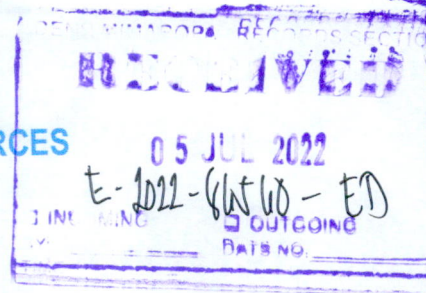




Republic of the Philippines  
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES  
**COMMUNITY ENVIRONMENT AND NATURAL RESOURCES**  
PUERTO PRINCESA CITY  
South National Highway, Bgy. Sta. Monica, Puerto Princesa City  
TEL Fax No. (048) 717-0702  
Email Address: cenropuertoprincesa@denr.gov.ph



May 31, 2022

**Subject: Reference Code No. DENR-OCO-OSEC-2022-001381**  
**Re: Letter from Ms. Mia Vanessa Reyes and Mr. John Paul Reyes**  
**Seeking Assistance On the Investigation of a Claimed Land**  
**Title Over a Parcel of Land in Bgy. Sta. Lourdes, PPC**

**Ms. Mia Vanessa Orboc Reyes**  
**and Mr. John Paul Gatzie Reyes**  
Purok Maligaya, Bgy. Sta. Lourdes  
Puerto Princesa City

**Dear Sir/Madam:**

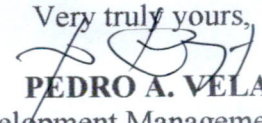
Environmental greetings!

This has reference to your letter dated January 28, 2022 addressed to Senator Christopher Lawrence "Bong" Go which was referred by his Chief of Staff to the Office of the then DENR Secretary Roy A. Cimatu on April 05, 2022 down to this Office per PENRO Memorandum dated May 11, 2022 seeking appropriate actions relative to a parcel of land in Purok Maligaya, Bgy. Sta. Lourdes, Puerto Princesa City claiming that your parents have been occupying and cultivating the subject lot since 1956 and allegedly Mr. Benito Marcelo tried to seize/grab it through presenting title with OCT No. G-643 for which the Registry of Deeds in Puerto Princesa, Register of Deeds in Palawan and the Land Management Bureau (LMB) purportedly denied such title exists.

Relative thereto, on May 22, 2022 this Office requested a certified copy of OCT No. G-643 from the City Register of Deeds and the said certified copy was received by this Office on May 23, 2022, hence **title exist**. Likewise, a Decision dated August 11, 2016 was rendered by the RTC-Branch 95 granting the petition of Cecilia Marcelo, daughter-in-law of Benito Marcelo by ordering the Register of Deeds of Puerto Princesa City to replace the Owner's Duplicate Copy of Original Certificate of Title No. G-643 in the name of Benito Marcelo, Jr. which shall contain a memorandum of the fact that it is issued in the place of the destroyed duplicate certificate.

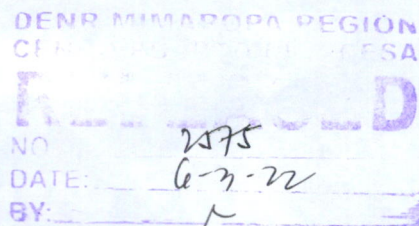
Further, a Decision dated November 4, 2004 was rendered by the Municipal Trial Court on Civil Case No. 1597 in favour of the plaintiffs (Hrs. of Benito Marcelo, Jr. Plaintiffs vs Sps. Melbert Reyes and Angelita Reyes, et al, Defendants) and the said MCTC Decision dated November 4, 2004 was already **AFFIRMED** by the Regional Trial Court Decision dated February 17, 2020.

Hope you are properly informed.

Very truly yours,  
  
**PEDRO A. VELASCO**  
Development Management Officer IV  
OIC-CENRO

Copy Furnished:

1. Senator Christopher Laurence "Bong" T. Go  
5<sup>th</sup> Floor, GSIS Bldg. Jose Diokno Blvd.  
Financial Center, Pasay City
2. DENR Action Center, Manila
3. The DENR-MIMAROPA Region
4. The PENRO, PPC
5. Ms. Cecilia Marcelo







Republic of the Philippines  
Department of Environment and Natural Resources  
MIMAROPA REGION  
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE

May 11, 2022

MEMORANDUM

TO

The Community Environment and  
Natural Resources Officer  
Puerto Princesa City

FROM

The Provincial Environment and  
Natural Resources Officer

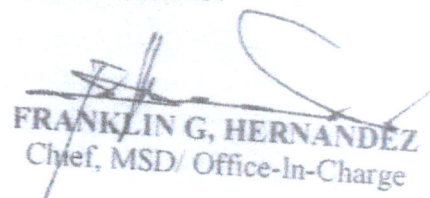
SUBJECT

REFERENCE CODE NO. DENRCO-OSEC-2022-001381 RE:  
LETTER FROM MS. MIA VANESSA REYES AND MR.  
JOHN PAUL REYES SEEKING ASSISTANCE ON THE  
INVESTIGATION OF A CLAIMED LAND TITLE OVER A  
PARCEL OF LAND IN BGY. STA. LOURDES, PUERTO  
PRINCESA CITY

Referred is the memorandum of the Head, DENR Action Center dated May 4, 2022 instructing to conduct immediate investigation relative the request for investigation of Ms. Mia Vanessa Reyes, et.al through the Office of Senator Christopher Lawrence "Bong" T. Go on the alleged land claim and conflict against the OCT No G-643 issued to Benito Marcelo.

Please for strict compliance in accordance to existing policies informing direct the party concerned on the result of action copy furnish higher Offices for monitoring and record purposes.

For the PENRO:

  
FRANKLIN G. HERNANDEZ  
Chief, MSD/ Office-In-Charge

Copy furnished:

The Head, DENR Action Center  
Visayas Avenue, Diliman, Quezon, City  
TSD-RPS DRN 2022-3883/lmo

DENR-PALAWAN  
PENRO-RECORDS  
**RELEASED**

By \_\_\_\_\_  
Date: \_\_\_\_\_ CN. 22-3883





Republic of the Philippines  
Department of Environment and Natural Resources  
Visayas Avenue, Diliman, Quezon City  
Tel Nos. (632) 8929-66-26/28; 8929-6635/8929-3618/8929-4028  
IP Phone Trunkline No. 8988-3367

**MEMORANDUM**

DENR PENRO  
PALAWAN RECORDS  
**RECEIVED**

BY: *[Signature]*  
DATE: *05-06-2022* *22 383*

TO : The PENR Officer  
DENR Palawan, Region IV B - MIMAROPA  
Brgy. Sta. Monica, Pto. Princesa City, Palawan

FROM : The Head, DENR Action Center/Hotline

SUBJECT : **REFERENCE CODE NO. DENRCO-OSEC-2022-001381 RE: LETTER FROM MS. MIA VANESSA REYES AND MR. JOHN PAUL REYES SEEKING ASSISTANCE ON THE INVESTIGATION OF A CLAIMED LAND TITLE OVER A PARCEL OF LAND IN BRGY. STA. LOURDES, PUERTO PRINCESA, PALAWAN**

