and City Engineer of Taguig City, Marcelo M. Serpa Juan (collectively, respondents):⁸

2. [Petitioners] are legitimate occupants of the property described as Lot 3-A and Lot 3-B of [S]ubd. [P]lan, Psd-74138 being a portion of Parcel 3 PSU-2031 (GLRO) (LRC Rec No. 2484), situated in the Municipality of Makati, Province of Rizal x x x containing an area of 68,232 square meters and 71,749 square meters[,] respectively[,] or [a] total area of 139,981 square meters;

3. [Petitioners] occupied the afore-described property for more than thirty [30] years or less upon the consent of the registered owner, Agustina Huerva Alfabeto [Agustina], the grandmother of [petitioner Jacobina T. Alcantara] [Jacobina].

4. Upon the execution of the Deed of Waiver and Transfer of Rights by the grandmother of [Jacobina] in her favor, she likewise allowed her [co-petitioners] to occupy it and continue occupying it if they have been previously occupying the subject property;

5. The possession of [Jacobina] over the afore-described property was and is under [the] claim of ownership as the rights, interests and participation of her grandmother over the same was transferred to her via a Deed of Waiver and Transfer of Rights which was inscribed and annotated in her grandmother's Transfer Certificate of Title x x x;

6. While the [petitioners] were in peaceful and undisturbed possession of the subject property for more than three [3] decades x x x, sometime in April 2012[, BCDA,] in connivance with [the other respondents] and their cohorts forcibly entered/invaded the portion of the subject property [through] force, intimidation,

⁵ *Id.* at 79-88.

⁶ *Id.* at 59-78.

⁷ *Id.* at 157-166.

⁸ *Id.* at 158-159

threat, stealth or strategy by first sending notices to all [petitioners] therein denominated as 'Patalastas Ukol sa Paglikas [Tatlumpong (30) Araw Na Abiso]' requiring them to vacate and demolish their structures otherwise, [respondents] will take legal step to demolish their structures in accordance with RA 7279[, otherwise] known as Urban Development and Housing Act of 1992 x x x;

7. x x x To show force of their influence, power and authority, [respondents] again without any Court order bulldozed the road of the subject property over the objection and against the will of [petitioners] and prevent them from getting in and out of the portion of the subject property which were already bulldozed and fenced x x x

8. x x x [Jacobina] requested [respondents] to refrain from threatening and sending notices of ejectment to [petitioners but respondents] disregarded said letter and continued to forcibly enter/invade the other portion of the subject property thru intimidation, threat, strategy or stealth to the latter's great damage and prejudice. x x x⁹

The BCDA, on its end, countered¹⁰ that Jacobina's claim of ownership was fraudulent because the subject property is a military reservation since the 1950s as decreed by then President Carlos P. Garcia under Proclamation No. 423.¹¹ It also stressed that it is the lawful owner of the disputed property under Original Certificate of Title (OCT) No. 004¹² highlighting that:

"The tract of land covered by OCT No. 004 is only a portion of the Joint U.S. Military Advisory Group (JUSMAG) property, which, as a whole, constitutes roughly 39.99 hectares. On the other hand, the BCDA property from the JUSMAG tract of land comprises of 355,042 square meters and is covered by TCT Nos. 11481,¹³ 11482¹⁴ and OCT No. 004. The JUSMAG property, in turn, is just part of an even bigger property, the Fort William McKinley, later renamed as Fort Andres Bonifacio Military Reservation (FBMR), so constituted under Proclamation No. 423 on 12 July 1957."¹⁵

⁹ *Id.* at 159-161.

¹⁰ See Answer with Opposition to the Temporary Restraining Order Application, *id.* at 187-211.

¹¹ Reserving for Military Purposes of Certain Parcels of Public Domain in Pasig, Taguig, Parañaque in Rizal and Pasay City, approved on July 12, 1957.

¹² *Rollo*, pp. 298-299.

¹³ *Id.* at 294-295.

¹⁴ *Id.* at 296-297.

¹⁵ As culled from the assailed Court of Appeals Decision dated October 11, 2017; *id.* at 44-45.

According to the BCDA, TCT No. 340178¹⁶ in the name of Agustina was derived from TCT No. 258699, which, in turn, emanated from OCT No. 291 that had been cancelled already.¹⁷ The BCDA stressed that in fact, the Court had ruled that the BCDA has ownership over FBMR by virtue of RA 7227.¹⁸

In fine, the BCDA insisted that it did not forcibly enter the subject property since it is its legal owner and petitioners have no right over it as the sole basis for their claim was a title that originated from OCT No. 291 that had already been declared cancelled.

