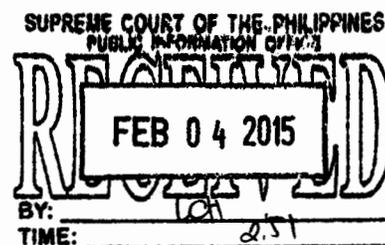




Republic of the Philippines  
Supreme Court  
Manila  
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 3, 2014** which reads as follows:*

**“G.R. No. 214142 – NIDA FERNANDEZ AND AZUCENA ZAFECO, Petitioners v. CICERIO DOLORES, AS ONE OF THE HEIRS OF REYNALDO DOLORES, Respondent.-** The petitioners’ motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision<sup>1</sup> and Resolution<sup>2</sup> dated 27 March 2014 and 28 August 2014, respectively, of the Court of Appeals in CA-G.R. SP. No. 128697.

This case stemmed from a **Complaint for Unlawful Detainer with Damages** filed by Reynaldo Dolores (Reynaldo-now deceased) against herein petitioners Nida Fernandez (Nida) and Azucena Zafeco (Azucena), together with Ramil Camacho (Ramil), Gerry Gianan (Gerry) and Orlando Dayok (Orlando), before the Municipal Trial Court (MTC) of Virac, Catanduanes, docketed as Special Civil Action No. 720.<sup>3</sup>

In his Complaint, Reynaldo alleged that: (1) he is a co-owner of a parcel of land located in *Barangay Bigaa*, Virac, Catanduanes, with an area of 5,051 square meters, covered by Transfer Certificate of Title (TCT) No.

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<sup>1</sup> Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Apolinario D. Bruselas, Jr. and Eduardo B. Peralta, Jr., concurring. *Rollo*, pp. 32-44.  
<sup>2</sup> Id. at 46-47.  
<sup>3</sup> Court of Appeals Decision dated 27 March 2014. Id. at 33.

11693 (subject property), registered in the name of the Heirs of Rosalinda Arcilla-Dolores, namely: Reynaldo, Nery, Milagros, herein respondent Cicerio, and Cilinia, all surnamed Dolores; (2) petitioners, as well as Ramil, Gerry and Orlando, were staying on a portion of the subject property and their occupations of their respective lots were by mere tolerance; and (3) demands to vacate the subject property were made but petitioners with Ramil, Gerry and Orlando, refused to do so.<sup>4</sup>

Petitioner Nida and Orlando filed their separate Answers offering the same defense that they purchased their respective lots from Lito Gianan (Lito), the attorney-in-fact of the Heirs of Marcelo Gianan, who are the alleged rightful owners of the subject property. They also averred that the Verification and Certification against Forum Shopping of Reynaldo's Complaint failed to disclose the pending Reversion Case involving the subject property filed before the Department of Environment and Natural Resources (DENR) by the Heirs of Marcelo Gianan against the Heirs of Guillermo G. Arcilla. On the other hand, Gerry filed a Motion to Dismiss for Lack of Jurisdiction and/or Answer *Ad Cautelam* asking, among others, the dismissal of Reynaldo's Complaint for failure to aver the required jurisdictional facts essential to sustain the case for unlawful detainer.<sup>5</sup>

On 28 June 2012, the MTC rendered a Decision<sup>6</sup> in favor of Reynaldo and ordered petitioners, Ramil, Gerry and Orlando to vacate the subject property.

Aggrieved, petitioners, together with Ramil, Gerry and Orlando, appealed the MTC Decision to the Regional Trial Court (RTC) of Virac, Catanduanes, and the case was docketed as Civil Case No. 2306. Pending appeal, however, Reynaldo died. Thus, he was substituted by one of his heirs, respondent Cicerio.

In a Decision<sup>7</sup> dated 15 November 2012, the RTC reversed the MTC Decision and declared that the remedy of unlawful detainer was improper. Respondent moved for its reconsideration but it was denied in an Order<sup>8</sup> dated 25 January 2013.

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<sup>4</sup> Id. at 33-34.

<sup>5</sup> Id. at 34.

<sup>6</sup> Penned by Acting Presiding Judge Arnel P. Cezar. Id. at 73-87.