DATE : May 4, 2022

Respectfully referred herein letter sent thru email dated April 05, 2022, coursed thru the Office of the DENR Secretary, bearing Reference Code No. **DENRCO-OSEC-2022-001381**, and conveyed to the DENR Action Center/Hotline from Mr. Gregorio Angelo C. Villar, Chief of Staff of the Office of Senator Christopher Lawrence "Bong" T. Go, 5<sup>th</sup> Flr. GSIS Bldg., Jose Diokno Blvd., Financial Center, Pasay City endorsing the letter of Ms. Mia Vanessa Orboc Reyes and Mr. John Paul Gatzie Reyes of Purok Maligaya, Brgy. Sta. Lourdes, Puerto Princesa dated 28 January 2022 pertaining to their request seeking assistance to investigate the claimed land title of a certain Mr. Benito Marcelo, Jr. over a parcel of land in Purok Maligaya, Brgy. Sta. Lourdes, Puerto Princesa. Mr. and Ms. Reyes claim that their parents have been occupying and cultivating the subject lot since 1956, however, 15 years later, Mr. Marcelo allegedly tried to seize/grab it through presenting a title with OCT No. G-643 – for which the Registry of Deeds in Puerto Princesa, Registry of Deeds in Palawan, and the Land Management Bureau (LMB) purportedly denied that such title exists. Hence, the requesting party seeks for further appropriate actions on the matter, consistent with existing laws, rules and regulations to process their titling application and to grant them their rightful proprietorship over the subject lot.

Kindly inform directly the requesting party of action taken in this regard furnishing this Office for monitoring/reference purposes. Expeditious action is requested in accordance with the provisions of Republic Act No. 11032, otherwise known as the Ease of Doing Business and Efficient Government Service Delivery Act of 2018 as implemented and enforced by the Anti-Red Tape Authority. Please be reminded that failure to timely respond to the public's concern shall be ground for administrative sanctions under existing laws and regulations.

For immediate attention, please.

Copy furnished:

The Undersecretary USEC for Field Operations and Environment  
DENR Region IV B MIMAROPA, 1515 L & S Building, Roxas Boulevard,  
Ms. Mia Vanessa Orboc Reyes and Mr. John Paul Gatzie Reyes,  
Purok Maligaya, Brgy. Sta. Lourdes, Puerto Princesa, Palawan

*[Signature]*  
MERLINDA **DENR PALAWAN**  
**RELEASED**  
THROUGH E-MAIL

EMAILED TO: *[Signature]*  
E-MAILED BY: *[Signature]*  
DATE: *05-06-22* TIME: *6:07 am*



THE REGISTERED OWNER IS REMINDED TO UPGRADE THE "PAPER TITLE" TO "COMPUTERIZED TITLE" FOR FASTER TRANSACTIONS.

# Original Certificate of Title

CERTIFICADO ORIGINAL DE TITULO

No. 8792

OFFICE OF THE REGISTER OF DEEDS FOR THE PROVINCE OF  
OFICINA DEL REGISTRADOR DE TITULOS DE LA PROVINCIA DE

Entered, in accordance with section 122 of Act No. 496, of the Philippine Commission, pursuant to a patent issued by the President of the Philippines,  
Inscrito, de conformidad con el artículo 122 de la Ley Núm. 496, de la Comisión Filipina, en virtud de una concesión otorgada por el Presidente de Filipinas,  
dated or  
fechada en  
on the  
de  
day of  
del año de mil novecientos  
and spread in the records of the Bureau of Lands, as follows:  
y inscrita en los registros de la Oficina de Tierras, como sigue:

## "United States of America"

Commonwealth of the Philippines

Department of Agriculture and Commerce

Bureau of Lands

Manila

## Homestead Patent

SEPT. 10 - HOMESTEAD

TO ALL WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, it appears that pursuant to the provisions of Chapter IV of Act No. 2874 of the Philippine Legislature, and the Acts supplemental thereto, governing the homesteading of portions of the public domain, the claim of  
has been established and duly consummated in conformity with law for a tract of approximately twelve hundred and thirty (1230) square meters of land situated in the  
Barrio of  
Municipality of  
Province of  
on the island of  
Philippines, containing an area of  
square meters, the same being the  
plot of the survey thereof on file in the Bureau of Lands, Manila, and described on the back hereof:

NOW, THEREFORE, KNOW YE, That by authority of the Constitution of the Philippines, and in conformity with the provisions thereof and of the aforesaid Act No. 2874, and the Acts supplemental thereto, there is hereby granted unto the said  
the tract of public land above described.

TO HAVE AND TO HOLD the said tract of land, with the appurtenances thereto of right belonging, unto the said  
and to  
heirs and assigns forever, subject to the provisions of sections 125, 126, and 127 of Act No. 2874 of the Philippine Legislature, as amended,  
which provide that except in favor of the Government or any of its branches, units, or institutions, or legally constituted banking corporations, the land hereby  
acquired shall be inalienable and shall not be subject to encumbrance, or a period of five (5) years from the date of this patent, and shall not be liable for the  
satisfaction of any debt contracted prior to the expiration of that period; that it shall not be encumbered, alienated, or transferred to any corporation, association,  
partnership, or to any person not qualified to acquire public lands under the said Act and its amendments; and that except with the consent of the grantee and the  
approval of the Secretary of Agriculture and Commerce and solely for commercial, industrial, educational, religious or charitable purposes or for a right of way,  
no corporation, association or partnership may acquire or have any right, title, interest or property right whatsoever in the said land; and subject, finally, to all  
conditions and public easements and servitudes recognized and prescribed by law, especially those mentioned in sections 105, 106, 109, 110, 111, and 112 of Act No. 2874  
of the Philippine Legislature, as amended.

IN TESTIMONY WHEREOF, and by authority of the United States of America and of the Commonwealth

of the Philippines, I, President of the Philippines,

have caused these presents to be made patent and the seal of the Commonwealth of the Philippines to

be hereunto affixed.

Given under my hand at the City of Manila on this, the day of

in the year of our Lord one thousand nine hundred and

del año de nuestro Señor de mil novecientos

COUNTERSIGNED:

REPRADO

Secretary of Agriculture and Commerce

Registrador de Tierras

Recorded in the Bureau of Lands, Vol. Page

Transcribed in the "Legislation Book" for the Province of

this day of

thousand hundred and

del año de mil novecientos

Official of the Bureau of Lands

Official of the Bureau of Lands

Official of the Bureau of Lands

Official of the Bureau of Lands

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Official of the Bureau of Lands

GOVERNMENT COPY • GOVERNMENT COPY • GOVERNMENT COPY

This is a Certified True Copy of OCT G-643 on file at Registry of Deeds of Puerto Princesa City. This consists of 4 page(s) and does not require a manually affixed signature pursuant to R.A. No. 8792. Printed at Registry of Deeds of Puerto Princesa City. Requested By: PEDRO A. VELASCO/ ELIZA B ABOROT.