Ruling of the MeTC

On June 17, 2013, the MeTC dismissed¹⁹ the complaint for lack of merit. It emphasized that the TCT relied upon by petitioners traces its roots from OCT No. 291 which was registered on October 17, 1906. It added that OCT No. 291 was already cancelled and the land covered by it was conveyed and ceded to the Republic of the Philippines and later on, the same property was transferred to the BCDA by virtue of RA 7227.²⁰ It ruled that being the registered owner, the BCDA was entitled to the possession of the subject property because possession was one of the attributes of ownership.²¹

The MeTC also elucidated that respondents did not forcibly enter the property in question because they were authorized to extrajudicially and summarily evict petitioners pursuant to RA 7279.²²

Ruling of the RTC

On appeal, the RTC affirmed the MeTC Decision. It also denied petitioners' motion for reconsideration which prompted them to file a petition for review with the CA.²³

¹⁶ *Id.* at 300-301

¹⁷ *Id.* at 198.

¹⁸ Bases Conversion and Development Act of 1992, approved on March 13, 1992.

¹⁹ See Decision dated June 17, 2013 of Branch 64, Metropolitan Trial Court, Makati City, *rollo*, pp. 126-135.

²⁰ *Id.* at 130-131.

²¹ *Id.* at 133.

²² *Id.* at 133-135.

²³ *Id.* at 46.

Ruling of the CA

On October 11, 2017, the CA rendered the assailed Decision²⁴ affirming the Decision of the RTC.

The CA ratiocinated that considering that both parties presented their supposed titles over the subject land, it became incumbent upon the lower courts to include a provisional resolution of the ownership of the property, but only for the purpose of determining the issue of possession. It ruled that as between the two titles presented, the title of the BCDA is superior because at the time Ricardo sold the subject land to Agustina on January 30, 1958, the property was already declared part of the military reservation by PD 423 issued on July 12, 1957. Put in another way, because the sale between Ricardo and Agustina was subsequent to PD 423, wherein the subject property is already part of a military reservation zone (FBMR), then the sale between them is void.²⁵

The CA also stressed that the title from which petitioners based their ownership (TCT No. 340178) was void because it derived its existence from OCT No. 291 that pertained to a government property characterized as such since 1915. It added that petitioners could not feign ignorance that they were occupying a property that was included in areas declared as a military reservation zone because the title they relied upon indicated it to be so.²⁶

Finally, the CA ruled that the BCDA had the authority to enter the subject property and cause the demolition of the structure built thereon even without a court order pursuant to RA 7279.²⁷

On March 27, 2018, the CA denied²⁸ the Motion for Reconsideration filed by petitioners. Undaunted, they filed the instant Petition for Review.

²⁴ *Id.* at 42-58.

²⁵ *Id.* at 47-48.

²⁶ *Id.* at 51-52.

²⁷ *Id.* at 53-56.

²⁸ *Id.* at 157-166.

Issue

Did the CA correctly affirm the ruling of the RTC that sustained the MeTC Decision dismissing the case?

The Court's Ruling

The petition is bereft of merit.

Foremost, the issue of who between the parties are entitled to the material possession of the subject property involves factual matters which are beyond the ambit of a petition for review on *certiorari*. The Court is not a trier of facts and only questions of law may be raised in a Rule 45 petition. While there are exceptions to this rule, none of which was present here.²⁹ Added to this, the findings of facts of the trial courts, especially when affirmed by the CA, are conclusive and binding upon the Court, unless the case falls within any of the exceptions to the rule, which exceptions are, nonetheless, not established here.³⁰

Under the circumstances, the Court finds no cogent reason to disturb the uniform rulings of the MeTC, RTC, and CA dismissing the case for lack of merit.

More importantly, as underscored by the courts *a quo*, in *Acting Registrars of Land Titles and Deeds of Pasay City, Pasig and Makati, Metro Manila v. RTC, Br. 57, Makati, Metro Manila*,³¹ the Court had the occasion to explain that OCT No. 291 (the alleged title from which TCT No. 340178 relied upon by petitioners originated) had been conveyed to the United States of America and was eventually ceded to the Republic of the Philippines; and resultantly, OCT No. 291 was cancelled upon the final order of the then Court of Land Registration. Thus, the Court took judicial notice that the land covered by OCT No. 291 covered government property, to wit:

I.

Is OCT No. 291 still valid and subsisting?

²⁹ See *Pascual v. Burgos, et al.*, 776 Phil. 167, 185 (2016).

³⁰ See *Baleares, et al. v. Espanto*, 832 Phil. 963, 970 (2018).

³¹ 263 Phil. 568 (1990).