<sup>7</sup> Penned by Presiding Judge Lelu P. Contreras. Id. at 61-70.

<sup>8</sup> Id. at 71-72.

On further appeal to the Court of Appeals, the latter, in its now questioned Decision, reversed and set aside the RTC Decision and Order. Accordingly, it ordered petitioners, Gerry, Orlando and all other persons claiming rights under them to vacate the premises and to deliver the peaceful possession thereof to respondent. Meanwhile, the Complaint against Ramil was dismissed for failure to state a cause of action.

Petitioners' Motion for Reconsideration of the above-mentioned decision was similarly denied in the now assailed Resolution.

Hence, this Petition raising the lone issue of *whether the Court of Appeals erred in granting the Petition for Review, and in finding that the Complaint of the respondent is sufficient to support a cause of action for unlawful detainer.*<sup>9</sup>

**This Court resolves to DENY the Petition.**

Primarily, this Court observed that petitioners' defense against the unlawful detainer case filed against them is ownership of the subject property, which can be litigated in a proper case. Moreover, as aptly held by the Court of Appeals:

x x x It is observed that the evidence adduced by the [herein petitioners] constitutes a collateral attack of [herein respondent's] title. This is not allowed. It is a settled rule that a Torrens Certificate of Title is indefeasible and binding upon the whole world unless and until it has been nullified by a court of competent jurisdiction. A certificate of title cannot be subject of a collateral attack and can be altered, modified or cancelled only in a direct proceeding in accordance with law. Therefore, the question on the validity of the title (whether or not it is fraudulently issued) raised by the [petitioners] cannot be covered by the unlawful detainer case but can only be tackled in a direct action instituted for that purpose.<sup>10</sup>

Now, on whether the Complaint is sufficient to support a cause of action for unlawful detainer, this Court agrees with the findings of the Court of Appeals, thus:

In this case, the complaint shows that: (1) [herein respondent] is a co-owner of a parcel of land located at Brgy. Bigaa (formerly Calatagan), Municipality of Virac, Province of Catanduanes, containing an area of x x x (5,051) square meters, covered by TCT No. 11693; (2) [herein petitioners, Ramil, Gerry and Orlando] are staying at a portion of the subject property by

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<sup>9</sup> Petition for Review on *Certiorari*. Id. at 17-18.

<sup>10</sup> Court of Appeals Decision dated 27 March 2014. Id. at 40.

tolerance of the [respondent] and his predecessors-in-interest; (3) [respondent] withdrew such tolerance by sending [petitioners, Ramil, Gerry and Orlando] demand letters to vacate the subject property but they refused to leave; and (4) the complaint was filed on [20 October 2010], one year from the date of receipt of the last demand sent to [petitioners, Ramil, Gerry and Orlando]. From the foregoing, the complaint successfully demonstrates the series of events that justify a case for unlawful detainer. Succinctly, [petitioners, Ramil, Gerry and Orlando's] possession by tolerance of the [respondent] is lawful but it became illegal after the demands to vacate the subject property were sent to [petitioners, Ramil, Gerry and Orlando] who refused to comply, thus[,] the filing of the complaint for unlawful detainer.

Nonetheless, it is noted that the case against [Ramil] cannot prosper as there is no proper showing when he received the demand letter to vacate sent by [respondent]. The date of receipt is an essential element as it is the reckoning point to determine whether the complaint was filed within the one (1) year period provided by the rules.

x x x x

Here, the complaint is shown to be sufficient to support a cause of action for unlawful detainer. This is in effect also vests the MTC with the jurisdiction to take cognizance of the case.<sup>11</sup>

**WHEREFORE**, finding no reversible error in the Decision and Resolution of the Court of Appeals in CA-G.R. SP. No. 128697 dated 27 March 2014 and 28 August 2014, respectively, the instant Petition is hereby **DENIED**.

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court *m/v/g*  
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- over -

<sup>11</sup> Id. at 38 and 40.



The Hon. Presiding Judge  
Regional Trial Court, Br. 43  
Virac, Catanduanes 4800  
(Civil Case No. 2306)

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