Ref. No. : 2022003031 OR No. : 1025065986



Annex "A"  
8/11/

Republic of the Philippines  
REGIONAL TRIAL COURT OF PALAWAN  
Fourth Judicial Region  
Branch 95  
Roxas, Palawan

HEIRS OF BENITO MARCELO JR.  
Namely: ALIVIA C. MARCELO; MA.  
ELENA M. HAGEDORN; BENITO C.  
MARCELO III; BENJAMIN  
MARCELO; MA. TERESITA M.  
MASLOG; MA. EDITHA M.  
BAYRON; MA. ANTONIETA C.  
MARCELO; BENIGNO C.  
MARCELO and BERNARDO C.  
MARCELO,  
Plaintiffs-Appellees,

Civil Case No. 4065

for:

-versus-

FORCIBLE ENTRY WITH  
DAMAGES WITH PRAYER FOR A  
WRIT OF PRELIMINARY  
INJUNCTION

SPS. MELBERTO REYES and  
ANGELINA REYES; SPS. JULIAN  
SAYCO AND CELIA SAYCO; SPS.  
TITO SARABIA and ANITA  
SARABIA; SPS. ANGELITO REYES  
and MA. THERESA REYES; SPS.  
ROGER HIDORIA and SALLY  
HIDORIA; SPS. RODEL REYES and  
BINGBING REYES; SPS. MARINA  
DAQUER and HERNANDO  
DAQUER; SPS. ROY RAMOS and  
ANNABELLE RAMOS; ARMANDO  
RAMOS and SANAFEL RAMOS,

Defendants-Appellants.

x-----x

*Handwritten signature*  
ROSEMARY L. AGUIRRE  
CLERK - COURT

D E C I S I O N

Before this Court is an Appeal filed by the Defendants-Appellants, through counsel, of the Decision rendered by the Municipal Trial Court in Cities of Puerto Princesa City on November 4, 2004.

This case stemmed from an ejectment suit filed by the Plaintiffs-Appellees against herein Defendants-Appellants. The Plaintiffs-Appellees were the heirs of late Benito Marcelo Jr. who is the registered owner of the property covered by Original Certificate of Title No. G-643 located in Barrio



ejection of the Defendants-Appellants from the property subject of the said certificate of title.

They claim that during the lifetime of Benito Marcelo Jr., he filed before the Municipal Trial Court of Puerto Princesa City Civil Case No. 208, entitled *Benito Marcelo Jr. vs. Pablo Reyes, et. Al.*, for ejection. Said case involved the land covered by OCT No. G-643, the same parcel of land subject of this case. In the said case, the MTC of Puerto Princesa ruled in favor of Benito Marcelo Jr. The defendants filed several petitions involving Civil Case No. 208 before the Court of Appeals and the Supreme Court, all of which were resolved, still, in favor of Benito Marcelo Jr.

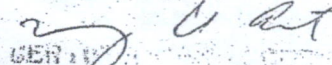
When Benito Marcelo Jr. died, herein Plaintiffs-Appellees became co-owners of the parcel of land subject of this case. Sometime on January 15, 1999 and during the ocular inspection in connection with the contempt proceedings in Civil Case No. 208, Plaintiffs-Appellees Ma. Theresa M. Maslog, Ma. Editha M. Bayron and Ma. Elena M. Hagedorn discovered and came to know that the herein Defendants-Appellants are occupying, possessing and cultivating a portion of the land covered by OCT No. G-643. Said entry, occupation and possession of the said portion of land by the latter was made without consent and knowledge of the Plaintiffs-Appellees and was done through stealth and strategy. As such, they filed this case before the lower court.

The Court *a quo* ruled in favor of the Plaintiffs-Appellees, thus, ordering the Defendants-Appellants to vacate the premises of the subject property, in the assailed Decision which states:

Wherefore, the court hereby renders judgment ordering the defendants, their heirs, assigns and successors-in-interest or anyone claiming rights under them, to vacate the property covered by OCT No. G-642 and surrender possession thereof for the Plaintiffs; and to pay the plaintiffs the amount of one thousand pesos (P 1,000.00) per defendant per year from finality of the decision until vacated, as reasonable rental for the use of the same; and to pay the plaintiffs attorney's fees in the amount of ten thousand pesos (P 10,000.00).

IT IS SO ORDERED.

Defendants-Appellants claim that the Court *a quo* erred in ejecting them out of the premises which previously and at present is still possessed by them.

  
GER: [Signature]  
[Signature]



In support of their appeal, Defendants-Appellants averred that the Plaintiffs-Appellees failed to prove that they were in actual physical possession of the premises until they were deprived thereof by the Defendants-Appellants. They averred that they were able to prove by testimonial and documentary evidence that they were in open, continuous and adverse possession of the land in question from 1956 to the present date and were in fact able to introduce visible improvements thereon. The Court *a quo*'s reliance on the Officer's Return of Service to prove the Plaintiffs-Appellees' prior possession of the subject property was questioned by them as they doubted the sheriff's successful implementation of the execution. To them, their documentary proof proved that they remain in the premises in question from 1956 to present, as attested by the sworn statements of their witnesses and the DENR Survey Authority No. 045316-98-69 dated August 10, 1998. According to them, per investigation conducted in the survey, the land has been verified to be within the alienable and disposable land established by the Forest Management Bureau and the same is free from claims and conflicts.

They asserted further that the lower Court erred when it applied the ruling in Civil Case No. 208 in this instant case when clearly, there are different sets of parties and different evidence presented. It claimed that in Case No. 208, there was no evidence that was presented by defendant Reyeses that OCT No. G-643 is a spurious, simulated, fake title. While in this present case, there is that official certification from the City Register of Deeds of Puerto Princesa that "there exist no title issued in the name of Benito Marcelo Jr. covering OCT No. G-643 situated in Barangay Sta. Lourdes, Puerto Princesa City."

Defendants-Appellants also said that the Court *a quo* do not have jurisdiction over the case as the main issue of this case is possession *de jure* and not possession *de facto*.

Moreover, the Defendants-Appellants stated that the Court *a quo* committed gross error, when it considered the lot covered by OCT No. G-643 and the lot covered by Tax Declaration No. 032-330 as one and the same, and that the lower Court failed to determine first the boundaries of the two lots, especially when the technical description of the 12-hectare land which the Plaintiffs-Appellees are claiming right of possession and ownership is obviously different from the 39-hectare land which they have been asserting actual, continuous and adverse possession and/or ownership since 1956.

- 11 - *11. B*



Lastly, they alleged that the order of the lower court against them to pay rents and attorney's fees has no leg to stand there being no legal basis to eject them from the premises in question.

The Plaintiffs-Appellees on the other hand, argued that the lower Court correctly ruled in ordering the ejectment of the Defendants-Appellants from the land in question. They maintained that they were able to sufficiently establish their rights over the subject land.

On August 24, 2006, this Court issued an Order suspending the proceedings of this case considering that this case has a sister case (Case No. 1703) pending before this Court wherein the Plaintiffs-Appellees' title to the property subject of this case is being seriously questioned by the oppositors who are the same Defendants-Appellants in this case. The herein Plaintiffs-Appellees then filed a Motion to Resolve this present case on March 20, 2019 praying that, considering that the parties herein have already filed their respective Memorandum and the Case No. 17036 which reached the Court of Appeals for Petition for Review on Certiorari docketed as G.R. No. 236921 has been final and executory, this case now ripe for resolution

As such, granting the said motion, this Court now resolves.

Perusal of the record of this case shows that the Defendants-Appellants failed to sufficiently show that the court a quo committed any reversible error in the challenged Decision as to warrant the overturning by this Court of the same. However, in the interest of justice, this Court wants to discuss the errors raised by the Defendants-Appellants, in passing.