The Court takes judicial notice of the fact that the hectareage embraced by TCT No. 192 (OCT No. 291) consists of Government property. Three things persuade the Court: (1) the decrees of Proclamations Nos. 192 and 435; (2) the incontrovertible fact that OCT No. 291 has been duly cancelled; and (3) the decision of the Court of Appeals in AC-G.R. CV No. 00293, affirming the decision of Hon. Gregorio Pineda, Judge of the then Court of First Instance of Rizal, Branch XXI, in LRC (GLRO) Rec. No. 2484, Case No. R-1467 thereof, entitled "In Re: Issuance of Owner's Duplicate of Certificate of Title No. 291," as well as our own Resolution, in G.R. No. 69834, entitled "*Domingo Palomares, et al., v. Intermediate Appellate Court.*"³²

In the decretal portion of the decision of the same case, the Court specified that "[OCT] No. 291 is declared duly cancelled"³³ which only means that no further and subsequent conveyance can be made on the basis of said title.

Moreover, jurisprudence has repeatedly explained that a military reservation cannot be registered or be a subject of a private disposition or appropriation unless it will be declared alienable and disposable land of public domain.³⁴ In *Rep. of the Phils. v. Southside Homeowners Ass'n., Inc.*³⁵ (*Southside Homeowners*), the Court ruled that the disputed land therein was and still part of FBMR and therefore, inalienable and beyond the commerce of man.

Interestingly, like the land in *Southside Homeowners*, the property subject of the present case involves a parcel of land which is a "portion of Parcel 3 PSU-2031." Evidently, the subject property remains part of a military reservation and cannot be placed under private appropriation or disposition. To be sure, as decreed by the Court in *Southside Homeowners*, the land that constitutes Parcel No. 3 of Plan PSU 2031 located within FBMR is reserved for military purposes and courts can and should take judicial notice of the fact of reservation as embodied under Proclamation No. 423.

On the basis of all the foregoing, the Court agrees with the findings of the lower courts that the purported sale of the property in

³² *Id.* at 576.

³³ *Id.* at 584.

³⁴ See *Rep. of the Phils. v. Southside Homeowners Ass'n., Inc.*, 534 Phil. 8, 22-23 (2006).

³⁵ *Id.*

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question from Ricardo to Agustina was void as it involved a government property that cannot be placed under private appropriation. Consequently, the dismissal of the case is warranted because petitioners anchor their supposed right to possess the property from the title of Agustina which, as discussed, is void.

Meanwhile, being its owner, the BCDA is entitled to possess and can evict petitioners from the subject property.

To stress, in *Samahan ng Masang Pilipino sa Makati, Inc. v. Bases Conversion Dev't. Authority*,³⁶ the Court confirmed the ownership of the BCDA over the land covered by FBMR. It also decreed that under RA 7227, the BCDA has the mandate to take over and administer the FBMR. Its ownership includes the right to take possession which is a direct consequence and attribute of ownership.

In addition, pursuant to Section 28(b),³⁷ RA 7279, the BCDA is permitted to extrajudicially cause the eviction of petitioners and the demolition of the structures they built on the property. Such is the case since eviction and demolition are necessary for the implementation of government infrastructure projects. The Court also quotes with approval the observation of the CA that the BCDA still gave prior notice and assistance to petitioners despite not being required to do so, to wit:

It is likewise worth noting that the BCDA, though not required under [RA] 7279, still extended the courtesy to notify petitioners of the impending demolition, but they refused to receive such notification. The BCDA even went to the extent of offering relocation and financial aid to those who will be affected by the said demolition. There can thus be no shortcoming, procedural or substantive, that may be attributed to the BCDA in effecting the demolition on the subject property as it was merely exercising its rights as the registered owner of the subject property.³⁸

³⁶ 542 Phil. 86 (2007).

³⁷ Section 28(b) of Republic Act No. 7279 provides:

Section 28. Eviction and Demolition. — Eviction or demolition as a practice shall be discouraged. Eviction or demolition, however, may be allowed under the following situations:

x x x

(b) When government infrastructure projects with available funding are about to be implemented;

x x x

³⁸ *Rollo*, p. 56.

All told, the CA properly affirmed the ruling of the RTC, which sustained the MeTC Decision dismissing the case for lack of merit.

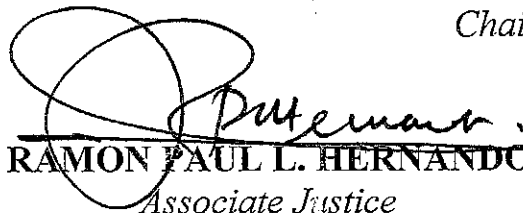

WHEREFORE, the petition is **DENIED**. The Decision dated October 11, 2017 and the Resolution dated March 27, 2018 of the Court of Appeals in CA-G.R. SP No. 140092 are hereby **AFFIRMED**.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


RAMON PAUL L. HERNANDO 
Associate Justice **EDGARDO L. DELOS SANTOS**
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

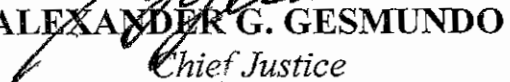
ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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

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