



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 1, 2019** which reads as follows:*

**“G.R. No. 243103 (MARIE PAZ D. GONZALES, Petitioner, v. USHIO REALTY AND DEVELOPMENT CORPORATION, Respondent.)** The Court dismisses this appeal for failure of the petitioner to show that the Court of Appeals (CA) erred in promulgating its June 29, 2018 Decision<sup>1</sup> and November 6, 2018 Resolution,<sup>2</sup> whereby the CA reversed the August 8, 2016 Decision<sup>3</sup> of the Regional Trial Court (RTC) Branch 98, Quezon City which in turn dismissed the respondent’s complaint for lack of cause of action.

The Court sees no cogent reason to depart from the CA's findings of fact. In *Gios-Samar, Inc. v. Department of Transportation and Communications*,<sup>4</sup> We have emphasized that this Court is not a trier of facts. As long as the factual findings of the CA are not arbitrary or unsupported by evidence and their conclusions were arrived at after serious judicial scrutiny, there is no reason for this Court to go beyond its function and make its own findings of certain vital facts, especially on the basis of the conflicting claims of the parties without the evidence being properly before it.

At any rate, the CA correctly found that the complaint<sup>5</sup>

- over – four (4) pages ...

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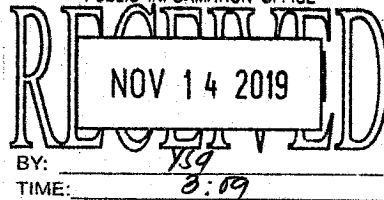
<sup>1</sup> *Rollo.* at pp. 7-17; penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Nina G. Antonio-Valenzuela and Germano Francisco D. Legaspi, concurring.

<sup>2</sup> *Id.* at pp. 18-23; penned by Associate Justice Priscilla J. Baltazar-Padilla with Associate Justices Nina G. Antonio-Valenzuela and Germano Francisco D. Legaspi, concurring.

<sup>3</sup> *Id.* at pp. 211-221; penned by Presiding Judge Marilou D. Runes-Tamang, MNSA.

<sup>4</sup> G.R. No. 217158, March 12, 2019.

<sup>5</sup> *Rollo.* pp. 81-83.



sufficiently alleged the jurisdictional facts<sup>6</sup> to support an action for unlawful detainer. The respondent is the registered owner of the subject property, having bought the same from the Bank of Commerce (BOC).<sup>7</sup> Being the registered owner, the respondent allowed the petitioner to continue with her possession of the subject property by sheer tolerance considering that there were pending cases between her and the BOC. Such possession became illegal upon the respondent's repeated demands to vacate against the petitioner. However, the petitioner remained in possession and deprived the respondent from possession and enjoyment of the property. This prompted the respondent to send the final demand letter on January 6, 2013 and eventually filed the unlawful detainer case on July 5, 2013. Since the reckoning of the one-year prescriptive period to file an unlawful detainer case should be determined from the last demand against the defendant<sup>8</sup> and not the date of failure to redeem the property, the complaint was filed within the prescriptive period.

Furthermore, the petitioner's claim that the respondent's tolerance was allegedly not present from the very beginning of petitioner's possession lacks persuasive force. The issue is factual in nature and not within the ambit of this Court's review. At any rate, the case for unlawful detainer can be resolved without delving into the issue of the legality of title or acquisition by the vendee respondent. Thus, the issue as to the manner of acquisition by the respondent of the subject property did not divest the MTC of its jurisdiction over the case.

Lastly, a writ of possession case, where the respondent joined BOC, shall not bar an action for unlawful detainer considering that the

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<sup>6</sup> A complaint sufficiently alleges a cause of action for unlawful detainer if it recites the following:

(1) initially, possession of property by the defendant was by contract with or by tolerance of the plaintiff;

(2) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;

(3) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment thereof; and

(4) within one year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment. (*Romullo v. Samahang Magkakatibahay ng Bayanihan Compound Homeowners Association, Inc.*, 646 Phil. 699-709 [2010])

<sup>7</sup> *Rollo*, p. 12.

<sup>8</sup> Unlawful detainer ... The action must be brought within one year from the date of last demand; and the issue in said case is the right to physical possession. (*Romullo v. Samahang Magkakatibahay ng Bayanihan Compound Homeowners Association, Inc.*, 646 Phil. 699-709 [2010]).

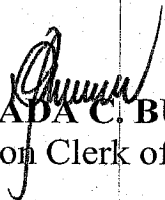
issue in the latter only involved possession *de facto*.<sup>9</sup>

**WHEREFORE**, the Court **DENIES** the petition for review for being unmeritorious; **AFFIRMS** the June 29, 2018 decision and November 6, 2018 resolution of the Court of Appeals (CA) in CA-G.R. SP No. 148958; and **ORDERS** the petitioner to **PAY** costs of suit.

The petitioner's manifestation with motion to suspend proceedings, praying to suspend the disposition of this case for reasons stated therein, pending the outcome of the case entitled "*Marie Paz Del Pilar Gonzales vs. Ushio Realty and Development Corporation, Traders Royal Bank, Bank of Commerce and The Registry of Deeds of Quezon City*", docketed as Civil Case No. R-QZN 16-06263-CV and still pending before the Regional Trial Court of Quezon City; and the petitioner's compliance with the Resolution dated February 4, 2019, submitting the thereto attached duplicate original copy of the assailed June 29, 2018 Decision of the Court of Appeals as Annex "U" of the petition for review on certiorari, are both **NOTED**.

**SO ORDERED.**" *Carandang, J., on official leave.*

Very truly yours,

  
LIBRADA C. BUENA  
Division Clerk of Court

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<sup>9</sup> The pendency of a writ of possession case where ownership is concededly the principal issue before the Regional Trial Court does not preclude nor bar the execution of the judgment rendered in an unlawful detainer suit where the only issue involved is the material possession or possession *de facto* of the land under litigation. Such action which involves the title over the premises is entirely independent from unlawful detainer. The judgment of the MTC is *res judicata* as to the issue of possession *de facto* but is not conclusive as to the title ownership. (*Heirs of Guballa, Sr. v. Court of Appeals*, 250 Phil. 519-541 [1988]).

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Court of Appeals (x)  
Manila  
(CA-G.R. SP No. 148958)

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Regional Trial Court, Branch 98  
1100 Quezon City  
(Civil Case No. R-QZN-15-08267  
-CV)

The Hon. Presiding Judge  
Metropolitan Trial Court, Branch 37  
1100 Quezon City  
(Civil Case No. 13-01938)

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