Section 1, Rule 70 of the Rules of Court, requires that in actions for forcible entry, it must be alleged that the complainant was deprived of the possession of any land or building by force, intimidation, threat, strategy, or stealth, and that the action was filed anytime within one year from the time the unlawful deprivation of possession took place. This requirement implies that in those cases, possession of the land by the defendant has been unlawful from the beginning, as the possession was obtained by unlawful means. Further, the complainant must allege and prove prior physical possession of the property in litigation until he or she was deprived thereof by the defendant. The one-year period within which to bring an action for forcible entry is generally counted from the date of actual entry into the land, *except*





when entry was made through stealth; if so, the one-year period would be counted from the time the plaintiff learned about it.<sup>1</sup>

Meanwhile, in a case, the Supreme Court discussed stealth as follows: Stealth is defined as any secret, sly or clandestine act to avoid discovery and to gain entrance into, or to remain within residence of another without permission.<sup>2</sup>

Plaintiffs-Appellees alleges in the complaint that the herein Defendants-Appellants' possession of the property subject of this case was discovered only in 1999 during the ocular inspection for contempt proceedings in Civil Case No. 208 has been conducted. Said entry and possession by the Defendants-Appellants of the portion of the land covered by OCT No. G-643 was made without the consent and knowledge of the Plaintiffs-Appellees and was indeed done through stealth or strategy when even after ejecting them from the premises, they managed to return and build establishments thereon without being noticed until that day in 1999. As such, it is but proper that this case for forcible entry was filed.

This Court affirms the lower Court's jurisdiction over the matter since this case is a mere ejectment case questioning possession *de facto* only and not that of possession *de jure*. Nowhere in the complaint was the issue of ownership ever raised. To the mind of this Court, the said issue has been settled already in a number of actions filed before the lower court and even in the Court of Appeals and Supreme Court long before this ejectment case has been filed.

The ultimate issue in this case is the determination of who among the parties are entitled to the physical possession of the property in question.

As a rule, the word "possession" in forcible entry suits indeed refers to nothing more than prior physical possession or possession *de facto*, not possession *de jure* or legal possession in the sense contemplated in civil law. Title is not the issue, and the absence of it "is not a ground for the courts to withhold relief from the parties in an ejectment case."

Evidence on record shows that predecessor-in-interest of herein plaintiffs was favored by the Municipal Trial Court of the City of Puerto

<sup>1</sup> Marcela M. Dela Cruz v. Antonio Q. Hermano and his wife Remedios Hermano, G.R. No. 160914, March 25, 2015 citing *Ong v. Court of Appeals*, 407 Phil 1045 (2001).

<sup>2</sup> *Milagros Diaz, Eduardo O. Catacutan, Dante O. Catacutan v. Sps. Gaudencio and Teresita Punzalan*, G.R.



Princesa in Civil Case No. 208 when it issued a Decision finding that the said Benito Marcelo Jr. is entitled to the possession of the land covered by OCT No. G-643 and ordering herein Defendants-Appellees Lorenzo Reyes, Pablo Reyes, Antonio Reyes and Catalino Reyes to vacate the land covered by the said title. Said Decision has been final and executory. Such that a Writ of Execution was issued by the Court, followed by a demolition order. Pursuant to the Officer's Return of Service<sup>3</sup> in connection with the said order, the Defendants-Appellants were ousted from the premises and Plaintiffs-Appellants were placed in possession thereof. The therein Defendants-Appellants even filed for a Petition for Certiorari challenging the legality of the decision and the enforcement of the same, which was dismissed. In 1992, the City Sheriff executed an Officer's Return of Service showing that the demolition had been completed and the possession returned to the Plaintiffs-Appellees. Thus, since the execution of the Court's demolition Order in 1992, it was the herein Plaintiffs-Appellees who were in possession of the said property considering that the herein Defendants-Appellants have been ousted thereat. When the subject property has been lawfully subjected to the control of herein Plaintiffs-Appellees after the ejectment has been executed, the open, continuous and adverse possession by herein Defendants-Appellants since 1956 has been cut-off and ended. Such that, since the execution of the Decision in 1992, it was the herein Plaintiffs-Appellees who were legally entitled to possession thereof.

In a case, the Supreme Court held that possession can be acquired by juridical acts. These are acts to which the law gives the force of acts of possession. Examples of these are donations, succession, execution and registration of public instruments, inscription of possessory information titles and the like. The reason for this exceptional rule is that possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession. It is sufficient that petitioner was able to subject the property to the action of his will.<sup>4</sup> Indeed, applying this rule, it was the herein plaintiffs who were in possession of the property since 1992. Thus, unlawful and unauthorized entry therein by the defendants thereby warrants the herein plaintiffs' right to repossession of the same.

Even so presenting the DENR's survey authority which states that the property subject of this case is free from claims and conflicts, this does not however negate the Plaintiffs-Appellees' proof that they have been in possession of the subject property until they were dispossessed by herein

<sup>3</sup> Annex R, record.

<sup>4</sup> Anacleto C. Mangaser v. Dionisio Ugay, G.R.-No. 204926, December 3, 2014.

*Handwritten signature/initials*



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<sup>3</sup> Annex R, record.

<sup>4</sup> Anacleto C. Mangaser v. Dionisio Ugay, G.R.-No. 204926, December 3, 2014.

*Handwritten signature/initials*



Defendants-Appellants. The Sheriff's Return on the execution of the demolition order deserves credence such that absent any clear and convincing proof, the same shall be respected.

Further, the Defendants-Appellants' request for survey authority was attended with bad faith when the same has been made only after the series of resolutions and decisions from different courts on actions involving the same property favoring herein Plaintiffs-Appellees and upholding their rightful possession to the same.

This Court stands by the ruling of the lower court that the herein Plaintiffs-Appellees are entitled to the recovery of possession of the subject property. The Defendants-Appellants, contrary to their claim, were not in open, continuous possession of the property from the moment the Decision of the court in Civil Case No. 208 has been reported as executed by the Sheriff. Further, as between the herein parties, it is the Plaintiffs-Appellees who have sufficiently established their right of possession over the subject property. Herein Defendants-Appellants failed to satisfy this Court that their possession of the same rise from any right whatsoever.

Accordingly, for being the rightful possessors of the subject property, the herein Plaintiffs-Appellees are entitled to recover a monthly rental of PHP 1,000 from each of the Defendants-Appellants until the premises has been vacated for the latter's use and occupation of the subject property. However, with regard to the award of attorney's fees, this Court finds for the Defendants-Appellants. Supreme Court have consistently held that an award of attorney's fees under Article 2208 demands factual, legal, and equitable justification to avoid speculation and conjecture surrounding the grant thereof. Due to the special nature of the award of attorney's fees, a rigid standard is imposed on the courts before these fees could be granted. Hence, it is imperative that they clearly and distinctly set forth in their decisions the basis for the award thereof. It is not enough that they merely state the amount of the grant in the dispositive portion of their decisions. It bears reiteration that the award of attorney's fees is an exception rather than the general rule; thus, there must be compelling legal reason to bring the case within the exceptions provided under Article 2208 of the Civil Code to justify the award.<sup>5</sup>

The Court *a quo*, having failed on this matter, the award for attorney's fees cannot be upheld by this Court.

<sup>5</sup> Espino v. Spouses Bulut, G.R. No. 183811, May 30, 2011 as cited in Philippine National Construction Corporation v. APAC Marketing Corporation, G.R. No. 190957, June 5, 2013.

1 - 002



Defendants-Appellants. The Sheriff's Return on the execution of the demolition order deserves credence such that absent any clear and convincing proof, the same shall be respected.

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<sup>5</sup> Espino v. Spouses Bulut, G.R. No. 183811, May 30, 2011 *as cited in* Philippine National Construction Corporation v. APAC Marketing Corporation, G.R. No. 190957, June 5, 2013.

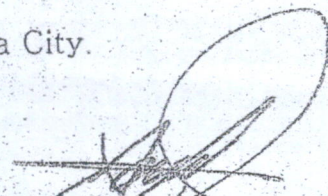


Heirs of Benito Marcelo Jr. v. Sps. Melberto Reyes and Angelina Reyes, et. Al.  
Civil Case No. 4065  
For: Forcible Entry with Damages with Writ of Preliminary Injunction  
*Decision*

WHEREFORE, the Decision of the Municipal Trial Court in Cities of Puerto Princesa City dated November 4, 2004 is hereby **AFFIRMED**, except with respect to the award of attorney's fees, as this Court rules that no attorney's fees shall be awarded.

IT IS SO ORDERED.

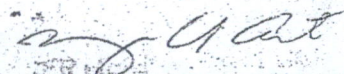
This 17<sup>th</sup> day of February, 2020 at Puerto Princesa City.



PAUL B. JAGMIS JR.  
Presiding Judge

*Copy furnished:*

1. Atty. Zoilo Cruzat - for the Plaintiffs-Appellees
2. Atty. Marino E. Rubia - for the Defendants-Appellants
3. File
4. Record
5. SC
- 6.



JOSEPH ...  
CLERK ...



REPUBLIC OF THE PHILIPPINES  
PROVINCE OF PALAWAN  
OFFICE OF THE TGY. CAPTAIN  
BGY. STA LOURDES  
PUERTO PRINCESA CITY

Annex <sup>198</sup>B

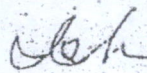
Ex "Q" copy  
1/24/2000

C E R T I F I C A T I O N

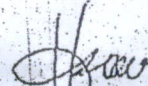
This is to certify that, Mr. Pablo Reyes, Catalino Reyes, Antonio Reyes, Demitrio Reyes and Lorenzo Ryes, are the occupants of a parcel of land located at Purok Maligaya, Bgy. Sta Lourdes City of Puerto Princesa since 1956 up to this date.

This certification is issued upon request of Pablo Reyes and brother for whatever favor it may serve them best.

Issued this 20th day of August 1998.

  
ISIDRO PALMES  
Bgy. Secretary

Attested by:

  
PATERINO Z. ESCOY  
BAYONG BARANGAY  
BGY. STA. LOURDES

PATERNO Z. ESCOY  
PUNONG BARANGAY  
BGY. STA. LOURDES



R-9/1/16

Republic of the Philippines  
REGIONAL TRIAL COURT OF PALAWAN  
Fourth Judicial Region  
BRANCH 95  
Puerto Princesa City

IN RE: PETITION FOR RE-ISSUANCE  
OF OWNER'S DUPLICATE COPY OF  
OCT NO. G-643,

CASE NO. 1703

CECILIA MARCELO,  
Petitioner.

x-----x

**DECISION**

Before this Court is a Petition seeking the reissuance of a lost certificate of title registered in the name of the late Benito Marcelo, Jr.

The petitioner, Cecilia M. Marcelo, alleges in her pleading that she is the daughter-in-law of the late Benito Marcelo, Jr., the registered owner of a certain parcel of land known and designated as Lot No. H-212848 Iden. to Lot 5367 (P) CAD-800-D situated in Brgy. Tagburos, Puerto Princesa City, containing an area of 12.0574 hectares, more or less, and covered by OCT No. G-643. The land has been declared for tax purposes and all the taxes thereon as of the filing of this petition has been paid. The owner's duplicate copy of OCT No. G-643 was turned over to the petitioner's father-in-law which was subsequently kept by her late husband, Benito Marcelo III, during his lifetime. The OCT was placed in one of the drawers of the latter's cabinet together with other important personal belongings.

Recently after the death of the petitioner's husband and while the petitioner was looking at the files and documents kept by him, she found out that one of the documents kept by him was the original owner's duplicate copy of OCT No. G-643. She also saw that the OCT was substantially destroyed or damaged beyond repair. She then exerted her best efforts to save and repair the duplicate copy of the OCT, but her efforts were in vain and she considered it as lost and beyond repair. She reported this fact to the Office of the Registry of Deeds of Puerto Princesa City through an affidavit, which was annotated in the original copy of the OCT in the custody of the said office. The petitioner further attested that she nor her

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predecessors-in-interest delivered the original copy of the OCT to any other person, nor was the land taken by the government for failure to pay the taxes or disposed at the time that the destruction of the duplicate owner's copy was discovered.

The petitioner prays for this Court to render judgment ordering the Registrar of Deeds of Puerto Princesa or any person acting in her behalf to reissue an Owner's Duplicate Copy of OCT No. G-643 clothed with the same faith and validity as the destroyed one and based on the original copy kept in the registry office.

In response to the petition, this Court issued an order setting the same for hearing on the jurisdictional facts. The Office of the City Prosecutor and the Register of Deeds of Puerto Princesa City were served with a copy of the said order, and the same was likewise posted at the Bulletin Boards of this Court, the City Hall Building and the Barangay Hall of Bgy. Tagburos, Puerto Princesa City for at least three (3) weeks prior to the date of the hearing. The hearing on the jurisdictional facts was conducted in August 6, 2005, after compliance with the said order was made.

During the hearing on the jurisdictional facts, an order of general default was made in open court except for the government due to the lack of any opposition. An *ex-parte* hearing was held in view of the default, and the evidences were presented to the branch Clerk of Court in the presence of a representative of the City Prosecutor's Office. The evidences formally offered during the *ex-parte* hearing were admitted as parts of the records of this case.

On April 12, 2005, the oppositors Catalino P. Reyes, Antonio P. Reyes, Lorenzo P. Reyes and Demetrio P. Reyes filed their opposition against the petition. They alleged that they are the owners, actual occupants and possessors of thirty-nine (39) hectares of land located along National Road, Barangay Sta. Lourdes, Puerto Princesa City, identified as Lot No. 5367-A CSD-4a-000533-D. They have likewise introduced numerous improvements on the land by planting coconut and mango trees, constructing rice fields, dikes, and fencing residential houses. By these acts, the oppositors claim that their possession of the land is adverse and in the concept of an owner. In fact, the oppositors have declared the land as their own property for tax purposes and accordingly paid the realty taxes religiously. They have since applied for the issuance of title for the whole 38 hectares of land and in fact, the Department of Environment and Natural Resources (DENR)

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issued an Authority to Survey and various memoranda recommending the issuance of a Free Patent Title in favor of the herein oppositors.

The oppositors also apprised this court of the pendency of an ejectment case currently on appeal before the Regional Trial Court of Palawan and Puerto Princesa, filed by the petitioner against the former. The petitioners purportedly used the above-mentioned title as their basis for ownership and possession of the 12.6 hectares of land covered by the said title, which is part of the 39 hectares the oppositors own, possess and cultivate from 1956 up to present.

The oppositors are vigorously opposing the reissuance of OCT G-643 registered under the name of Benito Marcelo due to the alleged non-existence of the original copy in the records of the Register of Deeds of Puerto Princesa. They also claim that the issuance of OCT G-643 has no basis since Benito Marcelo does not appear to be a holder of any kind of patented or subsisting public land application covering the subject property, as shown in the records of the Bureau of Lands, the Central Office of the Land Registration Authority or the DENR. They claim that any late appearance of such title in the records of the local registry is obviously of doubtful origin; hence, the factual and legal issues being raised now by herein oppositors can no longer be resolved in a mere *ex-parte* hearing.

As ordered by the Court, the petitioner filed her comment of the opposition in May 3, 2005. The petitioner acknowledged the existence of an ejectment case, docketed as Civil Case No. 208 before the Municipal Trial Court of Puerto Princesa City which was pending while Benito Marcelo was still alive. The oppositors, through their then counsel, had the opportunity to scrutinize the original owners' copy of OCT No. G-643. However, she claims the judgment had been rendered against the oppositors in the said case in 1974, which has long become final and executory since. The said judgment was subsequently enforced and duly executed, and a writ of demolition was issued by the lower court in 1992. However, the oppositors returned to the subject property after having been lawfully ejected therefrom and they were found guilty of contempt of court.

The petitioner further claims that the opposition has no factual and legal basis, since the branch Clerk of Court and the Prosecutor present during the *ex-parte* hearing was able to examine the substantially damaged OCT. She also commented that no amount

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of certification stating otherwise would defeat the actual existence of OCT No. G-643 and that fact that it is registered in the name of Benito Marcelo, Jr. Also, the petitioner argued that the instant case should be limited to the reissuance of an original copy of the Owner's Duplicate of OCT G-643 in the same condition as it is based on the original copy kept in the Office of the Register of Deeds of Puerto Princesa City. This Court therefore, should not rule on the ownership of the subject lot or the claim of the oppositors. Such claims must be ventilated in an independent case and not through an opposition because these issues cannot be resolved in this case.

There is only one issue that must be resolved in this case: Whether the order for the reissuance of owner's duplicate copy of OCT No. G-643 sought by the petitioner should be issued by this Court in view of allegations in the opposition.

The pronouncement in the case *Rexlon Realty Group, Inc. vs. Court of Appeals, G.R. No. 128412, March 15, 2002*, summarizes the bounds of the Regional Trial Court, standing as a Land Registration Court, in reissuance proceedings:

"... In a petition for the issuance of a new owner's duplicate copy of a certificate of title in lieu of one allegedly lost, the RTC, acting only as a land registration court, has no jurisdiction to pass upon the question of actual ownership of the land covered by the lost owner's duplicate copy of the certificate of title. Possession of a lost owner's duplicate copy of a certificate of title is not necessarily equivalent to ownership of the land covered by it. The certificate of title, by itself, does not vest ownership; it is merely an evidence of title over a particular property."

These limitations are further expounded in the case of *Heirs of Susana de Guzman Tuazon vs. Court of Appeals, G.R. No. 125758, January 20, 2004*, which was reiterated in the case of *Macabalo-Bravo vs. Macabalo, G.R. No. 144099, September 26, 2005*:

"... Regardless of whether petitioners' cause of action in LRC Case No. 93-1310 is based Section 109 of P.D. No. 1529 [involving issuance, in lieu of the lost one,

X



of the owner's copy] or under Rep. Act No. 26 [involving cases where the original copy of the certificate of title with the Register of Deeds which lost or destroyed], the same has no bearing on the petitioners' cause in the case. Precisely, in both species of reconstitution under Section 109 of P.D. No. 1529 and R.A. No. 26, the nature of the action denotes a restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition. The purpose of the action is merely to have the same reproduced, after proper proceedings, in the same form they were when the loss or destruction occurred, and does not pass upon the ownership of the land covered by the lost or destroyed title. It bears stressing at this point that ownership should not be confused with a certificate of title. Registering land under the Torrens System does not create or vest title because registration is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over a particular property described therein. Corollarily, any question must be threshed out in a separate suit ... The trial court will then conduct a full-blown trial wherein the parties will present their respective evidence on the issue of ownership of the subject properties to enable the court to resolve the said issue."

Bound by these limitations, this Court, acting as a Land Registration Court, shall only determine the existence of the following facts based on the evidence presented in order to resolve the issue at hand: (a) whether there is proof that the owner's duplicate copy of OCT No. G-643 was lost or destroyed and not in the possession of any other person and; (b) whether the original copy of the said title exists in the Office of the Register of Deeds from which the reissued owner's duplicate copy will be based. This Court therefore cannot delve into the existence (or non-existence) or validity of the documents that gave rise to the issuance of OCT No. G-643, particularly the Homestead Patent, and the rights granted to Benito Marcelo Jr. by the said patent. Neither can this Court give weight to the evidences that prove adverse possession by the oppositors of the subject lot. These matters of ownership that are best addressed in a separate action commenced specifically for



attacking the late Marcelo's dominion over the subject property.

Another reason for this Court not to give merit to the oppositors' allegations that OCT No. G-643 is invalid and its supporting evidences is that they constitute a collateral attack on the certificate of title. It is readily apparent from their pleading that the oppositors are raising questions on the issuance of OCT No. G-643. The very purpose of their presentation of the prior certifications issued by the Register of Deeds of Puerto Princesa City and the province of Palawan, the Land Registration Authority, and the Land Management Bureau (formerly Bureau of lands) is to prove that the original copy of OCT No. G-643 currently in the custody of the Register of Deeds of Puerto Princesa is fake or not in record; therefore, there is no original from which an owner's duplicate can be based on. However, to repeat for the sake of emphasis, this Court acts as a Land Registration Court granted with jurisdiction to merely determine if the destroyed owner's duplicate copy of OCT G-643 can be replaced and not to rule on the validity of the certificate of title. Any opposition questioning the validity of OCT G-643 in a petition for the reissuance of the owner's duplicate copy constitutes a collateral attack on the said title, which is not allowed by Section 48 of P.D. No 1529. The whole world is bound by the certificate's legitimacy until it is nullified in the proper judicial proceedings., hence, OCT G-643 stands valid as a conclusive proof of Marcelo's ownership of the subject land as far as the present land case is concerned.

Even if the certifications previously issued by the former Registrars of Deeds are to be considered, they are not sufficient proof to rebut the evidence of the issuance of OCT G-643 in Marcelo's name and its current existence in the records of the City Register of Deeds. What they prove is that the said title cannot be found in the records when the office's staff searched for it at the time it was requested. The cross examination of the former City Registrar of Deeds and issuer of the certification marked as Exhibit "1", Atty. Ofelia Abueg-Sta.Maria, supports this conclusion. The pertinent portions of the transcript of stenographic notes taken during the cross examination are herein reproduced for reference:

"Q Madam Witness, when you issued a Certificate dated April 3, 1981 Your certification is to the effect



that no copy of the title is on file on your office in the name of Benito Marcelo, Jr. under OCT No. G-643, Madam Witness?

A Yes, sir.

Q But it does not mean that no title was ever issued to Mr. Marcelo?


A Yes, sir. We only certified to the existence and non-existence of the title at that time he request. (sic)

Q And your office is the one who is in possession or custody of those titles?

A Yes, sir, supposed to be."

On the other hand, the original copy of OCT G-643 kept in the custody of the Office of the Register of Deeds was actually presented before this Court during the *ex-parte hearing*, and was marked as Exhibit "F". The same was identified by the Records Officer of the City Register of Deeds Imelda Publico, who was cross examined by both the public prosecutor and the oppositors' counsel. The original copy was likewise acknowledged by Atty. Ma. Rachelle F. Dillig, current City Registrar of Deeds, and she even manifested that she brought it with her when she was examined in open court. The examinations of the said witnesses did not reveal any irregularity in the extraction and production of the assailed certificate of title from the office's vault, and was instead proven to have been meticulously handled for its presentation in this case. There is therefore preponderance of evidence that OCT G-643 exists, and its original copy is stored in the Office of the Register of Deeds of Puerto Princesa City.

Meanwhile, the evidences proving that the owner's duplicate copy of OCT G-643 had been destroyed was uncontroverted throughout the proceedings. The actual presentation of the ruined certificate of title showing holes on it as confirmed by the public prosecutor, with no other evidence of it being in the possession of any other person, pose as sufficient proof of the title's destruction.





CASE NO. 1703

Decision/August 23, 2016

In Re: Petition for Re-Issuance of Owner's Duplicate Copy of OCT No. G-643  
Cecilia M. Marcelo/Petitioner

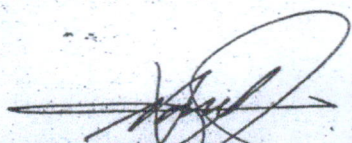
Page - 8 -

There is therefore no bar for this Court to order the issuance of new owner's duplicate copy of OCT G-643 in favor of the petitioner, who is an interested person being the daughter-in-law of the registered owner, all in accordance with Section 109 of P.D. No 1529.

WHEREFORE, premises considered, judgment is hereby rendered granting the petition by declaring the Owner's Duplicate Copy of OCT No. G-643 as destroyed and ordering the Register of Deeds of Puerto Princesa City to replace the Owner's Duplicate Copy of Original Certificate of Title No. G-643 in the name of Benito Marcelo, Jr. which shall contain a memorandum of the fact that it is issued in the place of the destroyed duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all legal intents and purposes.

SO ORDERED.

August 11, 2016, Puerto Princesa City.

  
PAUL B. JAGMIS, JR.  
Presiding Judge

Copy furnished:

1. Atty. Cruzat -
2. Atty. Rubia -
3. Cecilia Marcelo -
4. The City Register of Deeds -
5. The oppositors -
6. SC -
7. File -



P-12/1/04

Republic of the Philippines  
4<sup>th</sup> Judicial Region  
MUNICIPAL TRIAL COURT IN CITIES  
Puerto Princesa City

HEIRS OF BENITO MARCELO, JR.  
Namely: ALIVA C. MARCELO,  
MA ELENA M. HAGEDORN,  
BENITO MARCELO III,  
BENJAMIN C. MARCELO;  
MA TERESITA M. MASLOG;  
MA EDITHA M. BAYRON;  
MA ANTONIETA C. MARCELO;  
BENIGNO M. MARCELO and  
BERNARDO C. MARCELO,  
Plaintiffs,

CIVIL CASE NO. 1597

for

FORCIBLE ENTRY WITH DAMAGES  
WITH PRAYER FOR A WRIT OF  
PRELIMINARY INJUNCTION

- versus -

SPS. MELBERT REYES AND  
ANGELITA REYES; SPS. JULIAN  
SAYCO and CELIA SAYCO; SPS.  
MARIO SARAYBA and ANITA  
SARAYBA; SPS. ANGELITO  
REYES and MA. THERESA REYES;  
SPS. ROGER HIDORIA and SALLY  
HIDORIA; SPS. RODEL REYES and  
BINGBING REYES; SPS. MARINA  
DAQUER and HERNANDO DAQUER;  
SPS. ROY RAMOS and ANNABELLE  
RAMOS; ARMANDO RAMOS and  
SANAFEL RAMOS,

Defendants.

x-----x

DECISION

In this case for Forcible Entry with Damages, Plaintiffs, Heirs of the late Benito Marcelo Jr. seek to eject Defendants from the property covered by Original Certificate of Title No. G-643 in the name of Benito Marcelo Jr. located in Barrio Tagburos, Puerto Princesa City.

The Complaint alleges that the plaintiffs are heirs of the late Benito Marcelo Jr., who died intestate on April 13, 1981. One of the properties inherited by the plaintiffs from the decedent was a 12.0574 hectare property in Barrio Tagburos, Puerto Princesa



City covered by Original Certificate of Title No. G-643 registered in his name. On or about January 15, 1999 three of the plaintiffs, namely Ma. Teresa Maslog, Ma. Editha Bayron and Ma. Elena Hagedorn were making an ocular inspection of the property in connection with contempt proceedings in Civil Case No. 208 (entitled "*Benito Marcelo Jr. vs. Pablo Reyes, et al.*"), when they discovered that the defendants are occupying, possessing and cultivating a portion of the land covered by OCT G-643. As the entry, occupation and possession of said property was without the knowledge and consent of Plaintiffs and was done through stealth, strategy and taking advantage of the absence of the plaintiffs, they demanded that defendants vacate the property, which defendants failed and refused to do. Defendants continue to occupy and cultivate the subject property, hence the filing of this action, which was made within one year from last demand.

Plaintiffs prayed that defendants or any other persons be ordered to vacate the land in question and to turn-over the same peacefully to the plaintiffs; and that they be ordered to pay the plaintiffs: ₱2,000.00 per defendant until they vacate the property as reasonable rental for the use of the property, moral and exemplary damages, attorney's fees and litigation expenses.

In their Answer with Counterclaim, defendants denied that plaintiffs are the owners of the land occupied by the defendants. They further allege that they have been in continuous, open and notorious possession of a land known as Lot No. 5367-A, CSD-4A-000533-D consisting of more or less thirty-nine hectares for more than two decades and have been religiously paying real estate taxes thereon. They allege that this is a different area from that covered by plaintiffs' OCT G-643, based on the technical description thereof. As affirmative defense, they alleged that the complaint states no cause of action as plaintiffs failed to show that defendants forcibly entered the property; second, that the property they are occupying is different from that covered by plaintiffs' title; third, that the land is agricultural in nature, hence under the jurisdiction of the department of



Agrarian Reform; and that the case is within the jurisdiction of the Regional Trial Court since plaintiffs' alleged dispossession started more than twenty years ago.

In their supplemental Answer, defendants alleged that plaintiffs' title is fake, spurious, none-existent and fraudulent because based on the certifications issued by the Register of Deeds of Puerto Princesa City and for the Province of Palawan, OCT No. G-643 does not exist in the archives of both offices.

The principal issue in this case is whether or not the plaintiffs are entitled to material possession of the subject property and may therefore eject defendants from said property.

The plaintiffs invoke the binding effect of the Decision of this Court in Civil Case No. 208 (*Benito Marcelo Jr. vs. Pablo Reyes, et al. for Unlawful Detainer*) as well as decisions issued by the Regional Trial Court of Palawan and the Court of Appeals in related cases, which upheld the right of their predecessor-in-interest Benito Marcelo, Jr. to possession of subject property. The defendants invoke their alleged actual possession and cultivation of the property and the alleged nullity of OCT No. G-643, based on the Certifications of the Offices of the Register of Deeds for Puerto Princesa City and for Palawan to the effect that OCT No. G-643 in the name of Benito Marcelo Jr. does not exist in their records.

Thus, the sub-issues are: whether or not the court is bound by its own ruling in another case that Benito Marcelo Jr. has the right to possession of the property covered by OCT No. G-643; whether or not the heirs of Marcelo have a right to possession of the property superior to that of the defendants; whether or not the alleged nullity of OCT G-643 nullifies the right to possession of the plaintiffs.

The Position Paper for plaintiffs establishes that on October 4, 1974, in Civil Case No. 208 entitled "*Benito Marcelo Jr. vs. Pablo Reyes et al. for Ejectment*", the Municipal Trial Court of Puerto Princesa City had issued a Decision (Annex C of Position Paper) finding the plaintiff therein Benito Marcelo Jr. to be entitled to possession of the land



covered by Oct G-643 and ordering therein defendants Lorenzo Reyes, Pablo Reyes, Antonio Reyes and Catalino Reyes to vacate the land covered by this title. This Decision had become final and executory, hence a Writ of Execution was issued by the Court on November 29, 1974 (Annex D of Position Paper), pursuant to which the defendants were ousted from the premises and plaintiff placed in possession thereof (Officer's Return of Service dated December 3, 1974, Annex E of Position Paper). A Petition for Certiorari challenging the legality of the decision and its enforcement was filed by defendants before the Regional Trial Court of Palawan (Spl. Civil Case No. 1710) which petition was dismissed by the Regional Trial Court (Annex L). A Petition for Certiorari was also filed with the Court of Appeals in CA-G.R. SP No. 26096 which was dismissed in a Decision dated January 29, 1992 (Annex P of Position Paper). On August 31, 1992, the City Sheriff executed his Officer's Return of Service (Annex R of Position Paper) showing that the demolition had been completed and possession returned to plaintiff.

The foregoing summary of previous proceedings in relation to Civil Case No. 208 establishes that the Municipal Trial Court of Puerto Princesa City had previously ruled that Benito Marcelo Jr. has a right to possession of the area covered by OCT No. G-643 superior to that of defendants therein Pablo Reyes, Lorenzo Reyes, Antonio Reyes and Catalino Reyes. This ruling has been upheld by the Regional Trial Court and Court of Appeals. Plaintiffs would insist that the court can no longer depart from the ruling on Marcelo's right to possession of subject property.

The ruling on Benito Marcelo's superior right to possession vis a vis that of Pablo Reyes and company is not a judgment *in rem* which is binding on the whole world, but a judgment *in personam*, binding only between the parties to said case and their successors in interest, but not against strangers thereto ( *Fule vs. Santos, et al.*, 72 Phil. 339). Theoretically, the court can still make a contrary finding in another case regarding Benito Marcelo's right to possession given a different set of defendants and evidence.



Be that as it may, based on the evidence submitted in this case, it would appear that the defendants in this case cannot show any legal basis for their own possession of subject property which could defeat the right of plaintiffs arising from the latter's ownership of the property as heirs of Benito Marcelo Jr. In fact, the documents submitted by defendants only show that they base their claims on the claims of Pablo Reyes, Catalino Reyes, Lorenzo Reyes, Antonio Reyes and Demetrio Reyes, the first four being the same defendants in Civil Case No. 208. Tax Declaration No. 032-3300 (Annex 3 of Position Paper) is in the name of Lorenzo Reyes; Official Receipts Nos. 6069404 and 6069375 (Annexes 5 and 7 of Position paper) are in the name of Catalino Reyes; Official Receipt No. 7009937 (Annex 6) is in the name of Antonio Reyes; and the Subdivision Plan of Lot 5367-A, Csd 4A-000533-D (Annex 8) which OIC-CENRO Ivane Reyes has recommended for approval to the Regional Executive Director of the DENR (Annex 10), was executed for Pablo Reyes et al by Geodetic engineer Agustin Timbancaya. In other words, defendants in this case cannot point to any basis for their own claim to the property separate from the claims of Pablo Reyes et al.

Thus, although the ruling on Marcelo's possession was issued in a different case, and although the defendants in Civil Case No. 208 are at first glance apparently different from the defendants in this case, the evidence relied upon by the defendants to establish their alleged prior possession of subject property also establish that they are successors-in-interest of the defendants in Civil Case No. 208. Pursuant to the principle of *res judicata*, the court's ruling on Benito Marcelo Jr.'s right to possession of subject property is conclusive between him and Pablo Reyes et al., as well as their successors in interest, including defendants in this present case (Revised Rules of Court, Rule 39, Sec. 47; *Taganas et al. vs. Hon. Emerito Enuslan, et al.*, G.R. No. 146930, September 2, 2003).

Regarding the identity of the area occupied by the defendants, the documents they submitted indicate that this is the same area which is claimed by the Plaintiffs, as Tax



Declarations Nos. 032-3300 and 032-3301 contain the annotation: "ALSO DECLARED IN THE NAME OF BENITO MARCELO JR"

Plaintiffs, as heirs of the registered owner Benito Marcelo, Jr., have a right to possession of the property as an attribute of ownership (Sps. Antonio vs. Balanon, G.R. Nos. 150820-21, April 30, 2003). Defendants allege that OCT No. G-643, is null and fictitious, based on the Certification by Atty. Luciano C. Roxas, City Register of Deeds, dated February 21, 2000. The Certification states, in part, that "records of this Registry shows no title issued in the name of BENITO MARCELO, JR., covering Original Certificate of Title No. G-643 situated in Barangay Sta. Lourdes, Puerto Princesa City". The certification is ambiguous and evidence at hand is not clear on whether the title is merely missing from their files, in which case, it could be subject to reconstitution or whether there is no such existing title ever issued by the Register of Deeds. The certification, standing by itself is insufficient to effect nullity of the title. In the absence of sufficient evidence of irregularity, the statutory presumption that prevails is that official duty has been regularly performed, and that the certificate of title was validly issued. As long as OCT No. G-643 has not been declared null and void by a court with competent jurisdiction over that issue, its validity is presumed. Moreover, as pointed out by the plaintiffs, this issue constitutes a collateral attack on a certificate of title which is not allowed in these proceedings ( Apurado vs. Apurado, 26 Phil. 581; Baldoz vs. Papa, et al., L-18150, July 30, 1965).

*" In an action for unlawful detainer, the question of possession is primordial while the issue of ownership is generally unessential. The long settled rule is that the issue of ownership should be raised by the affected party in an appropriate action for a certificate of title cannot be the subject of a collateral attack." (Fige vs. Court of Appeals, G.R. No. 107951, June 30, 1994).*



At any rate, this court is only called upon in this case to decide on who as between the parties, is entitled to material possession of subject property, and as discussed earlier, this issue had been earlier settled between the parties and their predecessors in interest.

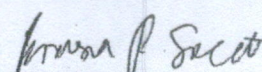
In the present case, the plaintiffs were in possession of the subject property by virtue of the execution of the judgment in Civil Case No. 208 way back in 1974 (Officer's return of Service, Annex E of Position Paper). The entry thereon by defendants was in fact discovered while plaintiffs were conducting an ocular inspection in January 1999 in connection with the contempt proceedings instituted when the defendants in Civil Case No. 208 returned to the subject property (Annex S of Position Paper; Affidavit of Ma. Elena Hagedorn). Defendants have not presented any legal basis for them to continue possessing the property at the expense of plaintiffs.

Therefore, plaintiffs having shown their right to possession of subject property as an attribute of their ownership, their prior possession by virtue of the execution of the judgment in Civil Case No. 208, and the unlawful and unauthorized entry thereon by defendants subsequent to the turn-over of the property to plaintiffs, the court finds that they are entitled to eject defendants and be restored to their possession.

Wherefore, the court hereby renders judgment ordering the defendants, their heirs, assigns and successors-in-interest or anyone claiming rights under them, to vacate the property covered by OCT No. G-643 and surrender possession thereof to the Plaintiffs; and to pay the plaintiffs the amount of one thousand pesos (P=1,000.00) per defendant per year from finality of this decision until vacated, as reasonable rental for the use of the same; and to pay the plaintiffs attorney's fees in the amount of ten thousand pesos (P=10,000.00)

**IT IS SO ORDERED**

Puerto Princessa City, November 4, 2004

  
**MA. ROWENA P. SOCRATES**  
Judge